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LAW

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August 15, 2022

Ms. Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: **FM 2920 Land Company, Ltd. TPDES Permit No. WQ00 15977001,
EPA ID No. TXO 141135 (CN 605880145 ; RN 111244844)**

Dear Ms. Gharis,

Enclosed please find a copy of the Applicant's Response to Hearing Requests for the referenced matter. If you have any questions, please do not hesitate to contact me at 512-569-9852 or pgregg@gregglawpc.com.

Sincerely yours,



Peter T. Gregg, Gregg Law PC
Counsel for Applicant

DOCKET NO. 2022-0939-MWD

**APPLICATION OF FM 2920
LAND COMPANY, LTD. FOR
NEW TPDES PERMIT NO.
WQ0015977001**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL
QUALITY**

APPLICANT’S RESPONSE TO HEARING REQUESTS

FM 2920 Land Company, Ltd. (the “Applicant”) files this Response to Hearing Requests pursuant to 30 Tex. Admin. Code § 55.209 on the application by FM 2920 Land Company, Ltd. for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015977001 (the “Application”). As discussed below, the Applicant asserts that none of the hearing requests should be granted.

I. Review Standard

For the Commission to grant a contested case hearing, the Commission must determine that a requestor is an affected person. 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. 30 TAC § 55.203(a). An interest common to members of the general public does not qualify as a personal justiciable interest. *Id.*

In determining whether a person is an affected person, the Commission is to consider all factors, including, but not limited to, the following:

- whether the interest claimed is one protected by the law under which the application will be considered;
- distance restrictions or other limitations imposed by law on the affected interest;
- whether a reasonable relationship exists between the interest claimed and the activity regulated;
- likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- likely impact of the regulated activity on use of the impacted natural resource by the person; and
- whether the requester timely submitted comments on the application which were not withdrawn.

30 TAC § 55.203(c).

Further, a request for a contested case hearing by an affected person must be in writing and filed with the chief clerk within the time provided. 30 Tex. Admin. Code 55.201(d). The request must also substantially comply with the following:

- give the name, address, daytime telephone number, and where possible, fax number of the person who files the request;
- identify the person's 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 facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the facility or activity in a manner not common to members of the general public;
- request a contested case hearing; and
- list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request.

II. Evaluation of Hearing Requests

The Commission received timely requests from the following four individuals: William L. Cooper; Dana Boehm; Lynda Karen & Pete Rezzoffi; and Tom Glass. The Applicant asserts that none of the individuals is an affected person. Based on a review of the location of each of these individuals, none of the individuals is adjacent to the treatment facility nor adjacent to the downstream discharge route. Attached as Attachment A to this pleading is a map of the relevant property interests relative to the wastewater treatment plant, the wastewater treatment plant discharge point, and the discharge route.

The Applicant further notes that Mr. Cooper raised the single issue of flooding, for which TCEQ does not have jurisdiction. Ms. Boehm and Mr. Glass did not submit any substantive comments relating to the application identifying a personal justiciable interest. The Rezzoffis stated a concern in their hearing request that "the treatment plant that would dispose of water into Spring Creek." That concern is insufficient to identify a judiciable interest.

In addition to the four individual requests, the Commission received a joint request from Charles Irvine on behalf of 39 individuals. That request was not timely, having been presented approximately three months following the close of the comment period. Accordingly, the hearing requests set forth in the letter of Mr. Irvine were not timely presented and are therefore not valid hearing requests. To the

extent the Commission identifies any of those individuals as having previously submitted timely and material comments that raise issues that were properly identified as the basis for the subsequent request for hearing, the Applicant asserts those individuals are not affected persons because, based on a review of their locations, none of the individuals is adjacent to the treatment facility nor adjacent to the downstream discharge route (See Attachment A).

III. Other Considerations

The Applicant asserts this matter should not be referred to SOAH for hearing because there is no hearing requestor that is an affected person. The Applicant provides the following responses addressing 30 Tex. Admin. Code § 55.209 to the extent the Commission decides to refer this case to SOAH.

- *which issues raised in the hearing request are disputed;*

The timely hearing requests did not identify a single jurisdictional issue. The hearing request by the Rezzoffis identified a concern stated as “the treatment plant that would dispose of water into Spring Creek.” If the Commission decides to refer this case to SOAH, then the applicant recommends that there is only one issue in dispute---whether the Draft Permit is adequately protective of water quality.

- *whether the dispute involves questions of fact or of law;*

The Applicant does not believe there are any disputed issues.

- *whether the issues were raised during the public comment period;*

The Applicant does not believe there are any disputed issues that were properly raised during the public comment period.

- *whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;*

The Applicant does not believe there are any disputed issues that were properly raised during the public comment period.

- *whether the issues are relevant and material to the decision on the application; and*

The Applicant does not believe there are any disputed issues that were properly raised during the public comment period.

