

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Thursday, May 11, 2023 11:53 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016124001
Attachments: 2023.05.10 Req for Reconsideration and Contested Case Hearing.docx

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From: ascott@clay-scott.com <ascott@clay-scott.com>
Sent: Wednesday, May 10, 2023 4:13 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016124001

REGULATED ENTY NAME BROCK SPUR WWTP

RN NUMBER: RN111458345

PERMIT NUMBER: WQ0016124001

DOCKET NUMBER:

COUNTY: PARKER

PRINCIPAL NAME: CARTER, TIMOTHY EDWARD,GILDEN B BLACKBURN

CN NUMBER: CN606025948,CN605845346

NAME: John Andrew Scott

EMAIL: ascott@clay-scott.com

COMPANY: Clay Scott LLP

ADDRESS: PO BOX 472028
FORT WORTH TX 76147-0228

PHONE: 8179752165

FAX:

COMMENTS: See attachment. Request for Reconsideration and Contested Case Hearing.



May 10, 2023

VIA ELECTRONIC SUBMISSION AT WWW.TCEQ.TEXAS.GOV/GOTO/COMMENT

Texas Commission on Environmental Quality
Office of the Chief Clerk
MC105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application of Gilden Blair Blackburn and Timothy Edward Carter for Proposed TPDES Permit No. WQ0016124001; Public Comments; Request for a Contested Case Hearing

To the Texas Commission on Environmental Quality:

The undersigned represents FM 1189 LLC, Bartlett Ranch Brock LLC, Series A EGHB Investments LLC, and Series A 1189 Storage LLC (collectively, "FM 1189"), who have common ownership and own property located within less than 1/4 mile and downstream from the proposed TPDES permit application and facility ("Application"). Please accept this letter as FM 1189's notice of opposition to the Application submitted by Gilden Blair Blackburn and Timothy Edward Carter ("Applicants").

On January 13, 2023, in accordance with Title 30 of Texas Administrative Code Chapter 55, Section 55.200, et seq., FM 1189 submitted to the Texas Commission on Environmental Quality ("Commission") a Request for Public Meeting and a Contested Case Hearing on the Application ("Request"), which include FM 1189's formal comments, in the above-referenced matter.

FM 1189 now reasserts, restates, and resubmits the request for a public meeting and contested case hearing, and further requests that the Executive Director reconsider his decision in this matter. FM 1189 again formally requests a contested case hearing on the above-referenced application. FM 1189 further shows as follows:

On April 11, 2023, the Commission issued the Decision of the Executive Director. The Decision provides that requests for contested case hearings must be submitted "no later than 30 calendar days after the date of this letter," which would be May 11, 2023. Therefore, FM 1189 timely submits this Restated Request for a Public Meeting and a Contested Case Hearing on the Application and reconsideration of the Executive Director's decision. Further, FM 1189 incorporates all comments, pleadings, and other documents by FM 1189 in relation to the above-referenced application and incorporates them herein by reference as if copied verbatim herein.

FM 1189 hereby requests a contested case hearing on the Application as an affected person. In accordance with the published notice, FM 1189 provides the following information:

1. Your name, address, phone number:

FM 1189 may be notified of any developments in this case by providing notice to:

John Reed Clay Jr.
J. Andrew Scott
P.O. Box 472028
Fort Worth, TX 76147
(817) 975-2165
rclay@clay-scott.com
ascott@clay-scott.com

2. The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly:

Gilden Blair Blackburn
Timothy Edward Carter
TPDES Permit No. 0016124001

3. Specific description of how you would be adversely affected by the facility in a way not common to the general public:

FM 1189 hereby requests a contested case hearing.

For the reasons below, FM 1189 is an affected person. FM 1189's property is used as a primary residence, including the raising of quarter horses, cattle, and other livestock. Applicant's discharge point is less than .20 miles from FM 1189's property line. The tributary through which Applicant's discharge will navigate is located on the southern portion of FM 1189's property and flows alongside FM 1189's primary residence, eventually leading to Price Lake (approximately ½ mile from the discharge point), which also sits on FM 1189's property. The economic and recreational implications of a poorly run plant are significant. Indeed, FM 1189 is concerned that their ability to enjoy and utilize for agricultural, livestock and recreational purposes the tributary, Price Lake and all other points downstream will be negatively affected by the permit.

Specifically, FM 1189 is concerned with the discharge parameters for the size and quality of inflow to the proposed WWTP. FM 1189 is concerned whether the draft permit includes appropriate provisions to maintain dissolved oxygen concentrations in the receiving waters, protect against excessive growth of algae, and comply with the aesthetic parameters and other requirements in TCEQ's regulations, including aquatic nutrient limitations. Without appropriate effluent limitations and other controls, there is concern that adverse health and nuisance conditions and negative impact to crops, livestock, and wildlife will be created and that the proposed application and draft permit will not provide adequate protections.

