TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 13, 2020

TO: Persons on the attached mailing list.

RE: Cherryville GP, Inc. and Cherryville #5, Ltd.
TPDES Permit No. WQ0015738001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 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 the Caldwell County Courthouse, 110 South Main Street, Lockhart, 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:

Bridget C. Bohac, 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,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

BCB/mgo

Enclosure

MAILING LIST
for
Cherryville GP, Inc. and Cherryville #5, Ltd.
TPDES Permit No. WQ0015738001

FOR THE APPLICANT:

Ronald Cherry
Cherryville General Partnership
10127 Tate Lane
Frisco, Texas 75033

Jennifer Scholl
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701

James W. Griffith, P.E.
Griffith Consulting
4000 Sendero Springs Drive
Round Rock, Texas 78681

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Director
Texas Commission on Environmental Quality
External Relations Division
Public Education Program MC-108
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FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Vic McWherter, Attorney
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FOR THE CHIEF CLERK
via electronic mail:

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

TCEQ PERMIT NO. WQ0015738001

APPLICATION BY	§	BEFORE THE
CHERRYVILLE GP, INC. AND	§	TEXAS COMMISSION ON
CHERRYVILLE #5, LTD.	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment on the application by Cherryville GP, Inc. and Cherryville #5, Ltd. (Cherryville or Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015738001. As required by Title 30 Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received timely comments from The Honorable Hoppy Haden, Caldwell County Judge, the individuals in Attachment 1 and groups and organizations in Attachment 2. Additionally, the individuals and groups and organizations in Attachment 3 requested the TCEQ hold a public meeting. The individuals that provided formal oral comment at the Public Meeting are noted in Attachment 4. This response addresses all timely public comments received, whether or not withdrawn.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application." Texas Water Code (TWC) § 5.115 (a-1)(2)(B). The Executive Director received comments from over 300 persons; to determine which commenter made a particular comment, please see Attachments 5 through 32. Additionally, because of the length of the RTC and the number of acronyms used, the Executive Director added a list of the acronyms used in the RTC in Section I.D.

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 the following website: www.tceq.texas.gov

I. BACKGROUND

A. Description of Facility

Cherryville has applied to the TCEQ for a new TPDES permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.038 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed

0.072 MGD in the Interim II phase, and a daily average flow not to exceed 0.16 MGD in the Final phase. The proposed wastewater treatment facility will serve the proposed Cherryville Municipal Utility District (MUD) service area, which will consist primarily of family residential subdivisions with commercial developments.

If the Permit is issued the proposed Cherryville Wastewater Treatment Facility (Facility) will be a membrane bioreactor (MBR) system. Treatment units in the Interim I phase will include two fine screens, an equalization basin, two MBR basins, a sludge digester, and three ultraviolet light (UV) disinfection units. Treatment units in the Interim II phase will include two fine screens, an anoxic basin, three MBR basins, a sludge digester, and four UV disinfection units. Treatment units in the Final phase will include two fine screens, an anoxic basin, three MBR basins, sludge digester, and five UV disinfection units. The facility has not been constructed.

The facility site will be located approximately 600 feet south of the intersection of Dickerson Road and State highway 80, east of State highway 80, in Caldwell County, Texas 78655.

If the draft permit is issued, the treated effluent will be discharged to Dickerson Creek, thence to Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin. The unclassified receiving water use is limited aquatic life use for Dickerson Creek. The designated uses for Segment No. 1808 are primary contact recreation, public water supply and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 TAC § 307.5 and the TCEQ *Procedures to Implement the Texas Surface Water Quality Standards* (TSWQS) (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with TSWQS for pH when the discharge authorized is from a minor facility and the unclassified waterbodies have minimal or limited aquatic life uses. This conservative assumption is based on TCEQ

sampling conducted throughout the state that indicates that instream buffering quickly restores pH levels to ambient conditions.

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

Segment No. 1808 is not currently listed on the state's inventory of impaired and threatened waters (the 2014 CWA § 303(d) list).

The effluent limitations in the Interim I, Interim II, and Final phases of the draft permit, at Outfall 001, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand ($CBOD_5$), 15 mg/l total suspended solids (TSS), 3.0 mg/l ammonia nitrogen (NH_3-N), 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The permittee shall utilize an UV system for disinfection purposes and shall not exceed a daily average *E. coli* limit of 126 CFU or MPN per 100 ml. The effluent limitations in the draft permit will maintain and protect existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

The draft permit includes a requirement for the permittee to comply with the requirements of 30 TAC §309.13(a) through (d) and, by ownership of the required buffer zone area, the requirements of 30 TAC §309.13(e).

The proposed draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. Sludge generated from the facility is hauled by a registered transporter and disposed of at a TCEQ-permitted landfill, Austin Wastewater Processing Facility, Permit No. 2384, in Travis County. The proposed draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

B. Procedural Background

The TCEQ received the permit application on November 5, 2018 and declared it administratively complete on December 27, 2018. The Notice of Receipt of Application and Intent to Obtain Permit (NORI) was published on January 24, 2019 in the *Lockhart Post-Register,* Caldwell County, Texas. The Combined Notice of Public Meeting and the Notice of Application and Preliminary Decision (NAPD) was published in the *Lockhart Post-Register* on June 13, 2019, Caldwell County, Texas. The comment period for this application ended on July 16, 2019. A public meeting was held on July 16, 2019 at the Prairie Lea Independent School District Auditorium in Prairie Lea, Texas.

The public comment period ended at the close of the Public Meeting. Notice of the public meeting was published on June 13, 2019, in the *Lockhart Post-Register*, Caldwell County, Texas. This application was filed on or after September 1, 2015; therefore, it is subject to the procedural requirements adopted pursuant to House Bill

(HB) 801, 76th Legislature, (1999) and Senate Bill (SB) 709, 84th Legislature (2015), which are implemented by the Commission in its rules in 30 TAC Chapters 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, Laws, and Records

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

- to access the Secretary of State website: www.sos.state.tx.us;
- for TCEQ rules in 30 TAC: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality");
- for Texas statutes: http://www.statutes.legis.state.tx.us/;
- to access the TCEQ website: https://www.tceq.texas.gov/rules/index.html (for downloadable rules in Microsoft Word or Adobe PDF formats, select "Rules," then "Current Rules and Regulations," then "Download TCEQ Rules")
- for Federal rules in Title 40 of the Code of Federal Regulations: http://www.epa.gov/lawsregs/search/40cfr.html; and
- for Federal environmental laws: http://www.epa.gov/lawsregs/;
- Environmental or citizen complaints may be filed online at: https://www.tceq.texas.gov/compliance/complaints or by sending an email to the following address: cmplaint@tceq.state.tx.us.

Commission records for this application and draft permit are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk), until final action is taken. The permit application, Executive Director's preliminary decision, and proposed draft permit are available for viewing and copying at the Caldwell County Courthouse, 110 South Main Street, Lockhart, Texas.

II. Comments and Responses

A. General Objections to the Draft Permit

Comment 1:

For the persons that made this comment, please see Attachment 5.

Many commenters expressed general opposition to the draft permit.

Response 1:

The Executive Director acknowledges these comments.

B. General Support for the Draft Permit

Comment 2:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that they are extremely supportive of this development. Additionally, the commenter stated that they hope that if there is any opportunity for a negotiated settlement, that the parties could come together to have that conversation. The commenter stated that he would be willing to sponsor and help negotiate the process, if need, reopening the development agreement and looking at opportunities that would make it easier to consider a higher effluent standard.

Response 2:

The Executive Director acknowledges this comment.

C. General Comments on the Application and Draft Permit:

Comment 3:

For the person(s) that made this comment, please see Attachment 16.

A commenter requested that TCEQ get creative and that you cannot solve the problem of today with the same thinking used to create them.

A commenter stated that TCEQ needs to change its name and remove the term "Environmental Quality" from its title if it makes the decision to grant this permit as currently drafted.

A commenter stated that TCEQ should focus on Environmental Quality.

A commenter asked why doesn't TCEQ join the international leaders who plan communities with a holistic, sustainable moral compass?

A commenter requested that the TCEQ stop being corrupt and destroying what is left of our beautiful state.

A commenter stated that proper planning and reasonable measures can usher in a more promising and longer sustaining future for any community.

Response 3:

The Executive Director acknowledges these comments.

Comment 4:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that the Meadows for Water and the Environment would like to offer their resources to Cherryville and the developers.

Response 4:

The Executive Director acknowledges these comments.

Comment 5:

For the person(s) that made this comment, please see Attachment 16.

Several commenters expressed concern that the Cherryville WWTF will destroy the natural beauty and aesthetics of the surrounding area, Dickerson Creek and the San Marcos River.

Response 5:

As discussed elsewhere in this RTC, the Executive Director evaluated the Cherryville application and prepared a draft permit, consistent with all applicable statutory and regulatory requirements. The Texas Surface Water Quality Standards include criteria for aesthetic parameters. 30 TAC § 307.4. The draft permit incorporates the aesthetic parameters by prohibiting the discharge of floating solids or visible foam in other than trace amounts and the discharge of visible oil, and a limit for total suspended solids.

Comment 6:

For the person(s) that made this comment, please see Attachment 8.

Several commenters raised general health and environmental concerns.

Response 6:

If the draft permit is issued and Cherryville complies with all the terms of the draft permit, human health and safety and the environment, will be protected. As discussed throughout this RTC, the Executive Director prepared a draft permit for Cherryville that complies with all applicable statutory and regulatory requirements.

Comment 7:

For the person(s) that made this comment, please see Attachment 16.

A commenter asked if Cherryville will be an incorporated city? And if it will have facilities for school, fire, EMS and Sherriff's department? Additionally, the commenter asked if they will have commercial stuff as well to offset some of the cost of those facilities?

A commenter asked if the Cherryville community is going to be a 10,000 residential and many other things that they mention or only residential? Additionally, the commenter asked at what point does it reach the 160,000 gpd and when does the applicant have to come back to the TCEQ for an upgraded system or additional system? Finally, the commenter asked who is wanting to monitor once the residential limit is hit?

Response 7:

According to the application the proposed development will ultimately have approximately 13,000 living unit-equivalents (LUEs), over 30 years. Initial construction will be single family residential and future phases may include commercial and public facilities.1 As discussed elsewhere in this RTC, issues pertaining to the proposed development outside of the scope of regulating treated wastewater discharges are beyond the jurisdiction of the TCEQ and cannot be addressed through the wastewater permitting process.

As indicated in the application, the Final phase daily average flow proposed by the applicant is 160,000 gallons per day (gpd). The applicant provided calculations and yearly population projections to support the justification of the proposed flows. The TCEQ evaluates the flows and limits proposed in permit applications and assigns limits and permit conditions based on these values, which does not include any speculative flows that may or may not be applied for in the future. If the applicant desires to request a daily average flow higher than 160,000 gpd, they would be required to apply for a major amendment to the proposed permit (if it is granted), which would be subject to reevaluation of the effluent limitations, additional public notice and opportunity for comments.

Comment 8:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that we cannot allow something like what Liberty Hill has done to the San Gabriel River to happen again.

A commenter stated that they grew up in Georgetown and saw firsthand what sewage and wastewater does to our beautiful rivers and hill country which is a big reason why people are moving here in the first place.

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[1] Domestic Technical Report 1.0, Section 3, p. 4.

A commenter stated that lessons should be learned from the San Gabriel River where people are getting sick from swimming in the water because of wastewater dumped into the river.

A commenter asked how the TCEQ plans on preventing occurrences such as what's happening in Liberty Hill right now?

A commenter stated that recent events on the San Gabriel and Brushy Creek point to the need for the strictest environmental controls to protect our rivers.

A commenter stated that they grew up in an area where they discharged "sewage" into waterways and a bunch of their childhood friends have died of cancer.

Response 8:

The Executive Director evaluates each application for a wastewater discharge permit individually. Evaluations of the compliance of other treatment facilities or regulated entities located adjacent to or in different watersheds than the proposed permit are not part of the review process, as the other permits in question are subject to different site-specific criteria. Permit-specific factors, such as volume of discharge and the type and quality of receiving water, are considered for each permit application. Discussions regarding the treatment technology, anti-degradation review, and prevention of unpermitted discharge are discussed elsewhere in this document. As discussed elsewhere in this RTC, provisions are included in the draft permit that require the permittee to implement safeguards to prevent discharges of untreated wastewater.

Comment 9:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that the San Marcos River is a near pristine waterway with numerous endangered species in it, some of which are found nowhere else.

A commenter stated that regulations of surveys and water collection should be enacted and should include organisms on every level, not just the endangered ones. Additionally, the commenter asked if this was considered by TCEQ when determining the requirements for the discharge?

A commenter stated that candidate review species should be considered when deciding if the permit effects water quality.

A commenter stated that the San Marcos River now has a family of River Otters sighted in the Martindale area and other area Otter sightings have occurred. Additionally, the commenter stated that they want these creatures and their food supply to remain healthy.

Several commenters commented on the impact of the discharge on freshwater mussels in the San Marcos River. Similarly, a commenter stated that a great deal of

research is being done on mussel species (many in the San Marcos River) which are being considered as possibly threatened or endangered.

Response 9:

As stated later in the anti-degradation review response in this document, the extensive technical reviews performed resulted in permit limits to ensure the permitted discharge is consistent with applicable laws, rules, and procedures and protective of the *Texas Surface Water Quality Standards* which includes the antidegradation policy, designated and presumed uses. Therefore, the permit is expected to be protective of aquatic-dependent species that reside in the receiving streams and other wildlife that utilize the receiving streams.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species. Segment No. 1808 is not currently listed on the state's inventory of impaired and threatened waters (the 2014 CWA § 303(d) list).

If the facility is found to be out of compliance with the terms or conditions of the permit, Cherryville 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/assets/public/compliance/monops/complaints/complaints.html.

Comment 10:

For the person(s) that made this comment, please see Attachment 16.

Two commenters stated that Dickerson Creek only runs during wet periods and is otherwise dry and the flow from the discharge will constitute the majority of liquids which flow in the creek except for rain events.

A commenter suggested that in the event of a wet weather period of time, when Dickerson Creek is flowing at a sufficient flow, then a discharge of effluent into that creek can be allowed. Additionally, the commenter stated that the creek is going to flow when it has continuous discharge and the discharge will make it to the SM River over time.

