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SOAH Docket No. 582-22-0585
TCEQ Docket No. 2021-1001-MWD

Application from the City of § **Before the State Office of**
Granbury for new Texas Pollutant §
Discharge Elimination System Permit § **Administrative Hearings**
No. WQ0015821001 §

Executive Director’s Closing Argument

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I. Introduction

Under Section 301(a) of the Clean Water Act, a person cannot discharge a pollutant into a water of the United States except as allowed under certain sections of the Act.¹ One of those sections is Section 402, which establishes the framework for the National Pollutant Discharge Elimination System (NPDES). Under this system, the United States Environmental Protection Agency (EPA), and any state to which EPA has delegated its authority, can issue a permit to a person who wants to discharge a pollutant into a water of the United States while complying with the permit’s requirements for that discharge.² The permit requirements are designed to minimize the discharged effluent’s impact on the receiving waters’ uses.³ The rules used to develop those requirements are found in title 40 of the Code of Federal Regulations.

Within Texas, EPA has delegated its NPDES authority to the Texas Commission on Environmental Quality (TCEQ or Commission).⁴ TCEQ administers the state’s wastewater discharge permitting program in conjunction with the federal program as the Texas Pollutant Discharge Elimination System (TPDES) program, predominantly under Chapter 26 of the Texas Water Code and Title 30 of the Texas Administrative Code (30 Tex. Admin. Code). Under Section 26.121 of the Texas Water Code, no person may discharge wastewater into water in the state except as authorized by TCEQ.⁵ A person obtains an authorization to discharge by applying for a wastewater discharge permit.⁶

TCEQ’s TPDES permit application requirements are found throughout 30 Tex. Admin. Code. The requirements encompass what must be included in the application, what standards Executive Director (ED) staff must use to review the application and draft a permit, what notice must be provided to the public, and how the public can provide their input and request a contested case hearing. If the applicant meets the

¹ 33 U.S.C. § 1311(a) (2020).

² *Id.* § 1342(a)(1), (b).

³ *Id.* § 1251(a)(2).

⁴ *See, e.g.*, TEX. WATER CODE ANN. § 26.028(d)(3) (West 2018) (requiring notice and a public meeting opportunity for NPDES permits in compliance with NPDES program requirements).

⁵ Water in the state is defined in section 26.001(5) of the Texas Water Code.

⁶ TEX. WATER CODE ANN. § 26.027(a)–(b).

application requirements and the ED determines the proposed discharge is permissible if the applicant complies with certain requirements that will be protective of human health and the environment,⁷ the ED will recommend granting a permit that contains those requirements.

II. Recommendation

The ED recommends the Commission grant the domestic wastewater discharge permit application submitted by the City of Granbury (Applicant or Granbury) for its proposed City of Granbury East Wastewater Treatment Facility (WWTF). Evidence presented in this case, including the administrative record, has shown that none of the thirteen issues referred by the Commission to the State Office of Administrative Hearings (SOAH) is a barrier to granting the application. The application by the City of Granbury was accurate and complete and there are no compliance history issues or issues related to need under Texas Water Code Section 26.0282 to warrant denying or altering the terms of the draft permit. The draft permit complies with applicable requirements to abate and control nuisance odors, is protective of water quality, the health and safety of the Protestants and their families, and livestock and wildlife, including endangered species. The proposed discharge will not adversely impact recreational activities. The ED's antidegradation review was accurate and the modeling complies with applicable regulations to ensure the draft permit is protective of water quality. Furthermore, Granbury demonstrated its need for the proposed facility and complied with TCEQ's notice requirements. Therefore, the Commission should issue the draft permit.

III. Application Background

Granbury applied to TCEQ for new TPDES Permit No. WQ0015821001 to authorize the discharge of treated domestic wastewater effluent at an annual average flow not to exceed 2,000,000 gallons per day.⁸ The WWTF will be a Membrane Bioreactor process operated in the continuous flow mode.⁹

The effluent limits in the draft permit, based on a thirty-day (daily) average, are as follows:

⁷ See 30 TEX. ADMIN. CODE § 307.1 (West 2021) (“It is the policy of this state . . . to maintain the quality of water in the state consistent with public health and enjoyment, [and] propagation and protection of terrestrial and aquatic life . . .”).

⁸ Ex. ED-10, at 8.

⁹ Ex. ED-10, at 8.

| Phase | CBOD ₅ ¹⁰ | Total Suspended Solids | Ammonia Nitrogen | Total Phosphorus | <i>E. coli</i> | Dissolved Oxygen |
|-------------------------|---------------------------------|------------------------|------------------|------------------|---|------------------|
| Interim I ¹¹ | 5 mg/L ¹² | 12 mg/L | 1.6 mg/L | 1 mg/L | 126 CFU or MPN per 100 mL ¹³ | 6 mg/L (min) |
| Final ¹⁴ | 5 mg/L | 12 mg/L | 1.6 mg/L | 0.5 mg/L | 126 CFU or MPN per 100 mL | 6 mg/L (min) |

For all phases, the pH must be in the range of 6 to 9 standard units, and an ultraviolet light system will be utilized for disinfection purposes.¹⁵

The proposed facility site is located at 3121 Old Granbury Road, Granbury, in Hood County, Texas 76049. The treated effluent will be discharged to an unnamed tributary of Rucker Creek; thence to Rucker Creek; thence to Lake Granbury in Segment No. 1205 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary of Rucker Creek and high aquatic life use for Rucker Creek. The designated uses for Segment No. 1205 are primary contact recreation, public water supply, and high aquatic life use.¹⁶

TCEQ received the application on September 19, 2019, and declared it administratively complete on November 12, 2019. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) was published in English on November 16, 2019, in *The Hood County News* and in Spanish on November 25, 2019, in *La Prensa Comunidad*. The ED completed the technical review of the application on March 18, 2020, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) for TPDES Permit for Municipal Wastewater was published in English on May 9, 2020, in *The Hood County News* and in Spanish on May 11, 2020, in *La Prensa Comunidad*. The Notice of Public Meeting was published on August 5, 2020, in *The Hood County News*. A public meeting was held on September 10, 2020, via webcast.¹⁷ The public comment period closed the same day. The ED filed its Response to Public Comment on May 26, 2021.¹⁸ The Commission considered multiple hearing requests and requests for reconsideration at its September 22, 2021 agenda meeting and ordered that thirteen issues be referred to SOAH.¹⁹ The Notice of Hearing was published on November 6, 2021 in *The Hood County News*.²⁰ The preliminary hearing was held on December 13, 2021.²¹ The administrative law judge, the Honorable Ross Henderson, named the following parties in the case: the ED; Granbury; the Office of

¹⁰ CBOD₅ = five-day carbonaceous biochemical oxygen demand.

