

**TCEQ DOCKET NO. 2024-1582-MWD**

**APPLICATION BY § BEFORE THE**  
**CLEAR UTILITIES LLC FOR § TEXAS COMMISSION ON**  
**TPDES PERMIT NO. WQ0016273001 § ENVIRONMENTAL QUALITY**

**APPLICANT’S RESPONSE TO REQUESTS FOR HEARING AND REQUESTS FOR RECONSIDERATION**

Clear Utilities, LLC (“Applicant”) files this Response to Requests for Hearing and Reconsideration pursuant to 30 Tex. Admin. Code (“TAC”) § 55.209 and the Agenda Setting letter dated September 27, 2024 in the above-captioned matter.

**I. INTRODUCTION**

The Office of the Chief Clerk received requests for a contested case hearing from thirty-nine requestors, including The County of Ellis, Texas; Bettye and Kenneth Burns; Cayden Lynn Critchfield; Onalee Nunnemaker Gerdis; Carla Lynn Crow; Thomas L Pearl; Katreen Connell; Jodhua Dean Hester; Von Hulgan; Lynda Hulgan; Darren Wynn; Rhonda Hamm; Marc Conway; Kimberly Curry; Joseph M. King; Krista Medici Martin; John Marshall; Nick L. Hamm; Jack Risinger; Geneva Risinger; David Reisinger; Michael Jones; Dennis M Forester; Glenda G Williams; Gregory Dale Crow; Richard and Kelly Kern; Brenda Kathleen Mavridis; Matthew Craig; Steve and Nancy Salmon; Shaunda Hooker; Amy Haufler; Cathy York; Jerry Burch; John Williams; Ryan Logan King; and George Martinez. The Office of the Chief Clerk also received requests for reconsideration filed by George Martinez and Geneva Risinger.

For the reasons stated herein, Applicant asserts that the Commission should deny the hearing requests of all thirty-nine of the above-identified requestors in this matter. Furthermore, Applicant asserts that the Commission should deny the two pending requests for reconsideration filed by George Martinez and Geneva Risinger.

## II. PROCEDURAL BACKGROUND

On December 12, 2022, Applicant filed its application for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016273001 (“Application”), for authorization to discharge treated domestic wastewater from Applicant’s wastewater treatment facility, (the “Facility”), at a daily average flow not to exceed 250,000 gallons per day. The Facility will be located approximately 0.95 miles southwest of the intersection of Risinger Road and Interstate Highway 45, in Ellis County, Texas 75125.

On February 23, 2023, the Texas Commission on Environmental Quality (“Commission”) declared the Application administratively complete. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in *The Ellis County Press* on March 9, 2023. Applicant published the NORI in Spanish in the *ALDIA* on March 22, 2023. After completing a technical review of the Application, on July 6, 2023, the Executive Director issued a preliminary decision in support of the permit application and prepared a draft permit. Applicant published the Notice of Application and Preliminary Decision (NAPD) in English in the *The Ellis County Press* on July 27, 2023, and in Spanish in the *ALDIA* on July 19, 2023. On August 12, 2024, the Executive Director issued its Final Decision Letter in favor of the Application, finding that the Application met all statutory and regulatory requirements.

A public meeting for this Application was held on February 15, 2024, and the public comment period ended on February 15, 2024. The deadline for filing requests for a contested case hearing and requests for reconsideration of the Executive Director’s decision was September 11, 2024. The Office of the Chief Clerk received timely hearing requests from 39 requestors and requests for reconsideration from two requestors, all identified above. As such, Applicant now files this response to requests for hearing and reconsideration on the Application.

### III. REVIEW STANDARD

#### A. Requests for Hearing

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.<sup>1</sup> An interest common to members of the general public does not qualify as a personal justiciable interest.<sup>2</sup>

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

- (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 and safety of the person, and on the 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) whether the requester timely submitted comments on the application which were not withdrawn.<sup>3</sup>

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<sup>1</sup> 30 TAC § 55.203(a)

<sup>2</sup> *Id.*

<sup>3</sup> 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.<sup>4</sup> The request must also substantially comply with the following:

- (1) give the name, address, daytime telephone number, and where possible, fax number of the person who files the request;
- (2) 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;
- (3) request a contested case hearing; and
- (4) 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.<sup>5</sup>

## **B. Requests for Reconsideration**

Any person may file a request for reconsideration of the Executive Director's decision under Title 30, TAC § 55.201(e). The request must be in writing and filed with the Chief Clerk no later than 30 days after the Chief Clerk mails the Executive Director's decision and Response to Comments ("RTC"). The request must expressly state that the person is requesting reconsideration of the Executive Director's decision and give reasons why the decision should be reconsidered.

