

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 9, 2022

TO: Persons on Attached Mailing List

**RE: Docket No. 2022-0125-WR
City of Wichita Falls (Applicant)
Hearing Requests filed on Permit No. WRPERM 13404**

The above-referenced application and all timely filed hearing requests/requests for reconsideration on the above-referenced application will be considered by the commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **April 13, 2022**. The meeting will begin at 9:30 a.m. Due to the ongoing pandemic, the agenda meeting may be held in person in Room 201S of Building E at the Commission's offices located at 12100 Park 35 Circle in Austin, Texas, virtually, or both in person and virtually. To confirm how the meeting will be held, please visit the Commissioners' Agenda webpage at:

https://www.tceq.texas.gov/agency/decisions/agendas/comm/comm_agendas.html
eight days before the Agenda.

In accordance with commission rules, copies of the timely hearing requests/requests for reconsideration have been forwarded to the Applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. Each of these persons is entitled to file a formal written response to the hearing requests/requests for reconsideration on or before 5:00 p.m. on **March 21, 2022**. Persons who have filed timely hearing requests/requests for reconsideration may file a formal written reply to these responses on or before 5:00 p.m. on **April 4, 2022**.

All responses and replies must be filed with the Chief Clerk of the TCEQ. Responses and replies may be filed with the Chief Clerk electronically at <http://www.tceq.texas.gov/goto/eFilings> or by filing an original and 7 copies with the Chief Clerk of the TCEQ. The mailing address of the Chief Clerk's Office is: Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 (Fax (512) 239-3311). On the same day any response is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Applicant and the requesters at their addresses listed on the attached mailing list. On the same day any reply is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, other requesters, and the Applicant at their addresses listed on the attached mailing list.

The procedures for evaluating hearing requests and for filing and serving responses and replies are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter G (§§55.250-55.256) and 30 TAC §§ 1.10-1.11. The hardcopy filing requirement is waived

by the General Counsel pursuant to 30 TAC § 1.10(h). Copies of these rules may be obtained by calling the Public Education Program toll free at (800) 687-4040.

The Commissioners will not take oral argument or additional public comment on this matter, but may wish to ask questions of the Applicant, hearing requesters or staff. The Commissioners will make their decision based on the hearing requests, written responses to the hearing requests, any written replies to those responses, and any response to questions. Copies of all public comment and hearing requests have also been referred to the Alternative Dispute Resolution Program, where they will be evaluated to determine if informal, voluntary mediation might help resolve any dispute.

The attachment to this letter is intended to help you better understand how the TCEQ processes and evaluates hearing requests. Individual members of the public may seek further information concerning the application, public participation, the processing of hearing requests, copies of Commission rules, or the attachment, by calling the TCEQ Public Education Program, toll free, at (800) 687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

Enclosures: Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, and Alternative Dispute Resolution.

REQUIREMENTS FOR WATER RIGHTS HEARING REQUESTS

Commission rules in 30 TAC § 55.251 (b) and (c) require a hearing request to:

- (1) be in writing and be filed with the Office of the Chief Clerk during the public comment period;
- (2) give the name, address, and daytime telephone number of the person who files the request;
- (3) identify the person's personal justiciable interest affected by the application including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (4) request a contested case hearing; and
- (5) provide any other information specified in the public notice of application.

A hearing request must comply with requirement (1) above and "substantially comply" with requirements (2) through (5). In addition, a group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

A request for a contested case hearing must be granted if the request is made by an affected person and the request: (A) complies with the requirements of 30 TAC § 55.251; (B) is timely filed; and (C) is pursuant to a right to hearing authorized by law.

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. An interest common to the general public does not constitute a justiciable interest. To determine whether a person is an affected person, all relevant factors must be considered, including but not limited to:

- (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) the likely impact of the regulated activity on the health, safety, and use of property of the person;

- (5) the likely impact of the regulated activity on the 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.

**MAILING LIST
CITY OF WICHITA FALLS
DOCKET NO. 2022-0125-WR
WATER RIGHTS PERMIT NO. WRPERM 13404**

FOR THE APPLICANT:

via electronic mail

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**FOR ALTERNATIVE DISPUTE
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FOR THE CHIEF CLERK:

<https://www14.tceq.texas.gov/epic/eFiling/>
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See attached list.

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