

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



Garrett T. Arthur, *Public Interest Counsel*

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 25, 2024

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk (MC-105)  
P.O. Box 13087  
Austin, Texas 78711-3087

RE: **IN THE MATTER OF THE APPLICATION BY CLEAR UTILITIES,  
LLC FOR TPDES PERMIT NO. WQ0016360001  
TCEQ DOCKET NO. 2024-1720-MWD**

Dear Ms. Gharis:

Enclosed for filing is the Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration in the above-entitled matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheldon P. Wayne".

Sheldon P. Wayne, Attorney  
Assistant Public Interest Counsel

cc: Mailing List

**TCEQ DOCKET NO. 2024-1720-MWD**

**APPLICATION BY CLEAR  
UTILITIES, LLC FOR TPDES  
PERMIT NO. WQ0016360001**

**§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL  
QUALITY**

**OFFICE OF PUBLIC INTEREST COUNSEL’S RESPONSE  
TO REQUESTS FOR HEARING AND REQUESTS FOR RECONSIDERATION**

**To the Members of the Texas Commission on Environmental Quality:**

The Office of Public Interest Counsel (OPIC) at the Texas Commission on Environmental Quality (TCEQ) files this Response to Requests for Hearing and Requests for Reconsideration in the above-captioned matter and respectfully submits the following.

**I. INTRODUCTION**

**A. Summary of Position**

Before the Commission is an application by Clear Utilities, LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016360001. The Commission received comments and requests for a contested case hearing from Senator Mayes Middleton, Emily Harman, Shane Harman, Christopher Hightower, Sara Hightower, Robert Martinez, Roger McCrary, and Cynthia Weir. The Commission also received requests for reconsideration from Melissa Jared and Shane McNamara.

OPIC respectfully recommends that the Commission find that Emily Harman, Christopher Hightower, Sara Hightower, Robert Martinez, and Roger McCrary are affected persons in this matter and grant their pending hearing

requests. OPIC further recommends denial of the remaining requests for hearing and requests for reconsideration for the reasons detailed below.

## **B. Background of Facility**

Clear Utilities, LLC has applied to the TCEQ for new TPDES Permit No. WQ0016360001. As proposed, the draft permit authorizes the discharge of treated domestic wastewater (effluent) at a daily average flow not to exceed 75,000 gallons per day. The Applicant proposes to operate the Field Creek Crossing wastewater treatment plant (WWTP) to serve the proposed Field Creek Crossing mobile home development. The Facility's proposed location is approximately 0.49 miles northwest of the intersection of Cemetery Road and Country Side Street, in Galveston County, 77517.

The Field Creek Crossing WWTP will be an activated sludge process plant operated in the complete mix mode. Treatment units will include a bar screen, two aeration basins, a final clarifier, two sludge digesters, and a chlorine contact chamber. The Facility has not been constructed.

The proposed discharge route is via pipe to two man-made ponds, then via pipe to a detention pond, then to Dickinson Bayou Tidal in Segment No. 1103 of the San Jacinto-Brazos Coastal Basin. The designated uses for Segment No. 1103 are primary contact recreation and high aquatic life use.

## **C. Procedural Background**

TCEQ received Clear Utilities' application on June 26, 2023, and declared it administratively complete on August 9, 2023. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in the

*Galveston County Daily News* on August 22, 2023. The ED completed the technical review of the application and prepared the proposed draft permit, which if approved, establishes the conditions under which the Facility must operate. The Applicant published the Combined NORI and Notice of Application and Preliminary Decision (NAPD) in English in the *Galveston County Daily News* on April 19, 2024 and in Spanish in *La Presna De Houston* on April 28, 2024. The combined NORI and NAPD was issued to correct the Facility location description and the description of the discharge route included in the original NORI. The public comment period ended on May 28, 2024. The Executive Director's (ED) Response to Comments was mailed on August 23, 2024, and the deadline for submittal of a contested case hearing request or request for reconsideration was September 23, 2024.

## **II. APPLICABLE LAW**

### **A. Requests for Hearing**

The application was filed after September 1, 2015, and is therefore subject to the procedural rules adopted pursuant to Senate Bill 709. Tex. S.B. 709, 84th Leg., R.S. (2015). Under Title 30, Texas Administrative Code (TAC) § 55.201(c), a hearing request by an affected person must be in writing, must be timely filed, may not be based on an issue raised solely in a public comment which has been withdrawn, and, for applications filed on or after September 1, 2015, must be based only on the affected person's timely comments.

