

**DOCKET NO. 2025-0115-MWD
TPDES PERMIT NO. WQ0016257001**

**APPLICATION BY
NEW HORIZONS UTILITY, LLC AND
OPTIN HOLDINGS 1 LLC FOR TPDES
PERMIT NO. WQ0016257001**

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**BEFORE THE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY**

**APPLICANT'S RESPONSE TO THE CITY OF GEORGETOWN'S
REQUEST FOR RECONSIDERATION AND
REQUEST FOR CONTESTED CASE HEARING**

March 10, 2025

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Table of Contents

1. Application Background 1

2. Contested Case Hearing Requests 3

3. Standard of Review 5

4. Applicant’s Response to the Contested Case Hearing Requests 9

 a. Regionalization 9

 b. Other Issues Addressed In Georgetown’s Comments and Hearing Request 13

5. Conclusion 19

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In accordance with 30 Texas Administrative Code (“TAC”) § 55.209(d), New Horizons Utility, LLC and Optin Holdings 1 LLC (collectively, “Applicant”) submits this Response to Requests for a Contested Case Hearing.

1. Application Background

On November 22, 2022, New Horizons Utility, LLC and Optin Holdings 1 LLC submitted an application (the “Application”) to the Texas Commission on Environmental Quality (“TCEQ” or the “Commission”) for the issuance of Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0016257001 (the “Permit”) to authorize the discharge of treated domestic wastewater pursuant to the authority of the TCEQ under Texas Water Code (“TWC”), Chapter 26, and 30 TAC, Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC, Chapters 217 and 309. The proposed Permit will authorize the discharge of treated domestic wastewater at a volume not to exceed an annual average flow of 1,340,000 gallons per day (“gpd”) from a domestic wastewater treatment facility to be located approximately 0.5 miles northeast of the intersection of County Road 107 and County Road 110 in Williamson County, Texas, 78626 (the “Facility”). The treated effluent will be discharged to

unnamed tributary of Huddleston Branch, thence to Huddleston Branch, thence to Mankins Branch, thence to San Gabriel/North Fork San Gabriel Rive in Segment No. 1248 of the Brazos River Basin.

The Application was declared administratively complete on February 14, 2023, as indicated in the TCEQ's Notice of Receipt of Application and Intent to Obtain Water Quality Permit, which is attached hereto as **Attachment 1**.

Thereafter, the TCEQ's Executive Director conducted a technical review of the Application, prepared a draft permit and, on January 12, 2024, filed its Notice of Application and Preliminary Decision concluding the draft permit, if issued, meets all statutory and regulatory requirements. A copy of the Executive Director's Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater: New Permit No. WQ0016257001 is attached hereto as **Attachment 2**.

The TCEQ also submitted the draft permit to the U.S. Environmental Protection Agency ("EPA") Region 6 for its review. The EPA reviewed the draft permit and approved it without any comments.¹

On November 22, 2024, the Executive Director filed responses to all timely, significant or relevant and material comments submitted during the public comment period and therein concluded that *no* changes to the draft permit were necessary. A copy of the Executive Director's Response to Public Comment is attached as **Attachment 3**.

¹ See Executive Director's Response to Public Comment attached as **Attachment 3** at 8, 13.

Then, on December 3, 2024, the Executive Director filed the Final Decision Letter, which declares the Application to meet the requirements of applicable law. A copy of the Executive Director's Final Decision Letter is attached as **Attachment 4**.

2. Contested Case Hearing Requests

Out of all the entities that timely submitted comments during the public comment period,² only the City of Georgetown followed with a request for a contested case hearing that has not been withdrawn.

In contrast, four other entities timely filed comments within the public comment period and thereafter filed requests for a contested case hearing. But, in each instance, they subsequently withdrew their request for a contested case hearing after the Executive Director filed its Final Decision Letter. Those entities are: i) Jonah Water Special Utility District; ii) Hillwood Enterprises, LP; iii) OP III ATX Georgetown 220, LP; and iv) M&RBEF, LLC, and their correspondence to the TCEQ withdrawing their contested case hearing requests are attached as **Attachment 5**.

Similarly, Rep. Caroline Harris Davila, who represents portions of the area of interest in the Texas House of Representatives, initially filed a letter with the TCEQ requesting a public meeting on the Application, which she withdrew a month later. Rep. Harris Davila's withdrawal letter also is included in **Attachment 5**.

In addition, two individuals, Beverly Wilkins and Stacey Faulk, also submitted comments, but their comments were submitted well beyond the end of the public comment period,³ and they

² See Executive Director's Response to Public Comment attached as **Attachment 3** at 1.

³ The public comment period ended on June 24, 2024, as acknowledged in the Executive Director's Response to Public Comment. **Attachment 3** at 4.

were not requests for a contested case hearing.⁴ Ms. Faulk did not request a contested case hearing, so she failed to satisfy TCEQ's rules for requests for contested case hearings under 30 TAC § 55.201(d)(3). Instead, Ms. Faulk merely provided that she is opposed to the Application and that she has concerns about the amount of water flows into the creek. In fact, it is not clear from her comments whether she is concerned about only Applicant's facility or all of "the water treatment facilities being applied for[.]" as there are several pending applications for wastewater treatment facilities in the area. Additionally, Ms. Faulk failed to indicate the distance of her property from Applicant's facility and the regulated activity, as required by 30 TAC § 25.201(d)(2), and her comments were not timely made because they were provided on October 25, 2024, which is after the public comment period ended. Because her comments were not timely made, Ms. Faulk is not an "affected person" under 30 TAC § 55.230(c)(6), and she cannot request a contested case hearing under 30 TAC § 55.201(b)(4).

Ms. Wilkins submitted several comments from October 30, 2024 to November 5, 2025. It is clear from her comments that she is opposed to at least three of the proposed facilities with applications pending before the Commission: "Don't look at each application is isolation[.]" and she specifically referenced three permits by number: WQ0016585001 (permit for South Central Water Company), WQ0016257001 (Applicant's permit), and WQ0016474001 (permit for OP III ATX Georgetown 220, LP). Ms. Wilkins has only requested a public hearing "so the community can get more information." She did not request a contested case hearing, so she failed to satisfy TCEQ's rules for requests for contested case hearings under 30 TAC § 55.201(d)(3). Additionally, Ms. Wilkins failed to indicate the distance of her property from Applicant's facility and the

⁴ See Attachment 6.

regulated activity, as required by 30 TAC § 25.201(d)(2), and her comments were not timely made because they were provided between October 30, 2024 and November 5, 2025, which is after the public comment period ended. Because her comments were not timely made, Ms. Wilkins is not an “affected person” under 30 TAC § 55.230(c)(6), and she cannot request a contested case hearing under 30 TAC § 55.201(b)(4).

As a result, after all the request withdrawals addressed above, the City of Georgetown stands alone as the only entity or individual requesting a contested case hearing.

3. Standard of Review

Only the Commission, the Executive Director, the applicant, or an affected person may request a contested case hearing.⁵ A hearing request by an affected person must be in writing, timely, cannot be based on a comment that was withdrawn, and must be based on the requestor’s own timely comments submitted during the public comment period.⁶ A hearing request must identify all relevant and material disputed issues of fact or mixed questions of law and fact that were raised during the comment period and that form the basis of the request for a contested case hearing.⁷ The Commission may not refer an issue to the State Office of Administrative Hearings (“SOAH”) for a contested case hearing unless the Commission determines that the issue:

- 1) Involves a disputed question of fact or a mixed question of law and fact;
- 2) Was raised during the public comment period, and, for applications filed on or after September 1, 2015, was raised in a comment made by an affected person whose request is granted; and
- 3) Is relevant and material to the decision on the application.⁸

⁵ 30 TAC § 55.201(b).

⁶ 30 TAC § 55.201(c).

⁷ 30 TAC § 55.211(c)(2)(A)(ii).

⁸ 30 TAC § 50.115(c).

Therefore, in its contested case hearing request analysis, the Commission must make two determinations:

- 1) Whether the threshold requirements for a contested case hearing request are substantially complied with; and
- 2) Whether the requestor is an “affected person.”⁹

The threshold requirements for a contested case hearing request are set forth in 30 TAC § 55.201(d), which requires that a hearing request must:

- 1) give the name, address, daytime telephone number, and, where possible, fax number of the person (or group of persons) who is filing the request;
- 2) identify the person’s personal justiciable interest affected by the application, including the requestor’s location and distance from the proposed facility and how and why the requestor will be adversely affected by the proposed facility in a manner not common to members of the general public;
- 3) request a contested case hearing;
- 4) for applications filed on or after September 1, 2015, 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.

Once the Commission has determined that the requestor satisfies these threshold requirements, then the Commission evaluates whether the requestor is an “affected person.” The term “affected person” has been narrowly defined by the Texas Legislature. Only those persons who have a “personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing” are entitled to a contested case hearing.¹⁰ An interest common to members of the general public does not meet the threshold for a personal justiciable interest.¹¹ The authority granted by the Legislature prohibits the Commission from

⁹ See Tex. Water Code §§ 5.115, 5.556.

¹⁰ Tex. Water Code § 5.115(a).

¹¹ *Id.*

granting a contested case hearing if the requestor is not an affected person and requires requestors to establish a personal justiciable interest. To be a personal justiciable interest, that interest must be one that is not common with members of the general public and that interest must be one that is actually harmed by or will imminently be harmed by the proposed permit.¹²

Furthermore, the TCEQ has adopted rules that specify the factors that must be considered in evaluating whether a person is an affected person. The factors are as follows:

- 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) The likely impact of the regulated activity on the health and safety of the person, and on the use of the property of the person;
- 5) The likely impact of the regulated activity on the 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.¹³

Notably, this is not just a “check the box” exercise. The TCEQ has discretion to look closely at the merits of any submissions made by the public, as well as the application, and the analysis and opinions of the Executive Director. In determining what evidence to apply to the above factors when evaluating a given request, the Third Court of Appeals explained that TCEQ “enjoys the discretion to weigh and resolve matters that may go to the merits of the underlying

¹² Tex. Water Code §§ 5.115, 5.556; *see also*, *Tex. Disposal Sys. Landfill, Inc. v. Tex. Comm’n on Env’tl. Quality*, 259 S.W.3d 361, 363 (Tex. App.—Amarillo 2008) (citing *Daimler Chrysler Corp. v. Inman*, 252 S.W.3d 299, 304–05 (Tex. 2008)).

¹³ 30 TAC § 55.203(c).

application, including the likely impact the regulated activity . . . will have on the health, safety, and use of property by the hearing requestor and on the use of natural resources.”¹⁴

This discretion to consider the underlying merits of the application is also reflected in TCEQ rules, which allow the Commission to consider the following:

- 1) The merits of the underlying application and supporting documentation in the commission’s 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.¹⁵

Last, if the Commission determines that there is a contested case hearing request that meets all of the requirements described above, then it can decide whether any of the issues presented in the request should be referred to SOAH for a contested case hearing, based on the following requirements:

- 1) The issue must involve a disputed question of fact or a mixed question of law and fact;
- 2) The issue must have been raised during the public comment period, and, for applications filed on or after September 1, 2015, raised in a comment made by an affected person whose request is granted; and
- 3) The issue must be relevant and material to the decision on the application.¹⁶

Courts have recognized that the Commission has the discretion to deny a hearing requestor party status at the agenda hearing stage of the process based on “the sworn application, attached expert reports, the analysis and opinions of professionals on its staff, and reports, opinions, and

¹⁴ See *Sierra Club v. Tex. Comm’n on Env’tl. Quality*, 455 S.W.3d 214, 225 (Tex. App.—Austin Dec. 30, 2014).

¹⁵ 30 TAC § 55.203(d).

¹⁶ 30 TAC § 50.115(c).

data” it has before it.¹⁷ The Courts have upheld that discretion when it is based either or both on (1) distance (too far away such that the alleged concern is common to the general public), or (2) the fact that adverse impacts are demonstrably unlikely and not actual or imminent. As shown below, substantial evidence is contained in this record and can be relied upon by the Commission in reaching its decision. The City of Georgetown did not submit any expert reports, affidavits, opinions or data as part of its request for a contested case hearing. Therefore, there is no disputed issue to be considered at a hearing. Moreover and relatedly, as set forth below, the substantial evidence in the record clearly demonstrates that the adverse impacts of concern to the City of Georgetown and unlikely, not actual or imminent, and are addressed by the Draft Permit and the statutes and rules that are applicable to owning and operating wastewater facilities.