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<sup>4</sup> 30 TAC 55.201(d).

<sup>5</sup> *Id.*

#### IV. EVALUATION OF REQUESTS

The Commission received thirty-nine hearing requests on the Application, and two requests for reconsideration. Applicant has evaluated each request below.

##### **A. Hearing Requests of the County of Ellis, Texas should be denied.**

The County of Ellis, Texas (the “County”) is not entitled to a hearing on the Application because the County is not an “affected person.” Counsel for the County, Emily W Rogers, filed a hearing request on behalf of the County, in which the County claims “affected person” status on three primary grounds: 1) 30 TAC § 55.203 states that local governmental entities like the County may be “affected persons;” 2) its authority over various functions, including but not limited to transportation, emergency services, and health and safety, that may be affected by the proposed facility; and 3) its authority under Texas Water Code (“TWC”) §26.171 to inspect public water in its jurisdiction to assess whether the quality of the water meets water quality standards, and to determine whether wastewater dischargers are discharging in compliance with the requirements of a Commission-issued permit.<sup>6</sup> However, none of these grounds support granting the County “affected person” status or granting its hearing request.

First, in claiming “affected person” status, the County relies on 30 TAC § 55.203(b), which holds that “governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application *may* be considered affected persons.”<sup>7</sup> The County, however, places too much emphasis on this provision. This section merely states an additional factor to be considered by the Commission in determining whether a requestor is an “affected person,” and does not mandate or require that a local government with authority over issues raised by an application automatically be deemed an “affected person.”

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<sup>6</sup> See Hearing Request of the County of Ellis, Texas, filed by Emily W Rogers on September 9, 2024.

<sup>7</sup> 30 TAC § 55.203(b) (emphasis added).

Additionally, the County claims it is an “affected person” based on its authority over various functions, including but not limited to transportation, emergency services, and health and safety, that may be affected by the proposed facility. However, the County’s interest in health and safety is no different than an interest common to members of the general public. As such, this basis does not qualify as a personal justiciable interest for the County.<sup>8</sup> Furthermore, the County cites its authority granted under TWC §26.171 to inspect public water in its jurisdiction and to determine whether wastewater dischargers are discharging in compliance with the requirements of a Commission-issued permit, as a basis for being an “affected person.” Specifically, the County is concerned that the Application and the proposed permit do not sufficiently comply with the state’s water quality standards and the discharge limits are not sufficiently stringent to protect the water quality in the receiving waters. Also, the County has expressed concern that the proposed discharge limits do not comply with the antidegradation requirements and that Applicant lacks experience and expertise to operate and maintain the proposed facility. The County, however, fails to supply any material evidence to back up these blanket allegations. In fact, the County makes no attempts to refute the Executive Director’s RTC, which show in detail how the Draft Permit complies with the Texas Surface Water Quality Standards, complies with the Texas Antidegradation Review, and will be protective of water quality in Texas. Moreover, the County provides no evidentiary support for its allegation that Applicant is not an experienced facility and system operator.

For the foregoing reasons, the County is not an “affected person” and its hearing request must be denied.

**B. Hearing Requests of Bettye and Kenneth Burns, Cayden Lynn Critchfield, Onalee Nunnemaker Gerdis, Carla Lynn Crow, and Thomas L Pearl should be denied.**

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<sup>8</sup> See 30 Tex. Admin. Code § 55.203(a)

None of the hearing requests submitted in this matter by the above individuals demonstrates a justiciable interest in the Application. Each requestor provided their address or location relative to the proposed facility, and therefore claimed at least one interest that falls within the criteria listed in 30 TAC § 55.203(c), which provides factors to be considered by the Commission in making an “affected person” determination. The claimed interests in the requests, however, do not demonstrate any concrete personal justiciable interest affected by the Application.