Section 55.201(d) states that a hearing request must 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 requestor's personal 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 proposed 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 proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (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. To facilitate the Commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.

Under 30 TAC § 55.203(a), 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. Relevant factors to be considered in determining whether a person is affected include:

- (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;
- (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and
- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203(c).

Under § 55.203(d), to determine whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the Commission may also consider the following:

- (1) the merits of the underlying application and supporting documentation in the administrative record, including whether the application meets the requirements for permit issuance;
- (2) the analysis and opinions of the executive director; and
- (3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.

Under 30 TAC § 55.211(c)(2)(A)(ii), for an application filed on or after September 1, 2015, the Commission shall grant a hearing request made by an affected person if the request raises disputed issues of fact that were raised by the affected person during the comment period, that were not withdrawn by filing a withdrawal letter with the Chief Clerk prior to the filing of the ED's RTC, and that are relevant and material to the Commission's decision on the application.

Under § 55.211(c)(2)(B)-(D), the hearing request, to be granted, must also be timely filed with the Chief Clerk, pursuant to a right to hearing authorized by law, and comply with the requirements of § 55.201.

**B. Requests for Reconsideration**

Any person may file a request for reconsideration of the ED's decision under 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 ED's decision and RTC. The request must expressly state that the person is requesting reconsideration of the ED's decision and give reasons why the decision should be reconsidered.

**III. ANALYSIS OF HEARING REQUESTS**

**A. Whether the Requestors are Affected Persons**

Emily Harman

On May 28, 2024, Emily Harman submitted a timely hearing request during the public comment period. Ms. Harman states concern regarding contamination attributable to the discharge and questions whether the Facility, including its detention pond, will be adequately protected during a flood event. Further, she notes that other utility providers may be able to service the development, implicating the need for the Facility. According to the map provided by the ED's staff, Ms. Harman is located approximately one-half mile from the Facility.

To be granted a contested case hearing, Ms. Harman must show that she possesses a personal justiciable interest in this matter related to a legal right, duty, privilege, power, or economic interest affected by the application. *See* 30

TAC § 55.203(a). Furthermore, the interest must be distinguished from interests common to the general public. *Id.*

A relevant factor in evaluating if a person is affected is whether a reasonable relationship exists between the interest claimed and the activity regulated. *See* 30 TAC § 55.203(c)(3). Here, Ms. Harman's interests in effluent contamination, protection of the Facility during flood events, and need for the Facility are protected by the law under which this application will be considered. *See* 30 TAC § 55.203(c)(1). Furthermore, as her property is near the Facility, a reasonable relationship exists between her claimed interests and the proposed Facility's regulated activity. *See* 30 TAC § 55.203(c)(3). Moreover, her location increases the likelihood that the Facility's operations could impact the use of her property. *See* 30 TAC § 55.203(c)(4). Considering her stated concerns and location relative to the Facility, OPIC concludes that Emily Harman possesses a personal justiciable interest in this matter that is not common to the general public and has successfully demonstrated that she qualifies as an affected person. *See* 30 TAC § 55.203(a).

Christopher Hightower and Sara Hightower

On May 11, 2024, Christopher Hightower and Sara Hightower submitted a timely hearing request during the public comment period. The request states concern regarding risk of contamination of the area, including Buffalo Bayou, flooding, and increased vehicular traffic. According to the map provided by the ED's staff, the Hightowers' property is located approximately one-half mile from the Facility.



The Hightowers' interest in ensuring that Buffalo Bayou does not suffer contamination is an interest in water quality, and as such, is protected by the law under which this application will be considered. *See* 30 TAC § 55.203(c)(1). Additionally, as their residence is near the regulated activity, a reasonable relationship exists between their concern and the regulated activity. *See* 30 TAC § 55.203(c)(3). Finally, their location increases the likelihood that the Facility's operations could impact their use of property. *See* 30 TAC § 55.203(c)(4).

After consideration, OPIC concludes that the Hightowers are likely to be affected in a way not common to members of the general public and thus possess a personal justiciable interest in this matter. Therefore, OPIC finds that Christopher Hightower and Sara Hightower have demonstrated that they qualify as affected persons.