- *a maximum expected duration for the contested case hearing.*

If the Commission decides to refer this case to SOAH, then the applicant recommends that the maximum duration of the hearing be 150 days.

IV. Conclusion

The Applicant asserts that none of the valid hearing requesters is an affected person in this matter. The Applicant therefore requests that all hearing requests be denied and that a final permit be issued. If the Commission decides to refer this case to SOAH, the Applicant asserts it should be referred on the single issue of whether the Draft Permit will be protective of water quality and that the hearing should have a maximum duration of 150 days.

Gregg Law PC



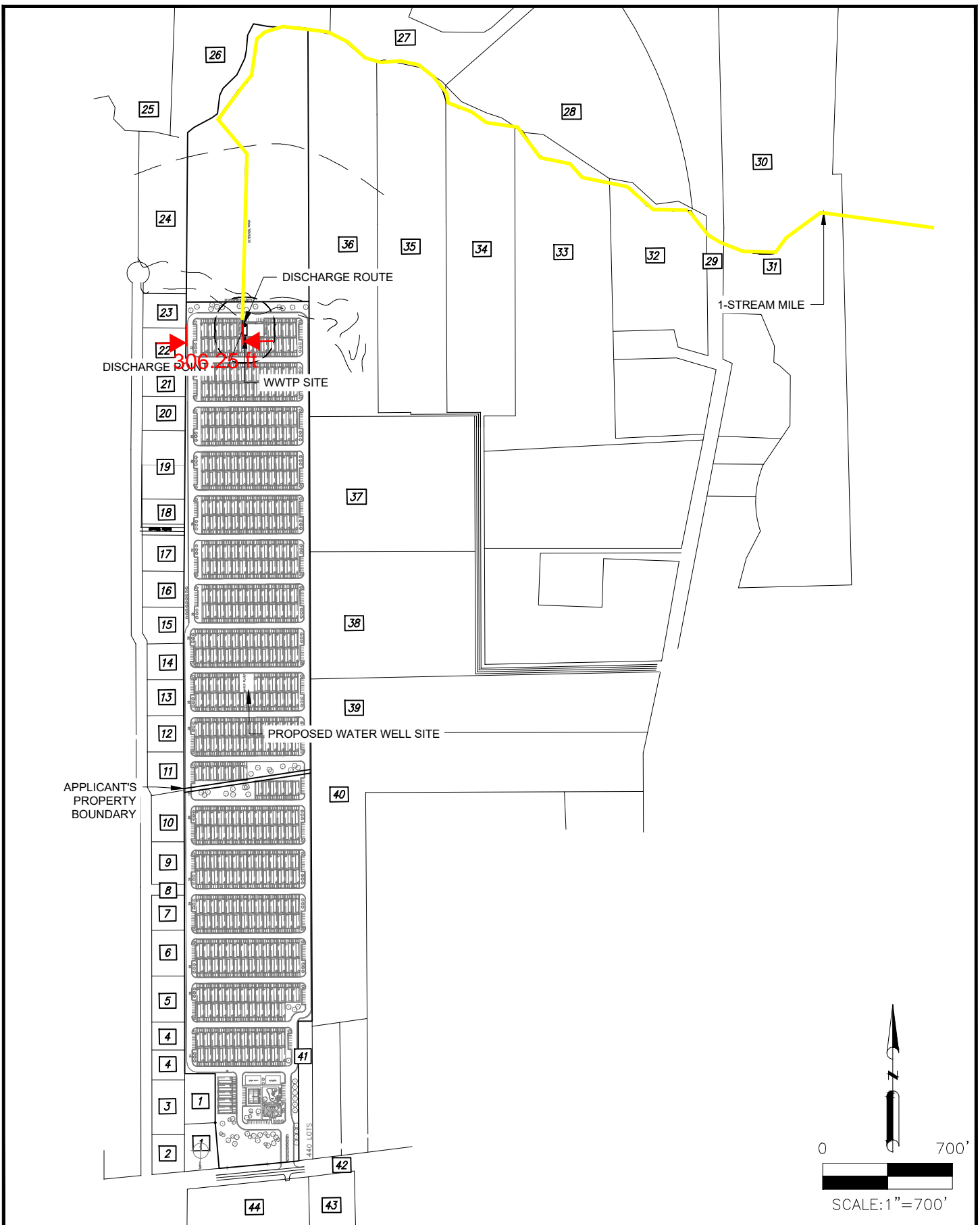
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Attorneys for Applicant

CERTIFICATE OF SERVICE

By my signature above, I certify that on the 15th day of August, 2022 the foregoing document was serviced via first class mail and/or email to the parties of record in the docket

Attachment A



FM 2920 LAND COMPANY

LANDOWNER MAP

APRIL 2021

JOB No. 40018-003

DRAWN BY: EC



TEXAS REGISTERED ENGINEERING FIRM P-9756
2600 Tangierwilde, Suite 120
Houston, Texas 77063
713.789.1900