4. Applicant’s Response to the Contested Case Hearing Requests

As indicated above, the only remaining request for a contested case hearing is the one filed by the City of Georgetown, since all the others were withdrawn after the Executive Director filed its Final Decision declaring the Application to meet the requirements of applicable law. The following are Applicant’s Responses to matters raised by the City of Georgetown that have not been addressed above.

a. Regionalization

The City of Georgetown’s lead issue in both its public comments and its request for a contested case hearing is *regionalization*.¹⁸ However, each of its assertions and arguments relative to regionalization are misplaced and contrary to the current the law as it pertains to the Application.

¹⁷ *Tex. Comm’n on Envtl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013).

¹⁸ See City of Georgetown’s public comment letter, dated June 14, 2024, p. 2 (listed as issue No. 1) & pp. 3- 7; City of Georgetown’s request for contested case hearing, dated January 2, 2025, pp. 9-13.

Texas has adopted a regionalization policy that is predicated on the Commission defining those areas within the State’s standard metropolitan statistical areas in which “regional or area-wide system or systems are necessary or desirable to prevent pollution or maintain and enhance the quality of the water in the state.”¹⁹ To implement this legislative directive set forth in TWC, Chapter 26, Subchapter C,²⁰ entitled “Regional and Area-Wide Systems,” the Commission adopted 30 TAC, Chapter. 351, which designates seven regional areas for which a regional and/or area-wide wastewater service provider has been designated.²¹ Notably for purposes of this proceeding, the Williamson County area relevant to the Application is *not* within *any* of the regional areas designated by the Commission. In fact, it is far removed from each of them.

Other than the regional providers designated pursuant to Texas Water Code §§ 26.081 through 26.086 and 30 TAC. Chapter. 351²² — which, again, do not include the City of Georgetown, the Texas Legislature has not granted the Commission any further authority to promulgate regionalization rules under Texas Water Code, Chapter 26, Subchapter C. In fact, the bill analysis for the bill enacting Texas Water Code, Chapter 26, Subchapter C expressly states, “the bill does not delegate rulemaking authority to any state agency, officer, department, or institution.”

¹⁹ Tex. Water Code § 26.082(c).

²⁰ See Tex. Water Code § 26.081(b) (“Within any standard metropolitan statistical area in the state, the commission is authorized to implement this policy in the manner and in accordance with the procedure provided in Sections 26.081 through 26.086 of this code.”).

²¹ See 30 TAC, Ch. 351, and the seven regional provider areas designated by the TCEQ, which are as follows: i) Northbelt (within the City of Houston and its ETJ); ii) Rosillo Creek (Bexar County) ; iii) ; iv) East Fork Trinity River (Dallas, Kaufman, Rockwall and Collin Counties) ; iv) Harris County Fresh Water Supply District (Harris County); v) Cibolo Creek (San Antonio area) ; vi) Blackhawk (Friendswood area); and vii) Vidor Metropolitan Area (East Texas).

²² The lists of regional service providers approved by the TCEQ before and after TCEQ Resolution 2015-1163-RES (*i.e.*, “Regional Provider List Under Resolution 2002-0510-RES” and “Current Regional Service Providers” list, respectively) can be found at [Regional Certification for Water and Wastewater Service Providers - Texas Commission on Environmental Quality - www.tceq.texas.gov](http://www.tceq.texas.gov/regional_certification).

Moreover, at the time the Applicant filed its Application, the TCEQ did not have any formal guidance or rules specific to the implementation of the State's regionalization policy.²³ Instead, when making these determinations, the Commission required applicants to provide certain information to allow the TCEQ to conduct a regionalization analysis of the application through the application form.²⁴ At the time the Application was filed, the application form for a new TPDES permit included Technical Reports 1 and 1.1, which require information related to regionalization.

The following constitutes the requisite information regarding regionalization that the Applicant provided:

- The City of Georgetown denied the Applicant wastewater service for the development to be served by the facility proposed in the Application.²⁵ **This fact alone is sufficient to overcome the City of Georgetown's regionalization argument.**²⁶
- No portion of the proposed service area is located in an incorporated city. *See* Application at 21.
- No portion of the proposed service area is located inside another utility's CCN area. *Id.* at 21-22.
- No portion of the facility's property is within the ETJ of any incorporated city.²⁷
- Although there were multiple owners of wastewater treatment facilities or collection systems within a three-mile radius of the Facility,²⁸ none of them can provide service to the Facility. *Id.* at 22. The Executive Director's Response to Public Comment, which is

²³ See *Application by Crystal Clear Special Utility District and MCLB Land, LLC for TPDES Permit No. WQ0015266002*, SOAH Docket No. 582-20-4141, TCEQ Docket No. 2020-0411-MWD, Proposal for Decision at 24 (June 14, 2021), 2024 TX SOAH LEXIS 238.

²⁴ See **Attachment 11**.

²⁵ See **Attachment 7 and 8**.

²⁶ *Id.*

²⁷ See **Attachments 9 and 10**.

²⁸ As reflected in Executive Director's Response to Public Comment, attached as **Attachment 3** at 14, the Applicant mailed certified letters to five entities requesting service. They were: the City of Round Rock; AIRW 2017-7, LP; R040062, LP; the City of Georgetown; and Jonah SUD.

attached as **Attachment 3**, provides an overview of this consideration in its Response 14, as follows:

TWC § 26.081 enumerates the state’s regionalization policy. TWC § 26.081 states that the policy should “encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.” In furtherance of that policy, TWC § 26.0282 authorizes TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants. Applicants requesting a new permit or certain major amendments are required to review the area within the three-mile radius of the proposed facility site location to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize.

The Applicant contacted five (5) owners of the nearby wastewater treatment plants and the sewer collection lines within a three-mile radius of the proposed facility and provided copies of the correspondences as attachments to Domestic Technical Report 1.1. According to emails dated September 16, 2022, between representatives of Jonah SUD and the Applicant, Jonah SUD stated that it cannot provide service to the Applicant’s property because it is not within the area of Jonah SUD’s wastewater Certificate of Convenience and Necessity (CCN). According to emails dated October 5, 2022, between representatives of the City of Round Rock and the Applicant, the City stated they cannot provide service to the Applicant’s property because it is located outside of the City’s extraterritorial jurisdiction and its wastewater CCN. The Applicant also provided submitted evidence that they mailed certified letters, dated December 29, 2022, requesting service to the following entities: the City of Round Rock; AIRW 2017-7, LP; R040062, LP; the City of Georgetown; and Jonah SUD.

Based on the information the Applicant provided in its application, the Executive Director has determined that the Applicant has complied with the regionalization policy and has demonstrated a need for the proposed WWTF.²⁹

²⁹ Executive Director’s Response to Public Comment, attached as **Attachment 3** at 14.

In light of the foregoing, it is clear that the Applicant fully satisfied its obligations with respect to regionalization.

The Applicant contacted five (5) owners of the nearby wastewater treatment plants and the sewer collection lines within a three-mile radius of the proposed facility and provided copies of the correspondences as attachments to Domestic Technical Report 1.1.³⁰

b. Other Issues Addressed In Georgetown's Comments and Hearing Request

1. Application incorrectly identifies the outfall and discharge route

In both its comment letter and its request for a contested case hearing, the City of Georgetown asserts that the Application incorrectly identifies the outfall and discharge route.

The Executive Director unequivocally responds to this assertion in its Response to Public Comment, declaring that the discharge route is correctly specified in the draft permit.³¹ Therefore, the issue has been addressed.

2. Concern for property rights

In both its comment letter and its request for a contested case hearing, the City of Georgetown expresses concern about the property rights of other adjacent landowners and the use of their streambeds for the discharge route.

The Executive Director responds to this assertion in its Response to Public Comment, stating “the State is authorized to use the bed and banks to transport water, and TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the state TPDES

³⁰ See also **Attachments 7 and 8.**

³¹ Executive Director's Response to Public Comment, attached as **Attachment 3** at 9.

permit.”³² In addition, the Executive Director goes on to declare, “If the Draft Permit is issued, it does not grant the permittee the right to use private or public property It is the responsibility of the permittee to acquire all property right necessary to use the discharge route.”³³

3. Concern about receiving waters

In both its comment letter and its request for a contested case hearing, the City of Georgetown expresses its concern that the Application does not properly identify the receiving waters for the proposed facility’s discharges, and this results in a draft permit that is not protective of existing water uses.

The Executive Director, in its Response to Public Comment, indicates that the draft permit addresses the receiving waters about which the City of Georgetown is concerned and includes effluent limitations that are protective of the receiving waters. Therefore, the issue has been addressed.³⁴

4. Lack of need for the permit

In both its comment letter and its request for a contested case hearing, the City of Georgetown asserts that the facility that is the subject of the Application is not needed because there may be other wastewater facilities in the area, including its own, that could be expanded to treat Ne Horizon’s wastewater.

The Executive Director responds to this assertion in its Response to Public Comment, determining that the need for the requested flow has been sufficiently demonstrated. Notably,

³² *Id.* at 15

³³ *Id.*

³⁴ *Id.* at 9.

Georgetown provided no expert testimony or data to the contrary, and its position is more than a bit disingenuous since it refused to provide wastewater service to New Horizon upon its request.³⁵

5. Protecting water quality, uses and users thereof

In both its comment letter and its request for a contested case hearing, the City of Georgetown expresses concern about water quality.

The Executive Director extensively responds to this assertion in its Response to Public Comment, including as follows:

TCEQ is responsible for the protection of water quality with federal regulatory authority over discharges of pollutants to Texas surface water. TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under Texas Water Code (TWC) Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC Chapters 217 and 309.

The proposed Draft Permit was developed in accordance with the Texas Surface Water Quality Standards (TSWQS) to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the Procedures to Implement the Texas Surface Water Quality Standards (IPs; June 2010) is designed to ensure compliance with the TSWQS, which is codified in 30 TAC Chapter 307.

Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As part of the application process, TCEQ staff in the Water Quality Division (WQD) determined the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water

³⁵ *Id.* at 13

quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

In accordance with 30 Texas Administrative Code § 307.5 and the IPs, WQD staff performed an antidegradation review of the receiving waters. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Huddleston Branch (perennial), which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations in the Draft Permit for the conventional effluent parameters (i.e., CBOD5, Ammonia-Nitrogen, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).³⁶

In addition, the Executive Director addressed concerns about elevated nutrient levels as follows:

Phosphorus is a key nutrient necessary for algae growth and is often in limited supply in freshwater systems. By restricting the amount of phosphorus in the treated wastewater, the likelihood of the discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly. To ensure the effluent from the New Horizons WWTF will not cause an excessive accumulation of algae, WQD staff performed a nutrient screening according to the IPs; nutrient screening scores indicated Total Phosphorus (TP) limits were warranted. Given the size of the discharge, the substantial pools in the unnamed tributary, limestone bedrock stream bottom in Huddleston Branch, very clear water, submerged aquatic vegetation, high sensitivity to nutrient inputs and high potential for eutrophication effects, WQD staff included a TP limit of 0.15 mg/L in the final 1.34 MGD phase, and a TP limit of 0.5 mg/L in the Interim I and Interim II phases due to its substantially smaller interim phases.

The Procedures for the Implementation of the Texas Surface Water Quality Standards (IPs; June 2010) require that concentrations and

³⁶ *Id.* at 5-6

relative ratios of dissolved minerals such as chloride and sulfate that compose total dissolved solids (TDS) be maintained to protect existing and attainable uses. A TDS screening cannot be performed on the proposed facility until effluent water quality data is available for the facility (i.e., not until the facility is discharging). However, TCEQ has noted this concern for potential impacts to the San Gabriel River (Segment 1248) as a result the proposed discharge and performed a preliminary TDS screening. The calculations indicate that the proposed discharge's effluent concentrations of chloride would need to be below 158 mg/L TDS for the 1.34 MGD phase to ensure compliance with segment criterion for the chloride component of TDS. When effluent data become available for this facility, TCEQ staff will perform a TDS screening for effects on Segment 1248 and recommend monitoring, permit limits, or other permit requirements as needed.³⁷

And, finally, the Executive Director addressed concerns about aquatic live and stream uses, as follows:

The TSWQS in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. The effluent limits in the Draft Permit are set to maintain and protect the existing instream uses.