Robert Martinez

On May 15, 2024, Robert Martinez submitted a timely hearing request during the public comment period. He also submitted a request on September 23, 2024 that was substantively similar to his May request. In his May request, Mr. Martinez states concern regarding odor and water quality issues, including possible contamination of private wells. He also questions whether the Facility has a viable maintenance plan. According to the map provided by the ED's staff, Mr. Martinez is located approximately one-third of a mile from the proposed Facility.

The issues raised by Mr. Martinez, including odor and water quality issues, are protected by the law under which this application will be considered. *See* 30

TAC § 55.203(c)(1). Additionally, as his residence is near the regulated activity, a reasonable relationship exists between his concerns and the regulated activity. *See* 30 TAC § 55.203(c)(3). Finally, his location increases the likelihood that the Facility's operations could impact his use of property. *See* 30 TAC § 55.203(c)(4).

After consideration, OPIC concludes that Mr. Martinez is likely to be affected in a way not common to members of the general public and, as such, possesses a personal justiciable interest in this matter. Therefore, OPIC finds that Robert Martinez has demonstrated that he qualifies as an affected person.

Roger McCrary

On May 28, 2024, Roger McCrary submitted a timely hearing request during the public comment period. He also submitted a request on September 23, 2024 after the close of the public comment period. In both timely comment and request, Mr. McCrary states concern regarding the capacity and functioning of the proposed detention pond. He also questions whether the Facility's location has been accurately identified in the application and if the Facility has plans for a backup electrical system.

The issues Mr. McCrary raises with the detention pond, backup power, and accuracy of the application are protected by the law under which this application will be considered. *See* 30 TAC § 55.203(c)(1). Additionally, as his residence is near the regulated activity, a reasonable relationship exists between his concerns and the regulated activity. *See* 30 TAC § 55.203(c)(3). Finally, his location increases the likelihood that the Facility's operations could impact his use of property. *See* 30 TAC § 55.203(c)(4).

After consideration, OPIC concludes that Mr. McCrary is likely to be affected in a way not common to members of the general public and, as such, possesses a personal justiciable interest in this matter. Therefore, OPIC finds that Roger McCrary has demonstrated that he qualifies as an affected person.

#### Senator Mayes Middleton

On March 1, 2024, State Senator Mayes Middleton timely submitted a letter that encourages the Commission to consider granting the hearing requests of other affected persons in this matter. The letter delineates concerns regarding the impact to the water quality of Dickinson Bayou and risk of contamination of groundwater, potentially affecting private wells used for drinking water and livestock purposes. It also asks for further consideration of natural drainage patterns and exploration of alternative options to the WWTP. While Senator Middleton does not expressly request a contested case hearing, out of an abundance of caution, OPIC has reviewed the submittal as a hearing request on his behalf.

OPIC notes that while there are special statutory and regulatory provisions relating to a legislator's request for a public meeting, there are no specific requirements relating to requests for a contested case hearing filed by a legislator. Therefore, Senator Middleton's request has been analyzed under the requirements applicable to all contested case hearing requests.

The issues raised in his filing regarding water quality and whether the WWTP is needed are protected by the law under which this application will be considered. However, as Senator Middleton does not appear to reside or

otherwise own property near the Facility, OPIC is unable to find that the interests he seeks to protect are sufficiently distinguishable from those held by the general public. *See* 30 TAC § 55.203(a). Consequently, OPIC must conclude that Senator Middleton has not shown that he possesses a personal justiciable interest in this matter and, as such, has not demonstrated that he qualifies as an affected person.

Shane Harman

On September 23, 2024, Shane Harman submitted a timely hearing request. The request was received after the close of the public comment period. The substance of his request states concerns about inadequate notice of the application. According to the map provided by the ED's staff, Mr. Harman is located approximately one-half mile from the proposed Facility.

OPIC acknowledges that Mr. Harman's property is near the Facility, and the notice issue raised in his request is protected by the law under which this application will be considered. However, Mr. Harman did not file public comments with the Commission during the public comment period. By law, for the Commission to find that a hearing requestor qualifies as an affected person, the requestor must have submitted timely comments on the application, and the request must be based only on that affected person's timely comments. TWC § 5.115(a)(a-1)(2)(B); 30 TAC § 55.201(c). Because Shane Harman has not complied with this requirement, OPIC is unable to find that he has demonstrated that he qualifies as an affected person.

