

TCEQ DOCKET NO. 2023-1558-MWD

APPLICATION BY LVTP HOLDINGS,	§	BEFORE THE TEXAS
LLC FOR TPDES PERMIT NO.	§	COMMISSION ON
WQ0015964001	§	ENVIRONMENTAL QUALITY

APPLICANT’S RESPONSE TO HEARING REQUESTS

TO THE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

LVTP Holdings, LLC (“Applicant”) files its Response to Hearing Requests and shows as follows:

I. Introduction and Procedural History

Applicant has applied to the Texas Commission on Environmental Quality (“TCEQ”) for new TPDES Permit No. WQ0015964001 (EPA I.D. No. TX 0141046) to authorize the discharge of treated domestic wastewater at a volume not to exceed an annual average flow not to exceed 1,200,000 gallons per day (the “Application”). The domestic wastewater treatment facility (“WWTF”) will be located approximately 2.0 miles northeast of the intersection of Rex Odom Drive and West U.S. Highway 287, in Ellis County, Texas 75165.

The Application was submitted on February 11, 2021, and was declared administratively complete on May 5, 2021. The Notice of Receipt and Intent to Obtain a Water Quality Permit (“NORI”) was published in English in *The Dallas Morning News* on May 13, 2021, and in Spanish in the *TexMex News* on May 13, 2021. The Executive Director (“ED”) completed the technical review of the Application on June 13, 2022. A combined NORI and Notice of Application and Preliminary Decision (“NAPD”) was published in English in *The Dallas Morning News* on June 13, 2022, and in Spanish in the *La Presna Comunidad* on July 26, 2022. The public comment period ended on August 25, 2022. The ED determined that above-referenced Application meets the requirements of applicable law. Subsequently, a number of parties filed requests for

reconsideration and for a contested case hearing. As more fully set forth below, a reconsideration or contested case hearing is not warranted in this matter and the Application should be granted.

II. Applicable Law and Requests for Contested Case Hearing

A hearing requestor must make the request in writing within the time period specified in the notice and identify the requestor's personal justiciable interest affected by the application, specifically explaining 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." 30 TEX. ADMIN. CODE § 55.251(b)—(d).

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 members of the general public does not qualify as a personal justiciable interest." 30 TEX. ADMIN. CODE § 55.256(a). Governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. *See* 30 TEX. ADMIN. CODE § 55.256(b). Relevant factors to be considered in determining whether a person is affected include, but are 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) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on 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.

30 TEX. ADMIN. CODE § 55.256(c).

The TCEQ shall grant a request for a contested case hearing if: (1) the request is made by the applicant or the ED; or (2) the request is made by an affected person, complies with the requirements of section 55.251, is timely filed with the chief clerk, and is made pursuant to a right to hearing authorized by law. *See* 30 TEX. ADMIN. CODE § 55.255(b).

III. Analysis of the Hearing Requests

A. Requests for Contested Cases Hearing

None of the requests for contested case hearing meet the legal requirements of an affected person. None of the requests for contested case hearing identify any personal justiciable interest as required under the Texas Administrative Code. Specifically, the requests have not shown that any person would be affected by the proposed District in a manner not common to members of the general public or have statutory authority over or an interest in the issues relevant to the Application. Therefore, the requests do not meet the definition of an “affected person” and all of the hearing requests should be denied.

B. Clay and Sheila Allison

The request does not relate to the permit application but instead relates to the proposed development in general. As such, the request is not particular to this matter and should be denied.

C. Ellis County

The County does not show that it would be affected by the proposed permit in a manner not common to members of the general public. The proposed permit has no effect on transportation emergency services or health and safety. Moreover, the state’s regionalization policy has been addressed by TCEQ in docket number 2022-0326-MWD, *Application of Restore the Grasslands, LLC and Harrington/Turner Enterprises, LP for TPDES Permit No. WQ0016003001*, where the TCEQ rejected imposing regionalization over granting a WWTF.

The County does not have jurisdiction over Lake Bardwell's drinking water and is outside the scope of the WWTF application or approval.

D. City of Waxahachie

The City does not show that it would be affected by the proposed permit in a manner not common to members of the general public. The proposed permit has no effect on transportation emergency services or health and safety. Moreover, the state's regionalization policy has been addressed by TCEQ in docket number 2022-0326-MWD where the TCEQ rejected imposing regionalization over granting a WWTF. The County does not have jurisdiction over Lake Bardwell's drinking water and is outside the scope of the WWTF application or approval.

IV. Conclusion

WHEREFORE, Applicant requests that both the requests for reconsideration and requests for contested case hearing be denied and that the Application be granted.

Respectfully submitted,

COATS | ROSE

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CERTIFICATE OF SERVICE

I hereby certify that on November 16th, 2023, the original of Applicant's Response to Hearing Requests was filed with the Chief Clerk of the TECQ and a copy was served on all person listed on the attached mailing list either via hand delivery, facsimile transmission, electronic mail, and/or by deposit in the U.S. Mail.

A handwritten signature in black ink, reading "Natalie B. Scott". The signature is written in a cursive style with a horizontal line underneath the name.

Natalie B. Scott

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DOCKET NO. 2022-1558-MWD; PERMIT NO. WQ0015964001

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