

TCEQ DOCKET NO. 2024-1977-MWD

APPLICATION BY	§	BEFORE THE
QUADVEST, L.P. FOR	§	TEXAS COMMISSION ON
TPDES PERMIT NO. WQ0016143001	§	ENVIRONMENTAL QUALITY

APPLICANT’S RESPONSE TO REQUESTS FOR HEARING

Quadvest, L.P. (“Applicant”) files this Response to Requests for Hearing pursuant to 30 Tex. Admin. Code § 55.209 and the Agenda Setting letter dated January 3, 2025 in the above-captioned matter.

I. INTRODUCTION

The Office of the Chief Clerk received one (1) request for a contested case hearing in this matter, filed by Mark Merrell (“Mr. Merrell”) on behalf of Robert Humphrey (“Mr. Humphrey”). For the reasons stated herein, Applicant asserts that the Commission should deny Mr. Humphrey’s hearing request.

II. PROCEDURAL BACKGROUND

On April 7, 2022, Applicant filed its application for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016360001 (“Application”), for authorization to discharge treated domestic wastewater from Applicant’s wastewater treatment facility (the “Facility”) at a daily average flow not to exceed 500,000 gallons per day. The Facility will be located approximately 3,000 feet southeast of the intersection of Farm-to-Market Road 362 and Mayer Road, in Harris County, Texas 77484, and will serve the Westhaven Manor Subdivision.

On August 30, 2022, the Texas Commission on Environmental Quality (the “Commission”) declared the Application administratively complete. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (“NORI”) in English on January 24, 2023, in the *Houston Business Journal* and in Spanish on February 8, 2023, in the *Houston Chronicle dba La Voz*. After completing a technical review of the Application, on March 14, 2022, the Executive

Director issued a preliminary decision in support of the permit application and prepared a draft permit. The Applicant published the combined NORI and Notice of Application and Preliminary Decision (NAPD) in English on March 29, 2024, in the *Houston Business Journal*, and in Spanish on April 10, 2024, in the *Houston Chronicle dba La Voz*. On October 15, 2024, the Executive Director issued its Final Decision Letter in favor of the Application, finding that the Application met all statutory and regulatory requirements.

The public comment period ended on May 10, 2024. The deadline for filing requests for a contested case hearing and requests for reconsideration of the Executive Director's decision was November 14, 2024. The Office of the Chief Clerk received only one (1) hearing request in this matter for Mr. Humphrey. As such, Applicant now files this response to requests for hearing on the Application.

III. REVIEW STANDARD

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

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;

¹ 30 TAC § 55.203(a)

² *Id.*

- (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.³

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.⁴ 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

³ 30 TAC § 55.203(c).

⁴ 30 TAC 55.201(d).

- (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.⁵

IV. EVALUATION OF REQUEST

The Commission a single hearing request on the Application, and no requests for reconsideration. Applicant has evaluated the request and recommends denial of the request for the reasons set forth below.

A. Mark Merrell (on behalf of Robert Humphrey)

Mark Merrell submitted a request for a contested case hearing on behalf of Mr. Humphrey on October 7, 2022. The request for hearing submitted by Mr. Merrell should be denied because it concerns an issue that was corrected by the Applicant and published in the combined NORI and NAPD on March 29, 2024.

Mr. Humphrey's listed address is 32902 Mayer Rd., Waller, Texas, 77484. According to Mr. Merrell's hearing request, Mr. Humphrey's property is located near the intersection of Mayer Road and FM 362, in Waller, Texas, directly across from the planned Westhaven Manor subdivision. Additionally, Japhet Lake, which is along the discharge route, sits wholly on Mr. Humphrey's property. Mr. Merrell's hearing request—which was filed almost a year and a half before Applicant published the combined NORI and NAPD—alleges that “[t]he discharge route stated in the permit is incorrect. The discharge will not flow from Japhet Lake to Lynch Lake, but instead will flow north from Japhet Lake onto the Lazy W Ranch and thence to Spring Creek, thereby bypassing Lynch Lake.”⁶

While the original NORI published on January 24, 2023 did state that the treated effluent would be discharged to Lynch Lake, Applicant filed a combined NORI and NAPD on March 29,

⁵ *Id.*

⁶ Hearing Request of Mark Merrell, filed October 7, 2022.

2024, which was “issued to correct the discharge route that was included in the original NORI.”⁷ In the combined NORI and NAPD, Lynch Lake was removed from the discharge route, and corrected to state, “[t]he treated effluent will be discharged to a series of detention ponds, thence to an unnamed tributary, thence to Japhet Lake, thence to an unnamed channel, thence to an unnamed pond, thence to an unnamed channel, thence to the unclassified portion of Spring Creek, thence to Spring Creek Segment No. 1008 of the San Jacinto River Basin.”⁸ Accordingly, the sole issue raised in Mr. Merrell’s hearing request, presented prior to publication of the combined NORI and NAPD, has been corrected, notice of the correction has been provided to the public, and Mr. Humphrey has not presented any other hearing requests in this matter subsequent to that new notice. Accordingly, the sole hearing request submitted by Mr. Merrell should be denied because it does not identify a judiciable interest.

V. CONCLUSION

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

1. Applicant recommends the Commission deny request for a contested case hearing filed by Mr. Merrell on behalf of Mr. Humphrey
2. If the Commission decides to refer this case to SOAH, then the Applicant recommends that the maximum duration of the hearing be 150 days.

⁷ Combined NORI and NAPD filed in English on March 29, 2024, at 1.

⁸ *Id.*

Respectfully submitted,

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ATTORNEY FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2025, 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.



Peter T. Gregg

From: pgregg@gregglawpc.com
To: [EFiling](#)
Subject: Filing on Permit Number/Docket Number 2024-1977-MWD
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REGULATED ENTY NAME WESTHAVEN WWTP

RN NUMBER: RN111474318

PERMIT NUMBER: WQ0016143001

DOCKET NUMBER: 2024-1977-MWD

COUNTY: HARRIS

PRINCIPAL NAME: QUADVEST LP, CN602944746

FROM

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Based on 30 TAC Section 1.10(h), the TCEQ General Counsel has waived the filing requirements of Section 1.10(c) to allow the filing of documents using this online system. The General Counsel also has waived the requirements of Section 1.10(e) so that the time of filing your documents is the time this online system receives your filings. Filings are considered timely if received by close of business (usually 5:00 p.m. CST) on the deadline date unless otherwise ordered. If your document is for Commission consideration at an open meeting, General Counsel has also waived the requirement of Section 1.10(d) to file paper copies with the Office of the Chief Clerk.