## Cynthia Weir

On May 12, 2024, Cynthia Weir submitted a timely hearing request during the public comment period. The entirety of Ms. Weir's request is as follows: "I am requesting a public hearing, this permit, effects my neighborhood, unfavorably."

Among other things, a hearing request must explain how and why a requestor believes that they will be adversely affected by a facility in a manner not common to members of the general public. *See* 30 TAC § 55.201(d)(2). This request fails to include any specific statement of how or why Ms. Weir may be personally affected by the Facility. Because of the absence of this information, OPIC is unable to conclude that Cynthia Weir has demonstrated that she qualifies as an affected person.

### **B. Which Issues Raised in the Hearing Requests Are Disputed**

The affected persons' hearing requests raise the following disputed issues:

1. Whether the Facility, including its detention pond, and draft permit comply with Texas Surface Water Quality Standards and are adequately protective of water quality, including surface water and groundwater.

Raised by: Emily Harman, Christopher Hightower and Sara Hightower, Robert Martinez, Roger McCrary

2. Whether the Facility and draft permit are adequately protective of human health and safety, and animal life.

Raised by: Robert Martinez

3. Whether the Facility and draft permit comply with TCEQ's regionalization policy, including demonstration of need.

Raised by: Emily Harman

4. Whether the application contains adequate safeguards for the Facility in the event of a power failure.

Raised by: Roger McCrary

5. Whether the draft permit contains sufficient provisions to prevent the creation of nuisance odor conditions.

Raised by: Robert Martinez

6. Whether the Facility's location is properly identified in the application.

Raised by: Roger McCrary

7. Whether the Facility will be sufficiently maintained.

Raised by: Robert Martinez

8. Whether operation of the Facility will cause flooding.

Raised by: Christopher Hightower and Sara Hightower

9. Whether operation of the Facility will cause increased traffic.

Raised by: Christopher Hightower and Sara Hightower

**C. Whether the Dispute Involves Questions of Fact or of Law**

If the Commission considers an issue to be one of fact, rather than one of law or policy, it is appropriate for referral to hearing if it meets all other applicable requirements. 30 TAC § 55.211(c)(2)(A). The issues listed above are issues of fact.

**D. Whether the Issues Were Raised During the Public Comment Period**

Issue nos. 1-9 raised in the hearing requests were raised in the comment period by the requestors. *See* 30 TAC §§ 55.201(c) & (d)(4)(B), 55.211(c)(2)(A).

**E. Whether the Hearing Requests are Based on Issues Raised Solely in a Withdrawn Public Comment**

No public comments were withdrawn in this matter. Therefore, the hearing requests are not based on issues raised in withdrawn comments.

**F. Whether the Issues are Relevant and Material to the Decision on the Application**

The affected persons have raised issues that are relevant and material to the Commission’s decision under the requirements of 30 TAC §§ 55.201(d)(4) and 55.211(c)(2)(A). To refer an issue to SOAH, the Commission must find that the issue is relevant and material to the Commission’s decision to issue or deny this permit. The Commission can only consider issues within its jurisdiction. Therefore, relevant and material issues include those governed by the substantive law of the permit at issue. *Anderson v. Liberty Mutual, Inc.*, 477 U.S. 242, 248-51 (1986).

Water Quality, Human Health and Safety, and Animal Life

The affected persons in this matter are concerned with adverse effects to water quality—including well water—and its impacts on human health and safety, and animal life. The Commission is responsible for the protection of water quality under TWC Chapter 26 and 30 TAC Chapter 307. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit “maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and economic development of the state.” 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, “Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.” Additionally,

“[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life.”  
30 TAC § 307.4(d).

Also, Section 309.10(b) states, in part, that “[t]he purpose of this chapter is to condition issuance of a permit and/or approval of construction plans and specifications for new domestic wastewater treatment facilities...on selection of a site that minimizes possible contamination of ground and surface waters...”  
*See also* 30 TAC § 309.12. Therefore, Issue nos. 1 and 2 are relevant and material to the Commission’s decision regarding this application and are appropriate for referral to SOAH.

