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Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78701-3087

Via TCEQ Online Comment Form

Re: Comments and Request for a Public Meeting Regarding Application by City of Blanco to Amend Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010549002

Dear Ms. Gharis:

On behalf of the Watershed Association, I am writing to submit these comments and this request for a public meeting with regard to the City of Blanco's (the "City") Application to amend TPDES Permit No. WQ0010549002 (the "Application"). The Watershed Association may be contacted through my office at the address and telephone number indicated below.

I. BACKGROUND

This Application has been the subject of significant public interest for many years. Though the City has in recent years demonstrated a good faith effort to reign in the pollutants from its wastewater facility and improve monitoring, reporting, and transparency—and the Watershed Association applauds the City and TCEQ staff for their willingness to dialogue with the community and downstream neighbors—the Watershed Association remain concerned over the impact the Draft Permit, as proposed, would have on the Blanco River.

The City's current permit was issued in April 2015, more than ten years ago. It authorizes the discharge (from Outfall 001) of a daily average flow not to exceed 225,000 gallons per day, with daily average effluent limitations of 7 mg/L carbonaceous biochemical oxygen demand, 15 mg/L total suspended solids, 2 mg/L of ammonia nitrogen, and 126 CFU of *E. coli*, and requires the effluent to contain a minimum dissolved oxygen of 4.0 mg/L. However, when there is no discharge through Outfall 001, the City is authorized to apply effluent for irrigation via Outfall 002, with much less strict effluent limitation. Outfall 002 essentially authorizes a discharge into

irrigation storage ponds. Publicly available data indicates the City of Blanco is regularly achieving these effluent limits.

And while the City has generally been meeting the current permit effluent limits in recent years, the Blanco River downstream of the City's wastewater facility has experienced severe algae blooms and signs of eutrophication, which indicates that the current limits are not preventing degradation of the water quality. The Draft Permit would add a Total Phosphorus limit, but only in the Final Phase and not at the level necessary to prevent degradation. Additionally, the Draft Permit would inexplicably relax the effluent limit for CBOD₅ in the Interim Phase and the Final Phase, resulting in a new permit that is *less* stringent than the one issued ten years ago. The effluent limits proposed in the Draft Permit would compare to the current (2015) permit as follows:

Effluent Characteristic	Current (2015) Permit Limitations	Draft Permit Limitations Interim Phase	Draft Permit Limitations Final Phase
Flow (MGD)	0.225	0.225	0.225
CBOD ₅ (mg/L)	7	10	10
TSS (mg/L)	15	15	15
NH ₃ -N (mg/L)	2	2	2
TP (mg/L)	-	Report	0.15
<i>E. coli</i> (CFU or MPN/100 mL)	126	126	126
pH, SU	6.0-9.0	6.0-9.0	6.0-9.0
DO (mg/L)	≥ 4.0	≥ 4.0	≥ 4.0

The Draft Permit would also eliminate Outfall 002, which is commendable, as is the City's representation that its intent is to use effluent for Chapter 210 reuse and discharge as only a last resort. Discharge from Outfall 001 will enter a series of two on-site, man-made ponds designed to further improve water quality before the treated effluent reaches the Blanco River. As constructed, these ponds shall be maintained with water surface areas of no less than approximately 0.85 acre (first pond) and approximately 3.2 acres (second pond), each with an average water depth of 3 feet. The second pond includes a low-profile cascade aeration structure at its outlet, which the City has indicated is approximately 24 feet in length.

The Draft Permit would also authorize two discharge routes. Upon issuance of the Draft Permit, the effluent would be discharged to the on-site, man-made ponds via an overflow pipe to an unnamed ditch, thence to the Blanco River; however, following completion of a pipeline to convey the effluent, the proposed discharge route would be to on-site, man-made ponds, thence via pipe to the Blanco River. This distinction is important because it is necessary that the City's effluent is of a quality that ensures existing uses are being maintained and water quality standards

are being met in the Blanco River. For example, there is a numeric standard for Dissolved Oxygen in the Blanco River at 6 mg/L, and the nature of the discharge route to the Blanco River has the ability to impact whether the DO modeling predicts effluent will meet this standard.

In response to the Draft Permit, the Watershed Association offers the following comments and also indicates its willingness to continue to discuss these concerns with the City and the TCEQ staff, should they have any questions.