¹¹ Ex. ED-10, at 2.

¹² mg/L = milligrams per liter.

¹³ CFU = colony-forming units; MPN = most probable number; mL = milliliters.

¹⁴ *Id.* at 2b.

¹⁵ *Id.* at 2-2b.

¹⁶ Ex. ED-10 at 3.

¹⁷ Ex. ED-10, at 4.

¹⁸ Ex. ED-10.

¹⁹ Admin. Record, Tab A.

²⁰ Supp. Admin. Record, Tab E.

²¹ Order No. 1.

Public Interest Counsel; and Granbury Fresh, Victoria Calder, Stacy and Jim Rist, and Bennett's RV Ranch, who are known collectively as the Protestants.²² The evidentiary hearing was held on March 7, 2022, through March 10, 2022, with Judges Sarah Starnes and Pratibha J. Shenoy presiding.²³

IV. Wastewater Discharge Permit Requirements

(A) Application filing requirements

TCEQ's application filing requirements are located in 30 Tex. Admin. Code Chapter 305, Subchapter C. These rules lay out when an application is required, who needs to apply, and what needs to be provided in the application. Because chapter 26 of the Texas Water Code requires a person who seeks to discharge wastewater into water in the state to file an application with TCEQ, Chapter 305 applies to discharge permit applications. To apply for a new permit, the applicant must complete and sign its application and submit it to the ED.²⁴ Section 305.45 lists the information that must be provided as part of the application, including maps, and Section 305.48 describes the additional information required for wastewater discharge permit applications.

(B) Application review requirements

Once an application is filed, ED staff in the Water Quality Division review the application in accordance with 30 Tex. Admin. Code Chapter 281.²⁵ A member of the Applications Review and Processing Team first reviews the application for administrative completeness.²⁶ They determine whether anything is missing from the application or appears to be incorrect, especially in the application's Administrative Report.²⁷ Section 281.5 provides the list of items the applicant must provide and, therefore, the administrative reviewer must look for. For a municipal wastewater discharge permit application, a member of the Municipal Permits Team will also perform a preliminary technical data completeness review.²⁸ If the reviewers determine that something is missing from or needs to be explained in the application, they contact the applicant and request additional information.²⁹ If the applicant does not provide the requested information, the ED will return the application.³⁰ If the ED ultimately declares the application administratively complete, the Municipal Permits Team and Water Quality Assessment Section conduct their technical reviews of the application.³¹ A permit coordinator on the Municipal Permits Team will lead the application's technical review with assistance from members of other teams in the division, such as the Standards Implementation Team and Water Quality Assessment

²² *Id.*

²³ Tr. vol. 1-2 (providing the testimony for both days and listing the presiding administrative law judge on page 1 of each volume).

²⁴ *Id.* § 305.42(a).

²⁵ *Id.* § 281.2(2).

²⁶ *Id.* § 281.3(a); Ex. ED-1, at 3:7-9.

²⁷ *See, e.g.*, Ex. APP-5; Ex. APP-7, at 137-38.

²⁸ Ex. ED-1, at 8: 3-12.

²⁹ 30 TEX. ADMIN. CODE § 281.18(a).

³⁰ *Id.* § 281.18(a)(2).

³¹ *Id.* § 281.19(a); Ex. ED-1, at 3:26-27.

Team.³² Just like during the administrative review, ED staff can request additional information from the applicant during the technical review and may return the application if they do not receive the requested information.³³ Based on the technical review, the permit coordinator prepares a draft permit that is consistent with EPA and TCEQ rules and a technical summary that discusses the application facts and significant factual, legal, methodological, and policy questions considered while preparing the draft permit.³⁴ Once ED staff complete the administrative and technical reviews, they forward the application file to the Office of the Chief Clerk for further processing.³⁵

(C) Permit requirements

A domestic wastewater treatment facility in Texas is subject to both federal and state wastewater discharge permit requirements. Many of the federal requirements are covered by the state rules, including federal rules that have been adopted by reference. For example, federal rules related to permit conditions and specific procedures that are applicable to TPDES permits have been adopted by reference through 30 Tex. Admin. Code § 305.531. The state requirements range from rules that apply to a variety of permits issued by TCEQ to rules that only apply to a specific type of facility discharging wastewater.³⁶

A large portion of a wastewater discharge permit consists of requirements that apply to a variety of TCEQ permits.³⁷ These standard permit requirements come from 30 Tex. Admin. Code §§ 305.122-129, and the ED has adapted the requirements into language that can be used specifically in wastewater discharge permits. The same language is used for both industrial and municipal permits and is found in the Definitions and Standard Permit Conditions, Monitoring and Reporting Requirements, Permit Conditions, and Operational Requirements sections of the permit.³⁸ Municipal permits also contain Sludge Provisions that are based on 30 Tex. Admin. Code Chapters 312 and 330.³⁹

All wastewater discharge permits are also subject to regulations found in 30 Tex. Admin. Code Chapter 319. Subchapter A contains monitoring and reporting requirements and requires each permittee to periodically report its permit compliance status, including flow measurements and sample analysis results.⁴⁰ The rules essentially require the permittee to monitor its effluent and report the results as required in the permit,⁴¹ but the rules provide more specific guidance as well, such as

³² Ex. ED-1, at 3:26-27; *e.g.*, Ex. ED-1, at 5:26-29.

³³ 30 TEX. ADMIN. CODE § 281.19(b).

³⁴ *Id.* § 281.21(b)-(c); Ex. ED-1, at 3:27-31.

³⁵ 30 TEX. ADMIN. CODE § 281.22(a).

³⁶ *E.g.*, 30 TEX. ADMIN. CODE chs. 217 (only applies to domestic wastewater systems), 307 (applies to all wastewater discharge permits).

³⁷ *Id.* § 305.121.

³⁸ Ex. ED-7, at 3-16.

³⁹ *Id.* at 17-33.

⁴⁰ 30 TEX. ADMIN. CODE § 319.1.