#### Regionalization

The affected persons in this matter are concerned that the Facility will not comply with Texas’ Regionalization Policy. Under TWC § 26.081(a), it is “state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to prevent pollution and maintain and enhance state water quality.” Further, “in considering the issuance...of a permit to discharge waste, the commission may deny or alter the terms of the proposed permit...based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as such by commission order pursuant to provisions of this subchapter.” TWC § 26.0282. Therefore, Issue no. 3 is relevant and material to the Commission’s decision on the application.



### Emergency Power Requirements

The affected persons in this matter are concerned that adequate safeguards for the Facility may not be in place in the event of a malfunction or power failure. Commission rules in Chapter 217 address emergency power requirements and provide that “a wastewater treatment facility must be designed to prevent the discharge of untreated or partially treated wastewater during electrical power outages.” 30 TAC § 217.36(a). This may be accomplished through a combination of alternate power sources, on-site generators, interceptor systems, on-site retention, collection system storage, portable generators, mechanical backup systems, or other similar systems. *See* 30 TAC § 217.36(i). Among other requirements, the Facility must use an audiovisual alarm system and its engineering report must analyze the reliability of existing commercial power service and provide for emergency operation of the wastewater treatment facility. *See* 30 TAC 217.36(b), (e), (j). Therefore, Issue no. 4 is relevant and material to the Commission’s decision on the application.

### Nuisance Odor

The affected persons in this matter are concerned that the Facility will cause nuisance odor conditions. Odor is specifically addressed by 30 TAC § 309.13(e), which requires that nuisance odor be abated and controlled. Further, § 307.4 delineates general criteria that surface waters must meet, including aesthetic parameters which work, in part, to prevent nuisance conditions attributable to the Facility. Finally, one of the purposes of Chapter 309 is “to minimize the possibility of exposing the public to nuisance conditions.” 30 TAC

§ 309.10. Therefore, Issue no. 5 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

#### Accuracy of the Application

The affected persons in this matter are concerned that the Facility's location as depicted in the application is inaccurate and/or erroneous. TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue no. 6 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

#### Maintenance

The affected persons in this matter raise concerns about the maintenance of the Facility, questioning the existence and viability of any maintenance plan. Operational Requirement No. 1 of the draft permit requires that the Applicant ensure that the proposed Facility and all its systems of collection, treatment, and disposal are properly operated and maintained at all times. Additionally, Operational Requirement No. 4 of the draft permit states that the Applicant is "responsible for installing, prior to plant start-up, *and subsequently maintaining*, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater." (emphasis added) Therefore, Issue no. 7 is relevant and material to

the Commission's decision regarding this application and is appropriate for referral to SOAH.

#### Flooding and Traffic

Finally, the affected persons in this matter raise concerns about potential flooding and increased traffic resulting from the Facility and the development it plans to serve. The Texas Legislature, which establishes the jurisdiction of TCEQ, has not given the Commission the authority to consider these types of concerns when deciding whether to issue a TPDES permit. Therefore, Issue nos. 8 and 9 are not relevant and material to the Commission's decision regarding this application and are not appropriate for referral to SOAH.

#### **G. Requests for Reconsideration**

The Commission received timely filed requests for reconsideration of the ED's decision from Melissa Jared and Shane McNamara. The requests raise issues about flooding and primarily focus on the mobile-home development that the Facility will serve. Concerns about flooding caused either by the Facility or the planned development are not relevant and material to the Commission's decision on this permit application. Therefore, OPIC respectfully recommends that the Commission deny the two requests for reconsideration filed in this matter.

#### **H. Maximum Expected Duration for the Contested Case Hearing**

Commission rule 30 TAC § 50.115(d) requires that any Commission order referring a case to SOAH specify the maximum expected duration of the hearing by stating a date by which the judge is expected to issue a proposal for decision. The rule further provides that, for applications filed on or after September 1,

2015, the administrative law judge must conclude the hearing and provide a proposal for decision by the 180th day after the first day of the preliminary hearing, or a date specified by the Commission, whichever is earlier. 30 TAC § 50.115(d)(2). To assist the Commission in setting a date by which the judge is expected to issue a proposal for decision, and as required by 30 TAC § 55.209(e)(7), OPIC estimates that the maximum expected duration of a hearing on this application would be 180 days from the first date of the preliminary hearing until the proposal for decision is issued.