Response 10:

The potential impact of the proposed discharge on instream dissolved oxygen levels is evaluated under hot and dry, low-flow summertime conditions, which are typically the most restrictive conditions regarding dissolved oxygen levels. Critical low-flow, as defined in 30 TAC § 307.3(a)(16), is a "low-flow condition that consists of the seven-day, two-year flow (7Q2)," which is the lowest seven-day average discharge with a recurrence interval of two years. The criteria of the Texas Surface Water Quality Standards (30 TAC Chapter 307) are applicable even during critical low-flow, therefore critical low-flow is considered when evaluating the appropriate effluent limits for the proposed discharge.

Dickerson Creek was assessed as an intermittent stream with perennial pools. Consequently, to represent critical hot and dry, low-flow summertime conditions, the proposed discharge was modeled under a presumption that no flow other than that from the proposed discharge would be present in Dickerson Creek. Even during these conditions, the effluent limits included in the draft permit were predicted to be adequate to ensure that dissolved oxygen levels will be maintained above the criteria established for Dickerson Creek and the San Marcos River.

The proposed discharge from the Cherryville WWTF could potentially result in more persistent flows in portions of Dickerson Creek during periods of extreme low-flow or no-flow conditions. The Executive Director's review of the Cherryville application considered the impact of the effluent from the Cherryville WWTF on Dickerson Creek, including during critical low-flow periods. The effluent limits included in the draft permit are designed to be protective of water quality during periods of critical low-flow as well as under higher flow conditions. As discussed elsewhere in this document, the Executive Director has concluded that existing uses of Dickerson Creek will be maintained and protected.

Regarding the commenter's suggestion, the Executive Director acknowledges this comment.

D. Comments on the WWTF and Treatment Processes

Comment 11:

For the person(s) that made this comment, please see Attachment 16.

A commenter asked how the sewage is to be treated?

A commenter stated that the water/sewer/drainage system currently in place is not sufficient to manage this small community's needs without adding a large development with water features.

Response 11:

As indicated on pages 2-3 of Technical Report 1.0, the applicant indicated that the proposed Cherryville Wastewater Treatment Facility (Facility) will be a membrane

bioreactor (MBR) system and will serve the proposed Cherryville Municipal Utility District (MUD) service area, which will consist primarily of family residential subdivisions with commercial developments. Treatment units in the Interim I phase will include two fine screens, an equalization basin, two MBR basins, a sludge digester, and three ultraviolet light (UV) disinfection units. Treatment units in the Interim II phase will include two fine screens, an anoxic basin, three MBR basins, a sludge digester, and four UV disinfection units. Treatment units in the Final phase will include two fine screens, an anoxic basin, three MBR basins, sludge digester, and five UV disinfection units. In accordance with Other Requirement No. 7 in the draft permit, design criteria for the proposed facility is required to be submitted prior to construction of the treatment facility to the TCEQ for review and approval by staff engineers. The information submitted is reviewed to evaluate if the facility is adequate to meet the limitations of the draft permit or if changes are needed to ensure the facility complies with the permit limitations and conditions.

The water and drainage systems to serve the proposed development are outside of the scope of what is considered in the review of the proposed permit application. Accordingly, these items are not evaluated and cannot be regulated through the wastewater permitting process.

Comment 12:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that Cherryville's application does not show need for 160,000 gpd during the 5-year permit term and the volume should be reduced to match the level of need that can be demonstrated during the 5-year permit term.

Response 12:

The Texas Water Code (TWC) § 26.0282 provides that: in considering the issuance, amendment, or renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed area wide or regional waste collection, treatment, and disposal systems not designated as area wide or regional disposal systems by Commission Order.

The preliminary engineering report from Cherryville provided justification for the requested flows. As part of the application, Cherryville provided sufficient information regarding anticipated future wastewater needs and explained the timing of the proposed additional phases and needed expansion. Specifically, Page 1 of Technical Report 1.0 and population projections provided with the application indicated that in the proposed development plan, approximately 1,929 individuals are projected to be served by the development in the year 2024, which would be five years from issuance if the permit was issued in the year 2019. Since the development is primarily residential, one can use the estimate of 75 gallons per person per day as outlined in 30

TAC §217.32(a)(3) to estimate that at this would generate a wastewater flow of approximately 145,000 gpd. Operational Requirement 8a on Page 14 of the draft permit requires that the permittee begin planning for expansion once the flow reaches 75% of the permitted daily average flow for three consecutive months, which means the permittee would need to request an amendment to the draft permit to increase flow in order to comply with this requirement. As discussed elsewhere in this RTC, such an amendment would be subject to additional evaluations of effluent limits, opportunity for public comments and the contested case hearing process.

Based on the information Cherryville provided in its application, the Executive Director has determined that Cherryville has demonstrated a need for the proposed WWTF.

Comment 13:

For the person(s) that made this comment, please see Attachment 16.

A commenter asked whether Cherryville will have regional detention? If so, could Cherryville deter some of their water from their sewer plant into their detention pond so that more treatment could occur, maybe with microorganisms and fish which would reduce phosphates in the discharge? Additionally, the commenter asked if Cherryville plans to have lakes or golf courses in the future, which could be used for retention and further retention?

Similarly, two commenters asked if there will be a detention tank to analyze the quality of the effluent prior to its release into Dickerson Creek? Additionally, the commenters asked if so, (1) what methods of monitoring will be implemented? (2) what contaminants will be monitored? and (3) where will the pre-released contaminant level analysis results be recorded? The commenters also asked if there will be downstream monitoring of the San Marcos River and/or Dickerson Creek at the point of effluent release? If so, by whom? Additionally, the commenters asked what areas will be monitored in the San Marcos River and Dickerson Creek and how often will monitoring occur? Furthermore, the commenters asked what will the San Marcos River and Dickerson Creek be monitored for? What type of samples will be taken? And what lab will be testing the samples? and where will the results be recorded and held? Finally, the commenters asked when TCEQ approves Cherryville to release contaminants into the San Marcos River via Dickerson Creek, will TCEQ require additional monthly and yearly testing to include monitoring the levels of contaminants that Cherryville will be permitted to create and charge those results and increased sampling testing to TCWSC?

Response 13:

TPDES permits do not require storage for treated effluent. Furthermore, unless additional treatment units are deemed necessary to meet the effluent limitations included in the draft permit by Plans and Specifications Team staff within the Water Quality Division, no further treatment is required of the applicant to maintain water

quality in the receiving waters outside of what was proposed in the application. This does not prohibit the permittee from constructing detention facilities for stormwater generated by the development, but any discharge of treated wastewater to such a facility would require reevaluation of the discharge route and effluent limitations. As discussed elsewhere in this RTC, Chapter 210 Reuse authorizations for reusing treated effluent is a separate authorization from this permit and requires either a TPDES or TLAP permit first before granting such an authorization.

The draft permit requires that the effluent be sampled following the final treatment unit, which provides the effluent quality prior to dilution by receiving waters. The exact location and means of sampling following the final treatment unit, whether it be a manhole with effluent pipe access or other means, is generally not specified in the draft permit.

The methods that permittees can use to test constituents in wastewater required by permits are outlined in 30 TAC Chapter 319 and 40 Code of Federal Regulations (CFR) Chapter 136. The constituents required to be monitored by the permittee are outlined on the Effluent Limitations section of the draft permit on Pages 2-2b. These constituents include flow, five-day carbonaceous biochemical oxygen demand, total suspended solids, ammonia nitrogen, *E. coli*, pH, and minimum dissolved oxygen, which have monitoring requirements for varying frequencies according to these pages. These data are required to be submitted to the TCEQ on a monthly basis to verify compliance with the permitted effluent limitations. Cherryville has applied to the TCEQ for a TPDES permit which would, if granted, authorize the discharge of the requested maximum flow amount into Dickerson Creek, thence to Lower San Marcos River in Segment No. 1808. Detention is not necessary or required in this draft permit. Cherryville, in its application, did not state that any detention ponds, lakes or golf courses would be constructed.

The draft permit requires weekly sampling for carbonaceous biochemical oxygen demand ($CBOD_5$), total suspended solids and ammonia-nitrogen. Additionally, the draft permit requires five samples per day for *E. coli* in all phases of the draft permit. The testing frequency is based on TCEQ's rules in 30 TAC Chapter 319 for all parameters except ammonia-nitrogen, which is based on best professional judgement. TCEQ's rules do not require samples to be analyzed by more than one laboratory.

The effluent samples will either be tested by a third-party laboratory, or on-site or in-house environmental testing laboratory that is inspected at least every three years by the Executive Director. (30 TAC § 25.6). If Cherryville opts to use a third-party laboratory, it must be an accredited environmental testing laboratory. (TWC § 5.134). The effluent testing required in the draft permit is the applicant's financial responsibility.

TCEQ does not typically require permittees to monitor the water quality of receiving waters. Rather, permittees are required to meet permit limits and conditions that are developed by TCEQ, in accordance with the TSWQS and Implementation

Procedures, to protect designated and assigned uses and associated water quality of receiving waters.

E. Comments Regarding the Treatment Technology

Comment 14:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that Cherryville needs to consider a reservoir so when mishaps happen, we won't have raw sewage going into the river. Similarly, a commenter stated that a reservoir of sufficient size must be constructed into which reclaimed water will be stored until it can be used for beneficial use and can serve the purpose of containing all of the effluent in the event of a plant failure.

Two commenters asked what the proposed size of the secondary containment area is and what the projected timeline expected to reach the capacity of the second containment is?

Response 14:

As discussed elsewhere in this RTC, Other Requirement No. 7 in the draft permit requires that the permittee submit design criteria through a summary transmittal letter to the TCEQ Water Quality Division for review and approval by our staff engineers after the proposed permit is issued. Secondary containment or sizing of treatment units is not something explicitly stated in wastewater permits, as the purpose of the permits is to establish treatment criteria for proposed treatment facilities to meet. The evaluation by the Plans and Specifications Team determines if the proposed design criteria of the treatment facility is sufficient to meet permit limitations and the design criteria outlined in 30 TAC Chapter 217.

Cherryville has applied to the TCEQ for a TPDES permit which would, if granted, authorize the discharge of the requested maximum flow amount into Dickerson Creek, thence to Lower San Marcos River in Segment No. 1808; therefore, effluent storage for later beneficial use is not necessary or required.

To help ensure that the proposed Cherryville WWTF is effectively managed, the draft permit describes the conditions under which the WWTF must operate. The proposed WWTF must be designed, operated, and maintained consistent with applicable TCEQ rules. The draft permit includes: provisions for monitoring effluent; sludge disposal; reporting requirements (including test procedures, instrument calibration, records management, and notification); and operational requirements (including process control, provision of adequate power supply, and flow monitoring). These provisions ensure that the WWTF is properly operated and maintained.

Comment 15:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that a Class C operator is not sufficient for a plant of this volume that is continuously discharging effluent and that a full-time on-site operator must be required, and that remote operation of the plant is not adequate and will allow spills and overflows to contaminate the creek before they are contained. Similarly, a commenter objected to small package plants that are unmanned, stating that the Cherryville plant will not be manned 24 hours per day, which is not safe for public health, and previous spills (hundreds) show clearly that an operator cannot get to a plant in time, even if some kind of alarm goes off.

Response 15:

The draft permit requires that the facility must be operated by a chief operator or an operator holding a Class C license or higher. In accordance with 30 TAC Chapter 30 Subchapter J, the proposed Cherryville treatment system is a membrane bioreactor (MBR) system with a proposed daily average flow greater than 0.050 MGD and less than 1.0 MGD, which is classified as a Category C facility. TCEQ's rules require this type of WWTF to be operated by an operator holding a Class C license or higher. This is a minimum requirement and ultimately Cherryville is responsible for selection of an operator capable of proper operation of the WWTF in compliance with the permit limitations.

The operation and maintenance manual for the WWTF will detail how the facility will be operated to ensure efficient and safe operation, maintenance, monitoring, and reporting. Further, Other Requirement No. 1 of the draft permit requires that the licensed chief operator or operator holding the required level of license or higher must operate the facility a minimum of five days per week and be available by telephone or pager seven days per week.

Comment 16:

For the person(s) that made this comment, please see Attachment 16.

Two commenters asked what measures have been implemented to eliminate an overflow or breach situation?

Several commenters asked what safety measures will be implemented on Cherryville's waste treatment plant to ensure there will be no spillage into the river when another flood affects the towns of Tri-Community?

Response 16:

The collection system must be designed, installed, and tested in accordance with 30 TAC Chapter 217 rules. Wastewater treatment design requirements are described in 30 TAC § 217, Subchapter B. Additionally, 30 TAC § 217.36 describes emergency power requirements for WWTFs. In accordance with 30 TAC § 217.36, WWTFs "must be designed to prevent the discharge of untreated or partially treated wastewater during electrical power outages." Also:

> A wastewater treatment facility must include an audiovisual alarm system. The alarm system must transmit all alarm conditions through the use of an auto-dialer system, a Supervisory Control and Data Acquisition (SCADA) system, or a telemetering system connected to a continuously monitored location. Audiovisual alarms are not required if the SCADA system notifies the operator about communication loss, in addition to all other alarm conditions. At a minimum, the alarm system must self-activate to give warnings for power outages, pump failures, and high-water levels. Audiovisual alarms are not required if the SCADA system alerts the operator about communication loss, in addition to the alarm conditions.
>
> 30 TAC § 217.36.

An owner is required to have an engineer design a collection system and wastewater treatment facility that meets the minimum requirements of this chapter. The Executive Director may determine that additional requirements are needed. An owner is required to construct a collection system or wastewater treatment facility according to the design criteria approved by the Executive Director and reviewed by the TCEQ Water Quality Plans and Specifications Team.

If anyone experiences nuisance conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules they may be reported to TCEQ by calling toll-free 1-888-777-3186 or the TCEQ Region 11 office in Austin at (512)339-2929. Citizen complaints may also be filed on-line at www.tceq.texas.gov/compliance/complaints. If Cherryville fails to comply with all requirements of the permit, it may be subject to enforcement action. Moreover, the permit does not limit the ability of an individual to seek legal remedies against Cherryville regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

Comment 17:

For the person(s) that made this comment, please see Attachment 16.

Several commenters expressed concern over the potential for accidental or unpermitted discharges. Additionally, two of these commenters stated negative impacts that result from unpermitted discharge including: negatively impacting flora and fauna, including protected species; bacteria from the inevitable spills will cause serious problems to landowner's wells and Tri-Community's public wells, not to mention recreational users, fishermen, and the fish and other wildlife in the benthic community of the creek and river.