Bettye and Kenneth Burns reside at 721 Risinger Road, Ferris TX 75125. According to their hearing requests, the Burns’s residence is located “right next door” or roughly “600 feet from the proposed Sewage Plant site.”<sup>9</sup> While the Burns do reside in close proximity to the facility, neither requestor ever identified in their request for hearing any issues or concerns suggesting that they would be affected by the facility or the discharge in a manner that is not common to members of the general public. Mr. Burns raises concerns related to orders emanating from the proposed facilities, potential flooding of service roads, and flooding issues that could affect his lower cattle pasture. However, Mr. Burns does not explain why he anticipates the proposed facility will cause flooding or how this could impact his cattle pasture. Mr. Burns’s statements are little more than conjecture and speculation, and such conjecture cannot supply a basis for “affected person” status or a personal justiciable interest. Moreover, Ms. Burns’s request also does not raise a personalized interest, but rather focuses on general public concerns affected by the proposed development, such as the development’s failure to adhere to current Ellis County zoning restrictions that homesites are to be on a minimum of one acre lots, increased road traffic and influx of students as a result of the proposed development, and potential flooding to nearby service roads. However, the Commission, does not have jurisdiction under Chapter 26 of the Texas Water Code to address or

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<sup>9</sup> Hearing Request of Bettye Burns, filed September 3, 2024; Request of Kenneth Burns, filed February 8, 2024

consider the issues raised in Ms. Burn's request, and therefore, Ms. Burns also has not demonstrated that she has a personal justiciable interest in this matter.

Requestors Cayden Lynn Critchfield, Onalee Nunnemaker Gerdis, and Carla Lynn Crow all reside at 761 Risinger Road, Ferris TX 75125. While the requestors claim that they live in the closest home to the proposed facility, their hearing requests collectively fail to raise a personal justiciable interest, and lack demonstration of any likelihood that they would be affected by the Application due to their proximity to the Applicant's facility in a way not common to members of the general public. The only personalized interest mentioned by the requestors came from Ms. Crow, who stated that the facility would have a huge detriment to the value of her home, an issue outside the jurisdiction of TCEQ, and gives no basis or explanation for the statement.<sup>10</sup> The requestors express concerns over odors emanating from the facility; however, they do not provide any discussion on how these odors would negatively impact their health and safety, or use of their property. Furthermore, they all raised similar concerns to Mr and Ms. Burns regarding the potential increase in population, roadway traffic, and crime that could result from the proposed development. However, as previously stated, the Commission does not have jurisdiction to evaluate these issues in its determination of the Application, and therefore the requestors have failed to raise disputed issues of fact that are relevant and material to the Commission's decision on the Application and to identify any particularized injury that could be redressed if the Commission were to conduct a contested case hearing.

Thomas L Pearl resides at 1764 Palmyra Rd., Palmer TX, 75152. Mr. Pearl's property is, by Applicant's understanding, located more than one mile west of the proposed facility and more than one mile downstream from the proposed discharge point. As such, distance restrictions or

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<sup>10</sup> Hearing Request of Carla Lynn Crow, filed August 29, 2024.

other limitations imposed by law on the affected interest argue against granting Mr. Pearl standing.<sup>11</sup> Historically, the Commission has considered people who own property adjacent to the facility or discharge route within one mile downstream from the discharge point to be affected persons. Because Mr. Pearl's property is located more than one mile west of the proposed facility and therefore, is not located "adjacent" to the facility, and is more than one mile downstream from the discharge point, he not only fails to meet the Commission's standard for determining affected person status, but further, it is unreasonable to expect that at such a distance, he would be affected by the facility or the discharge in a manner that is not common to members of the general public. The distance between Mr. Pearl's property and the proposed facility represents a significant disconnect between his interests as an individual and the regulated activity and, as such, he has not demonstrated that he has a personal justiciable interest in this matter.

Accordingly, because requestors Bettye and Kenneth Burns, Cayden Lynn Critchfield, Onalee Nunnemaker Gerdis, Carla Lynn Crow, and Thomas L Pearl have all failed to demonstrate a justiciable interest in the Application, their hearing requests must be denied.

