

DOCKET NO. 2025-0079-MWD

APPLICATION BY THE OASIS	§	BEFORE THE
OF TEXAS LP FOR TPDES	§	
PERMIT NO. WQ0016436001	§	TEXAS COMMISSION ON
	§	
	§	ENVIRONMENTAL QUALITY

**ROBERT H. MILLER’S REPLY TO APPLICANT’S
RESPONSE TO HEARING REQUESTS**

To the Members of the Texas Commission on Environmental Quality:

Robert H. Miller (“Miller”) files this Reply to Applicant’s Response to Hearing Requests in the above-captioned matter and respectfully submits the following:

I. Introduction

The Oasis of Texas LP (the “Applicant”) filed an application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016436001. Miller timely filed comments and a hearing request.

The Applicant is requesting to discharge treated domestic wastewater at a daily average flow of up to 50,000 gallons per day. The facility would be a sludge process plant located at 14625 U.S. Highway 59 North in Polk County, Texas. The effluent would be discharged to what Applicant refers to as a “tributary”, which would then flow to Sand Creek, then to Long King Creek, then to the Trinity River.

At all stages of the application process, Miller has submitted comments and hearing requests. Specifically:

On **February 26, 2024**, Miller filed a public comment on the permit, explaining that he is the adjacent landowner and his property would be the first impacted by the discharges pursuant to the permit and requesting a hearing (See **Exhibit A.**)

On **July 17, 2024**, Miller emailed a public comment to the TCEQ, explaining that he owned the adjacent property, the discharge would run through his property and contaminate the same, calling into question the “unnamed tributary” to be used for the discharge, and again requesting a hearing. (See **Exhibit B**.)

On **November 29, 2024**, Miller submitted a letter to the TCEQ, again explaining that he owns the adjacent property and that the “unnamed tributary” is not a tributary at all and there is no waterbed able to carry any water in addition to normal rainfall. Miller requested a contested case hearing. (See **Exhibit C**.)

II. Applicable Law

The application is subject to the procedural rules adopted by Senate Bill 709. Tex. S.B. 709, 84th Leg., R.S. (2015). Pursuant to 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must be in writing, must be timely filed, may not be based on an issue raised solely in a public comment that has been withdrawn, and must be based only on the affected person’s timely comments. Miller and his hearing requests meet all these rules.

Section 55.201(d) states that a hearing request must substantially comply with the following: (1) give the name, address, daytime phone number, and, if applicable, the 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; and (5) provide any other information specified in the public notice of application.

According to 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) 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.

Pursuant to § 55.203(d), to determine whether a person is an affected person for the purpose of granting a hearing request, 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.

Pursuant to 30 TAC § 55.211(c)(2)(A)(ii), the Commission must 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 Executive Director's Response to Comments, and that are relevant and material to the Commission's decision on the application.

Pursuant to 30 TAC § 55.211(c)(2)(B)-(D), the hearing request must also be timely filed with the Chief Clerk and comply with the requirements of § 55.201.

III. Miller's Hearing Request

A. Miller is an affected person with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that would be affected by the application in a manner not common to the general public.

Miller timely filed comments and hearing requests with the Commission, explaining that his property is *directly adjacent* to the proposed facility. As set out in each comment and request filed by Miller, the proposed discharge route is over Miller's property, within one mile downstream from the outfall. The landowner map and list from Applicant shows Miller's proximity to the facility. The attached **Exhibit D**, which shows the proposed wastewater treatment plant, discharge point, and Miller's property line, also shows the close proximity of the plant to Miller's property, the discharge route across Miller's property, and the encroachment of the 150' buffer onto Miller's property.

Miller has repeatedly expressed his concerns about the discharge route. He also has repeatedly expressed his concerns about the effects the facility will have on water quality on his property and the erosion that will occur on his property. Miller's interests are protected under the law and should be considered, according to the rules for determining an affected person. 30 TAC § 55.203(c)(1). Further, with regard to Miller's very close proximity to the proposed facility and the discharge route over his property, there is a reasonable relationship between Miller's claimed interest and regulated activity. 30 TAC § 55.203(c)(3). Miller also has pointed out in his comments and hearing request that the discharge over his property will affect his health and safety and the

use of his property (30 TAC § 55.203(c)(4)) as well as impact his natural resources on his property (30 TAC § 55.203(c)(5)).

Based on the above, Miller has clearly shown that he is an affected person with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that would be affected by the application in a manner not common to the general public.