⁴¹ *E.g.*, *id.* §§ 319.4 (requiring the permittee to monitor each parameter in its permit), 319.5 (requiring the permittee to take samples at the point described in its permit).

requirements regarding how sampling shall be conducted.⁴² Subchapter B contains requirements for hazardous metals. For discharges to inland waters, if a permit does not provide effluent limits for a hazardous metal listed in section 319.22, the limits listed in that section apply to the permit.⁴³

The requirements that are applied based more on a discharge's particular characteristics fall into two categories—technology-based standards and water quality standards. For municipal discharges, technology-based standards are applied by imposing effluent limits that will provide the minimum level of effluent quality attainable by secondary treatment.⁴⁴ These limits are known as technology-based effluent limits (TBELs). The federal rules contain TBELs for five-day biochemical oxygen demand, total suspended solids, and pH.⁴⁵ TCEQ also has its own TBELs for five-day biochemical oxygen demand, total suspended solids, dissolved oxygen, and pH.⁴⁶ While more stringent effluent limits may be necessary to maintain water quality, all permittees must at least comply with the TBELs.

Texas has adopted water quality standards in accordance with Section 303 of the Clean Water Act⁴⁷ and Section 26.023 of the Texas Water Code. These standards, known as the Texas Surface Water Quality Standards (Standards), are found in 30 Tex. Admin. Code Chapter 307. For an application filed in September 2019, the 2018 version of the Standards would apply, which is the current version. As stated in Section 307.1, the Standards' purpose is, in part, to "maintain the quality of water in the state consistent with public health and enjoyment, [and] propagation and protection of terrestrial and aquatic life." The Standards carry out this purpose by establishing various criteria a permittee must meet based on the type of effluent its wastewater treatment facility will discharge and the nature of the waters into which the treatment facility will be discharging. Some of these criteria are narrative criteria, i.e., they describe a standard that must be achieved rather than provide a number that must be met. For example, surface waters must maintain an aesthetically attractive condition and must not have a visible film or sheen of oil or globules of grease.⁴⁸ Some criteria, such as the antidegradation requirements,⁴⁹ can be used to establish numerical requirements, such as water quality-based effluent limits. The narrative and numerical criteria work together to ensure the receiving waters' uses will not be impaired. To determine those uses, some uses are assumed to apply to all water in the state where they can be achieved,⁵⁰ whereas others are assigned based on the specific water body.⁵¹ Generally speaking, the greater the use, e.g., high aquatic life use as opposed to limited aquatic life use, the more stringent the permit requirements will need to be to

⁴² *E.g., id.* §§ 319.6 (quality assurance requirements for wastewater analyses), 319.11 (sampling and laboratory testing method requirements).

⁴³ *Id.* § 319.28.

⁴⁴ 40 C.F.R. §§ 122.44(a)(1), 125.3(a)(1)(i), 133.102 (2021).

⁴⁵ *Id.* § 133.102.

⁴⁶ 30 TEX. ADMIN. CODE § 309.1(b). Please note that under section 309.1(c), five-day biochemical oxygen demand is monitored and reported as five-day carbonaceous biochemical oxygen demand when ammonia nitrogen is also monitored and reported.

⁴⁷ 33 U.S.C. § 1313 (2020).

⁴⁸ 30 TEX. ADMIN. CODE § 307.4(b)(4), (7).

⁴⁹ *Id.* § 307.5.

⁵⁰ *Id.* § 307.7(b)(5).

⁵¹ *Id.* § 307.7(b)(1)-(3).

maintain that use within that water body. ED staff incorporate the Standards into wastewater discharge permits by applying the *Procedures to Implement the Texas Surface Water Quality Standards* (IPs) in their technical review of a discharge permit application and when drafting a permit based on that application.⁵² For an application filed in September 2019, the June 2010 version of the IPs would apply, which is the current version.

V. ED's Analysis of the Referred Issues

(A) Referred Issue A—Whether the draft permit complies with applicable requirements to abate and control nuisance odors, as set forth in 30 TAC § 309.13(3)

To prevent any odors that a WWTF may emit from becoming a nuisance to nearby properties, 30 Tex. Admin. Code Section 309.13(e) requires a permit applicant to comply with one of three options for abating nuisance odors. Under Section 309.13(e)(1), the applicant must provide a 150-foot buffer around all wastewater treatment plant units and either own or have another sufficient property interest, usually a long-term lease, in the buffer zone. If the applicant cannot meet this requirement, it can either develop a nuisance odor prevention request, which would include proposed solutions to prevent nuisance conditions, or obtain legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the applicant.⁵³

The ED uses section 3.B in Domestic Administrative Report 1.1 of the permit application to determine if an applicant will comply with Section 309.13(e). In this section of its application, Granbury indicated it would meet the nuisance odor abatement requirement by ownership of the buffer zone.⁵⁴ This is reflected in the buffer zone maps, which show that all wastewater treatment plant units will be located on Granbury's property more than 150 feet from the property boundary.⁵⁵

The draft permit, other Requirement No. 4 states that, in addition to complying with the site location requirements in Section 309.13(a)-(d), "by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 [Tex. Admin. Code] § 309.13(e)."⁵⁶ The buffer zone maps and Granbury's answer in section 3.B are also incorporated into the draft permit through Permit Condition No. 10, which states that the application is part of the permit.⁵⁷ Because Granbury will meet the nuisance odor abatement requirement by ownership of the buffer zone, as reflected in the draft permit, no other nuisance odor abatement requirements are needed in the permit.

⁵² *Id.* § 307.2(e)

⁵³ Ex. ED-1, at 10; 30 TEX. ADMIN. CODE § 309.13(e)(2)-(3) (West 2021).

⁵⁴ Ex. ED-1, at 11.

⁵⁵ Ex. ED-1, at 11.

⁵⁶ Ex. ED-7, at 34.

⁵⁷ Ex. ED-17, at 12.

Considering all the relevant information, the ED concludes the draft permit adequately addresses nuisance odors in accordance with Section 309.13(e).

(B) Referred Issue B—Whether the draft permit is protective of water quality

A TPDES permit’s main purpose is to protect water quality, so the majority of the permit addresses potential impacts to water quality⁵⁸ As authorized by the Texas Legislature,⁵⁹ TCEQ has adopted rules, such as the Standards in 30 Tex. Admin. Code Chapter 307 and effluent limit and location requirements in 30 Tex. Admin. Code Chapter 309, to implement the federal and state permit requirements. The draft permit includes effluent limits and their accompanying monitoring requirements to ensure that discharges from the proposed wastewater treatment plant meet water quality standards for the protection of surface water quality, groundwater, and human health according to TCEQ rules and policies.⁶⁰ For Granbury’s proposed discharge routes, all the assessed receiving waters have been designated as primary contact recreation use, and each water body was assigned the appropriate aquatic life use based on its flow characteristics.⁶¹ The modeling analysis was performed to develop effluent limits related to dissolved oxygen for draft permit that are expected to protect the receiving waters’ quality and uses. The effluent limits resulting from that analysis were recommended in the modeling memo and have been incorporated into the draft permit. (FN ED-13 at 23.)

