

TCEQ DOCKET NO. 2022-0091-MWD

**APPLICATION BY GREEN VALLEY
SPECIAL UTILITY DISTRICT
FOR TPDES PERMIT
NO. WQ0015917001**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

PATRICK AND ALICIA WILKS’S REPLY TO RESPONSES TO HEARING REQUESTS

TO THE HONORABLE COMMISSIONERS:

On behalf of Patrick and Alicia Wilks, (collectively, the “Wilkses” or “Requesters”) we file this Reply to the Responses to Hearing Requests and Requests for Reconsideration filed by the Executive Director (“ED”) and the Office of Public Interest Counsel (“OPIC”). The Commission should reconsider the ED’s decision. Alternatively, the Commission should find that both Requesters are “affected persons” and should grant their requests for a contested case hearing. The Commission should also refer all issues recommended by the ED to the State Office of Administrative Hearings as well as one additional issue discussed below.

I. The Commission Should Reconsider the ED’s Decision

The Wilkses requested that the Commission reconsider the ED’s decision in this matter. Responses to requests for reconsideration should address the issues raised in the request. 30 Tex. Admin. Code § 55.209(f). The Wilkses timely submitted a Request for Reconsideration along with their hearing request in this matter, as did other requesters, the City of Saint Hedwig, the City of Schertz, and the Cibolo Creek Municipal Authority (“CCMA”). The ED failed to address several issues raised in these requests for reconsideration.

The Applicant, Green Valley Special Utility District (“GVSUD”), has not provided all the required information in its permit application related to the feasibility of connecting to existing wastewater infrastructure in the region.

GVSUD made the same omissions in its last application for a new permit to operate a wastewater treatment plant in this same general area.¹ In that case, GVSUD likewise did not provide required correspondence with the cities in which its service area overlapped. While the Commission ultimately found that the omission was harmless because those cities did not own wastewater treatment plants, in this case, the service area overlaps with the corporate limits and sewer CCN of the City of Schertz, which co-owns a wastewater treatment plant.² The Application does not contain the required correspondence with the City of Schertz. Likewise, the proposed facility here is less than three miles away from a wastewater treatment plant that is operated by the CCMA, but the Application does not contain the required information as to whether the CCMA can furnish wastewater services.

The Application must provide: a response from the City of Schertz and the CCMA as to whether they can furnish wastewater services, and a justification for building a new plant, based on a cost analysis, in the event either of those entities can furnish the requisite wastewater services. GVSUD should have to do this prior to the Wilkses having to participate in a costly hearing process. Because the Application is plainly deficient and the ED provided no response to these issues, the Commission should reconsider the ED's decision.

II. Requesters Are Affected Persons

The Wilkses agree with the recommendations of the ED that the Commission should grant the hearing request of Patrick Wilks; however, the ED recommends the Commission deny the request by Patrick's wife, Alicia Wilks, because she did not submit timely comments.³ Mr. Wilks submitted timely comments on behalf of himself and his family. He indicated in both his oral and

¹ TCEQ Docket No. 2016-1876-MWD; SOAH Docket No. 582-17-1850.

² See Hearing Request of City of Schertz, p. 7.

³ ED's Response to Hearing Requests, p. 10.

written comments that he and his wife, Alicia, own property downstream from the proposed discharge, where they have built their family home and live with their children. The Commission should find that Mr. Wilks' comments were submitted on behalf of his family, including his wife, Alicia, and that Alicia Wilks' hearing request meets all other requirements.

The Wilkses agree with the recommendation of OPIC that Patrick and Alicia Wilks are affected persons in this matter.⁴

III. Issues to Refer to SOAH for a Contested Case Hearing

Requesters agree with the ED that Issues 7, 10-14, 17-18, and 21 should be referred to SOAH for a Contested Case Hearing. The Wilkses would also like to clarify that among the issues they raised in their timely public comments and designated by the ED, were Issues 10 and 18. The ED's Response erroneously failed to recognize that the Wilkses raised these issues in their comments.

The Commission should also refer the issues identified in OPIC's Response. Of particular concern is whether the draft permit would be protective of the health of the affected persons and their families, livestock, and wildlife in the area.⁵ The Wilkses comments and hearing request include this issue, and it is relevant and material to the Commission's decision, as it relates to compliance with the Texas Surface Water Quality Standards, but the ED's Response erroneously failed to recognize that the Wilkses raised these issues in their comments.

IV. Conclusion and Prayer

For the reasons stated above, Requesters respectfully pray that the Commission grant their hearing request. Requesters also respectfully pray that the Commission refer Issues 7, 10-14, 17-

⁴ OPIC's Response to Hearing Requests, p. 11.

⁵ OPIC's Response, p. 18.

18, and 21, as well as the issue of whether the draft permit would be protective of the health of the affected persons and their families, livestock, and wildlife in the area.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on February 14, 2022, a true and correct copy of the Reply to Responses to Hearing Requests was electronically filed with the Chief Clerk of TCEQ, and that copies were served upon the ED, OPIC, and the Applicant pursuant to 30 Tex. Admin. Code §§1.10-11 and § 55.209(g) via deposit in the U.S. mail.