A commenter stated that they do not want an overspill like at Brushy Creek or a kill. Similarly, a commenter stated that they want a guarantee that the Applicant won't have a mishap like San Marcos, who has had two or three big spills.

Response 17:

Cherryville is required to minimize the possibility of an accidental discharge of untreated wastewater. For example, Cherryville must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater.[2] The design criteria for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Executive Director.

Additionally, the draft permit provides that when the flow reaches 75 percent of the permitted daily average flow for three consecutive months, Cherryville must initiate engineering and financial planning for expansion or upgrade of the domestic wastewater treatment or collection facilities. When the flow reaches 90 percent of the permitted daily average flow for three consecutive months, Cherryville must obtain authorization from the Executive Director to begin constructing the necessary additional treatment or collection facilities.

Moreover, a WWTF must include an audiovisual alarm system. The alarm system must transmit all alarm conditions through the use of an auto-dialer system, a Supervisory Control and Data Acquisition (SCADA) system, or a telemetering system connected to a continuously monitored location. (30 TAC § 217.36)

All of these permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, Cherryville is required to report it to TCEQ within 24 hours. Finally, Cherryville is subject to potential enforcement action for failure to comply with TCEQ rules or the permit. Complaints about the facility or suspected incidents of noncompliance with the permit or TCEQ rules may also be reported to the TCEQ Region 11 Office in Austin at 512-339-2929 or 1-800-888-777-3186. Citizens may also gather data to show that a permittee is not in compliance with TCEQ rules. For more information on citizen collected evidence, please see www.TCEQ.state.tx.us/enforcement/complaints.html.

F. Comments Suggesting Alternative Discharge Method and/or Location

Comment 18:

For the person(s) that made this comment, please see Attachment 10.

Several commenters stated that Cherryville should find an alternative to direct discharge. Specific suggestions that were raised include requiring Cherryville to: obtain a TLAP; on-site processing; decentralized wastewater systems, such as artificial wetlands; integrate wastewater reuse into developments; utilizing a "ONE WATER" approach; membrane technology; wetland plant sequestration system; purple and

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[2] Cherryville GP, INC. & Cherryville #5, LTD. Draft Permit, Operational Requirements, Item No. 4, page 13.

white system; irrigation allowing the biological processes of plants and healthy soils to filter problematic compounds and nutrient levels; and tying into a regional plant.

Several commenters stated that the proposed discharge should be moved somewhere else.

Response 18:

The Texas Water Code § 26.121, authorizes discharges into waters of the state, provided the discharger obtains a permit from the Commission. The Executive Director does not have the authority to mandate a different discharge location, type of wastewater treatment plant, or disposal method. The Executive Director evaluates applications for wastewater treatment plants based on the information provided in the application. Cherryville proposed a membrane bioreactor system with treatment units in the Interim I phase that will include two fine screens, an equalization basin, two MBR basins, a sludge digester, and three ultraviolet light (UV) disinfection units. Treatment units in the Interim II phase will include two fine screens, an anoxic basin, three MBR basins, a sludge digester, and four UV disinfection units. Treatment units in the Final phase will include two fine screens, an anoxic basin, three MBR basins, sludge digester, and five UV disinfection units. The Executive Director evaluated the Cherryville application according to all applicable statutory and regulatory requirements and determined that, if properly operated, the Cherryville WWTF should be able to meet the effluent limits in the draft permit and will not negatively impact human health or the environment.

Comment 19:

For the person(s) that made this comment, please see Attachment 10.

Several commenters stated that the permit should require reuse of the effluent.

A commenter stated that any reuse system must use purple pipe rather than the creek to convey reuse water or the creek will become choked with algae.

Response 19:

Before Cherryville can obtain authorization for the use of reclaimed water, often referred to as a "210 authorization" for the proposed amended flow, Cherryville must have a TPDES permit in accordance with 30 TAC § 210.5(a). TCEQ's rules provide that use of reclaimed water may only be authorized for "on a demand" use, which prevents treated water from being provided during times it cannot be beneficially used and allows the reclaimed water user to refuse delivery of reclaimed water at any time. 30 TAC § 210.7. All reclaimed water transferred to a user must be of at least the treatment quality for the use specified in 30 TAC §210.32.

If the TPDES permit is issued, Cherryville will have to notify the Executive Director that it intends on using the reclaimed water and obtain approval to provide reclaimed water. 30 TAC § 210.4. Treated effluent that is used for irrigation under a 210 authorization must meet the appropriate effluent limits as required by 30 TAC

Chapter 210. The option, however, to utilize the treated effluent for beneficial purposes (reclaimed water), such as irrigation of public parks, golf courses, or fire protection, is left at the discretion of the permittee, because it involves factors which are beyond the scope of the permitting process, such as financial or economic considerations, and the presence of a provider, who is a person or entity that distributes reclaimed water to a user(s) of reclaimed water.

Regarding the comment about purple pipe, the Executive Director acknowledges this comment.

Comment 20:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that proper planning and reasonable measures can usher in a more promising and longer sustaining future for any community. Similarly, a commenter stated that the Cherryville plan is cutting corners when it comes to their impact on water quality of the San Marcos River and requested that TCEQ demand Cherryville to rethink their plan to make sure water quality of the San Marcos River will not be negatively impacted in any way.

Response 20:

The Executive Director does not have the authority to mandate a different discharge location or different type of wastewater treatment plant. The Executive Director evaluates applications for wastewater treatment plants based on the information provided in the application. The ED evaluated the Cherryville application according to all applicable statutory and regulatory requirements and determined that, if properly operated, the Cherryville WWTF should be able to meet the effluent limits in the draft permit and will not negatively impact human health or the environment. The evaluation of the proposed discharge's effect on the water quality of the San Marcos River is discussed in the next section of this RTC covering the ED's antidegradation review.

G. Comments Regarding the Executive Director's Antidegradation Review

Comment 21:

For the person(s) that made this comment, please see Attachment 7A and 7B.

The TCEQ received many comments regarding the Executive Director's antidegradation review.

Several commenters stated that more stringent standards for sewage treatment, specifically, 5 mg/l CBOD, 5 mg/l Total Suspended Solids, 2 mg/l Ammonia Nitrogen, 1 mg/l Phosphorous or better, should be adopted. Similarly, a commenter stated that requiring a 5-5-2-1 standard from the beginning will prevent the water discharge from

falling below the minimum treatment standards as soon as the community grows, with little incentive for the developers to spend additional money to fix the problem.

Several commenters stated that more stringent standards for sewage treatment, specifically, 5 mg/l CBOD, 5 mg/l Total Suspended Solids, 2 mg/l Ammonia Nitrogen, .5 mg/l Phosphorous or better, should be adopted.

A commenter asked what the standard is for determining that existing water quality uses will not be impaired? Additionally, the commenter asked if TCEQ is prepared to set an explicit limit on the amount of flow that could be generated and still maintain its evaluation that existing water quality uses would not be impaired?

Two commenters stated that because the effluent volume will increase as the Cherryville development gets built out, it's critical that the allowable effluent limits be initially set so that people enjoying contact recreation in the river aren't adversely affected by the effluent. Similarly, several commenters stated that as the Cherryville development proceeds and the amount of treated sewage increases, the impacts on the SM River and nearby residents will worsen.

A commenter asked TCEQ to please consider impacts one mile into the San Marcos River, in addition to, Dickerson Creek. Similarly, a commenter stated that they are concerned that the three-mile review is not adequate to address the true downstream impacts. Another commenter stated that under the TCEQ standards of only considering 3 miles from discharge it does not take into account the effect on a discharge point at the river, which is at the 5-mile point.

A commenter asked if the TCEQ's review considered only the impact of the 160,000 gpd permit flow or if any consideration of where the discharge would go down the line past the flow limit of this permit occurred?

A commenter stated that even if operated within the proposed permit limits, the proposed discharge under the permit would increase the turbidity of the river negatively impacting endangered species, fishing, swimming, and tubing.

A commenter stated that the designated uses for Dickerson Creek are incorrect and being that the creek is currently classified as limited aquatic life use, but landowners immediately downstream of the discharge point and many other residents report having swum and fished in the creek. Additionally, the commenter stated that Dickerson Creek should be reclassified as primary contact recreation and at least intermediate aquatic life use. Finally, the commenter stated that because Dickerson Creek & San Marcos River in this area are both used for contact recreation and water supply, to protect existing uses, a Tier 2 Antidegradation review must be undertaken.

A commenter asked if the change from ephemeral to permanent flow by itself changes the inherent water "use" from "limited aquatic life use" to "intermediate aquatic life use"? Additionally, the commenter asked how TCEQ reached the conclusion that "no significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses

will be maintained and protected" and what calculations, modeling or other evaluations, formed the basis of that conclusion? Finally, the commenter asked if TCEQ's analysis "cut off" at some point short of this water entering the San Marcos River?

A commenter stated that TCEQ does not have staff to look at any individual river when they do "these permits", they (TCEQ) are looking at boiler plate and most simple kind of average Texas river data and if you have a clean river like the San Marcos River, that just means you can dump more waste in it before it drags a whole river down to the level of average Texas rivers. Additionally, the commenter stated that the use of "average Texas river data" to model wastewater discharges and water quality by the TCEQ is not sufficient for clean clear rivers like the San Marcos River or creeks that drop into alluvial aquifers and affect people's wells.

Two commenters requested the adoption of more stringent sewage discharge limits to lessen the financial burden posed to TCWSC by Cherryville's proposed discharge.

Several commenters stated that the proposed discharge would negatively effect recreation use of the San Marcos River, including fishing and swimming. For the person(s) that made this comment, please see Attachment 11.

Response 21:

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed.

Overview. New TPDES permits, as well as amendments to TPDES permits, that allow increased pollution loading are subject to review under Tier 1 of the antidegradation policy; all pollution that could cause an impairment of existing uses is included in the evaluation. The Executive Director's Tier I antidegradation review ensures that existing water quality uses are not impaired by increases in pollution loading. Numerical and narrative criteria necessary to protect existing uses will be maintained.

New TPDES permits, as well as amendments to TPDES permits, that allow an increase in loading are also subject to review under Tier II of the antidegradation policy. A Tier II antidegradation review generally applies to water bodies that have existing, designated, or presumed uses of intermediate, high, or exceptional aquatic life uses. Typically, this applies to waterbodies within three miles of the proposed outfall location. The Executive Director's Tier II antidegradation review ensures that where water quality exceeds the normal range of fishable/swimmable quality, the water quality will be maintained, unless lowering it is necessary for important economic or social development. Because the San Marcos River is approximately 4 miles downstream of the proposed outfall location, a Tier II antidegradation review was not required for this application.

Executive Director's Tier I Review. According to the Cherryville application, the treated effluent will be discharged to Dickerson Creek, thence to Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin. The unclassified receiving water use is limited aquatic life use for Dickerson Creek. The designated uses for Segment No. 1808 are primary contact recreation, public water supply, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. The dissolved oxygen criterion of 3.0 mg/L, associated with a limited aquatic life use, dictates the effluent limits necessary to maintain instream dissolved oxygen levels necessary to support a limited aquatic life use in Dickerson Creek. The draft permit requires disinfection of the treated effluent, and includes bacteria limits, to maintain and protect the primary contact recreation uses of Dickerson Creek. The Executive Director's Tier I antidegradation review of the Cherryville application preliminarily determined that existing water quality uses will not be impaired by the permit, if it is issued. Numerical and narrative criteria to protect existing uses will be maintained.

Executive Director's Tier II Review. The ED's Tier I review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required.

Protection of Wildlife. The extensive technical reviews performed resulted in permit limits to ensure the permitted discharge is consistent with applicable laws, rules, and procedures and protective of the Texas Surface Water Quality Standards which includes the antidegradation policy, designated and presumed uses. Therefore, the permit is expected to be protective of aquatic-dependent species that reside in the receiving streams and other wildlife that utilize the receiving streams.

Modeling Analysis. The dissolved oxygen modeling analysis was performed using a combination of standardized TCEQ default parameters and site-specific considerations. The model was configured to simulate the sequence of pools and stream-like reaches in Dickerson Creek downstream of the proposed discharge point. Based on dissolved oxygen modeling predictions, the modeling was ended before Dickerson Creek enters the San Marcos River. This was done because the predicted concentrations of oxygen related parameters were essentially at background levels at that point, so additional downstream modeling was considered unwarranted.

The IPs state "TCEQ recognizes that the technology-based daily average ammonia-nitrogen limit of 3.0 mg/L included in most major domestic discharges permits generally precludes chronic toxicity to test species. Therefore, the TCEQ will implement this limit to address chronic toxicity attributable to ammonia-nitrogen in domestic discharge permits."

It is standard practice to consider effluent effects within three miles downstream of a proposed discharge point unless otherwise indicated. The discharge

amount requested in the application is less than 1.0 MGD and a three-mile cutoff was implemented.

Comment 22:

For the person(s) that made this comment, please see Attachment 16.

Several commenters stated that Dickerson Creek and the San Marcos River are considered "pristine" however, the discharge will lower the water quality causing Dickerson Creek and the San Marcos River to lose their pristine designation. Additionally, a commenter stated that there has not been sufficient research to guarantee the presentation of the pristine quality of both Dickerson Creek and the San Marcos River.

Two commenters stated that the San Marcos River needs to be treated differently than other parts of the state because it is so sensitive and should be looked at with a higher standard than normal discharge permits.

Response 22:

The unclassified receiving water use is limited aquatic life use for Dickerson Creek. The designated uses for Segment 1808 are primary contact recreation, public water supply, and high aquatic life use that exceeds fishable and swimmable quality. TCEQ does not have a designation of "pristine;" however, TCEQ recognizes outstanding national resource waters (ONRWs), which are waters that have unique characteristics that must be preserved.[3] ONRWs are defined as high quality waters within or adjacent to national parks and wildlife refuges, state parks, wild and scenic rivers designated by law, and other designated areas of exceptional recreational or ecological significance.[4] Degradation is generally prohibited for ONRWs. Currently, there are no designated ONRWs in Texas.

As discussed elsewhere in this RTC, the ED has made a preliminary determination that the draft permit will not degrade water quality in Dickerson Creek or Segment 1808, nor adversely impact its aesthetic qualities. The anti-degradation review conducted for this permit and the resulting limits that resulted to protect water quality are addressed elsewhere in this document.