As will be discussed later in relation to issues (D), (E), (G), (H), and (I), ED staff took all the necessary steps to make sure the draft permit will protect the assigned recreation and aquatic life uses and water quality.⁶² It is the ED’s position that the discharge routes will remain safe for humans to recreate in and aquatic organisms to live in at their current use levels.

The ED concludes that the draft permit will be protective of water quality and the receiving waters’ existing uses in accordance with the applicable Standards.

(C) Referred Issue C—Whether the draft permit is protective of groundwater and wells

This issue was not contested.

(D) Referred Issue D—Whether the draft permit is protective of the health of the requesters and their families, livestock, and wildlife, including endangered species

One of the purposes of the Standards is to “maintain the quality of water in the state consistent with public health.”⁶³ This purpose has been implemented in both the narrative and numerical requirements in the Standards. For example, as part of the

⁵⁸ Ex. ED-1, at 11, TEX. WATER CODE § 26.027(a)(1).

⁵⁹ TEX. WATER CODE § 5.103(a).

⁶⁰ Ex. ED-1, at 8.

⁶¹ Ex. ED-2, at 8:17–26.

⁶² *E.g.*, Ex. ED-3, at 7:4–14.

⁶³ 30 TEX. ADMIN. CODE § 307.1 (West 2021); *accord* TEX. WATER CODE ANN. § 26.003 (West 2018).

narrative requirements, water in the state must not be toxic to humans from ingesting the water or aquatic organisms, contacting the skin, or recreating in the water.⁶⁴ As part of the numerical requirements, 30 Tex. Admin. Code § 307.6(d) provides specific numerical human health criteria related to toxicity, and 30 Tex. Admin. Code § 307.7(b) provides the bacteria criterion for receiving waters based on the water's type and recreation use. Other TCEQ rules found in 30 Tex. Admin. Code also protect human health from permitted wastewater treatment facilities and their discharges. Chapter 309 provides effluent limits and plant siting requirements for treatment facilities. For example, all domestic wastewater that is discharged into water in the state must first be disinfected,⁶⁵ and any wastewater treatment plant unit must be located at least 500 feet from a public water well and 250 feet from a private water well.⁶⁶ Other applicable chapters include Chapter 312, which regulates the transportation, storage, and disposal of sludge that originates from treatment facilities, and Chapter 315, which regulates the pretreatment of industrial wastewater that is ultimately treated at a publicly owned treatment works. ED staff implement these and all other applicable federal and state requirements to ensure a draft permit will be protective of human health.

In addition to applying federal and state requirements, ED staff gather information from the applicant through the permit application to help draft a permit that will be protective of human health. The following parts of Granbury's application specifically relate to human health issues:

- Domestic Administrative Report 1.0⁶⁷
 - Section 10—TPDES Discharge Information
 - Buffer zone maps
- Domestic Technical Report 1.0⁶⁸
 - Section 1—Permitted or Proposed Flows
 - Section 2.A—Treatment process description
 - Section 7—Pollutant Analysis of Treated Effluent
 - Section 9—Sewage Sludge Management and Disposal
 - Section 10—Permit Authorization for Sewage Sludge Disposal
 - Section 11—Sewage Sludge Lagoons
- Domestic Technical Report 1.1⁶⁹
 - Section 2—Organic Loading
 - Section 3—Proposed Effluent Quality and Disinfection
 - Section 6—Permit Authorization for Sewage Sludge Disposal
 - Section 7—Sewage Sludge Solids Management Plan

For Granbury's application, ED staff took the application information and applied the federal and state requirements and IPs to draft a permit that will be protective of human health. To ensure the effluent will be properly disinfected, the

⁶⁴ 30 TEX. ADMIN. CODE §§ 307.4(b)(7), (d), 307.6(b)(3).

⁶⁵ *Id.* § 309.3(g)(1).

⁶⁶ *Id.* § 309.13(c).

⁶⁷ Admin. Record, Tab D, at COG000000008.

⁶⁸ Admin. Record, Tab D, at COG000000025.

⁶⁹ Admin. Record, Tab D, at COG000000044.

draft permit requires the permittee to utilize an Ultraviolet Light (UV) system.⁷⁰ Compliance with the draft permit's bacteria limits, including the daily average of 126 CFU or MPN of *E. coli* per 100 mL, will further demonstrate that the wastewater treatment facility's disinfection processes are functioning properly and will protect the primary contact recreation use of the receiving waters.⁷¹ This is in addition to the other effluent limits, such as the total phosphorus limits, which will help prevent the effluent from having toxic effects in the receiving waters and excessive aquatic vegetation growth.⁷²

The draft permit contains requirements other than effluent limits that will also prevent negative impacts to human health. The following are a few examples:

- Monitoring and Reporting Requirement No. 7 - Noncompliance Notification ⁷³
- Permit Conditions
 - No. 2.d—permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violations that have a reasonable likelihood of adversely affecting human health or the environment ⁷⁴
 - No. 2.g—no unauthorized discharges of wastewater or any other waste. ⁷⁵
 - No. 6—Relationship to Hazardous Waste Activities (FN ED7 ⁷⁶
- Sludge Provisions (FN ED7 p. 32) ⁷⁷
- Other Requirement No. —siting requirements (FN ED 7 p.34) ⁷⁸

Compliance with these permit requirements will protect anyone who may be recreating in or on the receiving waters from being harmed by the wastewater treatment facility's discharges.

Considering all the relevant information, the ED concludes the draft permit will provide adequate protection for human health, including the Protestants' health.

Another purpose of the Standards is to maintain water in the state's quality to protect and propagate aquatic life.⁷⁹ Just as with human health protection, this purpose has been implemented in both the Standards' narrative and numerical requirements. For example, as part of the narrative requirements, water in the state must not be toxic to aquatic life from contact or consuming aquatic organisms or

⁷⁰ Ex. ED-1, at 14:7-10; Ex. ED-10, at 2-2b; 30 TEX. ADMIN. CODE § 309.3(g)(1)-(3) (West 2021).

⁷¹ Ex. ED-1, at 14:10-12; Ex. ED-2, at 12:6-10; Ex. ED-10, at 2-2b; 30 TEX. ADMIN. CODE §§ 307.7(b)(1)(A)(i), 307.10(1) (bacteria criterion for Segment No. 1908), 309.3(h)(2). Please note that, by definition, the daily average in the draft permit is the monthly average referenced in section 309.3(h)(2). Ex. ED-10, at 3.