FM 1189 is also concerned that all pertinent stream conditions and characteristics will not be considered in conducting any water quality modeling and assessments and in developing the

effluent limitations. FM 1189 is particularly concerned that the effluent from the Applicant's plant will significantly degrade water quality in the receiving waters and negatively impact aquatic life and terrestrial wildlife species, as well as FM 1189's agricultural operations and livestock. Because of the reliance on groundwater resources in the area, there is heightened importance in ensuring the effluent limitations in the final permit adequately protect local groundwater resources.

Moreover, FM 1189 is concerned that household, commercial, and other chemicals mixed with the wastewater influent could contain dangerous constituents that may not be removed given permit parameters in the application. Additionally, FM 1189 is concerned whether adequate measures will be employed to prevent the introduction of harmful bacteria and pathogens into the tributary and Price Lake.

FM 1189 also utilizes Price Lake for recreational purposes. Thus, FM 1189 is concerned the proposed WWTP will impact the FM 1189 residents' ability to enjoy the lake recreationally as well as FM 1189's families' health and safety while using Price Lake.

FM 1189 believes that Applicant's proposed discharge is in direct violation of the Texas Water Code. FM 1189 is also concerned that the Application does not fully comply with all of TCEQ's applicable technical regulations. This would include, but not limited to, whether the draft permit complies with the Texas Surface Water Quality Standards and is protective of surface and groundwater quality, including FM 1189 use and enjoyment of their property. Further, FM 1189 is concerned that the Application violates the State's policy on regionalization. Namely, Applicant Gilden Blair Blackburn is a party to another WWTP application (WQ0016104001) under TCEQ review that is located less than ½ mile from this Application's proposed facility.

The discharge authorization being sought by the Applicant will endanger the residents of FM 1189's health and impair the use and enjoyment of the property. Thus, FM 1189 protests the entirety of the application and seeks further time to review it.

FM 1189 has sufficiently demonstrated that they are adversely affected by the Application in a manner that is not common to the general public and must be granted party status in this case.

4. Issues to be Considered in a Contested Case Hearing:

- (a) Whether the proposed discharge will violate TCEQ's antidegradation policy and procedures, or negatively impact aquatic or terrestrial wildlife species, including livestock;
- (b) Whether the draft permit will be protective of surface water and groundwater quality;
- (c) Whether the permit is protective of water quality;
- (d) Whether the proposed design of the wastewater treatment plant is adequate to ensure that the required effluent will be achieved;
- (e) Whether the water quality parameters are adequate to ensure that the existing water quality uses will not be impaired;

- (f) Whether the proposed wastewater discharge will adversely affect the health of persons on nearby property;
- (g) Whether the proposed wastewater discharge will harm fish, livestock, wildlife, and other environmental receptors;
- (h) Whether the operator is sufficiently qualified to operate the proposed wastewater treatment plant;
- (i) Whether impacts on groundwater have been adequately addressed;
- (j) Whether the new plant violates the TCEQ's regionalization policy;
- (k) Whether the permit meets the need requirements of TWC Section 26.0282;
- (l) Whether nuisance odor conditions will be created; and
- (m) Whether the Application is complete and provides truthful information upon which the TCEQ can rely.

For the reasons provided in the attached Request, all other documents filed by FM 1189 related to the Application, this request for contested case hearing, FM 1189 is an affected person in this matter; has standing to request a contested case hearing; and does request a contested case hearing and reconsideration of the Executive Director's Decision. These are critical issues the Commission should explore through an open and public contested case. FM 1189 reserves the right to raise and pursue any and all issues that may be relevant to their interests in the event of a contested case hearing.

If we may be of further assistance or provide additional information, please contact me at 817-975-2165.

Sincerely,

/s/ J. Andrew Scott

Andrew Scott, Partner
Clay Scott, LLP

Christina Bourque

From: PUBCOMMENT-OCC
Sent: Friday, January 13, 2023 3:25 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016124001
Attachments: 2023.01.13 FM 1189 Public Comment.pdf

PM
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From: ascott@clay-scott.com <ascott@clay-scott.com>
Sent: Friday, January 13, 2023 2:09 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016124001

REGULATED ENTY NAME BROCK SPUR WWTP

RN NUMBER: RN111458345

PERMIT NUMBER: WQ0016124001

DOCKET NUMBER:

COUNTY: PARKER

PRINCIPAL NAME: CARTER, TIMOTHY EDWARD,GILDEN B BLACKBURN

CN NUMBER: CN606025948,CN605845346

FROM

NAME: John Andrew Scott

EMAIL: ascott@clay-scott.com

COMPANY: Clay Scott LLP

ADDRESS: PO BOX 472028
FORT WORTH TX 76147-0228

PHONE: 8179752165

FAX:

COMMENTS: Please see the attached public comment and request for contested case hearing.