Comment 23:

For the person(s) that made this comment, please see Attachment 7B.

Several commenters requested that the TCEQ apply more strict standards.

A commenter requested that the TCEQ take into consideration the amount of contamination currently in the San Marcos River when considering the requirements

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[3] 30 TAC § 307.5(b)(3)

[4] 30 TAC § 307.5(b)(3)

for the proposed draft permit and that TCEQ implement the strictest policies available for the treatment of Cherryville, LLC effluent prior to discharge.

Response 23:

The Executive Director has determined that the draft permit's effluent limitations are consistent with the Texas Surface Water Quality Standards and are therefore protective of surface water quality, human health, and the environment. The draft permit includes effluent limitations and monitoring requirements for 5-day Carbonaceous Biochemical Oxygen Demand ($CBOD_5$), Total Suspended Solids (TSS), Dissolved Oxygen, Ammonia Nitrogen, *E. coli,* and pH to ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, groundwater, and human health according to TCEQ rules and policies. The draft permit includes additional requirements for the wastewater treatment system to ensure the protection of water quality and human health. The draft permit includes requirements for the disposal of domestic sludge generated from the wastewater treatment facility based on TCEQ rules.

Furthermore, TCEQ's antidegradation policy meets the requirements of the Clean Water Act (CWA § 303; 33 USCA § 1313) as well as the federal regulatory requirements (40 CFR § 131.12). 40 CFR § 131.12 requires states adopt an antidegradation policy and defines the requirements of a state's antidegradation policy. TCEQ's antidegradation policy, found at 30 TAC § 307.5, establishes protection for water bodies that are defined in the standards as being of intermediate, high, or exceptional quality. Specific numerical criteria for 42 toxic pollutants (expressed as maximum instream concentrations) protect aquatic life (30 TAC §307.6). Human consumption of fish and drinking water is protected by numerical criteria for 100 toxic pollutants.

Public participation in the rulemaking process, including development of the antidegradation policy, is encouraged. To find ways to participate, please visit https://www.tceq.texas.gov/rules/participate.html.

Comment 24:

For the person(s) that made this comment, please see Attachment 12.

Several commenters expressed concern that the nitrates and phosphates from the Cherryville WWTF will cause algal blooms which will deplete the oxygen that is needed for fish, aquatic life and the general ecology.

A commenter stated that the San Marcos River is already full of algal blooms due to high nitrogen levels from farmland fertilizer.

Several commenters stated that fishing, swimming, boating, contact and non-contact recreation may be negatively impacted by the additional algae.

A commenter stated that use of the creek for fishing and recreation will be impossible with the increased nutrients, algae, odors and spills that most small

wastewater treatment plants bring to creeks. Similarly, a commenter stated that even if operated within proposed permit limits the proposed increased nutrient load will increase plant growth, including algal growth, leading to algal blooms, noxious odors and oxygen deprivation in the critical waters necessary for healthy fish and the continued protection of endemic endangered species.

A commenter stated that the effluent will cause algal growth, which in turn will cause a change in the chemistry of the water.

A commenter stated that Cherryville needs to remove as much phosphorous as possible to avoid algae blooms and fish kills. Similarly, a commenter stated that even if Cherryville gets phosphorous down to one part per million, that's enough to cause nuisance algae growth if that's the only flow in the river.

A commenter stated that the lack of nutrient limits for, specifically phosphorous and nitrogen, in the draft permit can lead to increased algae and eutrophication which decreases DO and deteriorates aesthetics in aquatic systems.

The commenters provided examples of impairments caused by nutrient pollution including: increased costs to treat water to potable standards; reduced aesthetics, recreation, fishing and tourism; algal blooms; odor; depressed dissolved oxygen concentrations; and fish kills. To address its concern, the commenters recommended that the draft permit include effluent limits for both nitrogen and phosphorus.

Response 24:

The Executive Director has determined that if the Cherryville WWTF is operated according to the requirements in the draft permit, wildlife habitat in the area will be protected. The unclassified receiving water use is limited aquatic life use for Dickerson Creek. The designated uses for Segment No. 1808 are primary contact recreation, public water supply, and high aquatic life use. A 4.0 mg/L dissolved oxygen (DO) criterion has been assigned pursuant to 30 TAC § 307.10. The DO criterion ensures that aquatic life will be protected. The Executive Director's staff performed a DO modeling analysis of the proposed discharge using an uncalibrated QUAL-TX model. Based on model results, the effluent limits included in the draft permit for 5-day Carbonaceous Biochemical Oxygen Demand ($CBOD_5$), ammonia-nitrogen, and minimum effluent DO for the three proposed flow phases are predicted to be adequate to ensure that instream DO levels will be maintained consistent with these established criteria and will therefore protect wildlife habitat.

Total phosphorus (TP) and Total Nitrogen (TN) from this facility was not a concern based on characteristics of the receiving waters and the amount of effluent discharge proposed. These characteristics include substantial tree canopy, mud or sand bottom, and turbid waters, which are not conducive to increased algal growth; similar facilities that discharge to the same receiving waters do not have TP limits.

Regarding the endangered species comment, the discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. Segment No. 1808 is not currently listed on the state's inventory of impaired and threatened waters (the 2014 CWA § 303(d) list).

Throughout any permit hearing process, TCEQ may continue to evaluate water quality impacts of permitted discharges and revise permit effluent limits based on these evaluations. Such evaluations and revisions may also be subject to EPA review and approval.

Comment 25:

For the person(s) that made this comment, please see Attachment 16.

A commenter asked if TCEQ is constrained to considering only the action immediately before it, without regard to where it may lead, or if it considers where it may lead, can TCEQ assert the amount of total nitrogen to be discharged that would get to be "too much" and would impair aquatic life use?

Response 25:

TCEQ staff review available relevant information from sources that may include (but are not limited to) the permit application, stream surveys, routine monitoring information, waste load evaluations (WLEs), or total maximum daily loads (TMDLs). Additional information may also be acquired from the TCEQ's regional staff, the applicant, adjacent land owners, river authorities, or governmental entities. All proposed permit actions that would increase pollution are also evaluated using the procedures discussed in the *IPs.*

As part of the application process, TCEQ staff must determine the uses of the receiving waters and set effluent limits that are protective of those uses. To achieve the goal of maintaining a level of water quality enough to protect existing water body uses, the proposed draft permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. The ED's antidegradation review is discussed elsewhere in the RTC.

Effluent limitations for the conventional effluent parameters (i.e., Biochemical Oxygen Demand or Carbonaceous Biochemical Oxygen Demand, Ammonia Nitrogen,

etc.) are based on stream standards and waste load allocations for water-quality limited streams as established in the Texas Surface Water Quality Standards (TSWQS) and the State of Texas Water Quality Management Plan (WQMP).

As discussed previously in Response 26, Total Nitrogen (TN) from this facility was not a concern based on characteristics of the receiving waters and the amount of effluent discharge proposed.

Comment 26:

For the person(s) that made this comment, please see Attachment 16.

Several commenters asked what are the known effects of releasing 160,000 gpd of effluent into the SM River, via Dickerson Creek on Nitrate and Nitrite levels?

Similarly, several commenters stated that the draft permit should include a limit for nitrate-nitrogen, which is a key nutrient which affects human health. Additionally, a commenter stated that high nitrates can cause blue baby syndrome if the water is not treated.

Several commenters asked what are the projected effects regarding the quality of the San Marcos River as the effluent releases increase to the projected 3.3 MGD? Additionally, the commenters asked, based on similar situations, to the Cherryville development, what unforeseen levels of contaminants were detected in rivers of other similar projects?

Response 26:

As discussed previously nitrogen and nitrate from this facility was not a concern based on characteristics of the receiving waters and the amount of effluent discharge proposed. TP is typically the limiting nutrient in freshwater, therefore permit limits for nutrient control in freshwater is typically TP and not TN. The TCEQ's Water Quality Division has determined that the effluent limits in the draft permit are consistent with the Texas Surface Water Quality Standards and are therefore protective of surface water quality, human health, and the environment.

The Executive Director evaluates each permit application and action individually to ensure the permits are protective of surface water quality. The TCEQ considers permit-specific and site-specific factors, reported in the permit application and independently determined from publicly available resources such as, the volume of discharge and the characteristics and quality of receiving water, for each permit application. The draft permit authorizes a discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 0.038 MGD, an Interim II volume not to exceed a daily average flow of 0.072 MGD, and a Final volume not to exceed a daily average flow of 0.16 MGD. The effluent limitations in the Interim I, Interim II, and Final phases of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand ($CBOD_5$), 15 mg/l total suspended solids (TSS), 3.0 mg/l ammonia-nitrogen (NH_3-N), 126 colony forming units (CFU) or

most probable number (MPN) of *Escherichia coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The permittee shall utilize an UV system for disinfection purposes and shall not exceed a daily average *E. coli* limit of 126 CFU or MPN per 100 ml.

Comment 27:

For the person(s) that made this comment, please see Attachment 13.

A commenter stated that water pollutants including bacteria; nutrients, chiefly nitrogen and phosphorous from wastewater discharge or agricultural and municipal runoff; and other particulate matter, like oil and toxic chemicals, deposited through rain and runoff, increasingly common as land is developed and paved over, must be addressed in order to preserve high-quality water.

A commenter stated that there should be assurance that a discharge into the San Marcos River does not alter any of the WQ parameters already established by 25 years of data collection by the San Marcos River Rangers, part of the Texas Stream Team Citizen Science Program. Additionally, the commenter stated that Nutrient issues are evident at many wastewater (pocket plants) and is of great concern in this area where river communities have worked hard to improve and better water quality for over 35 years.

A commenter asked if TCEQ can assert the amount of Total Nitrogen to be discharged that would be "too much" and would impair existing water quality uses?

Several commenters expressed concern that current Standards allow for high levels of Ammonia Nitrogen and do not require testing for Total Phosphorous or Total Nitrogen. Similarly, two commenters stated that the lack of strict standards and no phosphorous or nitrogen testing will threaten the Fentress drinking water supply.

A commenter stated that they believe that the springs that feed Dickerson Creek will prove to be phosphorous limited after being tested.

Response 27:

Total phosphorus (TP) and Total Nitrogen (TN) from this facility was not a concern based on characteristics of the receiving waters and the amount of effluent discharge proposed. These characteristics include substantial tree canopy, mud or sand bottom, and turbid waters, which are not conductive to increased algal growth; similar facilities that discharge to the same receiving waters do not have TP limits. However, the preliminary determination can be reexamined and may be modified if new information is received.

As discussed elsewhere in this RTC, stormwater and other issues related to the development are outside of the scope of the wastewater permitting process for domestic wastewater treatment plants.

Comment 28:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that the TCEQ should hold Cherryville to the same water quality standards as communities nearby.

Response 28:

The Executive Director evaluates each permit application and action individually to ensure the permits are protective of surface water quality. The TCEQ considers permit-specific and site-specific factors, reported in the permit application and independently determined from publicly available resources such as, the volume of discharge and the characteristics and quality of receiving water, for each permit application. The TCEQ's Water Quality Division has determined that the effluent limits in the draft permit are consistent with the Texas Surface Water Quality Standards and are therefore protective of surface water quality, human health, and the environment.

Comment 29:

For the person(s) that made this comment, please see Attachment 15.

Several commenters raised general concerns about the impact of the Cherryville discharge on fish and other aquatic life in Dickerson Creek and the San Marcos River.

Several Commenters stated that TCEQ agreed to a minimal water quality standard which permits high levels of Ammonia Nitrogen that can negatively impact fish hatching and growth and development of tissues in fish gills, liver and kidneys. Similarly, several commenters raised concerns about the effect of Ammonia Nitrogen on aquatic life.

A commenter stated that there is no accountability and that Cherryville is not being held responsible for harm to aquatic life.

Several commenters stated that they eat fish from the river and that they are no longer able to consume the fish they catch.

Response 29:

The draft permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards and was established to be protective of human health and the environment, provided that Cherryville operates and maintains the facility according to TCEQ rules and the requirements in the draft permit. As part of the permit application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. The unclassified receiving water use is limited aquatic life use for Dickerson Creek. The designated uses for Segment No. 1808 are primary contact recreation, public water supply, and high aquatic life use. A 4.0 mg/L dissolved oxygen (DO) criterion has been assigned pursuant to 30 TAC § 307.10. These criteria are designed

to ensure that aquatic life will be protected. TCEQ staff performed a DO modeling analysis of the proposed discharge using an uncalibrated QUAL-TX model. Based on model results, the effluent limits included in the draft permit for $CBOD_5$, ammonia-nitrogen, and minimum effluent DO for the three proposed flow phases are predicted to be adequate to ensure that instream DO levels will be maintained consistent with these established criteria.

The IPs state "TCEQ recognizes that the technology-based daily average ammonia-nitrogen limit of 3.0 mg/L included in most major domestic discharges permits generally precludes chronic toxicity to test species. Therefore, the TCEQ will implement this limit to address chronic toxicity attributable to ammonia-nitrogen in domestic discharge permits."

State and federal regulations require that treated effluent maintain the existing uses of the receiving waters as designated within the Texas Surface Water Quality Standards at 30 TAC Chapter 307. One of the designated uses assigned to Segment 1808 is Public Water Supply. Compliance with the Public Water Supply designation is evaluated by comparing laboratory analysis of the effluent with the calculated effluent limitations necessary to protect human health. The effluent limitations are calculated based upon the human health criteria to protect drinking water and fish consumption listed within Table 2 of 30 TAC Chapter 307. The human health criteria are derived in accordance with EPA guidance.

If the permit is issued, the WWTF will also be subject to routine compliance investigations, as well as other types of investigations depending on the circumstances. The TCEQ, through its Office of Compliance and Enforcement, ensures compliance with state and federal regulations and the terms and conditions of the permit by way of routine compliance investigations and complaint investigations, and review of self-reported monitoring data. The Regional Office (the TCEQ Austin-Region 11 office) conducts on-site investigations. The Central Office, through the Monitoring Division, reviews the self-reported data for compliance with the permitted effluent limits and other permit conditions. Additionally, the public may report possible violations of the permit or regulations by contacting the TCEQ Region 11 office in Austin at 512-339-2929, or the statewide toll-free number at 1-888-777-3186. In addition, complaints may be filed online: https://www.tceq.texas.gov/compliance/complaints.