B. Miller expressly requested a contested case hearing.

Miller timely requested a contested case hearing (see **Exhibit C**), and it appears no one is disputing the same, as the Executive Director stated that Miller timely requested a contested case hearing in the Executive Director's Response to Hearing Requests and as the Applicant does not dispute the timeliness of the contested case hearing request in the Applicant's Response to Hearing Requests.

C. Miller raised disputed issues of fact that are relevant and material to the commission's decision on the application which were raised by the requestor during the comment period and not withdrawn.

In his filings with the TCEQ, Miller has disputed whether an "unnamed tributary" exists on his property. He has repeatedly expressed his concerns about the discharge route across his property and the Applicant's mischaracterization of the route. Additionally, Miller has questioned the adequacy of the permit to protect the water quality of the water that will flow over his property and whether he and his property will suffer damages because of the inadequacies in the application and permit to protect his rights. All of these disputed issues of fact were raised during the comment period and have not been withdrawn.

Each of Miller's disputed facts are relevant and material to the Commission's decision on the application at issue. According to 30 TAC § 309.12, which contains requirements related to site selection in order to minimize possible contamination of water in the state, a discharge

route as an operational feature of a proposed facility is a proper consideration. According to the Texas Surface Water Quality Standards, found in Chapter 307 of Title 30 of the Texas Administrative Code: “It is the policy of this state and the purpose of this chapter **to maintain the quality of water in the state consistent with public health and enjoyment....**” 30 TAC § 307.1. Thus, Miller’s disputing the proposed facility’s ability to abide by this very state’s policy with regard to water quality is of utmost relevance to the Commission’s decision on the permit for that facility.

The Water Quality Standards also mandate that: (1) “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” (30 TAC § 307.6(b)(4)); (2) “Surface 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)); and (3) “Nutrients from permitted discharges or other controllable sources shall not cause excessive growth of aquatic vegetation that impairs an existing, designated, presumed, or attainable use” (30 TAC § 307.4(e)). All of these standards are at issue with regard to Miller’s concerns and disputes.

Finally, Miller has expressed concerns regarding erosion that will occur on his property due to the discharge. Although Applicant has argued that erosion to Miller’s property is not an appropriate factor in this application process, Section 309.12 of Title 30 of the Texas Administrative Code states otherwise. According to the rule:

The commission may not issue a permit for a new facility or for the substantial change of an existing facility unless it finds that the proposed site, when evaluated in light of the proposed design, construction or operational features, minimizes possible contamination of water in the state. In making this determination, the commission may consider the following factors: (1) active geologic processes.... [30 TAC § 309.12.]

“Active geologic process” is defined as “[a]ny natural process which alters the surface and/or subsurface of the earth, including, but not limited to, *erosion*.” 30 TAC § 309.11 (emphasis added).

Therefore, Miller’s concerns regarding erosion on his property are relevant to the Commission’s decision regarding the permit at issue in this case.

IV. Conclusion

Based on the above, Robert H. Miller has clearly established that he is an affected person in this matter who has timely and properly requested a contested case hearing.

Respectfully submitted,

/s/ Robert H. Miller
Robert H. Miller
3300 Cherry Lane, Austin, TX 78703
Phone: 512-619-1312
Email: rhmiller1955@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2025, I filed Robert H. Miller's Reply to Applicant's Response to Hearing Requests with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via electronic mail or by deposit in the U.S. Mail.

/s/ Robert H. Miller
Robert H. Miller

**MAILING LIST
THE OASIS OF TEXAS LP
TCEQ DOCKET NO. 2025-0079-MWD**

FOR THE APPLICANT:

Via e-mail:
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Via e-mail:
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The Oasis of Texas LP
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**FOR ALTERNATIVE DISPUTE
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Via e-mail:
Kyle Lucas, Attorney
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Alternative Dispute Resolution MC-222
P.O. Box 13087
Austin, Texas 78711-3087
kyle.lucas@tceq.texas.gov

FOR THE CHIEF CLERK:

Via e-filing:
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087
<https://www14.tceq.texas.gov/epic/eFiling>

REQUESTORS:

Penny Clarke Evans
P.O. Box 34
Corrigan, Texas 75939-0034

Penny Clarke Evans
P.O. Box 445
Moscow, Texas 75960-0445

Elizabeth Miller Grindstaff
2000 Arcady Lane
Corsicana, Texas 75110-2684

Robert H. Miller
3300 Cherry Lane
Austin, Texas 78703-2718

EXHIBIT A

February 26, 2024

To: TEXAS COMMISSION ON ENVIRONMENTAL Quality

From: Robert H. Miller
3300 Cherry Ln.
Austin, TX 78703
512-619-1312
rhmill1955@gmail.com

Reference: Proposed Permit NO. WQ0016436001
The Oasis of Texas, LP
Moscow, Tx 75960

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2024 MAR -4 AM 9:55
CHIEF CLERKS OFFICE

I am requesting a public hearing on the Proposed Permit NO. WQ0016436001. My property is adjacent to property and is would be the first property impacted by the discharges into the unnamed tributary of Sand Creek. T and I am concerned about erosion and possible contamination of my property.