In this case, the designated uses for Segment No. 1248 are primary contact

recreation, public water supply, aquifer protection, high aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

The ED has made a preliminary determination that the Draft Permit, if issued, meets all statutory and regulatory requirements. TCEQ also submitted the draft permit to the U.S. Environmental Protection Agency (EPA) Region 6 for review. The EPA reviewed the draft

³⁷ *Id.* at 6-7

permit and did not have any objections to the issuance of the draft permit.³⁸

Notably, Georgetown provided no expert testimony or data to the contrary.

6. Deficiencies in buffer zone map and inadequate nuisance odor control

In both its comment letter and its request for a contested case hearing, the City of Georgetown asserts that the Application's buffer zone map is deficient and that nuisance odor is inadequately controlled.

The Executive Director responds to this assertion in its Response to Public Comment pointing out that the TCEQ rules require domestic wastewater treatment plants to meet buffer zone requirements for the abatement and control of nuisance order. In addition, the Executive Director points out that the Applicant proposes in the Application to operate a suspended growth activated sludge process in a single-stage nitrification mode, which will be entirely enclosed. As a result, when properly treated by the indicated process, the effluent is not expected to have an offensive odor. Notably, Georgetown provided no expert testimony or data to the contrary.³⁹

7. Facility Operator Information

In both its comment letter and its request for a contested case hearing, the City of Georgetown indicates that it would like more information about the facility's operator.

The Executive Director responds to this in its Response to Public Comment pointing by pointing out, as stated in the draft permit, the facility will be required to be operated by a chief operator and an operator holding a class C license or higher during the Interim I and Interim II phases, and a class B or higher during the Final phase. In addition, the facility must be operated a

³⁸ *Id.* at 7-8

³⁹ *Id.* at 16-17

minimum of 5 days per week by a licensed chief operator or an operator holding the required level of license or higher. Therefore, this issue will be addressed.⁴⁰

5. Conclusion

Applicant respectfully requests that the Commission deny any and all requests for a contested case hearing, including the City of Georgetown's request for a contested case hearing, because neither the City of Georgetown nor anyone else has set forth adequate grounds for a contested case hearing and, as result, neither the City of Georgetown nor anyone else is entitled to a contested case hearing as a matter of law. Therefore, the Applicant hereby requests that the any and all hearing requests, including the hearing request of the City of Georgetown, be denied and that TDPEs Permit No. WQ0016257001 be issued.

Respectfully submitted,

JACKSON WALKER LLP



Lynn R. Sherman
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Alisha Adams
State Bar No. 24102190
Tolliver McKinney
State Bar No. 24127046
100 Congress Ave., Suite 1100
Austin, Texas 78701
Phone: (512) 236-2380

**ATTORNEYS FOR NEW HORIZONS
UTILITY, LLC AND OPTIN HOLDINGS
1 LLC**

⁴⁰ *Id.* at 12

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2025, the foregoing document was filed with the TCEQ Chief Clerk, and copies were served to all parties on the attached mailing list.



Lynn R. Sherman

Mailing List
New Horizons Utility, LLC and OptiN Holdings 1 LLC
TCEQ Docket No./TCEQ Expediente N.º 2025-0115-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0016257001

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FOR THE CITY OF GEORGETOWN:

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Austin, Texas 78701
cfaulk@spencerfane.com

Attachment 1

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF RECEIPT OF APPLICATION AND INTENT TO OBTAIN WATER QUALITY PERMIT

PROPOSED PERMIT NO. WQ0016257001

APPLICATION. New Horizons Utility, LLC and OptiN Holdings 1 LLC, 4925 Greenville Avenue, Suite 1400, Dallas, Texas 75206, had applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016257001 (EPA I.D. No. TX0143804) to authorize the discharge of treated wastewater at a volume not to exceed an annual average flow of 1,340,000 gallons per day. The domestic wastewater treatment facility will be located approximately 0.5 miles northeast of the intersection of County Road 107 and County Road 110, in Williamson County, Texas 78626. The discharge route will be from the plant site to unnamed tributary of Huddleston Branch, thence to Huddleston Branch, thence to Mankins Branch, thence to San Gabriel/ North Fork San Gabriel River. TCEQ received this application on November 22, 2022. The permit application will be available for viewing and copying at Georgetown Public Library 402 West 8th Street, Georgetown, Texas prior to the date it is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.
<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.61137,30.59521&level=18>

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

ADDITIONAL NOTICE. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. **Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.**

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application.** If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period and, the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at <https://www14.tceq.texas.gov/epic/eComment/>, or in writing

to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address, and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from New Horizons Utility, LLC and OptiN Holdings 1, LLC at the address stated above or by calling Mr. Troy Hotchkiss, P.E., Senior Engineering Manager, Integrated Water Services, Inc. at 214-957-1357.

Issuance Date: February 14, 2023

Comisión de Calidad Ambiental del Estado de Texas



AVISO DE RECIBO DE LA SOLICITUD Y EL INTENTO DE OBTENER PERMISO PARA LA CALIDAD DEL AGUA

PERMISO PROPUESTO NO. WQ0016257001

SOLICITUD. New Horizons Utility, LLC y OptiN Holdings 1, LLC, 4925 Greenville Avenue, Suite 1400, Dallas, Texas 75206 ha solicitado a la Comisión de Calidad Ambiental del Estado de Texas (TCEQ) para el propuesto Permiso No. WQ0016257001 (EPA I.D. No. TX0143804) del Sistema de Eliminación de Descargas de Contaminantes de Texas (TPDES) para autorizar la descarga de aguas residuales tratadas en un volumen que no sobrepasa un flujo promedio diario de 1,340,000 galones por día. La planta está ubicada aproximadamente a 0.5 millas al noreste de la intersección de County Road 107 y County Road 110 en el condado de Williamson, Texas 75206. La ruta de descarga es del sitio de la planta a al afluente sin nombre de Huddleston Branch, de allí a Huddleston Branch, de allí a Mankins Branch, de allí a San Gabriel/North Fork San Gabriel River. La TCEQ recibió esta solicitud el 22 de noviembre de 2022. La solicitud para el permiso estará disponible para leerla y copiarla en Georgetown Public Library 402 W. 8th Street, Georgetown, Texas antes de la fecha de publicación de este aviso en el periódico. Este enlace a un mapa electrónico de la ubicación general del sitio o de la instalación es proporcionado como una cortesía y no es parte de la solicitud o del aviso. Para la ubicación exacta, consulte la solicitud.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.61137,30.59521&level=18>

AVISO ADICIONAL. El Director Ejecutivo de la TCEQ ha determinado que la solicitud es administrativamente completa y conducirá una revisión técnica de la solicitud. Después de completar la revisión técnica, el Director Ejecutivo puede preparar un borrador del permiso y emitirá una Decisión Preliminar sobre la solicitud. **El aviso de la solicitud y la decisión preliminar serán publicados y enviado a los que están en la lista de correo de las personas a lo largo del condado que desean recibir los avisos y los que están en la lista de correo que desean recibir avisos de esta solicitud. El aviso dará la fecha límite para someter comentarios públicos.**

COMENTARIO PUBLICO / REUNION PUBLICA. Usted puede presentar **comentarios públicos o pedir una reunión pública sobre esta solicitud.** El propósito de una reunión pública es dar la oportunidad de presentar comentarios o hacer preguntas acerca de la solicitud. La TCEQ realiza una reunión pública si el Director Ejecutivo determina que hay un grado de interés público suficiente en la solicitud o si un legislador local lo pide. Una reunión pública no es una audiencia administrativa de lo contencioso.

OPORTUNIDAD DE UNA AUDIENCIA ADMINISTRATIVA DE LO CONTENCIOSO. Después del plazo para presentar comentarios públicos, el Director Ejecutivo considerará todos los comentarios apropiados y preparará una respuesta a todo los comentarios públicos

esenciales, pertinentes, o significativos. A menos que la solicitud haya sido referida directamente a una audiencia administrativa de lo contencioso, la respuesta a los comentarios y la decisión del Director Ejecutivo sobre la solicitud serán enviados por correo a todos los que presentaron un comentario público y a las personas que están en la lista para recibir avisos sobre esta solicitud. Si se reciben comentarios, el aviso también proveerá instrucciones para pedir una reconsideración de la decisión del Director Ejecutivo y para pedir una audiencia administrativa de lo contencioso. Una audiencia administrativa de lo contencioso es un procedimiento legal similar a un procedimiento legal civil en un tribunal de distrito del estado.

PARA SOLICITAR UNA AUDIENCIA DE CASO IMPUGNADO, USTED DEBE INCLUIR EN SU SOLICITUD LOS SIGUIENTES DATOS: su nombre, dirección, y número de teléfono; el nombre del solicitante y número del permiso; la ubicación y distancia de su propiedad/actividad con respecto a la instalación; una descripción específica de la forma cómo usted sería afectado adversamente por el sitio de una manera no común al público en general; una lista de todas las cuestiones de hecho en disputa que usted presente durante el período de comentarios; y la declaración "[Yo/nosotros] solicito/solicitamos una audiencia de caso impugnado". Si presenta la petición para una audiencia de caso impugnado de parte de un grupo o asociación, debe identificar una persona que representa al grupo para recibir correspondencia en el futuro; identificar el nombre y la dirección de un miembro del grupo que sería afectado adversamente por la planta o la actividad propuesta; proveer la información indicada anteriormente con respecto a la ubicación del miembro afectado y su distancia de la planta o actividad propuesta; explicar cómo y porqué el miembro sería afectado; y explicar cómo los intereses que el grupo desea proteger son pertinentes al propósito del grupo.

Después del cierre de todos los períodos de comentarios y de petición que aplican, el Director Ejecutivo enviará la solicitud y cualquier petición para reconsideración o para una audiencia de caso impugnado a los Comisionados de la TCEQ para su consideración durante una reunión programada de la Comisión. La Comisión sólo puede conceder una solicitud de una audiencia de caso impugnado sobre los temas que el solicitante haya presentado en sus comentarios oportunos que no fueron retirados posteriormente. Si se concede una audiencia, el tema de la audiencia estará limitado a cuestiones de hecho en disputa o cuestiones mixtas de hecho y de derecho relacionadas a intereses pertinentes y materiales de calidad del agua que se hayan presentado durante el período de comentarios.

LISTA DE CORREO. Si somete comentarios públicos, un pedido para una audiencia administrativa de lo contencioso o una reconsideración de la decisión del Director Ejecutivo, la Oficina del Secretario Principal enviará por correo los avisos públicos en relación con la solicitud. Además, puede pedir que la TCEQ ponga su nombre en una o más de las listas de correos siguientes (1) la lista de correo permanente para recibir los avisos de el solicitante indicado por nombre y número del permiso específico y/o (2) la lista de correo de todas las solicitudes en un condado específico. Si desea que se agregue su nombre en una de las listas designe cual lista(s) y envía por correo su pedido a la Oficina del Secretario Principal de la TCEQ.

CONTACTOS E INFORMACIÓN A LA AGENCIA. Todos los comentarios públicos y solicitudes deben ser presentadas electrónicamente vía <http://www14.tceq.texas.gov/epic/eComment/> o por escrito dirigidos a la

Comisión de Texas de Calidad Ambiental, Oficial de la Secretaría (Office of Chief Clerk), MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Tenga en cuenta que cualquier información personal que usted proporcione, incluyendo su nombre, número de teléfono, dirección de correo electrónico y dirección física pasarán a formar parte del registro público de la Agencia. Para obtener más información acerca de esta solicitud de permiso o el proceso de permisos, llame al programa de educación pública de la TCEQ, gratis, al 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040.

También se puede obtener información adicional del New Horizons Utility, LLC y OptiN Holdings 1 LLC a la dirección indicada arriba o llamando a Mr. Troy Hotchkiss, P.E., Integrated Water Services, Inc. al 512-930-2513.