Comment 30:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that they are concerned for the wildlife (deer, owls, etc.) that drink from their banks. Similarly, a commenter asked what the negative effects of the proposed discharge on the wildlife would be? Another commenter stated that there should be no treated or untreated discharge into the San Marcos River, it is killing wildlife and harmful to humans.

Several commenters stated that they have livestock in the area which might get sick.

A commenter stated that the proposed discharge may have adverse impacts to the flora and fauna in Onion Creek. Similarly, a commenter stated that the Meadows Center at Texas State is doing great work to document and preserve the river and its flora and fauna and requested that TCEQ not ruin the river by granting this permit.

Response 30:

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may 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.

H. General Concerns Regarding Drinking Water

Comment 31:

For the person(s) that made this comment, please see Attachment 14.

Several commenters raised general drinking water concerns.

Response 31:

The draft permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards (TSWQS). The requirements in the proposed draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the proposed draft permit. As part of the permit application process, the TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. In this case, the unclassified receiving water use is limited aquatic life use for Dickerson Creek. The designated uses for Segment No. 1808 are primary contact recreation, public water supply and high aquatic life use.

The TSWQS (30 TAC Chapter 307) state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The procedure of deriving permit limits outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010) ("*Implementation Procedures*") is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

The Executive Director determined that these uses will be protected if the facility is operated and maintained as required by the proposed permit and regulations.

Comment 32:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that Texans do not appreciate pollution in their drinking water.

A commenter stated that minimum water quality standards lead to unhealthy drinking water for humans and aquatic life.

Response 32:

To ensure that public health and safety and the environment are protected, TCEQ's rules require treated effluent to be disinfected prior to discharge, 30 TAC § 309.3(g)(1). To reduce pathogenic organisms in its effluent, Cherryville has chosen to use a UV treatment units as a means of disinfection. Cherryville's membrane bioreactor (MBR) system will include three UV disinfection units in the Interim I phase, four UV disinfection units in the Interim II phase, and five UV disinfection units in the Final phase. Further, the draft permit contains permit limits of 126 CFU or MPN of *E. coli* per 100 ml of treated effluent as a daily average.

TCEQ rules do not require that domestic wastewater be treated to potable standards before it is discharged to water in the state. State and federal regulations require that treated effluent maintain the existing uses of the receiving waters as designated within the TSWQS. The receiving waters Dickerson Creek and San Marcos River have primary contact recreation uses, which include activities that are presumed to involve a significant risk of water ingestion. Even where the concentration of indicator bacteria, such as *E. Coli*, is less than the criteria for primary or secondary contact recreation, there is still some risk of contracting waterborne diseases. It is not recommended that surface water be used for drinking water consumption without appropriate treatment and disinfection to drinking water quality standards.

Comment 33:

For the person(s) that made this comment, please see Attachment 16.

Several commenters expressed concern that the Tri-Community Water Supply Corporation (TCWSC) owns two water supply wells for Fentress and does not have the ability to remove harmful nutrients like Nitrogen, Phosphorous from groundwater and contaminants like pharmaceuticals that are present in treated sewage.

A commenter asked if the Fentress intake is downstream of the point that Dickerson Creek joins the San Marcos River and how it was concluded that this flow would not impact that water supply given the proposed discharge would create a high algal load? Additionally, the commenter asked to what extent, is the additive impact to

the receiving streams imparted by non-point source pollution from the proposed development, considered in reaching the conclusion of no impact?

Response 33:

The EPA has not promulgated rules or criteria limiting Pharmaceuticals and Personal Care Products (PPCPs) in wastewater. The Executive Director understands the EPA is researching PPCPs and has stated that scientists have not found clear evidence of adverse human health effects from PPCPs in the environment. However, the science on PPCPs is evolving, and while the EPA and other entities continue to study the subject, there is currently no clear regulatory regime available to address the treatment of PPCPs in domestic wastewater. PPCP removal during municipal wastewater treatment has been documented in scientific literature, but standard removal efficiencies have not been established. In addition, there are currently no federal effluent limit requirements for PPCPs. Accordingly, the TCEQ has not reviewed the proposed discharge for the presence of PPCPs and their potential effect on the aquatic environment.

Total phosphorus (TP) and Total Nitrogen (TN) from this facility was not a concern based on characteristics of the receiving waters and the amount of effluent discharge proposed. These characteristics include substantial tree canopy, mud or sand bottom, and turbid waters, which are not conductive to increased algal growth; similar facilities that discharge to the same receiving waters do not have TP limits. Additionally, staff observed, via aerial photographs, little algal growth in the receiving water. However, the preliminary determination can be reexamined and may be modified if new information is received.

Nonpoint source pollution from any proposed developments to be served by domestic wastewater permits is not directly considered as part of the wastewater permitting process and its ancillary technical reviews. However, information on nonpoint source pollution is collected an evaluated by the Water Quality Planning Division within the TCEQ. This information is used to inform the development of updates to the current water quality standards outlined in 30 TAC Chapter 307 as well as identify impaired water bodies and formulate Total Maximum Daily Load (TMDL) projects which are used to improve water quality conditions in such impaired water bodies. This information can dictate more stringent permit limits, limit the amount of assimilative capacity available in a particular watershed for future applicants, or provide other restrictive measures to improve the water quality within a watershed.

Comment 34:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that that in order to determine how quickly pollution would reach a public water supply well if it were spilled or discharged into a creek or river, the TCEQ could perform dye tracing tests on the creek and could gather

information for the hearing or be done in advance to inform the TCEQ response to comments.

Response 34:

TCEQ does not have any rules that require groundwater studies, including dye traces, to be completed prior to the issuance of TPDES permits. As discussed in the Antidegradation section of this document, the Executive Director has determined that the draft permit is protective of the uses of the receiving streams, including public water supply and aquifer protection. The Executive Director has determined that if the surface water quality and its assigned uses are protected, then the groundwater quality in the vicinity will not be negatively impacted by the discharge.

Comment 35:

For the person(s) that made this comment, please see Attachment 16.

Two commenters stated that TCWCS has 2 well easements that are within 150ft of the San Marcos River bank and asked what the rule is regarding effluent discharge within our (TCWCS) recharge easement? Additionally, the commenters asked what will be mandated regarding the control of Cherryville's waste seeping into the soil with our (TCWCS) well easement?

Response 35:

TCEQ's rules do not require a separation distance between a water well, private or domestic, and a creek receiving treated effluent that complies with TSWQS. Specifically, 30 TAC § 309.13(c) establishes a setback distance from a wastewater treatment plant unit and a public or private water well. The rules define a wastewater treatment plant unit as "any apparatus necessary for the purpose of providing treatment of wastewater (i.e., aeration basins, splitter boxes, bar screens, sludge drying beds, clarifiers, overland flow sites, treatment ponds or basins that contain wastewater, etc.) 30 TAC § 309.11(9). For purposes of compliance with the requirements of 30 TAC § 309.13(e) of this title (relating to Unsuitable Site Characteristics), this definition does not include off-site bar screens, off-site lift stations, flow metering equipment, or post-aeration structures needed to meet permitted effluent minimum dissolved oxygen limitations: 30 TAC § 309.11(9). This definition intends to provide separation distances from untreated wastewater contained in the wastewater treatment plant unit and water wells. The TCEQ does not require a separation distance between a water well, private or domestic, and a creek receiving treated effluent that complies with TSWQS.

The TCEQ's Water Quality Division has determined that the effluent limits in the draft permit are consistent with the Texas Surface Water Quality Standards and are therefore protective of surface water quality, human health, and the environment. This level of surface water protection will also ensure protection of groundwater quality and its known uses.

I. General Concerns Regarding Drinking Water – Dickerson Creek, San Marcos River and Aquifers

Comment 36:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that soil permeability has failed to be mentioned and the discharge will all seep into the ground and effect the groundwater, not just the San Marcos River. Additionally, the commenter asked if this was considered by TCEQ when determining the requirements for the discharge?

Response 36:

TCEQ rules do not require an applicant to conduct soil permeability tests in order to be issued a TPDES permit. As discussed elsewhere in this document, the Executive Director has determined that the draft permit's effluent limitations are consistent with the TSWQS and are therefore protective of surface water quality, human health, and the environment. This level of surface water protection will also ensure protection of groundwater quality and its known uses.

Comment 37:

For the person(s) that made this comment, please see Attachment 14.

A commenter stated that TCWSC's wells have been deemed by the TCEQ to be groundwater wells under the influence (GUIs) of the San Marcos River and are all approximately 50-100 feet from the San Marcos River and one well is 100 feet downstream from the confluence of Dickerson Creek and the San Marcos River. Similarly, a commenter stated that nothing in the draft permit prevents the receiving waters from exceeding safe drinking water levels and the proposed discharge threatens both individual and TCWSC wells, all located approximately within 50 to 100 feet from the San Marcos River and one well only 100 feet downstream of the confluence of Dickerson Creek and the San Marcos River.

Several commenters expressed concern that the discharge from the Cherryville WWTF would adversely impact groundwater supplies and groundwater wells, including drinking water wells and Fentress' water supply.

Several commenters stated that the proposed Cherryville WWTP and the outfall location both lie within the Carrizo-Wilcox aquifer recharge zone, where waterways including Dickerson Creek and the San Marcos River have faults and fractures which allow surface water to flow into groundwater.

Several commenters stated that Dickerson Creek and Fentress' two public water wells lie over the same alluvial aquifer, composed of sand, silt, clay and gravel. One commenter stated that effluent discharged by Cherryville into Dickerson Creek, will recharge to the exposed deposits that produce the Fentress water supply.

A commenter stated that if anybody needs a wellhead protection zone it is TCWSC because Dickerson Creek drops into the ground, into gravels, before it hits that area where the wells are and during dry periods, wastewater discharge from Cherryville will be the only water flowing in the creek and that is what TCWSC wells will be picking up.

Response 37:

The Executive Director has determined that the draft permit's effluent limitations are consistent with the Texas Surface Water Quality Standards and are therefore protective of surface water quality, human health, and the environment. This level of surface water protection will also ensure protection of groundwater quality and its known uses.

Cherryville will be using UV disinfection units for disinfection. Cherryville's membrane bioreactor (MBR) system will include three UV disinfection units in the Interim I phase, four UV disinfection units in the Interim II phase, and five UV disinfection units in the Final phase. Further, the draft permit contains permit limits of 126 CFU or MPN of *E. coli* per 100 ml of treated effluent. This limit has been found to be protective of human health in primary contact recreation uses which includes incidental ingestion from activities such as swimming.

Public water supply systems in Texas are regulated by the TCEQ's Water Supply Division. Public water supply systems, including those using groundwater as their sole source of supply, are required to ensure that the treated drinking water is free from bacteria. Please see the website https://www.tceq.texas.gov/drinkingwater/microbial/gwr_main.html for more information on the requirements for public supply systems or contact the Water Supply Division at 512-239-4691 for more information.

In Texas, private water wells are largely unregulated with regard to testing water quality from the well or any treatment to improve water quality. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern—or more often if the well is thought to have a surface water connection. The Centers for Disease Control and Prevention (CDC) and National Ground Water Association recommend that owners of private water wells test the water quality of their well water at least annually for bacteria, nitrate (as nitrogen) and any other constituents that may be of concern. The EPA has developed drinking water standards for certain criteria. The drinking water maximum contaminant level (MCL) for nitrate (reported as nitrogen) is 10 mg/L. The MCL goal for bacteria is zero. Please see http://wellowner.org/water-quality/water-testing/ for more information about testing private water wells.

TCEQ's rules do not require a separation distance between a water well, private or domestic, and a creek receiving treated effluent that complies with TSWQS. Specifically, 30 TAC § 309.13(c) establishes a setback distance from a wastewater treatment plant unit and a public or private water well. The rules define a wastewater

treatment plant unit as "any apparatus necessary for the purpose of providing treatment of wastewater (i.e., aeration basins, splitter boxes, bar screens, sludge drying beds, clarifiers, overland flow sites, treatment ponds or basins that contain wastewater, etc.) 30 TAC § 309.11(9). For purposes of compliance with the requirements of 30 TAC § 309.13(e) of this title (relating to Unsuitable Site Characteristics), this definition does not include off-site bar screens, off-site lift stations, flow metering equipment, or post-aeration structures needed to meet permitted effluent minimum dissolved oxygen limitations: 30 TAC § 309.11(9). This definition intends to provide separation distances from untreated wastewater contained in the wastewater treatment plant unit and water wells. The TCEQ does not require a separation distance between a water well, private or domestic, and a creek receiving treated effluent that complies with TSWQS.

These permit limits, which are intended to maintain the existing uses of the surface waters and preclude degradation of surface water quality, should also protect groundwater quality for the Carrizo-Wilcox aquifer.

Comment 38:

For the person(s) that made this comment, please see Attachment 16.

Two commenters raised concerns about the effect of the Cherryville discharge on the TCWSC's filtration system and its ability to treat water to drinking water standards and will force TCWSC to upgrade its system. Similarly, two commenters stated that TCWSC spends approximately $12,000 every three months, over $1,000,000 total, on filters to remove bacteria and other contaminants from the San Marcos River in order to ensure safe potable water for our customers. Additionally, the commenters asked how the development of Cherryville will directly impact TCWSC's current filtration system in regard to TCEQ regulations?

A commenter stated that the cost of the TCWSC system upgrade will be passed on to customers. Similarly a commenter stated the cost to upgrade the TCWSC treatment process was to ensure the delivery of potable water to their citizens and if the conditions of the San Marcos River and Dickerson Creek cause their current treatment process to become, once again, less effective in continuing to supply quality water, a great financial burden could be imposed on TCWSC and its citizens. Additionally, a commenter stated that additional costs should be paid for by Cherryville.

Two commenters asked what increased levels of contamination will now be present in the river and what impact the Cherryville discharge would have on their newly implemented filtration system. Additionally, the commenters asked if their current disinfection process will continue to be adequate to achieve the levels needed to ensure our drinking water is healthy for consumption?

Response 38:

The Executive Director has determined that the draft permit's effluent limitations are consistent with the Texas Surface Water Quality Standards and are therefore protective of surface water quality, human health, and the environment. This level of surface water protection will also ensure protection of groundwater quality and its known uses. TCEQ's rules do not require that domestic wastewater be treated to potable standards before it is discharged to water in the state. State and federal regulations require that treated effluent maintain the existing uses of the receiving waters as designated within the Texas Surface Water Quality Standards at 30 TAC Chapter 307. Such standards are not necessary to maintain groundwater and surface water quality as determined by the Executive Director's review.