II. COMMENTS

As an initial matter, it is critical that the TCEQ staff and the City are utilizing site-specific information to determine what proposed effluent limitations will prevent degradation and maintain existing uses in the Blanco River. The Blanco River in Segment 1813 of the Guadalupe River Basin is a high-quality water supporting exceptional aquatic life as well as contact recreation, and its uses include public water supply and aquifer protection. If authorized as proposed in the Draft Permit, the discharge of wastewater will degrade the water to the point that these uses will be impaired. The discharge will increase baseline levels of nutrients in the Blanco River that will lead to excessive aquatic vegetation growth and a reduction in dissolved oxygen levels. These biological changes will harm wildlife, including endangered species, as well as public health and recreational interests.

It is also critical that the City and the TCEQ staff acknowledge the sensitivity of the Blanco River. Any permit renewal should incentivize and support the use of the City's effluent for irrigation as a no-discharge alternative. The Watershed Association encourages the City to affirm its commitment to reuse by incorporating binding permit terms that ensure discharge to the Blanco River is a last resort.

A. The Draft Permit violates the Clean Water Act's anti-backsliding provision.

The Clean Water Act (CWA) contains a general prohibition on backsliding from certain existing effluent limitations, meaning a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under Section 1314(b) subsequent to the original issuance that would contain effluent limitations that are less stringent than in the previous permit. 33 U.S.C. § 1342(o). The Draft Permit inexplicably includes an effluent limit for CBOD₅ that is less stringent than in its previous permit. This amounts to backsliding. Therefore, the effluent limit for CBOD₅ should be amended from 10 mg/L to 7 mg/L, consistent with the prior permit.

B. It is not clear that the Draft Permit has properly characterized the outfall or the discharge route, or required proper monitoring locations.

According to the Draft Permit Other Requirement No. 11, discharge from Outfall 001 of this permit will enter a series of (two) on-site, man-made ponds designed to further improve water

quality before the treated effluent reaches the Blanco River. Therefore, the effluent limits would apply prior to the ponds. Though the assumption seems to be that the ponds are not a part of the treatment process, but a part of the waters of the state, this assumption has at least two flaws: first, the ponds are man-made and must be maintained, and though they may improve water quality, they also may be the source of pollutants. If excess nutrients accumulate in the ponds, then algae blooms could reduce DO and even release toxins in the ponds. Likewise, if the ponds are not properly maintained, pollutants can accumulate in the sediment and be released under certain conditions. Second, the unnamed ditch may be considered waters of the state; however, a pipe would almost certainly be considered a “point source” under the Clean Water Act, meaning effluent limits must also be applied at the end of the pipeline. Therefore, to ensure that the City is maintaining water quality standards, the Draft Permit must add a requirement that the City maintain the ponds, maintain the area downstream of the two new proposed ponds, and require monitoring and compliance with effluent limits downstream of the ponds and the pipeline prior to discharge into the Blanco River.

C. The Draft Permit should not include an Interim Phase or compliance period with no phosphorus limit.

The Draft Permit provides two phases. The Draft Permit provides an Interim Phase, during which there is no limit on Total Phosphorus whatsoever, but merely the obligation to report it. The Interim Phase would be a 2-year and 364-day compliance period. The Draft Permit includes the following schedule for the construction of treatment facilities that are designed to achieve compliance with the final permitted effluent limitations for Total Phosphorus (0.15 mg/L), as required on Page 2a of the Draft Permit:

ACTIVITY	DATE OF COMPLIANCE
Obtain Plans & Specs Approval*	No later than 12 months after permit issuance
Commence Construction*	No later than 24 months after permit issuance
Complete Construction*	No later than 33 months after permit issuance
Attain Compliance*	No later than 3 years after permit issuance

*Plans and Specs approval is required regardless whether the facility is modified or not to meet the more stringent effluent limits.

During this compliance period, the City would be required to submit quarterly progress reports on January 1, April 1, July 1, and October 1 of each year (this requirement shall expire three years from the date of permit issuance).