**C. Hearing Requests of Katreen Connell, Jodhua Dean Hester, Von Hulgan, Lynda Hulgan, Darren Wynn, Rhonda Hamm, Marc Conway, Kimberly Curry, Joseph M. King, and Krista Medici Martin Should be Denied.**

While each of the above individuals timely submitted hearing requests in this matter, none of the hearing requests adhere to the procedural requirements under 30 TAC 55.201(d). For example, Katreen Connell's request stated the following: "I want a contested case hearing on permit. This will not be good for our neighborhood."<sup>12</sup> Jodhua Dean Hester filed a hearing request stating, "I contest [*sic*] a case hearing."<sup>13</sup> Von Hulgan's request stated, "I'll request a contested

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<sup>11</sup> 30 TAC § 55.203(c)(2).

<sup>12</sup> Hearing Request of Katreena Connell, filed February 19, 2024.

<sup>13</sup> Hearing Request of Jodhua Dean Hester, filed February 16, 2024.

case hearing.”<sup>14</sup> Lynda Hulgan and Krista Medici Martin provided the identical requests stating, “I request a contested case hearing.”<sup>15</sup> Darren Wynn’s request stated, “I would like to request a contested case hearing.”<sup>16</sup> Rhonda Hamm filed the following: “We want a contested hearing!”<sup>17</sup> Marc Conway’s requests stated, “I request a contested case hearing on this permit due to the negative impact this project will have on the creek and the land through which it flows.”<sup>18</sup> Kimberly Curry stated, “I request a contested case hearing on this permit.”<sup>19</sup> And Joseph M. King filed a hearing request stating, “I request a contested case hearing please.”<sup>20</sup>

As evidenced above, all the requestors submitted blanket statements requesting a contested case hearing, without providing any additional information. None of the hearing requestors provided an address or a description of their location relative to the proposed facility by which the Commission could reasonably ascertain whether they are affected persons. Additionally, none of the hearing requests raised a disputed issue of fact, let alone a personal justiciable interest that could be redressed if the Commission were to conduct a contested case hearing. Therefore, the hearing request submitted by Katreen Connell, Jodhua Dean Hester, Von Hulgan, Lynda Hulgan, Darren Wynn, Rhonda Hamm, Marc Conway, Kimberly Curry, Joseph M. King, and Krista Medici Martin must be denied.

**D. Hearing Requests of John Marshall, Nick L. Hamm, Jack Risinger, Geneva Risinger, David Reisinger, Michael Jones, Dennis M Forester, Glenda G Williams, and Gregory Dale Crow should be denied.**

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<sup>14</sup> Hearing Request of Von Hulgan, filed February 15, 2024.

<sup>15</sup> Hearing Request of Lynda Hulgan, filed February 15, 2024; Hearing Request of Krista Medici Martin, filed February 2, 2024.

<sup>16</sup> Hearing Request of Darren Wynn, filed February 15, 2024.

<sup>17</sup> Hearing Request of Rhonda Hamm, filed February 15, 2024.

<sup>18</sup> Hearing Request of Marc Conway, filed February 15, 2024.

<sup>19</sup> Hearing Request of Kimberly Curry, filed February 15, 2024.

<sup>20</sup> Hearing Request of Joseph M. King, filed February 7, 2024.

Similarly, the hearing requests of John Marshall, Nick L. Hamm, Jack Risinger, Geneva Risinger, David Reisinger, Michael Jones, Dennis M Forester, Glenda G Williams, and Gregory Dale Crow must also be denied for failure to meet the procedural requirements of 30 TAC 55.201(d). Not only do the above hearing requests fail to provide the address of the respective requestor or a description of their location relative to the proposed facility by which the Commission could reasonably assess whether they are “affected persons,” but also, all of the hearing requests improperly request a contested case hearing to challenge the formation of the proposed municipal utility district for the development, rather than contesting the Application.

Specifically, the hearing request filed by John Marshall states, “I request a contested case hearing concerning the proposed MUD district on Risinger Ridge. The increased traffic will wreak havoc on both Risinger and Trumbull Roads. ...”<sup>21</sup> Likewise, Nick L. Hamm’s hearing request states, “requesting a contested hearing for the mud district on Risinger RD. OUR ROADS ARE NOT SUFFICIENT TO HANDLE THE AMOUNT OF TRAFFIC WE WILL INCUR FROM THIS DEVELOPMENT. WE CAN’T KEEP UP WITH ROAD REPAIRS AS IT IS AND WE WON’T GET HELP FROM THE DISTRICT.”<sup>22</sup> Mr. Marshall and Mr. Hamm have clearly failed to raise disputed issues of fact that are relevant and material to the Commission’s decision on the Application.