Fecha de emisión 14 de febrero de 2023

Attachment 2

Texas Commission on Environmental Quality



NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER

NEW

PERMIT NO. WQ0016257001

APPLICATION AND PRELIMINARY DECISION. New Horizons Utility, LLC and OptiN Holdings 1 LLC, 4925 Greenville Avenue, Suite 1400, Dallas, Texas 75206, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016257001, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,340,000 gallons per day. TCEQ received this application on November 22, 2022.

The facility will be located approximately 0.5 of a mile northeast of the intersection of County Road 107 and County Road 110, in Williamson County, Texas 78626. The treated effluent will be discharged to an unnamed tributary of Huddleston Branch, thence to Huddleston Branch, thence to Mankins Branch, thence to San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary of Huddleston Branch and Huddleston Branch (upstream of the confluence with an unnamed tributary located approximately 0.4 of a mile upstream of County Road 106) and high aquatic life use for Huddleston Branch (downstream of the confluence with an unnamed tributary located approximately 0.4 of a mile upstream of County Road 106). The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer. However, this facility is not in these areas. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Huddleston Branch (perennial), which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.61137,30.59521&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notice>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notice>.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, TX 78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days from the date of newspaper publication of this notice.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from the New Horizons Utility, LLC and OptiN Holdings 1 LLC at the address stated above or by calling Mr. Edward F. Gelsone, M.S., P.E., Director of Digital & Technical Services, Integrated Water Services, Inc. at 833-758-3338.

Issuance Date: January 12, 2024

Comisión De Calidad Ambiental Del Estado De Texas



AVISO DE LA SOLICITUD Y DECISIÓN PRELIMINAR PARA EL PERMISO DEL SISTEMA DE ELIMINACION DE DESCARGAS DE CONTAMINANTES DE TEXAS (TPDES) PARA AGUAS RESIDUALES MUNICIPALES

NUEVO

PERMISO NO. WQ0016257001

SOLICITUD Y DECISIÓN PRELIMINAR. New Horizons Utility, LLC y OptiN Holdings 1, LLC, 4925 Greenville Avenue, Suite 1400, Dallas, Texas ha solicitado a la Comisión de Calidad Ambiental del Estado de Texas (TCEQ) por un permiso nuevo de Sistema de Eliminación de Descargas de Contaminantes de Texas (TPDES) No. WQ0016257001 para autorizar la descarga de aguas residuales tratadas en un caudal promedio anual que no debe exceder 1,340,000 galones por día. La TCEQ recibió esta solicitud el 22 de noviembre de 2022.

La planta estará ubicada aproximadamente 0.5 millas al noreste de la intersección de County Road 107 y County Road 110 en el Condado de Williamson 78626, Tejas. El efluente tratado será descargado a un afluente sin nombre de Huddleston Branch, después a Huddleston Branch, después a Mankins Branch, después al Río San Gabriel/North Fork San Gabriel en la cuenca del Río Brazos. Los usos no clasificados de las aguas receptoras son limitados usos de la vida acuática para el afluente sin nombre de Huddleston Branch y Huddleston Branch (río arriba de la confluencia de un afluente sin nombre ubicada aproximadamente 0.4 millas río arriba de County Road 106) y elevados usos de la vida acuática para Huddleston Branch (río debajo de la confluencia de un afluente sin nombre ubicada aproximadamente 0.4 millas río arriba de County Road 106). Los usos designados para el segmento no. 1248 son recreación con contacto primario, abastecimiento de agua potable, protección del acuífero, y usos elevados de la vida acuática. El uso de la protección del acuífero es aplicable a las zonas de contribución, recarga, y transición del Edwards Acuífero. Esta planta no está ubicada en estas zonas. Los límites del efluente en el borrador del permiso mantienen y protegen los usos actuales. De acuerdo con la 30 TAC §307.5 y los procedimientos de implementación de la TCEQ (Enero 2010) para las Normas de Calidad de Aguas Superficiales en Texas (junio 2010), fue realizada una revisión de la antidegradación de las aguas recibidas. Una revisión de antidegradación del Nivel 1 ha determinado preliminarmente que los usos de la calidad del agua existente no serán perjudicados por la acción de este permiso. Se mantendrá un criterio narrativo y numérico para proteger los usos existentes. Una revisión del Nivel 2 ha determinado preliminarmente que no se espera ninguna degradación significativa en Huddleston Branch, el cual se ha identificado que tiene altos usos en la vida acuática. Los usos existentes serán mantenidos y protegidos. La determinación preliminar puede ser reexaminada y puede ser modificada, si se recibe alguna información nueva. Este enlace a un mapa electrónico la ubicación general del sitio o de la instalación es proporcionado como una cortesía y no es parte de la solicitud o del aviso. Para la ubicación exacta, consulte la solicitud.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.61137,30.59521&level=18>

El Director Ejecutivo de la TCEQ ha completado la revisión técnica de la solicitud y ha preparado un borrador del permiso. El borrador del permiso, si es aprobado, establecería las condiciones bajo las cuales la instalación debe operar. El Director Ejecutivo ha tomado una decisión preliminar que si este permiso es emitido, cumple con todos los requisitos normativos y legales. La solicitud del permiso, la decisión preliminar del Director Ejecutivo y el borrador del permiso están disponibles para leer y copiar en la biblioteca publica de Georgetown, 402 West 8th Street, Georgetown, Texas.

AVISO DE IDIOMA ALTERNATIVO. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notice>.

COMENTARIO PUBLICO / REUNION PUBLICA. Usted puede presentar comentarios públicos o pedir una reunión pública sobre esta solicitud. El propósito de una reunión pública es dar la oportunidad de presentar comentarios o hacer preguntas acerca de la solicitud. La TCEQ realiza una reunión pública si el Director Ejecutivo determina que hay un grado de interés público suficiente en la solicitud o si un legislador local lo pide. Una reunión pública no es una audiencia administrativa de lo contencioso.

OPORTUNIDAD DE UNA AUDIENCIA ADMINISTRATIVA DE LO CONTENCIOSO. Después de la fecha límite para presentar comentarios públicos, el Director Ejecutivo considerará los comentarios y preparará una respuesta a todos los comentarios públicos relevantes y materiales, o significativos. **A menos que la solicitud sea remitida directamente para una audiencia de caso impugnado, la respuesta a los comentarios se enviará por correo a todos los que enviaron comentarios públicos y a aquellas personas que estén en la lista de correo para esta solicitud. Si se reciben comentarios, el correo también proporcionará instrucciones para solicitar una audiencia de caso impugnado o reconsiderar la decisión del Director Ejecutivo.** Una audiencia de caso impugnado es un procedimiento legal similar a un juicio civil en un tribunal de distrito estatal.

PARA SOLICITAR UNA AUDIENCIA DE CASO IMPUGNADO, USTED DEBE INCLUIR EN SU SOLICITUD LOS SIGUIENTES DATOS: su nombre, dirección, y número de teléfono; el nombre del solicitante y número del permiso; la ubicación y distancia de su propiedad/actividad con respecto a la instalación; una descripción específica de la forma cómo usted sería afectado adversamente por el sitio de una manera no común al público en general; una lista de todas las cuestiones de hecho en disputa que usted presente durante el período de comentarios; y la declaración "[Yo/nosotros] solicito/solicitamos una audiencia de caso impugnado". Si presenta la petición para una audiencia de caso impugnado de parte de un grupo o asociación, debe identificar una persona que representa al grupo para recibir correspondencia en el futuro; identificar el nombre y la dirección de un miembro del grupo que sería afectado adversamente por la planta o la actividad propuesta; proveer la información indicada anteriormente con respecto a la ubicación del miembro afectado y su distancia de la planta o actividad propuesta; explicar cómo y porqué el miembro sería afectado; y explicar cómo los intereses que el grupo desea proteger son pertinentes al propósito del grupo.

Tras el cierre de todos los periodos de comentarios y solicitudes aplicables, el Director Ejecutivo remitirá la solicitud y cualquier solicitud de reconsideración o de una audiencia de caso impugnado a los Comisionados de la TCEQ para su consideración en una reunión programada de la Comisión.

La Comisión sólo puede conceder una solicitud de una audiencia de caso impugnado sobre los temas que el solicitante haya presentado en sus comentarios oportunos que no fueron retirados posteriormente. **Si se concede una audiencia, el tema de la audiencia estará limitado a cuestiones de hecho en disputa o cuestiones mixtas de hecho y de derecho relacionadas a intereses pertinentes y materiales de calidad del agua que se hayan presentado durante el período de comentarios.**

ACCIÓN DEL DIRECTOR EJECUTIVO. El Director Ejecutivo puede emitir la aprobación final de la solicitud a menos que se presente una solicitud de audiencia de caso impugnado oportunamente o una solicitud de reconsideración. Si se presenta una solicitud de audiencia oportuna o una solicitud de reconsideración, el Director Ejecutivo no emitirá la aprobación final del permiso y enviará la solicitud y la solicitud a los Comisionados de TCEQ para su consideración en una reunión programada de la Comisión.

LISTA DE CORREO. Si envía comentarios públicos, una solicitud de una audiencia de caso impugnado o una reconsideración de la decisión del Director Ejecutivo, se le agregará a la lista de correo de esta solicitud específica para recibir futuros avisos públicos enviados por correo por la Oficina del Secretario Oficial. Además, puede solicitar ser colocado en: (1) la lista de correo permanente para un nombre de solicitante específico y número de permiso; y/o (2) la lista de correo para un condado específico. Si desea ser colocado en la lista de correo permanente y / o del condado, especifique claramente qué lista (s) y envíe su solicitud a la Oficina del Secretario Oficial de la TCEQ a la dirección a continuación.

Todos los comentarios públicos escritos y las solicitudes de reunión pública deben enviarse a Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 o electrónicamente a www.tceq.texas.gov/goto/comment dentro de los 30 días a partir de la fecha de publicación de este aviso en el periódico.

Información disponible en sitio web. Para detalles sobre el estado de la solicitud, visite la base de datos integrado de los comisarios a www.tceq.texas.gov/goto/cid. Busque la base de datos usando el número del permiso de esta solicitud, lo cual está indicado en esta noticia.

CONTACTOS E INFORMACIÓN DE LA AGENCIA. Los comentarios y solicitudes públicas deben enviarse electrónicamente a www.tceq.texas.gov/goto/comment, o por escrito a Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Cualquier información personal que envíe a la TCEQ pasará a formar parte del registro de la agencia; esto incluye las direcciones de correo electrónico. Para obtener más información sobre esta solicitud de permiso o el proceso de permisos, llame al Programa de Educación Pública de TCEQ, línea gratuita, al 1-800-687-4040 o visite su sitio web en www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al 1-800-687-4040.

También se puede obtener información adicional del New Horizons utility, LLC y OptiN Holdings 1LLC a la dirección indicada arriba o llamando a Sr. Edward F. Gelsone, M.S., P.E., Director de los Servicios Digitales y Técnicos, Integrated Water Services, Inc. Al 833-758-3338.

Fecha de emission: 12 de enero de 2024

Attachment 3

TPDES PERMIT NO. WQ0016257001

**APPLICATION BY
NEW HORIZONS UTILITY, LLC AND
OPTIN HOLDINGS 1 LLC FOR TPDES
PERMIT NO. WQ0016257001**

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§**

**BEFORE THE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response or RTC) on the application by New Horizons Utility, LLC and OptiN Holdings 1 LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0016257001 and the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, significant or relevant and material comments.

The Office of the Chief Clerk received a public meeting request from Representative Caroline Harris Davila, which was withdrawn. The Office of the Chief Clerk received timely comments from: Tiffany Malzahn, on behalf of the Brazos River Authority; Maris M. Chambers, on behalf of the City of Georgetown; Michael Parsons, on behalf of Jonah Water Special Utility District; Trey Lary, on behalf of Hillwood Enterprises, LP; David E. Bost, on behalf of M&RBEF, LLC; and Richard T. Suttle, Jr., on behalf of OP III ATX Georgetown 220, LP. This response addresses all timely public comments received, whether or not withdrawn.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application."¹

If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040.