Though 30 Tex. Admin. Code § 307.2(f) and 40 C.F.R. § 122.47 provide that the NPDES permits (including State-issued permits, such as the TPDES permit) may provide for schedules of compliance, they are allowed only when appropriate, they must be reasonable, and they must be tailored to achieve compliance “as soon as possible.” In other words, prompt compliance means

compliance as soon as possible. *Ohio Valley Envtl. Coal. v. Fola Coal Co., LLC*, No. CV 2:13-16044, 2016 WL 3190255, at *10 (S.D.W. Va. June 7, 2016). First, it has not been demonstrated that a three-year compliance period is appropriate here, or that a compliance plan that does include any limitation on TP is reasonable. The City's prior permit was issued in 2015, its facility was improved in 2018, and it has been pursuing a renewal of this permit since 2018. It is not reasonable to provide no limit on TP. The City must be required to demonstrate why it qualifies for a compliance plan in the first place. Additionally, the City must also be required to demonstrate that a three-year compliance plan with no TP limit is reasonable; however, it cannot. Other facilities in Texas have limits at 0.15 mg/L TP limit and the City of Liberty Hill has an effluent limit of 0.02 mg/L TP. An Interim Phase with no TP effluent is not reasonable. Setting aside whether a compliance plan is appropriate or whether no TP effluent limit in the Interim Phase is reasonable, three years also does not amount to "as soon as possible," particularly because the Final Phase TP limit of 0.15 mg/L will not comply with the Texas Surface Water Quality Standards.

Finally, another overlooked benefit of a compliance period is the opportunity to collect scientific data. Without a reasonable TP limit, there is no incentive to keep TP limits below a reasonable threshold and monitor conditions in the Blanco River subject to concentrations at some sustained limits. This would be particularly valuable here, where the Watershed Association disagrees with TCEQ staff that 0.15 mg/L will be protective of water quality in the Blanco River; however, rather than collect data that will assist in narrowing in on the correct effluent limit, the City will be given another three years before imposing any TP limit.

The City must be required to demonstrate the compliance period is necessary, and, if it is—subject to necessity—a reasonable TP limit must be imposed during the compliance period, so that the City is achieving compliance with water quality standards as soon as possible.

D. The Draft Permit will not comply with the Texas Surface Water Quality Standards or the Anti-Degradation Policy.

In addition to the failure to limit total phosphorus to the necessary degree in both the Interim and Final Phases, the failure to further limit nitrate or to place any limit on total nitrogen will also result in the lowering of water quality in the Blanco River beyond a *de minimis* amount, and certainly to the degree that existing uses are impaired, in violation of the TCEQ's anti-degradation policy. *See* 30 TAC § 307.5. There is no demonstration that the effluent limits (or lack thereof) for TP, nitrate, or nitrogen will be protective, and as this is the City's burden, the Draft Permit, as currently proposed, should be denied.

E. The Draft Permit will not be protective of the health of humans, wildlife, or other animals, including threatened or endangered species.

Wastewater effluent contains metals, microplastics, pharmaceutical chemicals, PFAS or per- and polyfluoroalkyl substances often called “forever chemicals,” as well as a wide range of chemicals found in body care products, soaps, detergents, pesticides, or other cleaning products. These chemicals can reduce oxygen levels, kill fish, stimulate algae blooms, endanger public health, and, even at very low concentrations, nutrients, toxic metals, pesticides, and pharmaceuticals disrupt aquatic life. Some of these chemicals may accumulate in fatty tissue, impair ability to reproduce, escape predation, maintain proper metabolism, or lead to premature death. There is no evidence that pollutants of this nature have been evaluated in the course of preparing this Draft Permit, despite these risks to human health, aquatic organisms, and the environment.

Furthermore, the discharge as proposed will degrade federally protected endangered species habitat. As revealed by a dye trace study by the Barton Springs Edwards Aquifer Conservation District (BSEACD), water from the Blanco River contributes both to Barton Springs and the San Marcos Springs. These springs systems provide habitats for several endemic, endangered species: the Barton Springs Salamander (*Eurycea sosorum*), the Austin Blind Salamander (*Eurycea waterlooensis*), the San Marcos Salamander (*Eurycea nana*), the Texas Blind Salamander (*Eurycea rathbuni*), the Fountain Darter (*Etheostoma fonticola*), and Texas Wild Rice (*Zizania texana*).