Jack Risinger filed a hearing request, in which he stated, “I am requesting a contested case hearing for Risinger Ridge M.U.D. due to flooding concerns, and environmental impact on surrounding area properties.”<sup>23</sup> Even if Jack Risinger had properly requested a contested case hearing on the Application rather than contesting the MUD, his concern for the MUD’s impact on

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<sup>21</sup> Hearing Request of John Marshall, filed February 12, 2024.

<sup>22</sup> Hearing Request of Nick L Hamm, filed February 11, 2024.

<sup>23</sup> Hearing Request of Jack Risinger, filed February 5, 2024.

“surrounding area properties”, and not his own property, falls considerably short of proving a personal justiciable issue in the matter.

Genieva Risinger’s hearing requests states, “I am requesting a contested case hearing for Risinger Ridge M.U.D. being proposed. ... Studies need to be authorized to determine environmental and wildlife impact as well as schools, fire, police, crime, trash/waste, roads, utilities, traffic and drainage. Infrastructure is not available at this time. Please reconsider.”<sup>24</sup> David Risinger also filed a similar request stating, “I am requesting a contested case hearing for Risinger Ridge M.U.D. due to the impact on our property and surrounding properties. ... Additional to road and property damage, schools, fire, police, waste, crime, traffic, utilities, are not adequate to service the high density population being proposed.”<sup>25</sup> Similarly, Michael Jones’s hearing request provides, “I am requesting a contested case hearing for the Risinger Ridge MUD. ... I am concerned about odors from a nearby wastewater treatment plant. I am also concerned about the high density community the wastewater treatment plant will serve. Risinger Road cannot handle traffic from thousands of extra residents[.]”<sup>26</sup>

While Genieva and David Risinger do express concern for potential increased flooding caused by the proposed facility and Mr. Jones worries about potential odors emanating from the facility, it is clear all three requestors are really concerned with the anticipated size of the proposed development and its impact on the community, not the construction of the facility. As such, even if the Risingers and Mr. Jones had provided requisite information to suggest they are affected persons on the Application (which they have not), they have not established a personal justiciable

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<sup>24</sup> Hearing Request of Genieva Risinger, filed February 2, 2024.

<sup>25</sup> Hearing Request of David Risinger, filed February 2, 2024.

<sup>26</sup> Hearing Request of Michael Jones, filed February 2, 2024.

interest, as their interests stem from considerations not within the Commission’s jurisdiction pursuant to Chapter 26 of the Texas Water Code.

Dennis M Forester also issued a request stating, “I am requesting a contested case hearing for the Risinger Ridge MUD due to concerns of flooding and harm to the surrounding environment it will cause.”<sup>27</sup> Mr. Forester says that he lives on a ranch just off Interstate 45 and Brushy Creek runs through his property, which he fears could result in wastewater contaminating his cattle.<sup>28</sup> Likewise, Glenda G. William’s request states that she too is “requesting a contested case hearing for the Risinger Ridge MUD” because “the proposed route would have to flow over [her] hayfield on its way to Brushy Creek, spoiling the hay and causing erosion.”<sup>29</sup> Additionally, Gregory Dale Crow filed a hearing request, which began with, “I am requesting a contested case hearing for the Risinger Ridge MUD”<sup>30</sup>, followed by statements concerning traffic impacts, insufficient roadways to handle the population increase, overcrowding in classrooms, potential flooding, and unsanitary conditions with sewage standing in the ditches and on the road.<sup>31</sup> Mr. Crow ended his hearing request by stating, “... for these reasons I say stop this MUD madness and terminate Risinger Ridge MUD[.]”<sup>32</sup>

Even if Mr. Forester, Mr. Crow, and Ms. Williams had properly requested a contested case hearing on the Application, there is no reason to believe they are affected persons in this matter. None of their hearing requests provided an address or a sufficient description of the location of their property relative to the proposed facility by which the Commission could reasonably ascertain whether they are “affected persons.” Without this, they have failed to prove a likelihood that they

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<sup>27</sup> Hearing Request of Dennis M Forester, filed February 2, 2024.

<sup>28</sup> See *Id.*

<sup>29</sup> Hearing Request of Glenda Williams, filed February 3, 2024.

