

TCEQ DOCKET NO. 2022-0326-MWD

**APPLICATIONS BY HARRINGTON § BEFORE THE TEXAS
TURNER ENTERPRISES LP AND § COMMISSION ON
RESTORE THE GRASSLANDS LLC § ENVIRONMENTAL QUALITY**

**REPLY TO HEARING REQUESTS/REQUESTS FOR RECONSIDERATION
RESPONSES**

The undersigned submits this Reply to the Office of Public Interest Counsel's ("OPIC's") Response to Requests for Hearing and Requests for Reconsideration, the Executive Director's ("ED's") Response to Hearing Requests and Requests for Reconsideration, and the Applicant's Response to Hearing Requests, each filed on April 25, 2022.

I appreciate the Texas Commission on Environmental Quality's ("TCEQ's") time on this matter. However, I urge the Commissioners to request that the ED reconsider the Application, given the numerous inconsistencies and material errors contained in the draft. These issues have been repeatedly identified during the public comment period, and are indicative of an application that was hastily, and incorrectly, assembled. Given the significance of the impact this Application could have to our community, I firmly believe that the ED should reevaluate the Application, revise as necessary, and then allow for new public review and comment period.

Additionally, I was not identified as an affected person and/or my request for a contested case hearing was not recommended for referral to SOAH. However, I do request a contested case hearing because I am an affected person. I will be personally affected by this permit decision because Maxwell Creek is a key part of our neighborhood with walking trails around and along the creek. I frequently walk these trails. The building of a waste water treatment facility that dumps its effluent into the creek will have a pronounced negative impact on the creek, the wildlife living in the creek area, and our neighborhood. I submitted comments during the comment period expressing these issues. Accordingly, I respectfully ask the Commissioners to determine that I am an affected person and to grant my contested case hearing request.

If the Commissioners instead refer the disputed factual issues directly to SOAH, then I respectfully request that the Commissioners refer the factual issues recommended by both OPIC and the ED, as combined and summarized below:

1. Whether the draft permit is protective of wildlife and wildlife habitats (ED Issue 1; OPIC Issue 5)
2. Whether the draft permit is protective of human health and safety (ED Issue 2; OPIC Issue 4)
3. Whether the draft permit adequately controls nuisance odors (ED Issue 3; OPIC Issue 7)
4. Whether the Applicants substantially complied with all notice requirements (ED Issue 4; OPIC Issue 11)

5. Whether the proposed facility will impact the requestors' use and enjoyment of their property (ED Issue 5)
6. Whether the Applicants complied with Texas Water Code §§ 26.081 and 26.0282 and TCEQ's regionalization policy (ED Issue 6; OPIC Issue 8)
7. Whether the draft permit will impact surface and/ or ground water quality (ED Issue 7; OPIC Issues 1, 3)
8. Whether the design of the proposed facility is adequate to ensure required water quality will be achieved (OPIC Issue 2)
9. Whether the proposed discharge will create excessive algal growth (ED Issue 8)
10. Whether the Applicants completed the application adequately and sufficiently (ED Issue 9; OPIC Issue 10)
11. Whether the anti-degradation review complies with TCEQ's rules (ED Issue 10; OPIC Issue 6)
12. Whether the Applicants are legal entities (ED Issue 11)
13. Whether the proposed facility complies with applicable siting requirements in Chapter 309 of the TCEQ's rules (ED Issue 12)
14. Whether the draft permit includes adequate provisions to control vectors (ED Issue 13)
15. Whether draft permit's monitoring requirements comply with the TCEQ's rules (ED Issue 38)
16. Whether the Applicants' compliance history raises any issues regarding the Applicants' ability to comply with the material terms of the permit that warrant denying or altering the terms of the draft permit (ED Issue 45; OPIC Issue 9)
17. Whether the proposed nutrient limits comply with TSWQS (ED Issue 46; OPIC Issue 1)

Sincerely,

Thomas K. Powell Jr.

CERTIFICATE OF SERVICE

I certify that on May 9, 2022, this Reply was filed with the TCEQ Office of the Chief Clerk, and an electronic copy was served to the Applicant, the Executive Director, and the Public Interest Counsel.

[SIGN ABOVE AND WRITE YOUR NAME HERE]