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582-24-21738
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State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

October 9, 2025

SERVED VIA EFILE TEXAS
Peter Gregg, for Applicant
Joe Freeland, for the City
Stephen Dickman, for the District
Kathy Humphreys and Ryan Rakowitz, for the ED
Josiah Mercer, for OPIC

RE: Docket Number 582-24-21738; TCEQ No. 2023-1566-MWD; *Application by Preserve Hutto, LLC for New TPDES Permit No. WQ0016145001*

Dear Parties:

In the Proposal for Decision (PFD), the Administrative Law Judges (ALJs) found that Preserve Hutto, LLC (Applicant) did not meet its burden to show that the permit should be granted and recommended the Application be denied, based on their findings that: (1) Applicant's site is within the area of the City of Hutto (City) sewer certificate of convenience and necessity and within three miles of another domestic permitted wastewater treatment facility; (2) Applicant failed to properly request sewer service from other providers, as required; (3) Williamson County Water, Sewer, Irrigation, and Drainage District Number 3 (District) agreed to accept wastewater from Applicant's proposed development on the City's behalf and was, at the time of the application, willing to expand to accept the volume proposed; (4) Protestants and the company that manages their wastewater treatment plant have been diligently working to expand wastewater service to Applicant by building additional capacity, and such capacity is imminent; (5) the District's requirement of annexation is not an "onerous" special condition that constitutes denial of service; (6) there is little TCEQ guidance on its required cost

analysis, but Applicant's analysis failed to include some costs associated with constructing a standalone wastewater treatment plant; (7) the estimated costs of connecting to the District's wastewater system, versus building a standalone treatment plant, are about the same per apartment unit; (8) financial, managerial, and technical factors in this case do not justify an exception to regionalization; and (9) state regionalization policy precludes Applicant from constructing a standalone treatment plant instead of connecting to the District's system.

The Texas Legislature created Water Code sections 26.003, .0282, and .081 to encourage and promote the development and use of regional wastewater systems; and Applicant connecting to the District's wastewater system fulfills that purpose. With regionalization, the Legislature intended TCEQ to consider not only the applicant's financial interests but also the general public's interests in health, safety, and the environment.

This case focuses on costs; however, it is distinct from prior cases in that there are no significant cost differences. Unlike *AIR-W*, in which annexation into the city and connecting to the city's wastewater system would have dictated a different land use and cost approximately $20 million in increased property taxes, here there are no significant costs of annexation into the District—only a 2% sales and use tax that will not affect this *residential* property. Applicant must pay only a reasonable and logical cost: impact fees to cover the existing wastewater system's expansion to meet the increased wastewater demand from Applicant's housing project. And connecting allows Applicant to make better use of the property by bringing an additional sixty apartments to market at an equivalent wastewater cost, without the downsides of a small plant.

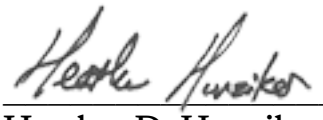
Applicant's cost arguments have no merit. Initially, Applicant relied on a conclusory affidavit—never producing a witness subject to cross-examination to detail and explain what costs were "economically unworkable."[1] After failing to offer credible evidence during the hearing, Applicant's exceptions shift to arguing about inflation; but it's too late. Had Applicant timely submitted its own cost estimates with its permit application—or even before Protestants filed their direct testimony in this case (which was to rebut the prima facie demonstration

[1] App. Ex. 2-06 (Affidavit of Richard Owen).

established by the TCEQ Executive Director's preliminary decision on the application)—Applicants might have been more prepared and countered the District's cost analysis with evidence of inflation.

When the costs per unit of connecting versus building are equal, there must be some other reason to avoid regional wastewater systems; but there is no other reason here. Therefore, it would be arbitrary to give the legislature's preference for regionalization no weight. Based on the evidence presented, the conclusion is simple: the application for a permit should be denied. The PFD is ready for consideration with no changes, and the ALJs recommend its adoption.

Sincerely,



Heather D. Hunziker,
Presiding Administrative Law Judge

Andrew Lutostanski,
Co-Presiding Administrative Law Judge

CC: Service List

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Status as of 10/9/2025 12:58 PM CST

Associated Case Party: Executive Director

Name	BarNumber	Email	TimestampSubmitted	Status
Ryan Rakowitz		ryan.rakowitz@tceq.texas.gov	10/9/2025 12:50:20 PM	SENT
Kathy Humphreys		kathy.humphreys@tceq.texas.gov	10/9/2025 12:50:20 PM	ERROR

Associated Case Party: Preserve Hutto, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Curran Walker		cwalker@gregglawpc.com	10/9/2025 12:50:20 PM	SENT
Peter T.Gregg		pgregg@gregglawpc.com	10/9/2025 12:50:20 PM	SENT

Associated Case Party: Williamson County Water, Sewer, Irrigation and Drainage District No. 3

Name	BarNumber	Email	TimestampSubmitted	Status
Stephen CDickman		sdickmanlaw@att.net	10/9/2025 12:50:20 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Clarence JoeFreeland		jfreeland@mandf.com	10/9/2025 12:50:20 PM	SENT
OLS Legal Support		TCEQsoah@tceq.texas.gov	10/9/2025 12:50:20 PM	SENT

Associated Case Party: Public Interest Counsel

Name	BarNumber	Email	TimestampSubmitted	Status

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Associated Case Party: Public Interest Counsel

Name	BarNumber	Email	TimestampSubmitted	Status
Josiah Mercer		josiah.mercer@tceq.texas.gov	10/9/2025 12:50:20 PM	ERROR