1. IGLESIA TALLER DEL ALRARERO
20604 FM 2920 RD
HOCKLEY, TX 77447
2. KING JERRY D & CRYSTAL L
22004 THREE PINES DR
HOCKLEY TX 77447
3. JONES GENE C
22610 THREE PINES DR
HOCKLEY TX 77447
4. WESLEY KEVIN & RHONDA
22106 THREE PINES DR
HOCKLEY TX 77447
5. MARTION MICHAEL & ANGELA
22210 THREE PINES DR
HOCKLEY TX 77447
6. MARTINO MICHEAL
22210 THREE PINES DR
HOCKLEY TX 77447
7. SHAY KAMMIE L
22214 THREE PINES DR
HOCKLEY TX 77447
8. HARRIS COUNTY ROAD (THREE PINES DR.)
PO BOX 1525
HOUSTON TX 77251
9. PENA VILMA
22306 THREE PINES DR
HOCKLEY TX 77447
10. REDDEN MICHEAL E JR
22314 THREE PINES DR
HOCKLEY TX 77447
11. BURKE KEVIN & BERTHA
22410 THREE PINES DR
HOCKLEY TX 77447
12. STEPHEN LARRY D & TONI JO
22422 THREE PINES DR
HOCKLEY TX 77447
13. RIEDLINGER TODD
22430 PINES DR
HOCKLEY TX 77447
14. MECHE JUDY
22510 PINES DR
HOCKLEY TX 77447
15. ADKINS THOMAS S & NORMA
22522 THREE PINES DR

- HOCKLEY TX 77447
16. LACKEY JULIA L
22530 THREE PINES DR
HOCKLEY TX 77447
 17. GREEN LEWIS & DOLORES A
22614 THREE PINES DR
HOCKLEY TX 77447
 18. PHILLIPS MICHEALS & JENNIFER
22622 THREE PINES DR
HOCKLEY TX 77447
 19. JONES LIANA MARLENE
22718 THREE PINES DR
HOCKLEY TX 77447
 20. ARIAS ADRIAN & CHERYL R
22726 THREE PINES DR
HOCKLEY TX 77447
 21. CARTER JOHN R 7 MARY C
22806 THREE PINES DR
HOCKLEY TX 77447
 22. BLACKWELL DONALD
22818 THREE PINES DR
HOCKLEY TX 77447
 23. CURRENT OWNER
22830 THREE PINES DR
HOCKLEY TX 77447
 24. HILL SCOTT R & KAREN J
22914 THREE PINES DR
HOCKLEY TX 77447
 25. HARPER & MANNING INVESTMENT PROP, LLC
5529 Louetta Rd #STE D
SPRING, TX 77379
 26. SEER SAND LLC
13106 HAZELWOOD HOLLOW DR
TOMBALL, TX 77377
 27. VAN DUZER, CHARLES B & CANDACE B
26150 GRAND PINES RD
MAGNOLIA, TX 77355
 28. GARBRIEL AMADOR
30602 COCO ST
CYPRESS, TX 77433
 29. TXDOT (MUECHKE RD)
125 EAST 11TH ST
AUSTIN, TX 78701

30. JAMES R & CHERYL FOGARTY
30909 WALNUT CREEK RD
MAGNOLIA, TX 77355
31. CHAN EDMUND & SO KING
17302 BENDNG OAK CT
CYRESS TX 77429
32. MOONDREAM 3, LLC
8400 N SAM HOUSTON PKWY LN STE 200
HOUSTON TX 77064
33. FROEHLICH JOYCE KLEB ESTATE OF MARK S FROEHICH
2233 MUESCHKE RD
TOMBALL TX 77377
34. HAJDUK KENNETH & DARLENE
314 BAYSHORE DR
MONTGOMERY, TX 77356
35. GARMAN TOMMY L 7 DEBORAH
22345 MUESCHKE RD
TOMBALL TX 77377
36. MESSINA INTERESTS, LLC
22351 MUESCHKE RD
TOMBALL, TX 77377
37. FRIEDRICHS RICK G & CAROL E
J22349 MUESCHKE RD
TOMBALL TX 77377
38. FROEHLICH MARK S & JEAN M
22333 MUESCHKE RD
TOMBALL TX 77377
39. FROEHLICH MARK S & JEAN M
22333 MUESCHKE RD
TOMBALL TX 77377
40. FEHRLE WAYNE ALVIN
20410 FM 2920 RD
TOMBALL TX 77377
41. FEHRLE WAYNE ALVIN
20410 FM 2920 RD
TOMBALL TX 77377
42. TXDOT
125 EAST 11TH ST
AUSTIN, TX 78701
43. 4M HOCKLEY SS LLC
2300 N 4TH ST
CROCKETT TX 75835
44. COUNTY OF HARRIS
PO BOX 1525

HOUSTON TX 77251