⁷² Ex. ED-1, at 14:13-14; Ex. ED-2, at 11:8-10; Ex. ED-12, at 2-2b; 30 TEX. ADMIN. CODE § 307.7(b)(4). Mr. Cooper provided a detailed explanation of the sources of all the effluent limits in his testimony. Ex. ED-1, at 8:15-32.

⁷³ Ex. ED-7 at 7.

⁷⁴ *Id.* at 9.

⁷⁵ *Id.* at 10.

⁷⁶ *Id.* at 12.

⁷⁷ *Id.* at 17-33.

⁷⁸ *Id.* at 34.

⁷⁹ 30 TEX. ADMIN. CODE § 307.1 (West 2021); *accord* TEX. WATER CODE ANN. § 26.003 (West 2018).

water.⁸⁰ As part of the numerical requirements, 30 Tex. Admin. Code Section 307.6(c) provides specific numerical aquatic life criteria related to toxicity, and 30 Tex. Admin. Code Section 307.7(b)(3) provides the dissolved oxygen criteria for receiving waters based on the water body's aquatic life use. Protection from the overgrowth of aquatic vegetation comes from Section 307.7(b)(4)(E), which requires nutrient criteria when appropriate to protect aquatic life, as well as human health. ED staff implement these and all other applicable federal and state requirements to ensure a draft permit will be protective of aquatic life.

For Granbury's application, aquatic life protection began with characterizing the receiving waters. From the application, Jeff Paull from the Standards Implementation Team reviewed descriptions of the proposed discharge routes and receiving waters, site photos, and USGS topographic maps. He also looked at resources outside the application, such as online mapping software with aerial photography, USGS topographic maps, and geologic formation layers. Using this information, he was able to determine the flow statuses of the receiving waters within three miles of the outfalls.⁸¹

The next step was identifying the receiving waters' aquatic life uses. An aquatic life use is essentially the volume and variety of aquatic life a water body supports. They range from minimal to exceptional, with each level supporting a different volume and variety of aquatic life.⁸² Water body characteristics such as flow and type determine what aquatic life use will be assigned to that water body.⁸³ TCEQ rules provide the presumed aquatic life uses based on flow: high for perennial, limited for intermittent with perennial pools, and minimal for intermittent.⁸⁴ Matching these presumed uses with the receiving waters for Granbury's application, Mr. Paull determined that the unnamed tributary is an intermittent stream with perennial pools and its uses are limited aquatic life use, incidental fisheries use, and primary contact recreation. Rucker Creek is a perennial stream, and its uses are high aquatic life use, and primary contact recreation.⁸⁵

Once the uses and associated water quality criteria were assigned, ED staff used them to determine what effluent limits were needed to maintain the necessary levels of dissolved oxygen in the receiving waters. Dissolved oxygen is free molecular oxygen dissolved in water, which many aquatic life species need to survive. Mr. Paull used each receiving water's aquatic life use to determine the minimum amount of dissolved oxygen that must be maintained in each water body as a twenty-four-hour average to support the water body's aquatic life use.⁸⁶ Table 3 in the Standards, which is the same as table 1 in the IPs, matches each aquatic life use with its dissolved oxygen criterion.⁸⁷ Based on the tables, the minimum concentrations of dissolved oxygen that must be

⁸⁰ 30 TEX. ADMIN. CODE §§ 307.4(b)(7), (d), 307.6(b)(1), (2), (4).

⁸¹ Ex. ED-11 at 3; 8-20.

⁸² 30 TEX. ADMIN. CODE § 307.7(b)(3)(A)(i) (West 2021).

⁸³ Ex. ED-2, at 8:28-31.

⁸⁴ 30 TEX. ADMIN. CODE § 307.4(h)(3)-(4).

⁸⁵ Ex. ED-11 at 8: 14-26.

⁸⁶ Ex. ED-11, at 8:25-28.

⁸⁷ 30 TEX. ADMIN. CODE § 307.7(b)(3)(A)(i); Ex. ED-5, at 15; *accord* Ex. ED-2, at 9:16-18.

maintained in Rucker Creek and Lake Granbury is 5.0 milligrams per liter. The dissolved oxygen criteria for the unnamed tributary is 3.0 mg/L (FN ED-11 p. 8).

The dissolved oxygen criteria then went to the Water Quality Assessment Team to determine what effluent limits would need to be added to the draft permit to make sure those criteria would be maintained. ED staff make that determination through the use of dissolved oxygen modeling, which is a mathematical representation of a receiving water's conditions and what impact the proposed effluent will have on the water body's dissolved oxygen levels based on those conditions. There are several pollutants in the effluent that can impact instream dissolved oxygen levels: five-day biochemical oxygen demand or CBOD₅, ammonia nitrogen, and minimum dissolved oxygen. The model is used to determine what levels of these pollutants can be present in the effluent but still maintain the receiving waters' needed dissolved oxygen levels.

The other significant step ED staff took to protect aquatic life was to perform a nutrient screening which is done to assess the discharge route and determine if a nutrient limit is necessary to maintain the existing water quality.⁸⁸ The ED uses different screening worksheets for different types of water bodies. The worksheets assign point values to various aspects of the receiving waters that may contribute to nutrient enrichment. The point values assist ED staff develop a recommendation regarding the need for nutrient effluent limit or monitoring requirements.⁸⁹ TCEQ's general approach for setting nutrient limits for wastewater discharges is to focus on phosphorus instead of nitrogen, particularly for discharges to freshwater systems.⁹⁰ For Granbury's application, the screening spreadsheet indicated that a total phosphorus limit could be added to the draft permit. Mr. Paull ultimately determined that a total phosphorus limit should be added and recommended a total phosphorus limit of 1.0 mg/L in the 1.0 MGD flow phase of the draft permit and a 0.5 mg/L in the 2.0 MGD flow phase of the draft permit.⁹¹ The total phosphorus limits should help prevent the excess accumulation of algae in the receiving waters by reducing the nutrient load in the water bodies that are sensitive to total phosphorus, thereby protecting aquatic life, as well as human health.⁹²

Considering all the relevant information, the ED concludes the draft permit will provide adequate protection for aquatic wildlife.

Along with protecting aquatic life, the Standards seek to "maintain the quality of water in the state consistent with . . . propagation and protection of terrestrial . . . life."⁹³ To that end, the Standards contain narrative requirements that are specific to terrestrial life. For example, surface waters must not cause toxicity to terrestrial life due to contacting the water or ingesting the water or aquatic organisms.⁹⁴ Beyond that, the federal and state requirements that protect human health also protect terrestrial life. In other words, the steps described in paragraph (1) that ED staff took to protect

⁸⁸ Ex. ED-11 at 9:24-27.

