

Helen S. Gilbert
hgilbert@gwtxlaw.com



Gilbert Wilburn, PLLC
ATTORNEYS AT LAW

September 29, 2020

Randall B. Wilburn, P.E.
rbw@gwtxlaw.com

Via Electronic Filing and First Class Mail

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

REVIEWED

OCT 02 2020

By Gaw H

CHIEF CLERK'S OFFICE
2020 OCT -1 PM 2:14
OFFICE OF THE CHIEF CLERK
TCEQ

Re: LH Wildridge, LLC; Application for Water Use Permit No. 13520

Dear Ms. Bohac:

On behalf of the City of Dallas, Dallas Water Utilities ("Dallas"), please consider this a request for a contested case hearing on LH Wildridge, LLC's ("Wildridge") Application for Water Use Permit No. 13520 in the Trinity River Basin filed initially with the Texas Commission on Environmental Quality ("TCEQ" or "Commission") on August 27, 2018 and amended or supplemented thereafter. As set out more fully below, Dallas is an affected person with a justiciable interest in Wildridge's application in accordance with Texas Water Code § 5.115 and Title 30 Texas Administrative Code ("TAC") §§ 55.251, 295.153, and 295.171.

1. Contact Information

For purposes of this hearing request and all other correspondence, these persons represent Dallas and may be contacted as follows:

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1500 Marilla Street
Dallas, Texas 75201
214/670-3144

Mr. Randall Wilburn
Gilbert Wilburn, PLLC
7000 N. MoPac Expressway, Suite 200
Austin, Texas 78731
512/431-8442
rbw@gwtxlaw.com

2. Application Information

Dallas requests a contested case hearing on Wildridge's Application for Water Use Permit No. 13520, which seeks authorization to maintain a previously exempt or unauthorized dam and reservoir on an unnamed tributary of Elm Fork Trinity River in the Trinity River Basin, impound 9.9 acre-feet of water therein, and to convey 12.4 acre-feet of groundwater to the reservoir using the Elm Fork Trinity River in Denton County for recreational purposes.

3. Request for Contested Case Hearing

Dallas hereby requests a contested case hearing on Wildridge's Application because the water use permit would affect Dallas in a manner not common to members of the general public.

4. Description of Affected Person Status

Pursuant to Texas Water Code § 5.115 and 30 TAC § 55.256, 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.¹ Additionally, governmental entities may be considered affected persons.² Among other things, in assessing affected person status, the Commission may consider relevant factors including, 1) whether the interest claimed is one protected by the law under which the application will be considered; 2) distance restrictions or other limitations imposed by law on the affected interest; 3) whether a reasonable relationship exists between the interest claimed and the activity regulated; 4) likely impact of the regulated activity on the health, safety, and use of property of the person; 5) likely impact of the regulated activity on use of the impacted natural resource by the person; and, 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.³

Dallas is a senior water right holder in the Trinity River Basin and a regional water supplier to millions of Texans through numerous senior water rights to an area approximately 700 square miles, including rights to use water directly from the Elm Fork of the Trinity River ("Elm Fork") for municipal water supply downstream of Wildridge.⁴ Dallas maintains two (2) water treatment plants on the Elm Fork, the Elm Fork Water Treatment Plant ("WTP") and the Bachman WTP to effectuate this purpose. As a senior water right holder and public utility downstream from Wildridge's amenity pond, Dallas not only has an interest protected by law under its water right permits and certificates of adjudication, but it has an interest in protecting its water resources from impairment by other water users to the detriment of its customers and the public welfare.⁵

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³ *Id.* 30 TAC § 55.256(c).

⁴ Certificate of Adjudication No. 08-2457 and amendments.

⁵ *See* Tex. Water Code Ann. § 11.134.

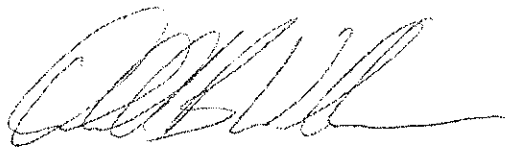
In this case, although Wildridge does not appear to be seeking a new appropriation to impound State water, Dallas believes Wildridge's application does not conform to applicable State requirements. Specifically, Dallas is concerned that the draft permit's special provisions do not provide sufficient assurance that inflows of state water will be passed, the proposed measuring requirements are appropriate, and the water quality of the alternate source meets the applicable surface water quality standards of Lewisville Lake. This bed and banks conveyance for an amenity pond on the shores of Lewisville Lake is in an already over-appropriated segment, which will result in evaporative losses impacting downstream water rights. To protect its senior water rights, Dallas must be named and remain a party to this proceeding.

