

TCEQ DOCKET NO. 2024-1982-MWD

**APPLICATION OF CIELO
GARDENS LP FOR TPDES
PERMIT NO. WQ0016374001**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

APPLICANT’S RESPONSE TO HEARING REQUEST AND PUBLIC COMMENTS

COMES NOW, Cielo Gardens LP, a Texas limited partnership (“Cielo Gardens”) as the Applicant for TPDES Permit No. WQ0016374001 and files this response to the request for contested case hearing filed by landowners Roy and Jane Bessent (the “Bessents”). This response further addresses the public comments submitted by the Brazos River Authority (“BRA”) and Jonah Water Special Utility District (“Jonah SUD”). For the reasons stated herein, the Bessents’ hearing request does not sufficiently identify a justiciable interest and therefore the hearing request should be denied. BRA and Jonah SUD have only submitted public comments and not a request for a contested case hearing, so no response is required; nevertheless, the concerns identified in those public comments have already been adequately addressed through the draft permit revisions made by the TCEQ Executive Director (the “E.D.”).

I. THE BESSENTS HAVE NOT SUFFICIENTLY IDENTIFIED THE LOCATION OF THEIR PROPERTY TO ENABLE TCEQ TO EVALUATE THE BESSENTS’ ALLEGED JUSTICIABLE INTERESTS.

TCEQ rules state that a person who requests a contested case hearing must include a specific written statement explaining the requestor’s location and distance relative to the proposed facility or activity that is the subject of the application and how the person will be adversely affected by the proposed facility or activity in a manner not common to members of the general public. 30 TAC § 55.201(d)(2). However, the Bessents have not identified the location and distance of their property relative to the proposed facility as they merely provided their address

and stated that Willis Creek “runs through the back portion of our property and is approximately 0.5 miles downstream from the proposed facility”. However, when their provided address is input on Google Maps, it appears to be well more than one mile downstream of the proposed wastewater treatment plant. Moreover, they provided no map or drawing showing the “back portion” of their property and whether Willis Creek runs through it. Without more specific information about the true location of their property in relation to Willis Creek and the proposed wastewater plant, TCEQ cannot properly evaluate the validity of their expressed concerns about impacts on water quality, livestock, wildlife and flora along Willis Creek.

Furthermore, without reliable information about the location of their property in relation to Willis Creek and the proposed wastewater plant, their briefly articulated concern about impacts on Willis Creek and its flora and fauna are too generalized to meet the specificity requirement of TCEQ’s hearing request rules. A hearing requestor has the burden to demonstrate a valid justiciable interest as required by TCEQ rules, but the Bessents have failed to properly identify their property in relation to the proposed wastewater plant as required by 30 TAC § 55.201(d)(2). Accordingly, their hearing request should be denied.

II. THE CONCERNS EXPRESSED IN THE PUBLIC COMMENTS SUBMITTED BY BRA AND JONAH SUD HAVE ALREADY BEEN ADDRESSED BY THE E.D.’s CHANGES TO THE DRAFT PERMIT.

Neither BRA nor Jonah SUD have requested a contested case hearing and therefore their public comments cannot be the basis for TCEQ ordering a hearing in this case. See 30 TAC § 55.201(d)(3) requiring a specific request for a contested case hearing. BRA’s comments expressed a concern about nutrient levels in Willis Creek and requested a nutrient monitoring requirement in the draft permit. However, these concerns have already been addressed by the E.D. in the

Response to Public Comments by including in the draft permit a more restrictive phosphorus limit of 0.15 mg/l and a more restrictive limit ammonia-nitrogen limit of 2.0 mg/l.

Finally, Jonah SUD not only failed to request a contested case hearing, but it expressed no concerns whatsoever about the proposed wastewater discharge and merely requested to be placed on the Chief Clerk's mailing list for this case.

III. SUMMARY AND CONCLUSION

TCEQ should deny the Bessents' request for contested case hearing because it does not comply with TCEQ's rule requirement to specifically identify the location of their property in relation to the proposed wastewater plant. To the extent TCEQ believes the BRA's public comments about nutrient levels in Willis Creek are considered relevant, those concerns have been addressed by the E.D.'s insertion of more stringent total phosphorus and ammonia-nitrogen effluent limits in the draft permit.

Respectfully submitted,

/s/ Stephen C. Dickman

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ATTORNEY FOR CIELO GARDENS LP

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Response to Hearing Request was provided to all parties of record on January 17, 2025 as follows:

<p>Roy S. Bessent & Jane T. Bessent P.O. Box 162 Walburg, TX 78673 <i>Via Email: tonnbess@gmail.com</i></p> <p>Tiffany Malzahn Brazos River Authority 4600 Cobbs Drive Waco, TX 76710 <i>via Email: tiffanym@brazos.org</i></p> <p>Michael L. Parsons The Carlton Law Firm 4301 Westbank Dr., Suite B130 Austin, TX 78746 <i>via Email: michael@carltonlawaustin.com</i></p> <p>Bradford Eckhart, TCEQ Staff Attorney Environmental Law Div., MC-173 P.O. Box 13087 Austin, TX 78711-3087 <i>via Email: bradford.eckhart@tceq.texas.gov</i></p>	<p>Garrett T. Arthur TCEQ Public Interest Counsel, MC-103 P.O. Box 13087 Austin, TX 78711-3087 <i>via Email: garrett.arthur@tceq.texas.gov</i></p> <p>Kyle Lucas TCEQ Alt. Dispute Resolution, MC-222 P.O. Box 13087 Austin, TX 78711-3087 <i>via Email: kyle.lucas@tcew.texas.gov</i></p> <p>Laurie Gharis TCEQ Chief Clerk's Office, MC-105 P.O. Box 13087 Austin, TX 78711-3087 <i>via: TCEQ E-filing system</i></p>
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/s/ Stephen C. Dickman

From: sdickmanlaw@att.net
To: [EFiling](#)
Subject: Filing on Permit Number/Docket Number 2024-1982-MWD
Date: Friday, January 17, 2025 10:34:27 AM
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FILING CONFIRMATION NUMBER 741380572025017

REGULATED ENTY NAME CIELO GARDENS WATER RECLAMATION FACILITY

RN NUMBER: RN111786497

PERMIT NUMBER: WQ0016374001

DOCKET NUMBER: 2024-1982-MWD

COUNTY: WILLIAMSON

PRINCIPAL NAME: CIELO GARDENS LP, CN606170173

FROM

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DOCUMENT NAME: Cielo Gardens Response to Hearing Request and Public Comments.pdf

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.