Cherryville will be using UV disinfection units for disinfection. Cherryville's treatment plant will include three UV disinfection units in the Interim I phase, four UV disinfection units in the Interim II phase, and five UV disinfection units in the Final phase. Further, the draft permit contains permit limits of 126 CFU or MPN of *E. coli* per 100 ml of treated effluent. This limit has been found to be protective of human health in primary contact recreation uses which includes incidental ingestion from activities such as swimming.

Public water supply systems in Texas are regulated by the TCEQ's Water Supply Division. Public water supply systems, including those using groundwater as their sole source of supply, are required to ensure that the water is free from bacteria. Please see the website https://www.tceq.texas.gov/drinkingwater/microbial/gwr_main.html for more information on the requirements for public supply systems or contact the Water Supply Division at 512-239-4691 for more information.

J. Notice and Legal Concerns

Comment 39:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that effluent discharge from the proposed plant would leave the channel and enter private property. Additionally, the Commenter stated that Applicant has made no arrangements with the landowners for conveying effluent over private property.

Response 39:

Cherryville has applied for authorization to discharge wastewater under the TPDES program. TPDES permits establish terms and conditions that are intended to provide water quality pollution control, as directed by federal law, state law, and the TAC. The Texas Water Code provides that the TCEQ is the agency primarily responsible for "implementing the constitution and laws for this state relating to the conservation of natural resources and the protection of the environment." TWC § 5.012. The TWC

prohibits the discharge of waste or pollution into or adjacent to water in the state without authorization from the Commission. TWC § 26.121.

To implement this policy the TCEQ was given the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state. TWC § 26.027. If the permit is issued, it does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. Also, the permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route. Also, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

Because the State is authorized to use the bed and banks to transport water, and the TCEQ has authority to authorize a discharge of treated domestic wastewater into water in the state through a TPDES permit, the applicant for a TPDES permit does not need permission from downstream landowners to use the watercourse running through their property, nor do downstream landowners have to be paid because of a permitted discharge. *Domel v. City of Georgetown*, 6 S.W. 3d 349, at 358 (Tex. App. – Austin 1999).

Comment 40:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that the draft permit was not posted at the Caldwell County Courthouse, and he had to obtain it through other means.

Similarly, a commenter stated a member of the public looked for the draft permit at the Caldwell County Courthouse, the public viewing location stated in the NAPD, and was not able to locate it. Additionally, the commenter stated that it is TRPA's understanding that the application file was not updated with the draft permit after issuance of the NAPD and because the draft permit was not available to members of the public, the comment period for this application needs to be extended to allow time for the public to access and review the draft permit.

Similarly, a commenter stated that the public notice for this permit states that he may request copies of the permit application, Executive Director's preliminary decision, and draft permit at the Caldwell County Courthouse, 100 South Main Street, Lockhart Texas. The commenter stated that he went there, and they did not have the documents and that he was sent to the Caldwell County Sanitation Department for the documents, who stated they did not have the documents and directed Mr. Turner to contact TCEQ directly.

Response 40:

The publication information for the NORI and Combined NAPD/Public Meeting Notices are discussed previously in this RTC within the Procedural Background section.

TCEQ rules in 30 TAC § 39.405(g) requires that the Applicant make a copy of the application available for public view and copying in a public place in the county in which the facility is proposed to be located. The application must remain in the public place, beginning on the first day of newspaper publication of the first public notice, and lasting through such time as the Commission takes action on the application, or refers issues to the State Office of Administrative Hearings. Furthermore, A copy of the complete application (including any subsequent revisions to the application) and executive director's preliminary decision must be available for review and copying beginning on the first day of newspaper publication required by this section and remain available until the commission has taken action on the application or the commission refers issues to State Office of Administrative Hearings.

The ED has determined that the applicant complied with the applicable notice requirements.

Comment 41:

For the person(s) that made this comment, please see Attachment 16.

A commenter requested a video and/or audio copy of the question and answer portion of the public meeting.

Response 41:

Commission records for this facility, including the audio recording of the informal question and answer portion of the public meeting, are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk).

Additionally, in a Public Meeting, during the Formal Comment Period, members of the public may state their formal comments orally into the official record. A written response to all timely formal comments received orally or in writing, in the form of this Response to Comments (RTC), has been prepared by the ED. All timely formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address.

Comment 42:

For the person(s) that made this comment, please see Attachment 16.

A commenter stated that the Clean Water Act (CWA) requires that it be demonstrated that there are no feasible actions available to avoid discharge, rather to route this water to irrigation demands or other such uses. The commenter asked what

demonstration has been offered by the applicant, or would be offered by TCEQ, that there are no such feasible actions available? Furthermore, the commenter asked to what degree any such conclusions were predicated on the presumption that "waste" water management on this project could "only" be executed with conventional centralized system architecture, running all the "waste" water from the whole project to one treatment plant? Finally, the commenter asked for what reason would TCEQ not demand that other actions be reviewed and require the applicant to show how they would not be feasible?

Response 42:

30 TAC Chapter 307.1 states that "It is the policy of this state and the purpose of this chapter to maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and taking into consideration economic development of the state; to encourage and promote development and use of regional and area-wide wastewater collection, treatment, and disposal systems to serve the wastewater disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy." Further, as discussed elsewhere in this RTC, the TCEQ does not have the authority to mandate the method of disposal or treatment if it is determined to maintain water quality and only evaluates the proposal as submitted in the application. Domestic Technical Report Worksheet 1.1 is the only portion of the application that requires financial feasibility demonstration if existing wastewater treatment facilities or collection systems are within three miles of the proposed development. No such facilities were found based on the review of the application and the area near the proposed discharge; therefore, no financial studies were required as part of this application. This is intended to promote regionalization, as stated in both the CWA and 30 TAC Chapter 307.

As discussed elsewhere in this RTC, authorizations for reuse of reclaimed wastewater (Chapter 210) first require that either a TLAP or TPDES permit be obtained by the applicant prior to receiving such an authorization.

Comment 43:

For the person(s) that made this comment, please see Attachment 16.

A commenter asked how they could get a copy of the permit application.

Response 43:

Commission records for this application and draft permit are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk), until final action is taken. The permit application, Executive Director's preliminary decision, and proposed draft permit are available for viewing and copying at the Caldwell County Courthouse, 110 South Main Street, Lockhart, Texas.

Comment 44:

For the person(s) that made this comment, please see Attachment 16.

Several commenters stated that the route of Dickerson Creek, as shown in the Cherryville application, is inaccurate.

Response 44:

TCEQ Rules require applications for TPDES permits to include an accurate description of the point of discharge and the discharge route to the nearest classified segment as defined in 30 TAC Chapter 307. The Applicant provided the United States Geological Survey (USGS) map, which shows the discharge route. The USGS map, as well as the entire application is available for viewing and copying at the Caldwell County Courthouse, 110 South Main Street, Lockhart, Texas. The Executive Director has evaluated the proposed discharge route and determined that the discharge route is properly described in the application.

K. Concerns that are Outside of TCEQ's Jurisdiction

Comment 45:

For the person(s) that made this comment, please see Attachment 16.

A commenter raised a concern about groundwater level.

Response 45:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to controlling the discharge of pollutants into and protecting the quality of water in the state. The TCEQ does not have jurisdiction to review the effect, if any, the discharge might have on groundwater level in reviewing a domestic wastewater discharge permit application.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against Cherryville regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

Comment 46:

For the person(s) that made this comment, please see Attachment 16.

Several commenters stated that the local economy will be impacted from the proposed discharge authorized by the draft permit.

Response 46:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to controlling the discharge of pollutants into and protecting the quality of water in the state. Fiscal and societal factors, such as the local economy,

are not considered as part of the wastewater permitting process. As stated in Texas Water Code, Section 26.003, it is the policy of this state and the purpose of this subchapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development of the state; to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

Comment 47:

For the person(s) that made this comment, please see Attachment 16.

Several commenters expressed concern that the discharge will negatively impact property values and rental values of downstream landowners.

Response 47:

The TCEQ does not have jurisdiction to review the effect, if any, the discharge might have on property or rental values of downstream landowners in reviewing a domestic wastewater discharge permit application. 30 TAC § 305.122(d) states that the issuance of the permit does not authorize any injuries to persons or property, an invasion of other property rights, or any infringement of state or local statutes or regulations. Also, 30 TAC § 305.122(d) and 30 TAC § 305.125(16) states that the issuance of a permit does not convey any property right or exclusive privilege. The draft permit incorporates those rules in the draft permit.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against Cherryville regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

Comment 48:

For the person(s) that made this comment, please see Attachment 9.

Several commenters expressed general concerns over flooding and erosion.

A commenter stated that the creek culvert may not be able to handle increased flow without affecting Highway 80 and needing some highway modifications. Additionally, the commenter stated that the creek collects rainfall runoff from a very large watershed and already floods over the road at times.

A commenter stated that the proposed discharge of 160,000 gpd, with an eventual option to double that, will change the dynamics of the streamflow and change the tributary from a "wet weather creek" that runs or pools water less than ten percent of the time, to a constant flow. Additionally, the commenter stated that constant

movement of cattle through a continuous creek will have a significant effect on creek bank erosion.

A commenter stated that when they get enough rain to cause Dickerson Creek to flow, the water spreads out at the end of the channel and causes multiple acres of their land to become marshy. Additionally, the commenter stated that if the proposed discharge of 160,000 gpd is granted, the marshy conditions, which are currently a problem on a very intermittent basis, will become a year-round problem. Finally, the commenter stated that during these wet times, when it becomes marshy, grass will not grow for the cows to eat.

Response 48:

TPDES permits establish terms and conditions that are intended to provide water quality pollution control, therefore, the Executive Director's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. The TCEQ does not have jurisdiction to address flooding or erosion in the wastewater permitting process, unless there is an associated water quality concern. Cherryville's draft permit includes effluent limits and other requirements that it must meet even during rainfall events and periods of flooding. Additionally, the draft permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations.

Comment 49:

For the person(s) that made this comment, please see Attachment 16.

Several commenters stated that the use and enjoyment of properties fronting the creek, specifically access to the property during flood events, will be negatively impacted by the wastewater discharged under the terms of the draft permit. Similarly, a commenter stated that there is no accountability and Cherryville is not being held responsible for property damages downstream resulting from the wastewater discharge.

A commenter stated that the proposed discharge will prevent his family farm from using its pastureland like they historically have, specifically for grazing and agricultural operations. Another commenter stated the increased flow from the proposed discharge will create difficulty in his cattle operations.

A commenter asked if the Applicant cares about the effect of the proposed discharge on their pecan farm getting polluted water? Specifically, the commenter is concerned about his pecan orchard being affected with more salt content in the well water.

Several Commenters stated that they use the river for personal farming, organic nurseries, and pecan orchards.

Response 49:

If the draft permit is issued, it will not grant Cherryville the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to any individual, partnership, corporation or other entity. The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is Cherryville's responsibility to acquire the necessary property rights to use the site of the planned treatment facility and the discharge route. Additionally, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

If anyone experiences nuisance conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules they may be reported to TCEQ by calling toll-free 1-888-777-3186 or the TCEQ Region 11 office in Austin at (512)339-2929. Citizen complaints may also be filed on-line at www.tceq.texas.gov/compliance/complaints. If Cherryville fails to comply with all requirements of the permit, it may be subject to enforcement action. Moreover, the permit does not limit the ability of an individual to seek legal remedies against Cherryville regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

Comment 50:

For the person(s) that made this comment, please see Attachment 16.

Several commenters asserted that the Cherryville permit will lower the overall quality of life in the area. Similarly, a commenter stated that the responsible, ethical and moral solution would be to not impact the quality of life of existing residents from the region who swim, float, picnic and vacation along the river.

Response 50:

The TCEQ was charged by the Texas Legislature to maintain the quality of water in Texas, consistent with public health and enjoyment; thus, TCEQ's jurisdiction in a wastewater permit application is limited to water quality issues, and it does not have authorization to consider quality of life, as long as water quality is maintained. The wastewater permit, however, does not allow the permit holder to create or maintain a nuisance that interferes with a landowner's use and enjoyment of his or her property. The permit does not limit the ability of a landowner to seek relief from a court in response to activities that interfere with a landowner's use and enjoyment of his or her property.

Comment 51:

For the person(s) that made this comment, please see Attachment 16.

Several commenters questioned who is responsible for the costs associated with the proposed discharge. Several commenters expressed concern that the Cherryville application is being driven by money.

A commenter stated that they are sure that the developer has room in their budget to protect the longtime surrounding residents.

Response 51:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to controlling the discharge of pollutants into and protecting the quality of water in the state. The allocation of costs associated with the discharge is a civil matter that is outside of the TCEQ's limited jurisdiction in the wastewater permitting process.

The TCEQ may not prohibit an applicant from receiving authorization if it complies with all statutory and regulatory requirements. Further, the TCEQ does not consider a company's profit motive in determining whether a wastewater discharge permit should be issued.

Comment 52:

For the person(s) that made this comment, please see Attachment 16.

A Commenter stated that he has School District concerns.

Response 52:

The Executive Director acknowledges the comment.

Comment 53:

For the person(s) that made this comment, please see Attachment 16.

Several comments were submitted after the comment period closed on July 16, 2019.[5]

Response 53:

These comments will not be addressed in this RTC as they were not timely filed.

[5] The TCEQ received a comment on July 15, 2019 from Timothy Deforest Jones which was inadvertently associated with the Cherryville GP, INC. and Cherryville #5, LTD. application. Because Mr. Jones' comment relates to a different permit application, it is not addressed in this RTC.