Dallas is an affected person with a justiciable interest, because Wildridge's water use permit will impair the health and safety of Dallas' customers, its senior water rights, downstream environmental flows, its WTP operations, and the Elm Fork of the Trinity River.

An evidentiary hearing with sworn testimony is essential to ensure that Wildridge's application conforms to State law and does not impact Dallas. Dallas reserves the right to supplement this hearing request after public newspaper notice is provided.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Wilburn', written in a cursive style.

Randall B. Wilburn

Attorneys for City of Dallas, Dallas Water Utilities

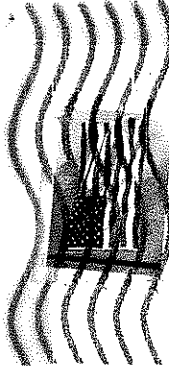
cc: Mr. Denis W. Qualls, P.E.



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7000 N. MoPac Expwy, Ste. 200
Austin, Texas 78731

AUSTIN TX 787
RIO GRANDE DISTRICT
29 SEP 2020 PM 3 L



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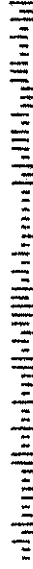
ON BRIM...
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Austin, Texas 78711-3087

RECEIVED

OCT 01 2020

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CJ



78711-3087E7

Elisa Guerra

From: PUBCOMMENT-OCC
Sent: Tuesday, September 29, 2020 1:51 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-
WWW-WRAS
Subject: FW: LH Wildridge, LLC; Application for Water Use Permit No. 13520
Attachments: AP001=Request for Hearing 9-29-20.pdf

H

From: Brad Patterson <Brad.Patterson@tceq.texas.gov>
Sent: Tuesday, September 29, 2020 10:48 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: LH Wildridge, LLC; Application for Water Use Permit No. 13520

From: Helen Gilbert <hgilbert@gwtlaw.com>
Sent: Tuesday, September 29, 2020 10:45 AM
To: CHIEFCLK <chiefclk@tceq.texas.gov>
Cc: Brad Patterson <Brad.Patterson@tceq.texas.gov>
Subject: LH Wildridge, LLC; Application for Water Use Permit No. 13520

On behalf of the City of Dallas —

Thanks,

Helen Gilbert



Helen S. Gilbert

Gilbert Wilburn, PLLC
7000 N. MoPac Expwy, Suite 200
Austin, Texas 78731
(C) 512.565.4995
(O) 512.494.5341
(F) 512.472.4014
www.gwtlaw.com
hgilbert@gwtlaw.com

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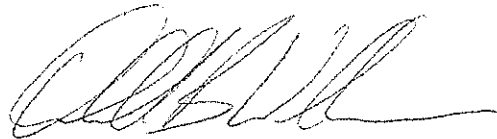
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Sent: Tuesday, September 29, 2020 1:52 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-
WWW-WRAS
Subject: FW: Public comment on Permit Number WRPERM 13520
Attachments: AP001=Request for Hearing 9-29-202.pdf

H

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Sent: Tuesday, September 29, 2020 10:44 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WRPERM 13520

REGULATED ENTY NAME WRPERM 13520

RN NUMBER: RN110482494

PERMIT NUMBER: WRPERM 13520

DOCKET NUMBER:

COUNTY: DENTON

PRINCIPAL NAME: LH WILDRIDGE LLC

CN NUMBER: CN605399161

FROM

NAME: MS Helen Gilbert

E-MAIL: hgilbert@gwtlaw.com

COMPANY: Gilbert Wilburn PLLC

ADDRESS: 7000 North Mopac Expy Suite 200
Austin TX 78731

PHONE: 5124945341

FAX:

COMMENTS: City of Dallas Hearing Request

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hgilbert@gwtblaw.com



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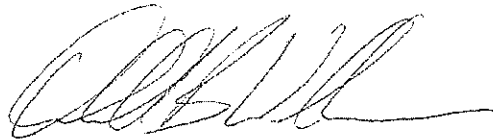
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