⁸⁹ *Id* at 28-30.

⁹⁰ Ex. ED-11 at 10:25-29.

⁹¹ Ex. ED-11 at 10:10-12.

⁹² *Id* at 10: 14-16.

⁹³ 30 TEX. ADMIN. CODE § 307.1; *accord* TEX. WATER CODE ANN. § 26.003 (West 2018).

⁹⁴ 30 TEX. ADMIN. CODE §§ 307.4(b)(7), (d), 307.6(b)(4).

human health will also protect terrestrial wildlife.⁹⁵ After all, if the permit is protective of humans who will be recreating in the water and ingesting the water and aquatic organisms that live in the water, it will also be protective of terrestrial wildlife that engage in the same or similar activities. In addition, Mr. Paull testified that the proposed discharge is not expected to have an effect on any federal or threatened aquatic or aquatic dependent species or their critical habitat within the discharge route for this application.⁹⁶

Considering all the relevant information, the ED concludes the draft permit will provide adequate protection for terrestrial wildlife.

(E) Referred Issue E—Whether the proposed discharge will adversely impact recreational activities

As part of the application review process, TCEQ staff must determine the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters. The designated uses for Segment No. 1205 are high aquatic life use, public water supply, and primary contact recreation. The unclassified waterbodies in the discharge route are also presumed to have primary contact recreation uses.⁹⁷ Mr. Paull testified that he followed the Standards and IPs in his analysis of what conditions exist along the discharge routes and what requirements would need to be in the draft permit to protect those conditions. Mr. Paull's review culminated in the finding that as long as Granbury complies with the recommendations in his memo and the permit requirements, the draft permit should protect water quality and the receiving waters uses.⁹⁸

Considering all the relevant information, the ED concludes that the proposed discharge will not adversely impact recreational activities.

(F) Referred Issue F—Whether the application is accurate and complete

As the ED discussed above in Section IV, every wastewater discharge permit application goes through administrative and technical reviews in accordance with 30 Tex. Admin. Code Chapter 281. Granbury's application went through an administrative review and was declared administratively complete.⁹⁹ Staff from the Wastewater Permitting and Water Quality Assessment Sections then performed the technical review. John Onyenobi performed the technical review for the Municipal Permits Team. After he retired, Gordon Cooper assumed this responsibility. Jeff Paul of the Standards Implementation Team performed the water quality standards review and James Michalk, of the Water Quality Assessment Team, performed the dissolved oxygen

⁹⁵ Ex. ED-1, at 14:28-29; Ex. ED-2, at 12:27-28.

⁹⁶ Ex. ED-11 at 9:20-22.

⁹⁷ Ex. ED-11 at 13:8-11.

⁹⁸ Ex. ED-11 at 13: 14-19.

⁹⁹ Ex. ED-1, at 5:18-19; Ex. APP-6; Ex. APP-7, at 139-143; Ex. APP-8.

modeling.¹⁰⁰ The application was eventually declared technically complete, which enabled Mr. Onyenobi to write the draft permit.

It is ultimately up to ED staff to determine if the applicant has submitted all the necessary information for them to write a draft permit that will protect human health and the environment. If ED staff had not received all that information for Granbury's application, they would have been unable to declare the application administratively and technically complete or prepare a draft permit.¹⁰¹ The City of Granbury provided all the information ED staff needed to prepare a draft permit.

Considering all the relevant information, the ED concludes the permit application is substantially complete and contains accurate information.

(G) Referred Issue G—Whether the modeling complies with applicable regulations to ensure the draft permit is protective of water quality

In developing a strategy for analyzing the discharger, TCEQ modelers evaluate factors such as the size of the proposed discharge, the effluent limits proposed in the application, characteristics of individual water bodies in the discharge route, the dissolved oxygen criteria of those water bodies, whether any watershed rules may be applicable to the proposed discharge route, whether a model application to the proposed discharge route may already exist, any applicable base flows that should be included in the modeling analysis, any Texas 303(d) impaired water body listings of the receiving water, and the presence of other nearby discharges, among other factors.¹⁰² Along with other relevant considerations, there is an applicable statewide lake watershed rule for discharges within five miles upstream of a public drinking water supply reservoir.¹⁰³

When conducting the modeling analysis, TCEQ utilizes the *Procedures to Implement the Texas Surface Water Quality Standards* (IPs)¹⁰⁴ and a set of standard operating procedures (SOPs).¹⁰⁵ Additionally, the modeler may consult parts of 30 Tex. Admin. Code Chapters 213, 307, and 311.¹⁰⁶ In this case, a QUAL-TX model was used for the analysis, which is standard for similar cases.¹⁰⁷

As explained in James Michalk's pre-filed testimony, all relevant factors were considered, and all relevant guidance documents and rules were referenced and utilized to conduct the modeling analysis.¹⁰⁸ The modeling analysis was performed consistent with established modeling procedures. Additionally, the effluent limits included in the draft permit are considered more stringent than the minimum effluent limits required by 30 Tex. Admin. Code 209.3(c).¹⁰⁹ There has been no evidence

¹⁰⁰ Ex. ED-1 at 5:20-24.

¹⁰¹ Ex. ED-1, at 15:13-15.

¹⁰² Ex. ED-13, at 7.

¹⁰³ Ex. ED-13, at 9.

¹⁰⁴ Ex. ED-3.

¹⁰⁵ Ex. ED-16 and ED-17.

¹⁰⁶ Ex. ED-13, at 5.

¹⁰⁷ Ex. ED-13, at 11.

¹⁰⁸ Ex. ED-13, at 6.

¹⁰⁹ Ex. ED-13, at 9.

provided which indicates that ED staff's modeling does not comply with applicable regulations.

The primary concerns regarding the modeling are about the use of a default barometric pressure and the produced dissolved oxygen below 5.0.¹¹⁰ As stated in Mr. Michalk's pre-filed testimony, the use of default data in this case is consistent with TCEQ guidelines.¹¹¹ If model results indicated that dissolved oxygen criteria may not be met under default modeling assumptions, additional scrutiny using site-specific surface water quality monitoring data would have been used to refine the model.¹¹² The protestant's witness, Mr. Machin, changed one model parameter to make the model more pessimistic but did not refine the model with other site-specific information to make the model more representative of actual conditions, some of which would have likely resulting in less pessimistic predictions. Additionally, Mr. Michalk was unable to reproduce Mr. Machin's results with the limited information provided. Making the changing Mr. Machin indicated he made, Mr. Michalk arrived at considerably less pessimistic results than were presented by the protestants. Furthermore, it is a long-established precedent with TCEQ TPDES dissolved oxygen modeling analyses that model results indicated minimum predicted instream dissolved oxygen concentrations of up to 0.20 mg/L below a water body's designated criterion are considered to be a demonstration that the criterion will consistently be met and maintained.¹¹³

Considering all the relevant information, the ED concludes the modeling complies with applicable regulations to ensure the draft permit is protective of water quality.

