

**TCEQ DOCKET NO. 2022-0326-MWD**

<b>APPLICATIONS BY HARRINGTON TURNER ENTERPRISES LP AND RESTORE THE GRASSLANDS LLC</b>	<b>§ § §</b>	<b>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
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**CITY OF PARKER’S REPLY TO RESPONSES TO HEARING REQUESTS AND  
MOTION FOR RECONSIDERATION**

COMES NOW the City of Parker, Texas (“City” or “Parker”) and files this Reply to Responses to Hearing Requests and Motion for Reconsideration (“Reply”) in this docket for the Application filed by Harrington Turner Enterprises LP and Restore the Grasslands LLC (“Applicants”) for a Texas Pollution Discharge Elimination System permit. In Reply to the Responses to Hearing Requests previously filed, the City would show as follows:

**I. Reply**

The Commission received two responses to the City’s request for a contested case hearing. The respondents were: the Applicants and the Executive Director (“ED”) of the Commission. The City will address each response in turn.

**ED**

The Executive Director of the TCEQ (“ED”) found that the City met the definition of affected persons and recommends that its requests for a contested case hearing be granted. The City supports the ED’s analysis and recommendation regarding “affected person” status and rehearing request.

**APPLICANTS**

Applicants, as expected, opposes the City’s hearing request. However, instead of indicating that the City’s concerns are not issues which should be referred to SOAH, Applicants merely make unverified claims that go to extraneous motivations of the hearing requestors, not whether the issues should be referred to SOAH. The Applicants’ pleading stands in stark contrast to the pleading filed by the ED wherein it determined that the City was an affected person.

As carefully briefed by the ED, the City is an affected party by its proximity of services with capacity to provide the same service as that sought by the Applicants. Quite frankly, the TCEQ is the only agency that ensures that the waters of the state are maintained in as clean and healthy a manner as possible. The increase in flow and discharge points provide greater opportunities for contamination of the state's most valuable resource – water. On this basis, the City has an interest in ensuring that its surrounding water resources remain free of pollutants from poorly conceived package plants.

In order to not burden the record with re-hashing the reasons why the City is an affected person by the Application, the City hereby incorporates by reference its previously filed requests for hearing.

As the Applicants' pleading is completely devoid of any specificity as to a standard that the City did not meet in determining "affected person" status, the City cannot respond to Applicants' pleading with specificity. The City demonstrated its affected person status and the ED agreed.

## **II. Request for Reconsideration**

The Application has not addressed adequately the state's policy on regionalization. With the proximity of the City's wastewater treatment facility with capacity, and collection system with capacity, there has not been an adequate explanation as to the standards the ED applies in making regionalization determinations. In short, the state's statutory policy on regionalization is being misapplied. The state's regionalization policy seeks regional and area-wide providers in order to reduce the deleterious effect of package plants throughout the state. In this case, the City is a regional or area-wide provider.

In implementing and applying the state's statutory policy on regionalization, the Applicants have failed to articulate the factors or connection rules that would defeat the policy. In short, the

City does not have adequate notice as to what conditions may defeat or except the state's rule on regionalization. As no TCEQ rule or policy exists that provides the ED the opportunity to implement the rule as stated in its Response to Comments, the City hereby seeks that the Commission order the ED to re-examine its implementation of the state's statutory policy on regionalization; find the Application inconsistent therewith; and, remand the Application to the ED for the TCEQ to require it to evaluate the Application.

### **III. Conclusion and Prayer**

The City respectfully requests the Commission:

- (1) Grant the City's Motion to Reconsider; and
- (2) In the alternative, name the City as an affected person and grant the City's request for a contested case hearing; and
- (3) Grant the City all other and further relief to which it is justly entitled.

Respectfully submitted,

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**ATTORNEY FOR THE CITY OF PARKER**

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of May, 2022, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to all counsel of record.

/s/ Arturo D. Rodriguez, Jr.  
ARTURO D. RODRIGUEZ, JR.