¹ TEX. WATER CODE § 5.115(a-1)(2)(B).

General information about the TCEQ can be found at the following website:
www.tceq.texas.gov.

I. BACKGROUND

A. Description Of Facility

The New Horizons Utility, LLC and OptiN Holdings 1 LLC (Applicant) submitted an application to the TCEQ for a new permit, TPDES Permit No. WQ0016257001, to authorize the discharge of treated domestic wastewater at a daily average volume not to exceed 1,340,000 gallons per day. The Applicant proposes to operate the New Horizons wastewater treatment plant, as an activated sludge process plant operated in the complete mix mode.

Treatment units in the Interim I phase will include a rotary drum screen, an influent equalization tank (EQ Tank), a membrane bioreactor (MBR) process train (which includes an anoxic zone, an aeration zone, and separate MBR Cassette tank). The Interim II phase will add another EQ Tank that is hydraulically tied to the first, two more MBR process trains, and a sludge dewatering press. The Final phase will add a parallel treatment building with identical treatment equipment and tankage as well as a second dewatering press. The facility has not been constructed. If the draft permit is issued, the treated effluent will be discharged to an unnamed tributary of Huddleston Branch, thence to Huddleston Branch, thence to Mankins Branch, thence to San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

Geographic coordinates of the outfall location in decimal degrees are provided in Table 1. If this permit is issued, the facility will be located approximately 0.5 of a mile northeast of the intersection of County Road 107 and County Road 110, in Williamson County, Texas 78626.

Table 1. Outfall Coordinate Location

Outfall Number	Latitude	Longitude
001	30.594348 N	97.613857 W

The draft permit includes the following proposed effluent limitations and monitoring requirements. All flows are expressed in million gallons per day (MGD). All pH values are expressed in standard units (SU). Concentration values are expressed in milligrams per liter (mg/L). Mass-based values are expressed as pounds per day (lbs/day). Bacteria values are expressed in colony-forming units (CFU) or most probable number (MPN) per 100 milliliters (CFU or MPN/100 mL).

Table 2. Interim I Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow (MGD)	0.10		N/A	Report	N/A
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	4.1	5	10	20	30
Total Suspended Solids (TSS)	4.1	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	1.7	2	5	10	15
Total Phosphorus (TP)	0.42	0.5	1	2	3
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399
pH	Between 6.0 and 9.0				

Table 3. Interim II Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	0.30		N/A	Report	N/A
CBOD ₅	13	5	10	20	30
Total Suspended Solids (TSS)	13	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	5.0	2	5	10	15
Total Phosphorus (TP)	1.3	0.5	1	2	3
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	399	N/A
pH	Between 6.0 and 9.0				

Table 4. Final Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	1.340		N/A	Report	N/A
CBOD ₅	56	5	10	20	30
Total Suspended Solids (TSS)	56	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	22	2	5	10	15
Total Phosphorus (TP)	1.7	0.15	0.3	0.6	0.9
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	399	N/A
pH	Between 6.0 and 9.0				

B. Procedural Background

The permit application was received on November 22, 2022, and declared administratively complete on February 14, 2023. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 1, 2023 in the *William County Sun*.² The Notice of Application and Preliminary Decision (NAPD) was published in English on May 15, 2024, in the *William County Sun*, and in Spanish on May 23, 2024, in *El Mundo*.

The public comment period for this application ended on June 24, 2024. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to HB 801, 76th Legislature (1999), and SB 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- Secretary of State website: www.sos.state.tx.us;
- TCEQ rules in 30 TAC: www.sos.state.tx.us/tac;

² The Applicant submitted an Alternative Language Exemption form on March 13, 2023. The Applicant noted that a newspaper or publication could not be found in any of the alternative languages in which notice is required. The Applicant noted on form that the NORI was published in Spanish in the *Williamson County Sun*.

- Texas statutes: www.statutes.legis.state.tx.us;
- TCEQ downloadable rules: www.tceq.texas.gov/rules/indxpdf.html;
- Federal rules in Title 40 of the Code of Federal Regulations: <https://www.ecfr.gov/current/title-40>; and
- Federal environmental laws: www.epa.gov/lawsregs.

Commission records for this application are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the following location: Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

II. COMMENTS AND RESPONSES

COMMENT 1:

The City of Georgetown expressed concerns about the negative impacts on water quality and the failure of the proposed discharge to show satisfactory compliance with the antidegradation policy of TCEQ.

RESPONSE 1:

TCEQ is responsible for the protection of water quality with federal regulatory authority over discharges of pollutants to Texas surface water. TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under Texas Water Code (TWC) Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC Chapters 217 and 309.

The proposed Draft Permit was developed in accordance with the Texas Surface Water Quality Standards (TSWQS) to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the Procedures to Implement the Texas Surface Water Quality Standards (IPs; June 2010) is designed to ensure compliance with the TSWQS, which is codified in 30 TAC Chapter 307.

Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard;

3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As part of the application process, TCEQ staff in the Water Quality Division (WQD) determined the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

In accordance with 30 Texas Administrative Code § 307.5 and the IPs, WQD staff performed an antidegradation review of the receiving waters. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Huddleston Branch (perennial), which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations in the Draft Permit for the conventional effluent parameters (i.e., CBOD₅, Ammonia-Nitrogen, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).

COMMENT 2:

Brazos River Authority, the City of Georgetown, and Jonah Water Special Utility District expressed concerns about the elevated nutrient levels resulting in excessive algal growth and blooms. The Brazos River Authority requests that TCEQ consider the inclusion of nutrient, chloride, and TDS monitoring requirements in the permit.

RESPONSE 2:

Phosphorus is a key nutrient necessary for algae growth and is often in limited supply in freshwater systems. By restricting the amount of phosphorus in the treated wastewater, the likelihood of the discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly. To ensure the effluent from the New

Horizons WWTF will not cause an excessive accumulation of algae, WQD staff performed a nutrient screening according to the IPs; nutrient screening scores indicated Total Phosphorus (TP) limits were warranted. Given the size of the discharge, the substantial pools in the unnamed tributary, limestone bedrock stream bottom in Huddleston Branch, very clear water, submerged aquatic vegetation, high sensitivity to nutrient inputs and high potential for eutrophication effects, WQD staff included a TP limit of 0.15 mg/L in the final 1.34 MGD phase, and a TP limit of 0.5 mg/L in the Interim I and Interim II phases due to its substantially smaller interim phases.

The *Procedures for the Implementation of the Texas Surface Water Quality Standards* (IPs; June 2010) require that concentrations and relative ratios of dissolved minerals such as chloride and sulfate that compose total dissolved solids (TDS) be maintained to protect existing and attainable uses. A TDS screening cannot be performed on the proposed facility until effluent water quality data is available for the facility (i.e., not until the facility is discharging). However, TCEQ has noted this concern for potential impacts to the San Gabriel River (Segment 1248) as a result the proposed discharge and performed a preliminary TDS screening. The calculations indicate that the proposed discharge's effluent concentrations of chloride would need to be below 158 mg/L TDS for the 1.34 MGD phase to ensure compliance with segment criterion for the chloride component of TDS. When effluent data become available for this facility, TCEQ staff will perform a TDS screening for effects on Segment 1248 and recommend monitoring, permit limits, or other permit requirements as needed.

COMMENT 3:

The City of Georgetown expressed concerns about the aquatic life and stream uses.

RESPONSE 3:

The TSWQS in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. The effluent limits in the Draft Permit are set to maintain and protect the existing instream uses.

In this case, the designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, high aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

The ED has made a preliminary determination that the Draft Permit, if issued, meets all statutory and regulatory requirements. TCEQ also submitted the draft permit to the U.S. Environmental Protection Agency (EPA) Region 6 for review. The EPA reviewed the draft permit and did not have any objections to the issuance of the draft permit.

The Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and their habitat. It can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. TPWD received notice of Applicant's permit application.

COMMENT 4:

The City of Georgetown expressed concerns about endangered species.

RESPONSE 4:

As provided in the Procedures to Implement the State Surface Water Quality Standards (June 2010) the Executive Director reviewed the application for potential impacts to aquatic or aquatic-dependent federally listed endangered or threatened species. The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

The United States Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) were afforded an opportunity to review the permit application and proposed permit. Neither of these agencies expressed concern about the discharge effects on wildlife in the area.

COMMENT 5:

The City of Georgetown commented regarding inconsistencies in the descriptions of the proposed discharge route and the outfall location.

RESPONSE 5:

The discharge route in the Draft Permit is described as unnamed tributary of Huddleston Branch, thence to Huddleston Branch, thence to Mankins Branch, thence to San Gabriel/North Fork San Gabriel River in Segment 1248 of the Brazos River Basin.

COMMENT 6:

The City of Georgetown commented that the application incorrectly indicates that the proposed facility would not discharge to a 303(d) listed waterbody segment.

RESPONSE 6:

Segment No. 1248 is not currently listed on the State's inventory of impaired and threatened waters (the 2022 CWA § 303(d) list). Mankins Branch, an unclassified stream is impaired for elevated bacteria levels in water (recreation use). The proposed facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of Mankins Branch. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 CFU or MPN of *E. coli* per 100 ml is included in all phases of the Draft Permit.

COMMENT 7:

The City of Georgetown, Hillwood Enterprises, LP, and M&RBEF, LLC commented about the deficiencies in the buffer zone map and expressed concerns regarding nuisance odors from the facility.

RESPONSE 7:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors TCEQ rules require domestic WWTPs to meet buffer zone

requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. The Applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control.³

According to its application, the Applicant intends to comply with the requirement to abate and control nuisance of odor by legal restrictions prohibiting the construction of residences within the buffer zone.⁴ This requirement is incorporated in the Draft Permit.⁵ These legal restrictions include nuisance odor prevention plan in accordance with 30 TAC § 309.13(e)(3). Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the Draft Permit. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d) for all phases (buffer zone map⁶).

Further, the Applicant proposes in its application that New Horizons WWTP will operate a suspended growth activated sludge process in a single-stage nitrification mode. The number and type of treatment units in the Interim I phase will be entirely enclosed in a pre-engineered metal building with mechanical ventilation and active odor controls, and include a rotary drum screen, one influent equalization tank (EQ Tank), a membrane bioreactor (MBR) process train (which includes an anoxic zone, an aeration zone, and separate MBR Cassette tank). When properly treated by the proposed wastewater treatment process, the effluent is not expected to have an offensive odor.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling the TCEQ Environmental Complaint Line at 1-888-777-3186. Calls will

³ 30 TEX. ADMIN. CODE § 309.13(e).

⁴ New Horizons Utility, LLC and OptiN Holdings 1 LLC Permit Application, Administrative Report, 1.1, Item No. 2(b), page 2.

⁵ New Horizons Utility, LLC and OptiN Holdings 1 LLC Draft Permit, Other Requirements, Item No. 4, page 34.

⁶ New Horizons Utility, LLC and OptiN Holdings 1 LLC Draft Permit, Attachment A1, A2, A3.

be routed automatically to the closest TCEQ regional office. Complaints may also be filed online at <https://www.tceq.texas.gov/compliance/complaints>.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 8:

Brazos River Authority, Hillwood Enterprises, LP, and M&RBEF, LLC expressed concerns regarding visual aesthetics and noise from the facility.

RESPONSE 8:

TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize TCEQ to consider issues such as aesthetics or noise.

However, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

For concerns about noise, please contact local law enforcement or the Williamson County Sheriff's Office at (512) 943-1300 to inquire if there is a noise ordinance in your area.

COMMENT 9:

Jonah Water Special Utility District expressed concerns that the proposed facility poses an additional risk of contributing to flooding along the discharge route.

RESPONSE 9:

TCEQ does not have jurisdiction to address flooding in the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters.

For flooding concerns, please contact the Williamson County Engineer's Office at (512) 943-3330. For additional information regarding floodplain management, please

visit the Williamson County's website at: <https://www.wilcotx.gov/652/Floodplain-Management>.

According to TWC § 26.401(b), the Texas Legislature has determined that "it is the goal of groundwater policy in this state that the existing quality of groundwater not be degraded." Under TWC § 26.401(c)(1), it is the State of Texas's policy that "discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard." The Executive Director determined that if surface water quality will be protected, groundwater quality in the vicinity will also be protected. The applicant will be required to meet all water quality requirements in the draft permit, even during flood events.