(H) Referred Issue H—Whether the ED's antidegradation review was accurate

An integral part of TCEQ's water quality protection requirements is the antidegradation policy, which is located in 30 Tex. Admin. Code § 307.5. To implement this rule, ED staff must conduct an antidegradation review, which Mr. Paull performed for Granbury's application.¹¹⁴ ED staff conduct a Tier 1 review for new or amended TPDES permit applications that allow increased pollution loadings and for all pollution that could cause an impairment of existing uses.(FN ED-11 at 5.¹¹⁵ The purpose of the Tier 1 review is to ensure the receiving waters' existing uses and the water quality needed to protect those uses will be maintained.¹¹⁶ Mr. Paull conducted his Tier 1 review of the application by considering, among other things, the appropriate uses and criteria of the receiving waters. Rucker Creek and Lake Granbury have high aquatic life use, which required a Tier 2 antidegradation review. ED staff determined that no significant degradation of water quality is expected in Rucker Creek and Lake

¹¹⁰ Ex. GF-400, at 5-6.

¹¹¹ Ex. ED-13, at 10.

¹¹² Ex. ED-13, at 10.

¹¹³ Ex. ED-24.

¹¹⁴ Ex. ED-11, at 13:27-28.

¹¹⁵ *Id.* at 5:19-21; *see also* 30 TEX. ADMIN. CODE § 307.5(c)(2)(A) (West 2021).

¹¹⁶ 30 TEX. ADMIN. CODE § 307.5(b)(1).

Granbury provided the applicant complies with the requirements of the draft permit.¹¹⁷(FN ED-11 at 9).

Mr. Paull also performed a nutrient screening to determine if any nutrient limits were necessary to maintain existing water quality along the discharge route.¹¹⁸ Based on the screening, Mr. Paull recommended a total phosphorus limit of 1.0 mg/L, in the 1.0 MGD flow phase of the draft permit and 0.5 mg/L in the 2.0 MGD flow phase of the draft permit. (FN ED-11 at 10). The total phosphorus limits help control the excess accumulation of algae in the receiving waters by reducing the nutrient load in the water bodies that are sensitive to total phosphorus. (FN ED-11 at 10). Mr. Paull determined the appropriate dissolved oxygen criteria by evaluating the receiving waters and the receiving waters' aquatic life uses. (FN ED-11 p. 8). This determination in conjunction with the modeling performed by James Michalk established the receiving waters' dissolved oxygen criteria and what effluent limits needed to be added to the draft permit to maintain those criteria.(FN ED-11 at 8). That work ultimately resulted in the CBOD₅, ammonia nitrogen, and minimum dissolved oxygen effluent limits in the draft permit.¹¹⁹ Based on this and all the other information that went into the Tier 1 antidegradation review, Mr. Paull determined that the existing water quality uses will not be impaired as long as Granbury abides by the recommendations in his memo and the other requirements in the draft permit, which will satisfy the Tier 1 requirements.¹²⁰

ED staff conduct a Tier 2 review for “water bodies that have the potential to be affected by the proposed wastewater discharge that have intermediate, high, or exceptional aquatic life use. This review ensures that where water quality exceeds the normal range of fishable/swimmable quality, that water quality will be maintained.”¹²¹ Basically, the receiving water cannot be degraded, i.e., the water quality cannot be lowered, by more than a de minimis extent.¹²² A new permit that will allow an increase in a pollutant loading is subject to a Tier 2 review.¹²³ Because The City of Granbury's application is for a new permit that would authorize a new discharges in receiving waters with high aquatic life use, Mr. Paull performed a Tier 2 review and determined that no significant degradation of water quality is expected in Rucker Creek and Lake Granbury as long as The City of Granbury complies with the recommendations in his memo and the requirements in the draft permit. His Tier 1 and 2 reviews are summarized in the Standards Implementation Memo.¹²⁴

Considering all the relevant information, the ED concludes the draft permit complies with the applicable antidegradation requirements.

¹¹⁷ Ex. ED-11 at 9:15-18.

¹¹⁸ *Id.* at 10:21-11:2.

¹¹⁹ Ex. ED-3, at 7:16-22; Ex. ED-10, at 2-2b.

¹²⁰ Ex. ED-2, at 10:4-7; 30 TEX. ADMIN. CODE § 307.5(b)(1) (West 2021).

¹²¹ 30 TEX. ADMIN. CODE § 307.5(b)(2), (c)(2)(B).

¹²² 30 TEX. ADMIN. CODE § 307.5(b)(2).

¹²³ Ex. ED-5, at 61.

¹²⁴ Ex. ED-4.

(I) Referred Issue I—Whether the nutrient limits in the draft permit comply with applicable Texas Surface Water Quality Standards

As previously discussed in Section (D), ED staff performed a nutrient screening to determine if the receiving waters needed any additional protection in the form of a nutrient limit.¹²⁵ The ED uses different screening worksheets for different types of water bodies. The worksheets assign point values to various aspects of the receiving waters that may contribute to nutrient enrichment. The point values assist ED staff develop a recommendation regarding the need for nutrient effluent limit or monitoring requirements. TCEQ's general approach for setting nutrient limits for wastewater discharges is to focus on phosphorus instead of nitrogen, particularly for discharges to freshwater systems. For Granbury's application, the screening spreadsheet indicated that a total phosphorus limit could be added to the draft permit. Mr. Paull ultimately determined that a total phosphorus limit should be added and recommended a total phosphorus limit of 1.0 mg/L in the 1.0 MGD flow phase of the draft permit and a 0.5 mg/L in the 2.0 MGD flow phase of the draft permit. The total phosphorus limits should help prevent the excess accumulation of algae in the receiving waters by reducing the nutrient load in the water bodies that are sensitive to total phosphorus, thereby protecting aquatic life, as well as human health.

Considering all the relevant information, the ED concludes nutrient limits in the draft permit comply with applicable Texas Surface Water Quality Standards.

