

**SOAH DOCKET NO. 582-25-11135
TCEQ DOCKET NO. 2024-0677-MWD**

APPLICATION BY	§	BEFORE THE STATE OFFICE
QUADVEST, L.P. FOR TPDES	§	OF
PERMIT NO. WQ0016247001	§	ADMINISTRATIVE HEARINGS

**QUADVEST, L.P.’S RESPONSE TO
PROTESTANTS’ EXCEPTIONS TO PROPOSAL FOR DECISION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, Quadvest, L.P. (“Applicant”) and files this Response to Protestants’ Exceptions to Proposal for Decision, and in support thereof would show the following:

I. SUMMARY

The Administrative Law Judge (“ALJ”) correctly applied the facts to the applicable law in developing the Proposal for Decision (“PFD”). The PFD recommends issuance of Applicant’s Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0016247001 and contains thorough Findings of Fact and Conclusions of Law establishing that the permit meets all applicable statutory and regulatory requirements and that the discharge route was properly identified and characterized. The exceptions filed by Protestant Lisa Sellers as the designated party representative for herself and protestants Michael Beck; Barry, Laurie, and Jeremy Bettis; Belinda Reeves; James Burton, Jr.; John Towler; Mary Anne Vaughn; and George and Cassie Collins (collectively, “Protestants”), raise no new arguments and do not undermine the correctness of the PFD. Instead, Protestants’ address the same substantive issue they have continued to challenge throughout this proceeding: whether the draft permit adequately identifies and characterizes the functioning of the discharge route.

In contesting this issue, Protestants, in their Exceptions to the PFD, recycle the same argument already raised and addressed multiple times throughout the docket, particularly through

witness testimonies, the parties' closing arguments, replies, and the PFD itself. The ALJ carefully considered and rejected this argument in its analysis of the discharge route beginning on page 38 of the PFD. Protestants' Exceptions do not identify any legal error, nor do they point to record evidence that rebuts the prima facie demonstration established by the Application, Draft Permit, and testimony of the Applicant and Executive Director's witnesses.

Notably, the Office of Public Interest Counsel ("OPIC") did not submit Exceptions to the PFD. That silence underscores the correctness of the ALJ's analysis and recommendation.

Accordingly, Quadvest respectfully urges that the ALJ reject Protestant's Exceptions and affirm the PFD in its entirety. To the extent necessary, Applicant incorporates its closing argument and reply to closing argument into this response.

II. DISCUSSION

A. Classification of the Discharge Route

Protestants except to the PFD's findings on the discharge route, alleging that "the PFD mischaracterizes the nature of the discharge route, repeatedly referring to it as an 'ephemeral stream.'"¹ However, Protestants' argument is misplaced. First and foremost, the PFD does not at any point characterize the discharge route as an "ephemeral stream," but rather, merely notes that Protestants have classified the discharge route as such. Additionally, whether the PFD identified Protestants' mischaracterization of the discharge route as an "ephemeral stream" or Protestants' apparent preferred classification as an "ephemeral erosion or flood path," is wholly irrelevant. The record is clear that the discharge route is **not ephemeral**.² Both Applicant's expert, Mark Urback, and the Executive Director's expert, Dr. Mary Wallace, walked the discharge route, performed

¹ Protestants' Exceptions to PFD at 4.

² PFD at 38.

technical evaluations, and concluded that the route is a definable watercourse suitable for discharge. Their opinions are grounded in regulatory expertise and decades of experience in the field, unlike Protestants' lay witness testimony. Moreover, Mr. Urback and Dr. Wallace's testimonies are supported by USGS maps, which do not depict ephemeral streams, and by additional photographic and GPS evidence presented at hearing.³

Additionally, Protestants' own evidence supports Mr. Urback and Dr. Wallace's conclusions. Protestants have provided ample photographs throughout this proceeding that clearly depict a channel with defined banks containing water. Based on the ALJ's review, the PFD properly concluded that "the admitted photographic evidence demonstrates that at least portions of the discharge route include a well-defined channel, bed, and banks."⁴ This opinion was further supported by Dr. Wallace's physical observation of the discharge route during her second on-site visit, where she observed a defined watercourse, with water contained in a channel, even across the sandy loam pasture.⁵ The ALJ's finding, coupled with Dr. Wallace's observations, clearly disposes of Protestants' efforts to recast the discharge route as an "ephemeral erosion or flood path."

Regardless of terminology, both "ephemeral stream" and "ephemeral erosion or flood path" are inaccurate labels that do not reflect the expert and photographic evidence in the record. As previously noted, the correct characterization established through expert testimony and adopted by the ALJ, is that the discharge route is an **intermittent stream**.⁶ Intermittent streams are expressly recognized under Texas law and have long been deemed proper discharge routes.⁷ The PFD's

³ *Id.* at 34.

⁴ *Id.*

⁵ *Id.* at 27.

⁶ PFD Conclusions of Law 25-28.

⁷ *Id.* at 11.

conclusion that this intermittent stream provides a suitable and legally sufficient discharge route is therefore correct and should stand.

B. The PFD Properly Rejected Lay Testimony as Insufficient

Protestants' Exceptions largely recycle testimony from landowners throughout this proceeding about rainwater spreading and pooling across their properties. Protestants relied on this lay witness testimony to support their claim that the proposed effluent would not flow in one defined route as represented in the draft permit, but would instead disseminate across several nearby landowners' properties, leading to "a foreseeable risk of standing wastewater," which, in turn, would foster mosquito breeding, pathogen growth, and groundwater contamination[.]"⁸ The ALJ correctly noted that while these witnesses sincerely described their experiences, such observations do not outweigh the technical evaluations performed by qualified experts nor indicate the draft permit is not protective of animal life or human health.⁹

III. CONCLUSION

Applicant asserts that the PFD is correct in all respects and that the ALJ should reject the Protestants' exceptions and proposed corrections to the PFD.

DATED September 25, 2025.

⁸ Protestants' Exceptions to PFD at 8.

⁹ PFD at 39; PFD Conclusions of Law at 5.

Respectfully submitted,

GREGG LAW, P.C.

901 West Avenue, Suite #3

Austin, Texas 78701

(512) 522-0702

(512) 727-6070 (Facsimile)

By: 

Peter T. Gregg, Lead Counsel

State Bar No. 00784174

pgregg@gregglawpc.com

**ATTORNEYS FOR APPLICANT
QUADVEST, L.P.**

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2025 a true and correct copy of the foregoing document has been served electronically upon all parties of record.


Peter T. Gregg