<sup>30</sup> Hearing Request of Gregory Dale Crow, filed February 10, 2024.

<sup>31</sup> See *Id.*

<sup>32</sup> *Id.*

are subjected to personal justiciable interest not common to members of the general public.

For foregoing reasons, the hearing requests of John Marshall, Nick L. Hamm, Jack Risinger, Geneva Risinger, David Reisinger, Michael Jones, Dennis M Forester, Glenda G Williams, and Gregory Dale Crow must also be denied.

**E. Hearing Requests of Richard and Kelly Kern, Brenda Kathleen Mavridis, Matthew Craig, Steve and Nancy Salmon, and Shaunda Hooker should be denied.**

The requests for hearing filed by Richard and Kelly Kern, Brenda Kathleen Mavridis, Matthew Craig, Steve and Nancy Salmon, and Shaunda Hooker fall short of meeting the requirements of 30 TAC § 55.201(d). The above requests fail to identify any justiciable interest affected by the application.

Specifically, the hearing request filed by Richard and Kelly Kern provides a list of sixteen questions to be addresses by the Commission, such as “what can I use to test for bacterial contamination?” and “how is it not a TCEQ requirement to manage the water flowing from sewage they regulate into creeks?”<sup>33</sup> Similarly, Brenda Kathleen Mavridis also outlined a list of questions she would like to see answered by the Commission, such as “who/what entity addresses the other issues of wildlife and flooding?” and “what happens on weekend if the treatment plant has technical issues?”<sup>34</sup> Matthew Craig’s hearing request also raises a similar list of issues and concerns for the Commission, including but not limited to, “I have a concern for the long term viability and maintenance of small package wastewater treatment plants, such as proposed here”; and “Also concerned for the lack of municipal regulation over the land uses within the service area of this WWTP”; and “Will this permit allow and increased service area and/or change in land use?”<sup>35</sup> However, nowhere in these questions or comments do the Kerns, Ms. Mavridis, or Mr.

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<sup>33</sup> Hearing Request of Richard and Kelly Kern, filed February 15, 2024.

<sup>34</sup> Hearing Request of Brenda Kathleen Mavridis, filed February 15, 2024.

<sup>35</sup> Hearing Request of Matthew Craig, filed February 15, 2024.

Craig assert personal concerns that should be addressed in a contested hearing or identify any justiciable interest that they believe could be affected by the Application.

Steve and Nancy Salmon also submitted a brief hearing request which stated, “Request a contested case hearing. Please address flooding, smells, handling pesticides.”<sup>36</sup> Similarly, Shaunda Hooker’s hearing request reads, “I request a contested hearing on this permit. Flood and traffic are already [*sic*] huge issue in this area.”<sup>37</sup> These requests fail to raise any issues of fact, let alone relevant and material disputed issues of fact that can form the basis of a hearing request to be considered by the Commission.

As such, the hearing requests filed by Richard and Kelly Kern, Brenda Kathleen Mavridis, Matthew Craig, Steve and Nancy Salmon, and Shaunda Hooker fail to meet the requirements of 30 TAC § 55.201(d), and therefore, should be denied.

**F. Hearing Requests of Amy Haufler, Cathy York, Jerry Burch, John Williams, Ryan Logan King, and George Martinez should be denied.**

The hearing requests filed by Amy Haufler, Cathy York, Jerry Burch, John Williams, Ryan Logan King, and George Martinez should be denied for their failure to comply with requirements of 30 TAC 55.201(d)(2).

For example, the hearing request filed by Amy Haufler states, “I request a contested case hearing. TCEQ presently chooses not to manage the trash that washes down the creek I live on. TCEQ presently chooses not to manage the malodor that comes off the local landfills. I can’t trust that TCEQ will manage additional issues.”<sup>38</sup> Cathy York’s hearing request states in part, “I request a contested case hearing. This will personally affect me because I pay for Palmer schools and do

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<sup>36</sup> Hearing Request of Steve and Nancy Salmon, filed February 15, 2024.

<sup>37</sup> Hearing Request of Shaunda Hooker, filed September 5, 2024.