COMMENT 10:

The City of Georgetown commented that the application lacks required information regarding the facility operator.

RESPONSE 10:

As stated in the Draft Permit, the New Horizons WWTP must be operated by a chief operator or an operator holding a class C license or higher during the Interim I and Interim II phases, and class B or higher during the Final phase. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher.

COMMENT 11:

The City of Georgetown commented that the application lacks required documentation related to sludge disposal.

RESPONSE 11:

As stated in the Draft Permit, the sludge generated from the treatment facility will be hauled by a registered transporter (Wastewater Transport Services, LLC, Transporter No. 24343) and disposed of at a TCEQ-permitted sludge processing facility, Austin Wastewater Processing Facility, Permit No. 2384A, in Travis County. The Draft Permit authorizes the disposal of sludge at a TCEQ-authorized land application

site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

COMMENT 12:

The City of Georgetown commented that the application incorrectly indicates that the proposed facility is a minor facility.

RESPONSE 12:

New Horizons Utility, LLC and OptiN Holdings 1 LLC has applied for new permit to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,340,000 gallons per day. The facility has been entered as a major facility in TCEQ's record, and the Draft Permit has been drafted as a new permit for a major facility.

As a proposed major facility, the application was subject to review by EPA Region 6. WQD transmitted the application and Draft Permit to EPA for review and comment on January 1, 2024. EPA did not provide any comments and approved the Draft Permit on February 16, 2024.

COMMENT 13:

Jonah Water Special Utility District and OP III ATX Georgetown 220, LP commented that the Applicant failed to demonstrate a need for the permit.

RESPONSE 13:

The preliminary engineering report from New Horizons Utility, LLC and OptiN Holdings 1 LLC provided justification for the requested flows. Upon WQD's review of the application, the Executive Director has determined that the Applicant has sufficiently demonstrated the need for the requested flow.⁷

COMMENT 14:

Brazos River Authority, the City of Georgetown, Jonah Water Special Utility District, Hillwood Enterprises, LP, M&RBEF, LLC, and OP III ATX Georgetown 220, LP commented regarding failure to comply with regionalization requirements and failure to secure consent to serve within a special district.

⁷ New Horizons Utility, LLC and OptiN Holdings 1 LLC Permit Application, Domestic Technical Report 1.1, Item No. 1(A), page 21.

RESPONSE 14:

TWC § 26.081 enumerates the state's regionalization policy. TWC § 26.081 states that the policy should "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state." In furtherance of that policy, TWC § 26.0282 authorizes TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants. Applicants requesting a new permit or certain major amendments are required to review the area within the three-mile radius of the proposed facility site location to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize.

The Applicant contacted five (5) owners of the nearby wastewater treatment plants and the sewer collection lines within a three-mile radius of the proposed facility and provided copies of the correspondences as attachments to Domestic Technical Report 1.1. According to emails dated September 16, 2022, between representatives of Jonah SUD and the Applicant, Jonah SUD stated that it cannot provide service to the Applicant's property because it is not within the area of Jonah SUD's wastewater Certificate of Convenience and Necessity (CCN). According to emails dated October 5, 2022, between representatives of the City of Round Rock and the Applicant, the City stated they cannot provide service to the Applicant's property because it is located outside of the City's extraterritorial jurisdiction and its wastewater CCN. The Applicant also provided submitted evidence that they mailed certified letters, dated December 29, 2022, requesting service to the following entities: the City of Round Rock; AIRW 2017-7, LP; R040062, LP; the City of Georgetown; and Jonah SUD.

Based on the information the Applicant provided in its application, the Executive Director has determined that the Applicant has complied with the regionalization policy and has demonstrated a need for the proposed WWTF.

COMMENT 15:

The City of Georgetown, Jonah Water Special Utility District, Hillwood Enterprises, LP, M&RBEF, LLC, and OP III ATX Georgetown 220, LP expressed concerns about property rights and use of stream beds of the landowners with property immediately adjacent to the applicants' property.

RESPONSE 15:

The State is authorized to use the bed and banks to transport water, and TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the state through a TPDES permit. TCEQ has been delegated the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state.⁸

If the Draft Permit is issued, it does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route. The Draft Permit also does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. Issuance of the Draft Permit does not limit the ability of nearby landowners to seek legal remedies in a judicial court for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

III. CHANGES MADE TO THE DRAFT PERMIT

In response to Public Comments, the Executive Director has not made changes to the Draft Permit.

⁸ Texas Water Code § 26.027.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,
Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Fernando Salazar Martinez, Staff Attorney
Environmental Law Division
State Bar No. 24136087
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone: (512) 239-3356

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

IV. CERTIFICATE OF SERVICE

I certify that on November 22, 2024, the "Executive Director's Response to Public Comment" for Permit No. WQ0016257001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Fernando Salazar Martinez
Staff Attorney
Environmental Law Division
State Bar No. 24136087

Attachment 4

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 3, 2024

TO: All interested persons.

RE: New Horizons Utility, LLC and OptiN Holdings 1 LLC
TPDES Permit No. WQ0016257001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. Your hearing request must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.

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- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087


Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
New Horizons Utility, LLC and OptiN Holdings 1 LLC
TPDES Permit No. WQ0016257001

The Executive Director has made the Response to Public Comment (RTC) for the application by New Horizons Utility, LLC and OptiN Holdings 1 LLC for TPDES Permit No. WQ0016257001 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0016257001) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

Jon Niermann, *Presidente*
Bobby Janecka, *Comisario*
Catarina R. Gonzales, *Comisionada*
Kelly Keel, *Director Ejecutivo*



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

3 de diciembre de 2024

TO: Todas las personas interesadas.

RE: New Horizons Utility, LLC y OptiN Holdings 1 LLC
TPDES Permiso No. WQ0016257001

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Biblioteca Pública de Georgetown, 402 West 8th Street, Georgetown, Texas.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".
- (4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
 - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
 - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
 - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una "**persona afectada**". Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si

es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
New Horizons Utility, LLC y OptiN Holdings 1 LLC
TPDES Permiso No. WQ0016257001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de New Horizons Utility, LLC y OptiN Holdings 1 LLC del permiso de TPDES No. WQ0016257001. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0016257001) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Biblioteca Pública de Georgetown, 402 West 8th Street, Georgetown, Texas.

MAILING LIST / LISTA DE CORREO
New Horizons Utility, LLC and/y OptiN Holdings 1 LLC
TPDES No. WQ0016257001 / TPDES No. WQ0016257001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Ron Lusk, Manager
New Horizons Utility, LLC and OptiN
Holdings 1 LLC
4925 Greenville Avenue, Suite 1400
Dallas, Texas 75206

Judah Tressler, E.I.T.
Senior Engineering Manager
Integrated Water Services, Inc.
4001 North Valley Drive
Longmont, Colorado 80504

Ed Gelsone, P.E., Director of Strategy
Integrated Water Services, Inc.
4001 North Valley Drive
Longmont, Colorado 80504

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list. / Ver lista adjunta.

FOR THE EXECUTIVE DIRECTOR /
PARA EL DIRECTOR EJECUTIVO
via electronic mail /
por correo electrónico:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Fernando Salazar Martinez, Staff Attorney
Texas Commission on Environmental
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Sujata Sinha, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL /
PARA ABOGADOS DE INTERÉS PÚBLICO
via electronic mail /
por correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK /
PARA EL SECRETARIO OFICIAL
via electronic mail
por correo electrónico:

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

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M&RBFF LLC
1903 ASTER WAY
ROUND ROCK TX 78665-3523

CHAMBERS , MARIS MARSHALL
SPENCER FANE LLP
STE 1200
816 CONGRESS AVE
AUSTIN TX 78701-2442

FAULK , STACEY LYNN
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HUTTO TX 78634-3348

FAULK , CODY
SPENCER FANE LLP
STE 1200
816 CONGRESS AVE
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STATE REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 52
RM E1.312
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AUSTIN TX 78768-2910

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MALZAHN , TIFFANY
BRAZOS RIVER AUTHORITY
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AUSTIN TX 78701-1815

SUTTLE JR , MR RICHARD T
ARMBRUST & BROWN PLLC
STE 1300
100 CONGRESS AVE
AUSTIN TX 78701-4072

WILKINS , BEVERLY
1983 COUNTY ROAD 105
HUTTO TX 78634-3048

TPDES PERMIT NO. WQ0016257001

**APPLICATION BY
NEW HORIZONS UTILITY, LLC AND
OPTIN HOLDINGS 1 LLC FOR TPDES
PERMIT NO. WQ0016257001**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response or RTC) on the application by New Horizons Utility, LLC and OptiN Holdings 1 LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0016257001 and the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, significant or relevant and material comments.

The Office of the Chief Clerk received a public meeting request from Representative Caroline Harris Davila, which was withdrawn. The Office of the Chief Clerk received timely comments from: Tiffany Malzahn, on behalf of the Brazos River Authority; Maris M. Chambers, on behalf of the City of Georgetown; Michael Parsons, on behalf of Jonah Water Special Utility District; Trey Lary, on behalf of Hillwood Enterprises, LP; David E. Bost, on behalf of M&RBEF, LLC; and Richard T. Suttle, Jr., on behalf of OP III ATX Georgetown 220, LP. This response addresses all timely public comments received, whether or not withdrawn.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application."¹

If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040.

¹ TEX. WATER CODE § 5.115(a-1)(2)(B).

General information about the TCEQ can be found at the following website:

www.tceq.texas.gov.

I. BACKGROUND

A. Description Of Facility

The New Horizons Utility, LLC and OptiN Holdings 1 LLC (Applicant) submitted an application to the TCEQ for a new permit, TPDES Permit No. WQ0016257001, to authorize the discharge of treated domestic wastewater at a daily average volume not to exceed 1,340,000 gallons per day. The Applicant proposes to operate the New Horizons wastewater treatment plant, as an activated sludge process plant operated in the complete mix mode.

Treatment units in the Interim I phase will include a rotary drum screen, an influent equalization tank (EQ Tank), a membrane bioreactor (MBR) process train (which includes an anoxic zone, an aeration zone, and separate MBR Cassette tank). The Interim II phase will add another EQ Tank that is hydraulically tied to the first, two more MBR process trains, and a sludge dewatering press. The Final phase will add a parallel treatment building with identical treatment equipment and tankage as well as a second dewatering press. The facility has not been constructed. If the draft permit is issued, the treated effluent will be discharged to an unnamed tributary of Huddleston Branch, thence to Huddleston Branch, thence to Mankins Branch, thence to San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

Geographic coordinates of the outfall location in decimal degrees are provided in Table 1. If this permit is issued, the facility will be located approximately 0.5 of a mile northeast of the intersection of County Road 107 and County Road 110, in Williamson County, Texas 78626.

Table 1. Outfall Coordinate Location

Outfall Number	Latitude	Longitude
001	30.594348 N	97.613857 W

The draft permit includes the following proposed effluent limitations and monitoring requirements. All flows are expressed in million gallons per day (MGD). All pH values are expressed in standard units (SU). Concentration values are expressed in milligrams per liter (mg/L). Mass-based values are expressed as pounds per day (lbs/day). Bacteria values are expressed in colony-forming units (CFU) or most probable number (MPN) per 100 milliliters (CFU or MPN/100 mL).

Table 2. Interim I Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow (MGD)	0.10		N/A	Report	N/A
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	4.1	5	10	20	30
Total Suspended Solids (TSS)	4.1	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	1.7	2	5	10	15
Total Phosphorus (TP)	0.42	0.5	1	2	3
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399
pH	Between 6.0 and 9.0				

Table 3. Interim II Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	0.30		N/A	Report	N/A
CBOD ₅	13	5	10	20	30
Total Suspended Solids (TSS)	13	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	5.0	2	5	10	15
Total Phosphorus (TP)	1.3	0.5	1	2	3
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	399	N/A
pH	Between 6.0 and 9.0				

Table 4. Final Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	1.340		N/A	Report	N/A
CBOD ₅	56	5	10	20	30
Total Suspended Solids (TSS)	56	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	22	2	5	10	15
Total Phosphorus (TP)	1.7	0.15	0.3	0.6	0.9
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	399	N/A
pH	Between 6.0 and 9.0				

B. Procedural Background

The permit application was received on November 22, 2022, and declared administratively complete on February 14, 2023. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 1, 2023 in the *William County Sun*.² The Notice of Application and Preliminary Decision (NAPD) was published in English on May 15, 2024, in the *William County Sun*, and in Spanish on May 23, 2024, in *El Mundo*.