III. Changes Made to the Draft Permit in Response to Comments:

No changes were made to the draft permit in response to comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker
Executive Director

Robert Martinez, Director
Environmental Law Division

Shea Pearson, Staff Attorney
Environmental Law Division
State Bar No. 24086992
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-0545
Fax: (512) 239-0626

REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on January 6, 2020 the Executive Director's Response to Public Comment for Permit No. WQ0015738001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

Shea Pearson, Staff Attorney
Environmental Law Division
State Bar No. 24086992

V. Attachments 1 through 16

Attachment 1
Application by Cherryville GP, Inc. and Cherryville #5, Ltd., WQ0015738001
Individual Commenters

A
John Abrams
Teresa Acosta
Bonnie Anders
Vick S. Anderson
Cristen Andrews
Dustin Angell
A Lea Anzalotta

B
David Baker (WVWA)
James Keith Baker
Donald Barkmeyer
Janet Barkmeyer
Janie Barrientos
Sherri Basham
Teresa Becker
Barbara B. Behal
Izzy Ber
Jim Birch
Roy Neal Bishop
Deborah Blanzan
Jack Boothe
E Louise Borchers
Kelly Borchers
Paul Boyd
Jennifer Bowers
Sharon Bramblett
Randy M. Bunker

C
Concerned Citizen
Melanie Caldwell
Taylor Calfee
Mary Calhoun
Leslie Carroll
Don Chamberlain
Jan Churilla
Jenny Clark
Michael Clifford
Dana Coble
Laurie Coffin
Virginia P. Condie
Gary Murchison Cook
Cheri & Mark Courtney
Carolyn Croom
Rocio De La Cruz
Jan P. Curtice
Shannon Curtice

D
Cullen M. Dauchy
Brian T. Davila
Simona Davila
Kelly Deanne Davis
Linda G. Davis
Mason Davis
Kat Dennis
Andrea Dennison
Dian Donnell
Kori Dunaway

E
Lacey E. Ellis
Rodney T. Ellis
Celeste Epstein
Cheryl Rose Epstein

F
Gary First
Ethan Ford
Tommy Forester
Mary Lee Freeman
Sandra Frischen
Epmon Fuller

G
Jeannie Galvan
Aaron Garcia
Benita C. Garcia
Crispin Garcia
Crispin M. Garcia
Daniel Garcia
Lucita Garcia
Marselino Garcia
Oliva Garcia
Rita Garcia
Michele Gaston
Steve Gerson
William W. Gibson
Lillie Gifford
Blake DeWitt Goldsmith
Eric Hale Goldsmith
Frances Gonzales
Janette Gonzales
John Anthony Gonzales
Lydia Gonzales
Nora Gonzales
Ynocencio Gonzales
Cutter Wayne Gonzalez
Heradio Gonzalez
Irene O. Gonzalez
Elenore Goode
Lauren Goodley
Madonna Gorner
Tom Goynes
Melanie Grantham
Pistol Grantham
Robert W. Grantham
Katie Green
Pat Grigg
Jeanette Grumbles
Russell Grumbles
Matt Guana
Miguel Guerra

H
Hoppy Haden
Kathy Hall
Rebecca Ham
Cheryl Rose Hamilton
Shannon Hare
Herman L. Harris
Jacob Hendrickson
Ed Hensley
Max Hensley
Robert Herndon
Linda Hinkle
David Michael Hixon
Bill Holt

I
Glee Ingram
Elaine Irish
John T. Irwin

J
Cyndi Jackson
Rebecca Jenson
Lidia Jones
Ana Juarez
David Juarez
Alice A. Juh
Joy Jungers

K
Andrew Katsetos
Carol Keeton
Richard T. Kelly
Edward J. Kern
Patsy Munk Kimball
John Francis Kluth

Attachment 1
Application by Cherryville GP, Inc. and Cherryville #5, Ltd., WQ0015738001
Individual Commenters

Michelle Krueger
Christopher Kubala

L
Kim Lacava
Janet Landreth
Kathy Langford
RG Langford
Heather Ledet
Robert Lee Lewis
Eva Llanas
Susan Llanas
Helen Long
Christina Lopez
Christina Loy
Steve Lucas

M
Marie Mackey
Robert L. Mackey
Keith Maddox
Monica Maddox
A A Malatek
John J. Manning
Pete B. Manning
Emily C. Marichalar
Larry Markert
Amanda Vonne Mathews
Delane & Wayne Mayfield
Andrew R. McClish
Kristin McCollam
Michael G. McCoy
Sherry McCoy
Kelsey McGee
Mike McGee
Camille McNutt
Jack E. Mercer
Linda Webb-Mercer
Bianca Michuda
Larry Milka
Jake Miller
Tony Miller
Veronica Miranda
Marianne Moore
Mary W. Morgan
R Keith Mott
Kathryn J. Murray

N
Aspen Navarro
Craig Morris Nazor
Helen Nelson
Brad A. Nevill
Kristin Nevill

O
Jim & Layne Ober
Layne Ober
Michael W. Ohlendorf
Robert C. Ohlendorf
Thomas A. Ohlendorf
Eva Silverfine Ott

P
Brett Patton
Annalisa Peace
Robert Scott Pegues
Cade Pharis
Jarius D. Popp
Rachel Porter
John M. Price
Rodney Purswell

Q

R
Stephen Ramirez
Chuck Rennaker
Nina Reyel
Tereso Rodriguez
Anne Rogers
Lynn Greene-Rooks
Lee Rust
Dale Ryder

S
Rick Salisbury
James Samson
Rachel Sanborn
Candice Sanger
Samantha Santos
Sallie Ann Satagaj
Breanne Schafer
J William Schliesman
Margaret Schulenberg
Ginger Schultz
Georgina R. Schwartz
Barbara Shelton
David Shirley
Sue Shirley
William Sibley
Gwen H. Slough
Sharan J. Smith
Pat Gunn Spencer
Rachael Sperling
Al St. Louis
Mark A. Stedman
Pat Stroka
Doris Steubing
Athanasee Swift
Troy O. Swift

T
Holly & Terry Taylor
Duane Tegrotenhuis
Andreina Tello
Francisco Tello
Manuel Tello
Maria I. Tello
Randall Terrell
Ed Theriot
David Todd
James Tomason
Jessie Trevino
Billy Turner

U
Selena U

V
Amy Vasquez
Martha S. Vasquez
Robert Vasquez
Joanna Vaughn
David Venhuizen
Jack Vest
Stephanie Vindett
Candace Volz
Michael T. Vordenbaum
Mike & Suzi Vordenbaum

W
Darrell Waggoner
Ellalea Teddy Ward
Richard D. Ward
William Hunter Warren
Rochelle D. Washington
Dianne H. Wassenich
Suzanne Weber

Attachment 1
Application by Cherryville GP, Inc. and Cherryville #5, Ltd., WQ0015738001
Individual Commenters

Elizabeth A. & Joseph A.
Weeks
Cindy Schneider Whittis
Annie Williams
Fred Wilson
Minerva G. Wilson
Nancy G. Wilson

X

Y

Z
Judith Zaffirini
Mickey Zapata

Attachment 2
Persons Commenting on behalf of Groups, Governmental Entities & Organizations

Michael W. Ohlendorf	Ben O Corp
Mike Clifford & Annalisa Peace	Greater Edwards Aquifer Authority
Diane H. Wassenich	San Marcos River Foundation
Anne Rogers	Texas Parks and Wildlife Department
Tom Goynes	Texas Rivers Protection Association
Tommy Forester & Robert W. Grantham	Tri-Community Water Supply Corporation
David Baker	Wimberly Valley Watershed Association

Attachment 3
Individuals that Requested a Public Meeting

A
Teresa Acosta
Bonnie Anders
Vick S Anderson
Cristen Andrews
Dustin Angell

B
James Keith Baker
Sherri Basham
Barbara B. Behal
Jim Birch
Roy Neal Bishop
Deborah Blanzan
Jack Boothe
E Louise Borchers
Kelly Borchers
Jennifer Bowers

C
Melanie Caldwell
Mary Calhoun
Don Chamberlain
Jan Churilla
Virginia P. Condie
Cheri & Mark Courtney
Rocio De La Cruz

D
Cullen M Dauchy
Brian T. Davila
Simona Davila
Kelly Deanne Davis
Linda G. Davis
Dian Donnell

E
Rodney T Ellis

F
Gary First
Ethan Ford
Tommy Forester
Epmon Fuller

G
Jeannie Galvan
Aaron Garcia
Benita C. Garcia
Crispin Garcia
Crispin M. Garcia
Daniel Garcia
Lucita Garcia
Marselino Garcia
Olivia Garcia
Rita Garcia
Michele Gaston
William W. Gibson
Frances Gonzales
Heradio Gonzalez
Irene O. Gonzalez
Janette Gonzales
John Anthony Gonzalez
Lydia Gonzales
Ynocencio Gonzales
Melanie Grantham
Robert W. Grantham
Katie Green
Pat Grigg
Jeanette Grumbles
Russell Grumbles
Miguel Guerra

H
Kathy Hall
Rebecca Ham
Shannon Hare
Herman L Harris
Ed Hensley

I
John T. Irwin

J
Lidia Jones
David Juarez
Alice A. Juh
Joy Jungers

K
Carol Keeton
Richard T. Kelly
Patsy Munk Kimball
Michelle Krueger
Christopher Kubala

L
Janet Landreth
Kathy Langford
Robert Lee Lewis
Eva Llanas
Susan Llanas
Helen Long

M
A A Malatek
John J. Manning
Pete B. Manning
Emily C. Marichalar
Larry Markert
Amanda Vonne Mathews
Andrew R. McClish
Michael G. McCoy
Sherry McCoy
Kelsey McGee
Mike McGee
Camille McNutt (2)
Jack E Mercer
Tony Miller
Veronica Miranda
Mary W. Morgan
R Keith Mott

N
Brad A. Nevill
Kristin Nevill

O
Layne Ober
Michael W. Ohlendorf
Robert C. Ohlendorf
Thomas A. Ohlendorf

P
Brett Patton
Annalisa Peace

R
Nina Reyel
Tereso Rodriguez
Lynn Greene-Rooks
Lee Rust

S
James Samson
Candice Sanger
Samantha Santos
Breanne Schafer
David Shirley
Sue Shirley
J William Schliesman

Attachment 3
Individuals that Requested a Public Meeting

Gwen H. Slough
Sharan J. Smith
Pat Gunn Spencer
Mark A. Stedman
Doris Steubing
Athanasee Swift
Troy Swift

T
Duane Tegrotenhuis
Andreina Tello
Francisco Tello
Manuel Tello
Maria I. Tello
James Tomason
Jessie Trevino
Billy Turner

U

V
Amy Vasquez
Robert Vasquez
Jack Vest
Stephanie Vindett
Michael T. Vordenbaum

W
Darrell Waggoner
Ellalea Teddy Ward
Richard D. Ward
Rochelle D. Washington
Suzanne Weber
Elizabeth A. Weeks &
Joseph A. Weeks
Cindy Schneider Whittis
Fred Wilson
Minerva G. Wilson
Nancy G. Wilson

Y
Yanta, Alexis
Yanta, Kevin
Yoing, Brandi
Yokum, Chad
Yonke, Joseph
Young, Deborah
Younts, Clint

Z
Mickey Zapata

Groups, Organizations and Governmental Entities

Ben O Corp

Texas Parks and Wildlife Department

Tri Community Water Supply Corporation

Attachment 4
Persons that Provided Formal Oral Comment at the Public Meeting

James Keith Baker

Michael Clifford
Dana Coble

Tommy Forester

Tom Goynes
Pistol Grantham

Linda Hinkle

Mike McClabb

Aspen Navarro

Michael W. Ohlendorf

Barbara Shelton
Pat Stroka

Ed Theriot

Dianne H. Wassenich

Groups, Organizations and Governmental Entities

Ben O Corp

Greater Edwards Aquifer Authority

San Marcos River Foundation

Texas Rivers Protection Association

Tri-Community Water Supply Corporation

Wimberly Valley Watershed Association

Attachment 5
Persons who raised General Objections

A Lea Anzalotta

Izzy Ber
Paul Boyd

Andrea Dennison

Celeste Epstein

Mary Lee Freeman
Sandra Frischen

Eric Hale Goldsmith

Robert Herndon
Bill Holt

Kim Lacava
Christina Loy
Steve Lucas

Marianne Moore

Rachel Porter
John M. Price

Chuck Rennaker

Ginger Schultz

Selena U

Groups, Organizations and Governmental Entities

Attachment 6
Names Provided in Mr. Tommy Forester's July 16, 2019 Hearing Request Document

James Baker
Donald Barkmeyer
Janet Barkmeyer
Janie Barrientos
Randy M. Bunker

Concerned Citizen
Melanie Caldwell
Dana Coble
Cheri & Mark Courtney

Brian T. Davila
Simona Davila
Kori Dunaway

Tommy Forester

Lillie Gifford
Nora Gonzales
Ynocencio Gonzales
Madonna Gorner
Robert W. Grantham

Ed Hensley
Linda Hinkle

Elaine Irish

Marie Mackey
Robert L. Mackey
Keith Maddox
Monica Maddox
Delane & Wayne Mayfield
Jack E. Mercer
Linda Webb-Mercer
Larry Milka
Tony Miller

Rodney Purswell

Rick Salisbury
Barbara Shelton
Sharan Smith
Pat Gunn Spencer

Holly & Terry Taylor
Billy Turner

Robert & Amy Vasquez
Mike & Suzi Vordenbaum

Elizabeth & Jordan Weeks
Annie Williams

Groups, Governmental Entities & Organizations

Tri-Community Water Supply Corporation

Attachment 7A
RTC Comment 21
Persons Generally Concerned with the Executive Director's Antidegradation Review

Cheri Courtney

Tommy Forester

Robert W. Grantham

Tom Goynes

Edward J. Kern

Helen Nelson

Annalisa Peace

Stephen Ramirez

Dale Ryder

Rachel Sanborn

Rachel Sperling

Randall Terrell

David Venhuizen

Dianne Wassenich

* Additionally, see names in Attachment 3, with the exception of Annalisa Peace and Lynn Greene-Rooks.