F. The Draft Permit will not be protective of groundwater quality and groundwater wells.

The Draft Permit does not demonstrate that a groundwater impact analysis was undertaken. To be clear, it is not enough to assume that if surface water quality is protected (which it will not be) that groundwater quality will also be protected. The Blanco River downstream of the discharge point is connected to groundwater in the area. The facility is located over the outcrop and recharge zone of the Trinity Aquifer and is in the drainage area of the Edwards Aquifer. It has not been shown that issuance of the Draft Permit is sufficiently protective of either of these aquifers. Nor has it been shown that the proposed site, evaluated in light of the proposed design, construction, and operational features, will meet the siting requirements of 30 Tex. Admin. Code §§ 309.12 and .13, including the siting of the facility in a manner that would minimize the possible contamination of waters of the state due to hydraulic conductivity of the subsurface of the site.

Furthermore, based on the documented substantial losses of streamflow to the underlying Trinity and Edwards Aquifers, it is likely that the water quality of water-supply wells proximate to the Blanco River downstream from the proposed discharge point would be threatened. According to the Texas Water Development Board (“TWDB”) Groundwater Data Viewer, there

are dozens of water-supply wells within 1/2 mile of the Blanco River in the reach from City of Blanco to San Marcos.

G. Other Requirement 10 undermines enforceability of the Draft Permit.

According to the Draft Permit, Other Requirement No. 10, within 60 days of issuance, the City must submit its summary transmittal letter to TCEQ's wastewater permitting section, but is only required to submit "plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems" *if requested* by the Wastewater Permitting Section. The plans and specifications are necessary to demonstrate that the treatment system will be capable of meeting the Final Phase effluent limitations required. Should a compliance period be allowed, it is not enough that the City simply state it will meet these requirements, it must submit the plans and specifications. This is necessary to ensure prompt compliance considering that Other Requirement No. 10 acknowledges that "This provision is continued from the permit issued on April 24, 2015, which has not been complied with to date."

H. The Draft Permit will not prevent nuisance odors.

The Draft Permit does not demonstrate that the facility will be adequately protective against adverse odor impacts. A significant potential exists for the creation of nuisance odors at the site and from decaying algae along the discharge route.

I. The Draft Permit should require a Class A Operator.

The unique nature of this permitting facility means it should be operated by an operator holding a Class A license rather than a Class C license, as is proposed by the Draft Permit. The site involves two treatment ponds, an aeration structure, as well as irrigation storage ponds. The Draft Permit contains two separate phases, with two different discharge routes as well as two different effluent sets. Given this complexity and the site's proximity to the Blanco River, which is extremely sensitive to wastewater pollution, it is critical to ensure that the treatment, operation, maintenance, monitoring, and reporting is under the direction of a highly-skilled chief operator.

J. The Agency must consider compliance history.

The Agency must consider compliance history when deciding whether to renew, amend, or modify the City's permit. In this case, it is not clear whether the Agency has considered whether the City's compliance history justifies stricter permit conditions and provisions in the Draft Permit in order to provide necessary oversight and improved compliance. For example, compliance history justifies requiring a Class A operator and in improving certain monitoring and reporting requirements as previously provided in these comments.

III. REQUEST FOR A PUBLIC MEETING

The Watershed Association requests the Agency hold a public meeting. As was previously stated, and as the permitting history for the City reflects, there has been significant public interest in this matter over many years, as well as a demonstrated commitment by the interested public in engaging in productive dialogue with the City of Blanco and TCEQ staff. A public meeting would allow for many of the above-referenced comments to be discussed and for the City to inform the public of the nature of its most recent plan. The Watershed Association requests that this meeting be held in Blanco and in person, and that the public comment period be extended for at least two weeks after the close of the public meeting so that any new information provided at the public meeting can meaningfully inform public comments.

IV. CONCLUSION

The economic prosperity of the Hill Country is dependent upon the health of our water. The Draft Permit does not contain sufficient provisions to protect the water quality in the Blanco River, nor the health of the downstream environment. For these reasons and those listed above, the Watershed Association asks that the proposed Application be denied in favor of a permit with more strict nutrient limits. Thank you for your attention to this matter. Please contact me with any questions.

Respectfully submitted,

/s/ Lauren Ice

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