The public comment period for this application ended on June 24, 2024. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to HB 801, 76th Legislature (1999), and SB 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- Secretary of State website: www.sos.state.tx.us;
- TCEQ rules in 30 TAC: www.sos.state.tx.us/tac;

² The Applicant submitted an Alternative Language Exemption form on March 13, 2023. The Applicant noted that a newspaper or publication could not be found in any of the alternative languages in which notice is required. The Applicant noted on form that the NORI was published in Spanish in the *Williamson County Sun*.

- Texas statutes: www.statutes.legis.state.tx.us;
- TCEQ downloadable rules: www.tceq.texas.gov/rules/indxpdx.html;
- Federal rules in Title 40 of the Code of Federal Regulations: <https://www.ecfr.gov/current/title-40>; and
- Federal environmental laws: www.epa.gov/lawsregs.

Commission records for this application are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the following location: Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

II. COMMENTS AND RESPONSES

COMMENT 1:

The City of Georgetown expressed concerns about the negative impacts on water quality and the failure of the proposed discharge to show satisfactory compliance with the antidegradation policy of TCEQ.

RESPONSE 1:

TCEQ is responsible for the protection of water quality with federal regulatory authority over discharges of pollutants to Texas surface water. TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under Texas Water Code (TWC) Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC Chapters 217 and 309.

The proposed Draft Permit was developed in accordance with the Texas Surface Water Quality Standards (TSWQS) to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the Procedures to Implement the Texas Surface Water Quality Standards (IPs; June 2010) is designed to ensure compliance with the TSWQS, which is codified in 30 TAC Chapter 307.

Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard;

3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As part of the application process, TCEQ staff in the Water Quality Division (WQD) determined the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

In accordance with 30 Texas Administrative Code § 307.5 and the IPs, WQD staff performed an antidegradation review of the receiving waters. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Huddleston Branch (perennial), which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations in the Draft Permit for the conventional effluent parameters (i.e., CBOD₅, Ammonia-Nitrogen, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).

COMMENT 2:

Brazos River Authority, the City of Georgetown, and Jonah Water Special Utility District expressed concerns about the elevated nutrient levels resulting in excessive algal growth and blooms. The Brazos River Authority requests that TCEQ consider the inclusion of nutrient, chloride, and TDS monitoring requirements in the permit.

RESPONSE 2:

Phosphorus is a key nutrient necessary for algae growth and is often in limited supply in freshwater systems. By restricting the amount of phosphorus in the treated wastewater, the likelihood of the discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly. To ensure the effluent from the New

Horizons WWTF will not cause an excessive accumulation of algae, WQD staff performed a nutrient screening according to the IPs; nutrient screening scores indicated Total Phosphorus (TP) limits were warranted. Given the size of the discharge, the substantial pools in the unnamed tributary, limestone bedrock stream bottom in Huddleston Branch, very clear water, submerged aquatic vegetation, high sensitivity to nutrient inputs and high potential for eutrophication effects, WQD staff included a TP limit of 0.15 mg/L in the final 1.34 MGD phase, and a TP limit of 0.5 mg/L in the Interim I and Interim II phases due to its substantially smaller interim phases.

The *Procedures for the Implementation of the Texas Surface Water Quality Standards* (IPs; June 2010) require that concentrations and relative ratios of dissolved minerals such as chloride and sulfate that compose total dissolved solids (TDS) be maintained to protect existing and attainable uses. A TDS screening cannot be performed on the proposed facility until effluent water quality data is available for the facility (i.e., not until the facility is discharging). However, TCEQ has noted this concern for potential impacts to the San Gabriel River (Segment 1248) as a result the proposed discharge and performed a preliminary TDS screening. The calculations indicate that the proposed discharge's effluent concentrations of chloride would need to be below 158 mg/L TDS for the 1.34 MGD phase to ensure compliance with segment criterion for the chloride component of TDS. When effluent data become available for this facility, TCEQ staff will perform a TDS screening for effects on Segment 1248 and recommend monitoring, permit limits, or other permit requirements as needed.

COMMENT 3:

The City of Georgetown expressed concerns about the aquatic life and stream uses.

RESPONSE 3:

The TSWQS in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. The effluent limits in the Draft Permit are set to maintain and protect the existing instream uses.

In this case, the designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, high aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

The ED has made a preliminary determination that the Draft Permit, if issued, meets all statutory and regulatory requirements. TCEQ also submitted the draft permit to the U.S. Environmental Protection Agency (EPA) Region 6 for review. The EPA reviewed the draft permit and did not have any objections to the issuance of the draft permit.

The Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and their habitat. It can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. TPWD received notice of Applicant's permit application.

COMMENT 4:

The City of Georgetown expressed concerns about endangered species.

RESPONSE 4:

As provided in the Procedures to Implement the State Surface Water Quality Standards (June 2010) the Executive Director reviewed the application for potential impacts to aquatic or aquatic-dependent federally listed endangered or threatened species. The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

The United States Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) were afforded an opportunity to review the permit application and proposed permit. Neither of these agencies expressed concern about the discharge effects on wildlife in the area.

COMMENT 5:

The City of Georgetown commented regarding inconsistencies in the descriptions of the proposed discharge route and the outfall location.

RESPONSE 5:

The discharge route in the Draft Permit is described as unnamed tributary of Huddleston Branch, thence to Huddleston Branch, thence to Mankins Branch, thence to San Gabriel/North Fork San Gabriel River in Segment 1248 of the Brazos River Basin.

COMMENT 6:

The City of Georgetown commented that the application incorrectly indicates that the proposed facility would not discharge to a 303(d) listed waterbody segment.

RESPONSE 6:

Segment No. 1248 is not currently listed on the State's inventory of impaired and threatened waters (the 2022 CWA § 303(d) list). Mankins Branch, an unclassified stream is impaired for elevated bacteria levels in water (recreation use). The proposed facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of Mankins Branch. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 CFU or MPN of E. coli per 100 ml is included in all phases of the Draft Permit.

COMMENT 7:

The City of Georgetown, Hillwood Enterprises, LP, and M&RBEF, LLC commented about the deficiencies in the buffer zone map and expressed concerns regarding nuisance odors from the facility.

RESPONSE 7:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors TCEQ rules require domestic WWTPs to meet buffer zone

requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. The Applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control.³

According to its application, the Applicant intends to comply with the requirement to abate and control nuisance of odor by legal restrictions prohibiting the construction of residences within the buffer zone.⁴ This requirement is incorporated in the Draft Permit.⁵ These legal restrictions include nuisance odor prevention plan in accordance with 30 TAC § 309.13(e)(3). Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the Draft Permit. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d) for all phases (buffer zone map⁶).

Further, the Applicant proposes in its application that New Horizons WWTP will operate a suspended growth activated sludge process in a single-stage nitrification mode. The number and type of treatment units in the Interim I phase will be entirely enclosed in a pre-engineered metal building with mechanical ventilation and active odor controls, and include a rotary drum screen, one influent equalization tank (EQ Tank), a membrane bioreactor (MBR) process train (which includes an anoxic zone, an aeration zone, and separate MBR Cassette tank). When properly treated by the proposed wastewater treatment process, the effluent is not expected to have an offensive odor.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling the TCEQ Environmental Complaint Line at 1-888-777-3186. Calls will

³ 30 TEX. ADMIN. CODE § 309.13(e).

⁴ New Horizons Utility, LLC and OptiN Holdings 1 LLC Permit Application, Administrative Report, 1.1, Item No. 2(b), page 2.

⁵ New Horizons Utility, LLC and OptiN Holdings 1 LLC Draft Permit, Other Requirements, Item No. 4, page 34.

⁶ New Horizons Utility, LLC and OptiN Holdings 1 LLC Draft Permit, Attachment A1, A2, A3.

be routed automatically to the closest TCEQ regional office. Complaints may also be filed online at <https://www.tceq.texas.gov/compliance/complaints>.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 8:

Brazos River Authority, Hillwood Enterprises, LP, and M&RBEF, LLC expressed concerns regarding visual aesthetics and noise from the facility.

RESPONSE 8:

TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize TCEQ to consider issues such as aesthetics or noise.

However, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

For concerns about noise, please contact local law enforcement or the Williamson County Sheriff's Office at (512) 943-1300 to inquire if there is a noise ordinance in your area.

COMMENT 9:

Jonah Water Special Utility District expressed concerns that the proposed facility poses an additional risk of contributing to flooding along the discharge route.

RESPONSE 9:

TCEQ does not have jurisdiction to address flooding in the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters.

For flooding concerns, please contact the Williamson County Engineer's Office at (512) 943-3330. For additional information regarding floodplain management, please

visit the Williamson County's website at: <https://www.wilcotx.gov/652/Floodplain-Management>.

According to TWC § 26.401(b), the Texas Legislature has determined that “it is the goal of groundwater policy in this state that the existing quality of groundwater not be degraded.” Under TWC § 26.401(c)(1), it is the State of Texas’s policy that “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard.” The Executive Director determined that if surface water quality will be protected, groundwater quality in the vicinity will also be protected. The applicant will be required to meet all water quality requirements in the draft permit, even during flood events.

COMMENT 10:

The City of Georgetown commented that the application lacks required information regarding the facility operator.

RESPONSE 10:

As stated in the Draft Permit, the New Horizons WWTP must be operated by a chief operator or an operator holding a class C license or higher during the Interim I and Interim II phases, and class B or higher during the Final phase. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher.

COMMENT 11:

The City of Georgetown commented that the application lacks required documentation related to sludge disposal.

RESPONSE 11:

As stated in the Draft Permit, the sludge generated from the treatment facility will be hauled by a registered transporter (Wastewater Transport Services, LLC, Transporter No. 24343) and disposed of at a TCEQ-permitted sludge processing facility, Austin Wastewater Processing Facility, Permit No. 2384A, in Travis County. The Draft Permit authorizes the disposal of sludge at a TCEQ-authorized land application

site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

COMMENT 12:

The City of Georgetown commented that the application incorrectly indicates that the proposed facility is a minor facility.

RESPONSE 12:

New Horizons Utility, LLC and OptiN Holdings 1 LLC has applied for new permit to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,340,000 gallons per day. The facility has been entered as a major facility in TCEQ's record, and the Draft Permit has been drafted as a new permit for a major facility.

As a proposed major facility, the application was subject to review by EPA Region 6. WQD transmitted the application and Draft Permit to EPA for review and comment on January 1, 2024. EPA did not provide any comments and approved the Draft Permit on February 16, 2024.

COMMENT 13:

Jonah Water Special Utility District and OP III ATX Georgetown 220, LP commented that the Applicant failed to demonstrate a need for the permit.

RESPONSE 13:

The preliminary engineering report from New Horizons Utility, LLC and OptiN Holdings 1 LLC provided justification for the requested flows. Upon WQD's review of the application, the Executive Director has determined that the Applicant has sufficiently demonstrated the need for the requested flow.⁷

COMMENT 14:

Brazos River Authority, the City of Georgetown, Jonah Water Special Utility District, Hillwood Enterprises, LP, M&RBEF, LLC, and OP III ATX Georgetown 220, LP commented regarding failure to comply with regionalization requirements and failure to secure consent to serve within a special district.

⁷ New Horizons Utility, LLC and OptiN Holdings 1 LLC Permit Application, Domestic Technical Report 1.1, Item No. 1(A), page 21.

RESPONSE 14:

TWC § 26.081 enumerates the state's regionalization policy. TWC § 26.081 states that the policy should "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state." In furtherance of that policy, TWC § 26.0282 authorizes TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants. Applicants requesting a new permit or certain major amendments are required to review the area within the three-mile radius of the proposed facility site location to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize.

