

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 23, 2006

TO: Persons on the attached mailing list.

RE: Hudson Harbor, Ltd.
TPDES Permit No. WQ0014227001

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.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

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 TCEQ Region 11 Office, 1921 Cedar Bend Drive, Suite 150, Austin, 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. 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. You 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) 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; and
 - (B) 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.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) 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."

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. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

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 comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

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 in writing and must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, 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 alternative dispute resolution director 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 Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/cz

Enclosures

MAILING LIST

for

Hudson Harbor, Ltd.

TPDES Permit No. WQ0014227001

FOR THE APPLICANT:

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PROTESTANTS/INTERESTED PERSONS:

Deborah Gernes, General Manager
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FOR PUBLIC INTEREST COUNSEL:

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FOR THE CHIEF CLERK:

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Office of Chief Clerk MC-105
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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

TCEQ PERMIT NO. WQ0014227001

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APPLICATION BY

HUDSON HARBOR, LTD.

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BEFORE THE

CHIEF CLERKS OFFICE
TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Hudson Harbor, Ltd. (Applicant) to renew its TCEQ wastewater permit No. 14227-001, and on the ED's preliminary decision on the application. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received a comment letter from Ms. Deborah S. Gernes, representing Travis County Water Control & Improvement District 17 (District). This Response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Facility Description

The Applicant's wastewater treatment facility would consist of a septic tank system and subsurface drip irrigation system. The facility would include a primary settling tank, recirculation/equalization dosing tank, recirculation media filter, drip irrigation dosing tank and a subsurface drip irrigation system. The Applicant would be authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 14,000 gallons per day via subsurface drip irrigation of 3.2 acres of public access land. Application rates shall not exceed 0.1 gallons per square foot per day.

The facility and disposal site are located on Hudson Shore of Lake Travis, approximately 5.0 miles northwest of the intersection of Ranch-to-Market Road 620 and Ranch-to-Market Road 2222 in Travis County, Texas. The disposal site is located in the drainage basin of Lake Travis in Segment No. 1404 of the Colorado River Basin. No discharge of pollutants into water in the State is authorized by this permit.

Procedural Background

The renewal application was received on October 29, 2004, and declared administratively complete on April 27, 2005. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on June 2, 2005 in the *Austin American Statesman*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on November 2, 2005 in the *Austin American Statesman*. The public comment period ended on December 2, 2005. This application is subject to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

The District comments that the Applicant's property is located within the District's boundaries and certified wastewater service area.

RESPONSE 1:

According to 30 TAC § 291.101(b), "A person that is not a retail public utility or a utility or water supply corporation that is operating under provisions pursuant to the Texas Water Code, §13.242(c) may not construct facilities to provide water or sewer service to more than one service connection not on the property owned by the person and that are within the certificated service area of a retail public utility without first obtaining written consent from the retail public utility." The Executive Director has determined that the Applicant's property is located within the District's certificated wastewater service area (Wastewater CCN No. 20943). However, the Applicant plans to provide service only to buildings located on its own property, so the Texas Water Code and applicable Regulations do not require the Applicant to obtain service or approval from the District. Also, no other service locations would be authorized by the draft permit.

COMMENT 2:

The District comments that the Applicant has not demonstrated a need for renewal of its permit, that the original permit was issued in May 2001, and that the Applicant has not commenced work on either its facility or proposed development in that time. The District further comments that the application contains no explanation of the continued need for the facility. The District comments that TCEQ should not issue or renew a permit without an adequate demonstration of need.

RESPONSE 2:

The initial authorization for the facility was issued May 15, 2001. In the application materials, the Executive Director requires demonstration of continued need for facilities that have

not been constructed within five years of authorization. The renewal application was submitted on October 29, 2004. At that time, the five-year period for construction had not passed, and as a result, TCEQ did not require the Applicant to demonstrate continued need for the facility.

COMMENT 3:

The District comments that if the Applicant ever finalizes its development plans and is ready to commence work, it may request wastewater service from the District under the District's current rules and policies, and that renewal of the permit would support the proliferation of small private wastewater treatment systems serving individual developments within the Lake Austin and Lake Travis watersheds, and may allow the permitting of a development that may never actually take place.

RESPONSE 3:

In accordance with the Texas Water Code, TCEQ encourages and promotes the development and use of regional and area-wide waste treatment to serve the disposal needs of the citizens of Texas and requires the use of reasonable methods to implement this policy. In considering renewal of a permit to discharge waste, TCEQ considers the availability of existing or proposed area-wide waste collection, treatment, and disposal systems. Further, TCEQ encourages interested and affected persons to cooperate in developing and using regional and area-wide systems. However, the Applicant has represented to TCEQ that its research indicates that there are no existing wastewater treatment facilities within a three-mile radius of their property, and that the District's nearest existing facility appeared to be on the other side of the Colorado River, making connecting to the District's existing facilities infeasible.

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

Respectfully submitted,

Texas Commission on Environmental Quality

Glen Shankle
Executive Director

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REPRESENTING THE
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