Groups, Governmental Entities & Organizations

Greater Edwards Aquifer Alliance

San Marcos River Foundation

Texas Rivers Protection Association

Attachment 7B
RTC Comment 21 & 23
Persons Requesting More Stringent Treatment Standards, including 5-5-2-1 or 5-5-2-.5(*)

David Baker(*)
James Baker(*)
Donald Barkmeyer(*)
Janet Barkmeyer(*)

Concerned Citizen(*)
Melanie Caldwell(and*)
Leslie Carroll
Jenny Clark
Mike Clifford(*)
Laurie Coffin
Gary Cook
Mark & Cheri Courtney(*)
Carolyn Croom
Shannon Curtice

Brian T. Davila(*)
Simona Davila(*)
Mason Davis
Kori Dunaway(*)

Ethan Ford
Tommy Forester(*)

Michele Gaston
Steve Gerson
Lillie Gifford(*)
Lydia Gonzales(*)
Ynocencio Gonzales(*)
Madonna Gorner(*)
Tom Goynes(*)
Robert W. Grantham(*)

Cheryl Rose Hamilton
Jacob Hendrickson
Ed Hensle(*)
Linda Hinkle(*)
David Michael Hixon

Elaine Irish(*)

Cyndi Jackson

Andrew Katsetos
Edward J. Kern

Marie Mackey(*)
Robert L. Mackey(*)
Keith Maddox(*)
Monica Maddox(*)
Delane & Wayne Mayfield(*)
Randy McBunker(*)
Mike McClabb
Jack E. Mercer(*)
Linda Webb-Mercer(*)
Larry Mika(*)
Tony Miller(*)
Kathryn J. Murray

Jim & Layne Ober
Michael W. Ohlendorf(*)
Eva Silverfine Ott

Dale Ryder

Al St. Louis

Rick Salisbury(*)
Rachel Sanborn
Georgina R. Schwartz
Barbara Shelton(*)
Sharan Smith(*)
Pat Gunn Spencer(*)
Pat Stroka(*)
Troy O. Swift

Holly & Terry Taylor(*)
David Todd
Billy Turner(*)

Amy & Robert Vasquez(*)
Martha S. Vasquez
Candace Volz
Mike & Suzi Vordenbaum(*)

Dianne Wassenich(*)
Elizabeth & Joseph Weeks(*)
Annie Williams(*)

Additionally, see names in Attachment 3, with the exception of Annalisa Peace and Lynn Greene-Rooks.

(*) Additionally, see names in Attachment 6, requesting a 5-5-2-.5 standard.

Groups, Governmental Entities & Organizations

Greater Edwards Aquifer Authority

San Marcos River Foundation

Texas Parks & Wildlife Department

Texas Rivers Protection Association

Wimberly Valley Watershed Association

Attachment 8
RTC Comment 6
Persons who raised General Health (*) and Environmental Concerns

John Abrams
Cristen Andrews (*)

James Baker (and *)
Donald Barkmeyer (*)
Janet Barkmeyer (*)
Janie Barrientos (*)
James and Deborah Blanzan
Randy M. Bunker (*)

Concerned Citizen (*)
Melanie Caldwell (*)
Dana Coble (*)
Cheri & Mark Courtney (*)
Jan P. Curtice

Brian T. Davila (*)
Simona Davila (*)
Kat Dennis(and *)
Kori Dunaway (*)

Tommy Forester (*)

Lili Gifford (*)
Nora Gonzales (*)
Ynocencio Gonzales (*)
Cutter Wayne Gonzalez
Madonna Gorner (*)
Melanie Grantham
Robert W. Grantham (*)

Kathy Hall
Ed Hensley (*)
Linda Hinkle (*)

Elaine Irish (*)

Ana Juarez (and *)

Richard T. Kelly, Jr.

Heather Ledet (*)

Marie Mackey (*)
Robert L. Mackey (*)
Keith Maddox (*)
Monica Maddox (*)
Delane & Wayne Mayfield(*)
Kristin McCollam(*)
Jack E. Mercer (*)
Linda Webb-Mercer (*)
Larry Mika (*)
Tony Miller (and *)

Rodney Purswell (*)

Rick Salisbury (*)
Barbara Shelton (*)
Sharan Smith (*)
Pat Gunn Spencer (*)

Holly & Terry Tayler (*)

Joanna Vaughn

Suzanne Weber
Joseph & Elizabeth Weeks(*)

Groups, Governmental Entities & Organizations

Tri-Community Water Supply Corporation

Attachment 9
RTC Comment 48
Persons Generally Concerned about Flooding and Erosion (*)

Cristen Andrews

Barbara Behal

Cheri & Mark Courtney(*)
Jan P. Curtice

Pistol Grantham
Tom Goynes

Kathy Langford
RG Langford
Eva Llanas

Rachel Sanborn

Amy Vasquez (and *)
Robert Vasquez (*)

Ellalea Teddy Ward &
Richard D. Ward
Dianne Wassenich (SMRF)

Groups, Governmental Entities & Organizations

Texas Rivers Protection Association

Attachment 10
RTC Comments 18 & 19
Persons that Recommended an Alternative Use, including Reuse (*), or Discharge Location (**)

Cristen Andrews (*)

David Baker
James Baker (*)
Teresa Becker
Sharon Bramblett

Mike Clifford (*)
Jan P. Curtice (**)

Kat Dennis

Elenore Goode
Lauren Goodley
Tom Goynes (*)

Max Hensley

Rebecca Jenson

Patsy Munk Kimball
John Francis Kluth

Jake Miller (*)

Brad A. Nevill (**)

Jim & Layne Ober (*)

Cade Pharis
Jarius D. Popp

Amy Vasquez (*)
Joanna Vaughn

Dianne Wassenich (*)
Annie Williams (**)
Nancy G. Wilson

Groups, Governmental Entities & Organizations

Ben O Corp

Greater Edwards Aquifer Alliance

San Marcos River Foundation

Texas Rivers Protection Association

Wimberly Valley Watershed Association

Attachment 11
RTC 21
Persons that Discussed Recreational Use

Cristen Andrews

David Baker
Roy Neil Bishop
Jennifer Bowers

Melanie Caldwell
Taylor Calfee
Jenny Clark
Mike Clifford
Virginia P. Condie
Carolyn Croom
Shannon Curtice

Epmon Fuller

Lauren Goodley
Heradio Gonzalez
Irene O. Gonzalez
Lydia Gonzales
Ynocencio Gonzales
Tom Goynes
Melanie Grantham
Pistol Grantham

Rebecca Ham
Cheryl Rose Hamilton
Herman L. Harris

Patsy Munk Kimball
John Francis Kluth

Heather Ledet
Susan Llanas

A.A. Malatek
John J. Manning
Pete B. Manning
Mike McClabb
Bianca Michuda
Veronica Miranda
R. Keith Mott

Brad A. Nevill

Jim & Layne Ober
Layne Ober
Michael Ohlendorf
Eva Silverfine Ott

Annalisa Peace

Rachel Sanborn
Breanne Schafer
David Shirley
Sue Shirley
Rachel Sperling
Pat Stroka
Troy O. Swift

Randall Terrell
Ed Theriot

Amy Vasquez
Martha S. Vasquez
Robert Vasquez
Jack Vest

Darrell Waggoner
William Warren
Rochelle D. Washington
Joseph & Elizabeth Weeks
Cindy Schneider Whitis
Fred Wilson
Minerva G. Wilson

* Additionally, see names in Attachment 3, with the exception of Annalisa Peace and Lynn Greene-Rooks.

Groups, Governmental Entities & Organizations

Ben O Corp

Greater Edwards Aquifer Alliance

Texas Rivers Protection Association

Wimberly Valley Watershed Association

Attachment 12
RTC Comment 24
Persons Concerned about Algae and Additional Nutrient Loading of Dickerson Creek and the San Marcos River

David Baker
James Baker

Laurie Coffin
Gary Cook
Carolyn Croom
Shannon Curtice

Kori Dunaway

Blake DeWitt Goldsmith
Elenore Goode
Tom Goynes
Pistol Grantham

Max Hensley

Edward J. Kern
John Francis Kluth

Craig Morris Nazor
Helen Nelson

Annalisa Peace
Robert Scott Pegues

Anne Rogers
Dale Ryder

Randall Terrell

Dianne Wassenich

Groups, Organizations and Governmental Entities

Greater Edwards Aquifer Alliance

San Marcos River Foundation

Texas Parks & Wildlife Department

Texas Rivers Protection Association

Wimberly Valley Watershed Association

Attachment 13
RTC Comment 27
Persons who Commented on the Lack of Testing and/or limits for Total Nitrogen, Total Phosphorous and Ammonia Nitrogen in the Draft Permit

John Abrams

Mike Clifford
Laurie Coffin
Gary Cook
Carolyn Croom

Teddy Forester

Eleanore Goode
Tom Goynes
Robert W. Grantham

Anne Rogers Harrison

Edward J. Kern

Craig Morris Nazor
Helen Nelson

Robert Scott Pegues

Rachel Sanborn
William Sibley

David Venhuizen
Candace Volz

Dianne Wassenich

Groups, Governmental Entities & Organizations

San Marcos River Foundation

Texas Parks & Wildlife

Texas Rivers Protection Association

Attachment 14
RTC Comment 31 & 37
Persons Concerned about the Negative Impact of the Discharge on Groundwater and Drinking Water

David Baker

Mike Clifford
Laurie Coffin
Gary Cook
Cheri & Mark Courtney
Carolyn Croom
Shannon Curtice

Ethan Ford

Michele Gaston
Melanie Grantham
Robert W. Grantham
Tom Goynes

Edward J. Kern

Mike McClabb
Michael G. McCoy

Jim & Layne Ober
Eva Silverfine Ott

Annalisa Peace

Dale Ryder

Rachel Sanborn
Breanne Schafer
Mark A. Stedman
Pat Stroka
Troy O. Swift

Ed Theriot

Amy Vasquez
Robert Vasquez
Joanna Vaughn
Candace Volz

Dianne Wassenich

Groups, Governmental Entities & Organizations

Greater Edwards Aquifer Authority

San Marcos River Foundation

Texas Rivers Protection Association

Tri-Community Water Supply Corporation

Attachment 15
RTC Comment 29
Persons Concerned about the Impact of the Cherryville Discharge on Fish and other Aquatic Life

Cristen Andrews

Jim Birch

Taylor Calfee
Laurie Coffin
Gary Cook
Cheri & Mark Courtney
Carolyn Croom

Blake DeWitt Goldsmith
Cutter Wayne Gonzalez
Robert W. Grantham

Rebecca Jenson

Edward J. Kern
John Francis Kluth

Craig Morris Nazor

Jairus D. Popp

Anne Rogers

Rachel Sanborn

Dianne Wassenich
Cindey Schneider Whitis

Groups, Governmental Entities & Organizations

San Marcos River Foundation

Texas Parks & Wildlife Department

Tri-Community Water Supply Corporation

Attachment 16

Comment 2:

Ed Theriot

Comment 3:

Kori Dunaway
Glee Ingram
Cristina Lopez
Jake Miller
Jairus D. Popp
Lynn Greene-Rooks

Comment 4:

Aspen Navarro

Comment 5:

Taylor Calfee
Elenore Goode
Mike McClabb
Robert C. Ohlendorf
William Warren

Comment 7:

Linda Hinkle
Barbara Shelton

Comment 8:

Kori Dunaway
Lauren Goodley
Heather Ledet
Cade Pharis
Jairus D. Popp
Margaret Schulenberg

Comment 9:

Kori Dunaway
Stephen Ramirez
Randall Terrell
Dianne Wassnenich (SMRF)

Comment 10:

Tom Goynes (TRPA)
Troy O. Swift

Comment 11:

Jan P. Curtice
Brad A. Nevill

Comment 12:

Tom Goynes (TRPA)

Comment 13:

Linda Hinkle
Tommy Forester
(TCWSC)(*)
Robert W. Grantham
(TCWSC)

Comment 14:

James Baker
Tom Goynes (TRPA)
Robert Grantham (TCWSC)
Tommy Forester
(TCWSC)(*)

Comment 15:

Tom Goynes (TRPA)
Dianne Wassenich (SMRF)

Comment 16:

Tommy Forester
(TCWSC)(*)
Robert Grantham (TCWSC)
Elizabeth & Joseph Weeks

Comment 17:

Dana Coble
Tom Goynes (TRPA)
Pat Grantham
Randall Terrell
Dianne Wassenich (SMRF)

Comment 20:

Matt Guana
Lynn Greene-Rooks

Comment 22:

Lacey Ellis
Elenore Goode
Mike McClabb
Randall Terrell
Ed Theriot
William Warren

Comment 25:

David Venhuizen

Comment 26:

Tommy Forester
(TCWSC)(*)
Robert W. Grantham
(TCWSC)
Tom Goynes (TRPA)
Dianne Wassenich (SMRF)

Comment 28:

Cristen Andrews

Comment 30:

Roy Neal Bishop
Lauren Goodley
John T. Irwin
Kathy Langford
Kristin McCollam
Jairus D. Popp
Robert Vasquez
Elizabeth & Joseph Weeks

Comment 32:

Jenny Clark
Glee Ingram

Comment 33:

David Baker (WVWA)
Mike Clifford (GEAA)
Tommy Forester (TCWSC)
Tom Goynes (TRPA)
Dale Ryder
David Venhuizen

Comment 34:

Dianne Wassenich (SMRF)

Comment 35:

Tommy Forester
(TCWSC)(*)
Robert W. Grantham
(TCWSC)

Comment 36:

Kori Dunaway

Comment 38:

Cristen Andrews
Tommy Forester
(TCWSC)(*)
Robert W. Grantham
(TCWSC)
Dianne Wassenich (SMRF)
Elizabeth & James Weeks

Attachment 16

Comment 39:

Tom Goynes

Comment 40:

Mike Clifford (GEAA)
Tom Goynes
Billy Turner

Comment 41:

Sallie Anne Satagaj

Comment 42:

David Venhuizen

Comment 43:

David Venhuizen

Comment 44:

Tom Goynes
Michael W. Ohlendorf

Comment 45:

Pat Gunn Spencer

Comment 46:

Taylor Calfee
Ethan Ford
Michele Gaston
Rebecca Jenson
Troy O. Swift
Randall Terrell

Comment 47:

John Abrams
Melanie Caldwell
Epmon Fuller
John J. Manning
Pete B. Manning

Comment 49:

Cristen Andrews
Diane Donnell
Ethan Ford
Tom Goynes
Pat Grigg
Rebecca Ham
RG Langford
James and Layne Ober
Michael W. Ohlendorf (Ben O Corp)
Athanasee Swift
Robert Vasquez
Dianne Wassenich (SMRF)

Comment 50:

James Baker
Jake Miller

Comment 51:

Mason Davis
Jeannie Galvan
Elenore Goode
Jake Miller
Craig Morris Nazor
Gwen H. Slough

Comment 52:

Larry Markert

Comment 53:

Heather Aidala
Robert W. Bailey
John Carey
Peter Craig
Rebecca Johnston
Tara Thomason

(*) Additionally, see names in Attachment 6.