(J) Referred Issue J—Whether the Commission should deny or alter the terms and conditions of the draft permit based on the consideration of need under Texas Water Code § 26.0282

Under Section 26.0282 of the Texas Water Code, the Commission may deny a TPDES permit application or alter the terms of a draft permit based on an applicant's need for the permit. To determine need the Commission considers whether the facility is necessary to provide service in the area and to treat the proposed volume. This policy is implemented in the permit application with Section 1 of the Domestic Technical Reports 1.0 and 1.1. These reports ask for information regarding the applicant's proposed flows for each phase, including the design flow, estimated construction start date, and estimated effluent disposal start date. The applicant must also provide a detailed explanation of why it needs each phase proposed in the application and information regarding domestic treatment facilities within 3 miles of the proposed location that could provide service in lieu of the proposed facility. The ED uses all of this information to evaluate whether TCEQ should grant the application based on need, and if so, whether each proposed phase should be incorporated in the draft permit.

As indicated in its application, the applicant proposed an Interim I phase of 1.0 MGD and a Final phase of 2.0 MGD in Section 1 of the Domestic Technical Report 1.0.¹²⁶ A detailed explanation of the need is provided in Attachment DTR 1.1-1.B.2 and facilities within a 3-mile radius is provided in Attachment DTR 1.1-1.B.3a. It is stated

¹²⁵ Ex. ED-2, at 10:21-22, 13:13-15.

¹²⁶ Admin. Record, Tab D, at COG000000025

that no permitted WWTF in a 3-mile radius has the capacity to accept or is willing to expand to accept the 2.0 Final phase volume.¹²⁷

In Attachment DTR 1.1-1.B.2, Granbury provides a detailed explanation of why the current plant requires upgrades, and states that the new East WWTF is required due to the population and flow projections.¹²⁸

Attachment DTR 1.1-1.B.3a provides three WWTFs within a three-mile radius. However, one is Granbury's existing WWTF, one provides service to a small area which is not included in the proposed facility's service area and does not have the capacity, and the other specifically serves an existing subdivision and does not have the capacity.¹²⁹

After reviewing all the submitted information, the ED found that there was a need for the proposed facility at its projected size and that there are no other nearby facilities with the capacity to accept the proposed discharge amount. Therefore, the ED drafted a permit with the requested phases.

Considering all the relevant information, the ED concludes that there is a need for the proposed facility.

(K) Referred Issue K—Whether the Applicant's compliance history or technical capabilities raise any issues regarding the Applicant's ability to comply with the material terms of the permit that warrant denying or altering the terms of the draft permit

The ED has reviewed Granbury's application and determined that Granbury's compliance history does not raise any issues regarding its ability to comply with the material terms of the permit. The evidence presented by the ED establishes that the application was reviewed in accordance with 30 Tex. Admin. Code Chapter 60. In his testimony, Gordon Cooper stated that TCEQ has run two compliance history reports for the City of Granbury.¹³⁰ The March 5, 2020 report shows a rating on the high end of satisfactory, and the September 22, 2021 report shows a rating of high.¹³¹ The protestants did not put forth evidence that specifically raised concerns about the sufficiency of the compliance history rating, nor did it present evidence indicating that the draft permit should not be granted on the basis of the compliance history determination made by the ED.

Considering all the relevant information, the ED concludes the Applicant's compliance history or technical capabilities do not raise issues regarding the Applicant's ability to comply with the material terms of the permit.

¹²⁷ Admin. Record, Tab D, at COG000000045

¹²⁸ Admin. Record, Tab D, at COG000000106

¹²⁹ Admin. Record, Tab D, at COG000000115

¹³⁰ Tr., at 69.

¹³¹ *Id.*; Ex. ED-9.

(L) Referred Issue L—Whether the proposed location for the Facility complies with the 100-year flood plain and wetland location standards found in 30 TAC § 309.13(a) and (b)

This issue was not contested.

(M) Referred Issue M—Whether the Applicant substantially complied with applicable public notice requirements

TCEQ's rules for public notice of TPDES permits are found in 30 Tex. Admin. Code Chapter 29 and are based on the requirements for permits issued under the National Pollutant Discharge Elimination System (NPDES) found in 40 CFR Chapter 124. Specifically, TCEQ's rules require two types of notice - mailed notice and published notice. Mailed notice for a TPDES permit is sent to: the landowners named on the application map; the mayor and health authorities of the city or town in which the facility is or will be located; the county judge and health authorities of the county in which the facility is or will be located or in which waste is or will be disposed of; the Texas Department of Health; the Texas Parks and Wildlife Department; the EPA; persons on the mailing list; and person who filed public comment or hearing requests on or before the deadline for filing public comments or hearing requests.¹³² Additionally, notice must be published in a newspaper and a copy of the application must be placed in a public place.¹³³

As stated in the Application Background in Section III of this document, the NORI was mailed on November 25, 2019, and was published in English on November 16, 2019, in *The Hood County News* and in Spanish on November 25, 2019, in *La Prensa Comunidad*. The NAPD was mailed on May 4, 2020, and was published in English on May 9, 2020, in *The Hood County News* and in Spanish on May 11, 2020, in *La Prensa Comunidad*. The Notice of Public Meeting was mailed on July 29, 2020, and was published on August 5, 2020, in *The Hood County News*.¹³⁴ The Notice of Hearing was mailed on October 29, 2021, and was published on November 6, 2021, in *The Hood County News*.¹³⁵

Both the NORI and the NAPD included all required information, as set out in 30 Tex. Admin. Code §§ 39.411(b) and (c).

Considering all the relevant information, the ED concludes the Applicant substantially complied with applicable public notice requirements.

VI. Conclusion

To obtain new TPDES Permit No. WQ0015821001, The City of Granbury was required had to submit an application that complied with the federal and state application requirements, and ED staff had to draft a permit based on that application

¹³² 30 Tex. Admin. Code. § 39.413.

¹³³ 30 Tex. Admin. Code. § 39.405(f) through (g).

¹³⁴ Ex. ED-10, at 4.

¹³⁵ Supp. Admin. Record, Tab E.

that incorporated the federal and state wastewater discharge requirements and ensured Granbury could meet those requirements. As discussed in detail above, The City of Granbury sufficiently complied with the application and notice requirements. Furthermore, ED staff have prepared a draft permit that incorporates the applicable federal and state requirements with the goal of protecting human health and the environment. This includes facility siting requirements that will prevent nuisance odors and protect human health, and effluent limits that will ensure the effluent is properly disinfected, does not promote nuisance vegetation, and is not toxic to humans or aquatic or terrestrial life. The ED concludes the draft permit incorporates the applicable legal requirements, offers the necessary protections, and does not conflict with any TCEQ policies or requirements. Therefore, The City of Granbury's application should be granted, and the draft permit should be issued.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

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