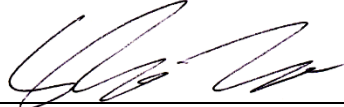
#### IV. CONCLUSION

For the reasons discussed above, OPIC finds that Emily Harman, Christopher Hightower, Sara Hightower, Robert Martinez, and Roger McCrary have demonstrated that they qualify as affected persons. Therefore, OPIC respectfully recommends that the Commission grant their hearing requests and refer Issue nos. 1-7 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. Finally, OPIC recommends the Commission deny the remaining hearing requests and the pending requests for reconsideration.

Respectfully submitted,

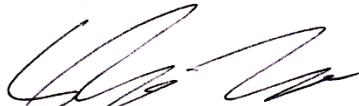
[Signature on Next Page]

Garrett T. Arthur  
Public Interest Counsel

By:   
Sheldon P. Wayne  
Assistant Public Interest Counsel  
State Bar No. 24098581  
P.O. Box 13087, MC 103  
Austin, Texas 78711-3087  
(512) 239-3144

**CERTIFICATE OF SERVICE**

I hereby certify that November 25, 2024, the Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration was filed with the Chief Clerk of the TCEQ and a copy was served on all persons listed on the attached mailing list via electronic mail, and/or by deposit in the U.S. Mail.

  
Sheldon P. Wayne

**MAILING LIST  
CLEAR UTILITIES LLC  
TCEQ DOCKET NO. 2024-1720-MWD**

FOR THE APPLICANT

via electronic mail:

Peter T. Gregg  
Gregg Law PC  
910 West Avenue, No. 3  
Austin, Texas 78701  
[pgregg@gregglawpc.com](mailto:pgregg@gregglawpc.com)

Steven Winslow  
Clear Utilities LLC  
5451 Farm-to-Market 1488 Road  
Magnolia, Texas 77354  
[hwinslow@affinalre.com](mailto:hwinslow@affinalre.com)

Lesley Reel  
L Squared Engineering  
3307 West Davis Street, Suite 100  
Conroe, Texas 77304  
[lreel@l2engineering.com](mailto:lreel@l2engineering.com)

FOR THE EXECUTIVE DIRECTOR

via electronic mail:

Aubrey Pawelka, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512/239-0600 Fax: 512/239-0606  
[aubrey.pawelka@tceq.texas.gov](mailto:aubrey.pawelka@tceq.texas.gov)

Shaun Speck, Technical Staff  
Texas Commission on Environmental  
Quality  
Water Quality Division MC-148  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512/239-4653 Fax: 512/239-4430  
[shaun.speck@tceq.texas.gov](mailto:shaun.speck@tceq.texas.gov)

Ryan Vise, Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512/239-4000 Fax: 512/239-5678  
[pep@tceq.texas.gov](mailto:pep@tceq.texas.gov)

FOR ALTERNATIVE DISPUTE  
RESOLUTION

via electronic mail:

Kyle Lucas, Attorney  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution MC-222  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512/239-0687 Fax: 512/239-4015  
[kyle.lucas@tceq.texas.gov](mailto:kyle.lucas@tceq.texas.gov)

FOR THE CHIEF CLERK

via eFiling:

Docket Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512/239-3300 Fax: 512/239-3311  
<https://www14.tceq.texas.gov/epic/eFiling/>

REQUESTER(S):

See attached list.

**REQUESTER(S)**

Emily Diane Harman  
13924 Country Side St  
Santa Fe, TX 77517-3794

Shane Harman  
13924 Country Side St  
Santa Fe, TX 77517-3794

Chris & Sara Hightower  
13816 Country Side St  
Santa Fe, TX 77517-3700

Melissa Jared  
Allsource  
1203 Ginger St  
Santa Fe, TX 77517-3815

Mr Robert Martinez  
1100 Veronica St  
Santa Fe, TX 77517-3798

Roger D Mccrary  
13913 Country Side St  
Santa Fe, TX 77517-3701

Shane Robert Mcnamara  
Bellum K9 Inc  
13820 Country Side St  
Santa Fe, TX 77517-3700

Cynthia Lynne Weir  
13928 Doris St  
Santa Fe, TX 77517-3832