January 13, 2023

VIA ELECTRONIC SUBMISSION AT WWW.TCEO.TEXAS.GOV/GOTO/COMMENT

Texas Commission on Environmental Quality
Office of the Chief Clerk
MC105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application of Gilden Blair Blackburn and Timothy Edward Carter for Proposed TPDES Permit No. WQ0016124001; Public Comments; Request for a Contested Case Hearing

To the Texas Commission on Environmental Quality:

The undersigned represents FM 1189 LLC, Bartlett Ranch Brock LLC, Series A EGHB Investments LLC, and Series A 1189 Storage LLC (collectively, "FM 1189"), who have common ownership and own property located within less than 1/4 mile and downstream from the proposed TPDES permit application and facility ("Application"). Please accept this letter as FM 1189's notice of opposition to the Application submitted by Gilden Blair Blackburn and Timothy Edward Carter ("Applicants"). FM 1189 hereby requests a public meeting and a contested case hearing on the Application as an affected person. In accordance with the Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater ("NAPD"), FM 1189 provides the following information:

1. Your name, address, phone number:

FM 1189 may be notified of any developments in this case by providing notice to:

John Reed Clay Jr.
J. Andrew Scott
P.O. Box 472028
Fort Worth, TX 76147
(817) 975-2165
rclay@clay-scott.com
ascott@clay-scott.com

2. The location and distance of your property/activities relative to the proposed facility:

Applicant's property to be served by the proposed WWTP is approximately 1/4 mile to FM 1189's property. Indeed, as evidenced in the mapping provided in Applicant's permit application, the distance between Applicant's discharge point on its property to the beginning point of FM 1189's tributary that is downstream from the discharge point is approximately 205 feet. The tributary

through which Applicant's effluent discharge will navigate is inside of FM 1189's property and ends in Price Lake, which is also inside FM 1189's property.

3. Specific description of how you would be adversely affected by the facility in a way not common to the general public:

FM 1189's property is used as a primary residence, including the raising of quarter horses, cattle, and other livestock. The tributary through which Applicant's discharge will navigate is located on the southern portion of FM 1189's property and flows alongside FM 1189's primary residence, eventually leading to Price Lake (approximately ½ mile from discharge), which also sits on FM 1189's property. The economic and recreational implications of a poorly run plant are significant. Indeed, FM 1189 is concerned that their ability to enjoy and utilize for agricultural and livestock purposes the tributary, Price Lake and all other points downstream will be negatively affected by the permit.

Specifically, FM 1189 is concerned with the discharge parameters for the size and quality of inflow to the proposed WWTP. FM 1189 is concerned with the nutrient limitation parameters of the discharge. Without an appropriate nutrient limitation, there is concern that nuisance conditions will be created and that the draft permit does not provide adequate prevention of nuisance odors. FM 1189 is also concerned that all pertinent stream conditions will not be considered in developing the effluent limitations. FM 1189 is particularly concerned that the effluent from the Applicant's plant will significantly degrade water quality in the receiving waters and negatively impact aquatic life and terrestrial wildlife species. Because of the groundwater resources in the area, there is heightened importance in ensuring the effluent limitations in the final permit adequately protect local groundwater resources.

Moreover, FM 1189 is concerned that inflow mixed with wastewater could contain dangerous constituents that may not be removed given permit parameters in the application.

FM 1189 also utilizes Price Lake for recreational purposes. Thus, FM 1189 is concerned the proposed WWTP will impact the FM 1189 residents' ability to enjoy the lake recreationally as well as FM 1189's families' health and safety while using Price Lake.

FM 1189 believes that Applicant's proposed discharge is in direct violation of the Texas Water Code. FM 1189 is also concerned that the Application does not fully comply with all of TCEQ's applicable technical regulations. This would include, but not limited to, whether the draft permit complies with the Texas Surface Water Quality Standards and is protective of surface and groundwater quality, including FM 1189 use and enjoyment of their property. Further, FM 1189 is concerned that the Application violates the State's policy on regionalization. Namely, Applicant Gilden Blair Blackburn is a party to another WWTP application (WQ0016104001) under TCEQ review that is located less than ½ mile from this Application's proposed facility.

The discharge authorization being sought by the Applicant will endanger FM 1189's property. Thus, FM 1189 protests the entirety of the application and seeks further time to review it.

FM 1189 has sufficiently demonstrated that they are adversely affected by the Application in a manner that is not common to the general public and must be granted party status in this case.

4. FM 1189 requests a public meeting and a contested case hearing on the Application.

FM 1189 requests a public meeting about this application. FM 1189 also requests a contested case hearing. FM 1189 reserves the right to raise and pursue any and all issues that may be relevant to their interests in the event of a contested case hearing.

If we may be of further assistance or provide additional information, please contact me at 817-975-2165.

Sincerely,

/s/ J. Andrew Scott

Andrew Scott, Partner
Clay Scott, LLP