<sup>38</sup> Hearing Request of Amy Haufler, filed February 11, 2024.

not want to pay for more schools to be built.”<sup>39</sup> The hearing request filed by Jerry Burch reads, “I am requesting a contested case hearing for this application. I live just across the creek from the subject property and oppose the wastewater treatment plant due to the potential flooding it will cause.”<sup>40</sup> The fact that Ms. Haufler lives on a creek, Ms. York pays taxes for Palmer schools, and Mr. Burch lives just across the creek from the proposed facility does not provide near enough information by which the Commission can determine the location of their properties to reasonably ascertain whether they are “affected persons.”

Moreover, John Williams’s hearing request states, “I have property on both the South side and North side of Brushy Creek. My property adjoins the proposed Clear Utilities / Risinger Ridge development on the Southern edge.”<sup>41</sup> Mr. Williams does not provide an address or specific location of either of his properties located on the north or south sides of the proposed development, what part of the development his properties adjoins, and provides no explanation of how far his properties are located from the proposed facility. Without this information, the Commission is unable to assess whether Mr. Williams is an “affected person” in this matter.

Additionally, the hearing requests filed by Ryan Logan King and George Martinez make no mention of where their properties are located, their location in relation to the proposed facility or point of discharge, or a personal justiciable interest suggesting that either requestor could be an “affected person.”

For the reasons states above, the hearing requests filed by Amy Haufler, Cathy York, Jerry Burch, John Williams, Ryan Logan King, and George Martinez fall short of the requirements under 30 TAC 55.201(d)(2), and therefore, must be denied.

#### **G. Requests for Reconsideration filed by George Martinez and Geneva Risinger should be**

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<sup>39</sup> Hearing Request of Cathy York, filed February 10, 2024.

<sup>40</sup> Hearing Request of Jerry Burch, filed February 10, 2024.

<sup>41</sup> Hearing Request of John Williams, filed February 8, 2024.

**denied.**

The requests for reconsideration filed by George Martinez and Geneva Risinger must be denied for their failure to comply with the requirements of 30 TAC § 55.201(e). Specifically, Mr. Martinez and Ms. Risinger's requests for reconsideration should be denied on the basis that both requestors merely copied and pasted their exact request for hearing, and simply changed the title of the request from a "request for hearing" to a "request for reconsideration" before filing. As such, Mr. Martinez and Ms. Risinger did not specify any of the Executive Director's responses from the RTC that they dispute, the factual basis of their dispute, or list any disputed issues of law as specified by 30 TAC § 55.201(d)(4)(B).

As such, Mr. Martinez and Ms. Risinger's request for reconsideration failed to meet the requirements of 30 TAC § 55.201(e), and therefore, should be denied.

## **V. CONCLUSION**

For the reasons stated, the Applicant respectfully requests that the Commission take the following actions:

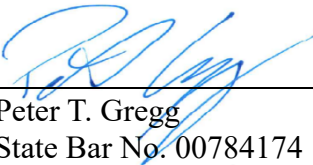
1. Applicant recommends the Commission deny requests for a contested case hearing filed by The County of Ellis, Texas; Bettye and Kenneth Burns; Cayden Lynn Critchfield; Onalee Nunnemaker Gerdis; Carla Lynn Crow; Thomas L Pearl; Katreen Connell; Jodhua Dean Hester; Von Hulgan; Lynda Hulgan; Darren Wynn; Rhonda Hamm; Marc Conway; Kimberly Curry; Joseph M. King; Krista Medici Martin; John Marshall; Nick L. Hamm; Jack Risinger; Geneva Risinger; David Reisinger; Michael Jones; Dennis M Forester; Glenda G Williams; Gregory Dale Crow; Richard and Kelly Kern; Brenda Kathleen Mavridis; Matthew Craig; Steve and Nancy Salmon; Shaunda

Hooker; Amy Haufler; Cathy York; Jerry Burch; John Williams; Ryan Logan King; and George Martinez.

2. Applicant recommends the Commission deny requests for reconsideration filed by George Martinez and Geneva Risinger.
3. If the Commission decides to refer this case to SOAH, then the Applicant recommends that the maximum duration of the hearing be 150 days.

Respectfully submitted,

**Gregg Law PC**



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**ATTORNEY FOR APPLICANT**

### **CERTIFICATE OF SERVICE**

I hereby certify that on October 11, 2024, a true and correct copy of the foregoing document has been served on all parties and their respective counsel of record in accordance with the Texas Rules of Civil Procedure.



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Peter T. Gregg