REVIEWED

MAR 07 2023

By RP

EXHIBIT B

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Thursday, July 18, 2024 11:03 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016436001

H

From: rhmillerconstruction@gmail.com <rhmillerconstruction@gmail.com>
Sent: Wednesday, July 17, 2024 9:04 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016436001

REGULATED ENTY NAME THE OASIS OF TEXAS

RN NUMBER: RN111836177

PERMIT NUMBER: WQ0016436001

DOCKET NUMBER:

COUNTY: POLK

PRINCIPAL NAME: THE OASIS OF TEXAS LP

CN NUMBER: CN605810373

NAME: Robert Miller

EMAIL: rhmillerconstruction@gmail.com

COMPANY:

ADDRESS: 3300 CHERRY LN
AUSTIN TX 78703-2718

PHONE: 5126191312

FAX:

COMMENTS: I own the adjacent property to the Oasis of Texas and the discharge from the water treatment plant will run through my property. The unnamed tributary listed is dry except after rains, it is not a constant water flow. The discharge from the treatment plant may cause erosion through my property and contamination. Because of this I am requesting an hearing on this matter.

EXHIBIT C

49805

November 29, 2024

RECEIVED

DEC 04 2024

EXECUTIVE OFFICE

Ms. Kelly Keel, Executive Director
Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711-3087

Dear Ms. Keel,

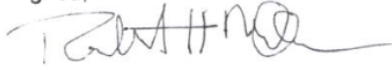
Last week I received a letter from your office informing me of your "preliminary decision" to approve a Texas Pollutant Discharge Elimination System (TPDES) Permit no. WQ0016436001, EPA ID no. TX0145297. Your letter explains that the applicant has applied to TCEQ for a new permit to discharge treated domestic wastewater at a daily average not to exceed 50,000 per day to support the applicant's development of 250 homesites, known as The Oasis, in Polk County, Texas.

I am the owner of the property immediately adjacent to the wastewater discharge point. I have owned this land for many years, and yet I do not understand how the developer of The Oasis can discharge 50,000 gallons per day onto my property without my consent. Likewise, I do not understand how TCEQ can consider such a permit without the developer first providing some indication of direct contact with me to discuss their plans or to study the topography of the area well enough to understand the impact of 50,000 gallons of water per day on land that is completely wooded with predominately sandy and highly erosive soil. (See attached photo.) To date, no one has requested permission to access my property to investigate the drainage patterns. More important, there is no "unnamed tributary" or "unnamed ditch" on my property that can carry any amount of additional water beyond the normal rainfall. What is obvious is the developer's most direct access (and least expensive route) from their property to Sand Creek is through me.

Therefore, please accept this letter as my official demand for a public meeting and/or a contested case hearing. I have previously made comments through the TCEQ portal and requested a public meeting but have not received any correspondence from your office acknowledging that, other than an auto-generated response, so perhaps the contested case hearing is more appropriate. In addition, the deadline given to me for comment was no more than 15 days in total since the letter dated November 4, 2024, was not received until November 15, and it specifies 30 days to respond, which I believe is statutorily set.

I look forward hearing back from you or your office regarding this matter. Per the Section 6 in the developer's application titled Adjacent Landowner List, I can be reached by certified mail at 3300 Cherry Lane, Austin, Texas 78703.

Signed,



Robert H. Miller

cc: Senator Robert Nichols
Attn: Jake Ellis
PO Box 12068
Capitol Station
Austin, Texas 78711

Representative Trent Ashby
Attn. Linda Parker
Room E2.806, Capitol Extension
PO Box 2910
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Ms. Erin Banks
WWD Engineering
9217 W. Highway 290, Suite 110
Austin, Texas 78736

Mr. John Hearn, Municipal Permits Team
Wastewater Permitting Section (MC148)
Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711-3087



EXHIBIT D