The Applicant contacted five (5) owners of the nearby wastewater treatment plants and the sewer collection lines within a three-mile radius of the proposed facility and provided copies of the correspondences as attachments to Domestic Technical Report 1.1. According to emails dated September 16, 2022, between representatives of Jonah SUD and the Applicant, Jonah SUD stated that it cannot provide service to the Applicant's property because it is not within the area of Jonah SUD's wastewater Certificate of Convenience and Necessity (CCN). According to emails dated October 5, 2022, between representatives of the City of Round Rock and the Applicant, the City stated they cannot provide service to the Applicant's property because it is located outside of the City's extraterritorial jurisdiction and its wastewater CCN. The Applicant also provided submitted evidence that they mailed certified letters, dated December 29, 2022, requesting service to the following entities: the City of Round Rock; AIRW 2017-7, LP; R040062, LP; the City of Georgetown; and Jonah SUD.

Based on the information the Applicant provided in its application, the Executive Director has determined that the Applicant has complied with the regionalization policy and has demonstrated a need for the proposed WWTF.

COMMENT 15:

The City of Georgetown, Jonah Water Special Utility District, Hillwood Enterprises, LP, M&RBEF, LLC, and OP III ATX Georgetown 220, LP expressed concerns about property rights and use of stream beds of the landowners with property immediately adjacent to the applicants' property.

RESPONSE 15:

The State is authorized to use the bed and banks to transport water, and TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the state through a TPDES permit. TCEQ has been delegated the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state.⁸

If the Draft Permit is issued, it does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route. The Draft Permit also does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. Issuance of the Draft Permit does not limit the ability of nearby landowners to seek legal remedies in a judicial court for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

III. CHANGES MADE TO THE DRAFT PERMIT

In response to Public Comments, the Executive Director has not made changes to the Draft Permit.

⁸ Texas Water Code § 26.027.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,
Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Fernando Salazar Martinez, Staff Attorney
Environmental Law Division
State Bar No. 24136087
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone: (512) 239-3356

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

IV. CERTIFICATE OF SERVICE

I certify that on November 22, 2024, the "Executive Director's Response to Public Comment" for Permit No. WQ0016257001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Fernando Salazar Martinez
Staff Attorney
Environmental Law Division
State Bar No. 24136087

Attachment 5

The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Phone: (512) 614-0901
Facsimile: (512) 900-2855

Elizabeth Humpal
elizabeth@carltonlawaustin.com

January 2, 2025

VIA e-file to: www14.tceq.texas.gov/epic/eComment/

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

Re: Withdrawal of Jonah Water Special Utility District's Comments and Withdrawal of Jonah Water Special Utility District's Request for Contested Case Hearing on New Horizons, LLC's and OptiN Holdings 1, LLC's Application for a Proposed Texas Pollutant Discharge Elimination System, Permit No. WQ0016257001, to Authorize a Domestic Wastewater Treatment Facility and the Discharge of Treated Domestic Wastewater in Williamson County, Texas.

Dear Ms. Gharis:

On behalf of Jonah Water Special Utility District ("Jonah"), please accept this letter as Jonah's withdrawal of request for a contested case hearing and withdrawal of comments in opposition to the above-referenced permit application submitted by New Horizons, LLC's and OptiN Holdings 1, LLC ("Application"). Jonah no longer desires to have a contested case hearing and Jonah withdraws its comments and request for a contested case hearing. Jonah submitted its request for contested case hearing and its comments on March 5, 2024 and hereby withdraws both. Please let me know if any additional information is needed to facilitate this withdrawal.

Thank you for your attention to this matter. Please contact me at (512) 614-0901 or elizabeth@carltonlawaustin.com if you have any questions regarding this withdraw of hearing request and withdraw of comments.

Sincerely,

THE CARLTON LAW FIRM, P.L.L.C.



Elizabeth Humpal
Attorney for Jonah Water Special Utility District

cc: Bill Brown, General Manager, Jonah Water Special Utility District

Tammy Johnson

From: PUBCOMMENT-OCC
Sent: Monday, January 6, 2025 12:50 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001
Attachments: Withdraw of Comments and Hearing Request 1.2.2025.pdf

WH
WC

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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www.tceq.texas.gov/customersurvey

From: elizabeth@carltonlawaustin.com <elizabeth@carltonlawaustin.com>
Sent: Thursday, January 2, 2025 11:45 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC

CN NUMBER: CN606081594

NAME: Elizabeth Humpal

EMAIL: elizabeth@carltonlawaustin.com

COMPANY: The Carlton Law Firm PLLC

ADDRESS: 4301 Westbank Dr. Suite B-130
Austin, TX 78746

PHONE: 5126140901

FAX:

COMMENTS: Please see Withdrawal of Contested Case Hearing Request and Withdrawal of Comments attached.



CENTRAL TEXAS
919 Congress Avenue,
Suite 1500
Austin, TX 78701
(512) 518-2424

Trey Lary
Partner
tlary@abhr.com
(512) 518-2422

January 25, 2025

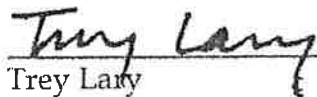
Ms. Laurie Gharis
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC 105)
P.O. Box 13087
Austin, Texas 78711-3087

Re: Withdrawal of Hillwood Enterprises, LP's Comments and Request for Contested Case Hearing on New Horizons Utility LLC's and OptiN Holdings 1, LLC's Application for proposed Texas Pollutant Discharge Elimination System Permit No. WQ0016257001 to Authorize a Domestic Wastewater Treatment Facility and the Discharge of Treated Domestic Wastewater in Williamson County, Texas.

Dear Ms. Gharis:

On behalf of Hillwood Enterprises, LP ("Hillwood"), please accept this letter as Hillwood's withdrawal of Hillwood's request for a contested case hearing and withdrawal of comments in opposition to the above-referenced permit application (the "Application") submitted to the Commission by New Horizons, LLC and OptiN Holdings 1, LLC. Hillwood no longer desires to have a contested case hearing and Hillwood withdraws its comments and request for a contested case hearing on the Application.

Sincerely,


Trey Lary
Attorney for Hillwood

1246276

HOUSTON
3200 Southwest Freeway, Suite 2600
Houston, TX 77027
(713) 860-6400

NORTH TEXAS
4514 Cole Avenue, Suite 1450
Dallas, TX 75205
(972) 823-0800

abhr.com

Tammy Johnson

From: PUBCOMMENT-OCC
Sent: Tuesday, January 28, 2025 1:02 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001
Attachments: 1246276-Withdrawal of Hillwood Comments.pdf

WC
WH

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: tlary@abhr.com <tlary@abhr.com>
Sent: Tuesday, January 28, 2025 12:12 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER: 2025-0115-MWD

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC

CN NUMBER: CN606081594

NAME: MR TREY LARY

EMAIL: tlary@abhr.com

COMPANY: ALLEN BOONE HUMPHRIES ROBINSON, LLP

ADDRESS: 919 CONGRESS AVENUE SUITE 1500
Austin, TX 78701

PHONE: 5125182422

FAX:

COMMENTS: On behalf of Hillwood Enterprises LP, please see withdrawal of comments and contested case hearing attached.

Scott & Scott
A Professional Limited Liability Company
316 W 12th St
Suite 200
Austin, Texas 78701

January 28, 2025

VIA ELECTRONIC SUBMISSION AT WWW.TCEQ.TEXAS.GOV/GOTO/COMMENT

Texas Commission on Environmental Quality
Office of the Chief Clerk
MC105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application of New Horizon Utility, LLC and Optin Holdings 1, LLC for new Texas
Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0016257001

To the Texas Commission on Environmental Quality:

The undersigned represents OP III ATX GEORGETOWN 220, LP ("Georgetown 220"), who previously filed timely public comments, a request for contested case hearing, and a request for reconsideration. Please accept this letter as Georgetown 220's withdrawal of public comments, request for contested case hearing, and request for reconsideration.

Thank you for your attention to this matter. Please contact me at john.scott@scottpllc.net if you have any questions regarding this withdrawal.

Sincerely,

John B. Scott

Tammy Johnson

From: PUBCOMMENT-OCC
Sent: Tuesday, January 28, 2025 1:00 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001
Attachments: 2025.01.28 OP III ATX Georgetown Notice of Withdrawal of Contested Case Request.pdf

WC
WH
WRFR

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: john.scott@scottpllc.net <john.scott@scottpllc.net>
Sent: Tuesday, January 28, 2025 8:43 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC

CN NUMBER: CN606081594

NAME: John Scott

EMAIL: john.scott@scottpllc.net

COMPANY: Scott & Scott PLLC

ADDRESS: 316 W 12th St Suite 200
Austin, TX 78701

PHONE: 8176915817

FAX:

COMMENTS: Please see Withdrawal of Comments and Contested Case Hearing Request attached.



607 W. 3RD STREET, SUITE 2500
AUSTIN, TX 78701-4713
TELEPHONE: 512-770-4200
FACSIMILE: 844-670-6009
<http://www.dickinsonwright.com>

JILL G. MURPHY
JMurphy@dickinsonwright.com
512-770-4229

January 29, 2025

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

Via first class mail and email

Re: Withdrawal of M&RBFF, LLC's Comments and Request for Contested Case Hearing on New Horizons Utility LLC's and OptiN Holdings 1, LLC's Application for proposed Texas Pollutant Discharge Elimination System Permit No. WQ0016257001 to Authorize a Domestic Wastewater Treatment Facility and the Discharge of Treated Domestic Wastewater in Williamson County, Texas.

Dear Ms. Gharis:

On behalf of M&RBFF, LLC ("M&RBFF, LLC"), please accept this letter as M&RBFF's withdrawal of its request for a contested case hearing and withdrawal of comments in opposition to the above-referenced permit application (the "Application") submitted to the Commission by New Horizons, LLC and OptiN Holdings 1, LLC. M&RBFF, LLC no longer desires to have a contested case hearing and it withdraws its comments and request for a contested case hearing on the Application.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill G. Murphy".

Jill G. Murphy

JGM
4927-3427-2532 v1 [99998-4572]

Tammy Johnson

From: PUBCOMMENT-OCC
Sent: Wednesday, January 29, 2025 5:50 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: TCEQ Withdrawal Letter
Attachments: 4927-3427-2532 v2 2025.01.29 withdrawal ltr to TCEQ.pdf

WH
WC

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Sent: Wednesday, January 29, 2025 4:02 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: TCEQ Withdrawal Letter

Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-1835
Cell Phone: 737-263-9116

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: Jill G. Murphy <JMurphy@dickinson-wright.com>
Sent: Wednesday, January 29, 2025 3:53 PM
To: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Subject: TCEQ Withdrawal Letter

Ms. Gharis,

On behalf of the property owner M&RBFF, LLC, please find correspondence attached.

Best,

DW

Jill G. Murphy
Of Counsel
O:512-770-4229

607 W. 3rd Street, Suite 2500, Austin, TX 78701

The information contained in this e-mail, including any attachments, is confidential, intended only for the named recipient(s), and may be legally privileged. If you are not the intended recipient, please delete the e-mail and any attachments, destroy any printouts that you may have made and notify us immediately by return e-mail. Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Tuesday, June 25, 2024 2:10 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Cc: Laurie Gharis; Deornette Monteleone
Subject: FW: Cancel Public Meeting Request

WPM

From: Katharine Chambers <Katharine.Chambers@house.texas.gov>
Sent: Monday, June 24, 2024 6:17 PM
To: Clay Kelley <Clay.Kelley@tceq.texas.gov>; Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Cc: Melva Gomez <Melva.Gomez@house.texas.gov>
Subject: Cancel Public Meeting Request

Good evening,

Would you please cancel the public meeting request from Representative Caroline Harris Davila for Permit No. WQ0016257001 - New Horizon.

Thank you so much, again.

Katharine



Katharine Chambers | District Director
Representative Caroline Harris Davila
District Office: 512.255-6612
Capitol office: 512-463-0670
katharine.chambers@house.texas.gov

Attachment 6

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Wednesday, October 30, 2024 5:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Wednesday, October 30, 2024 2:21 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW_HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC,OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594,CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615



FAX:

COMMENTS: The application requests up to 1.3 million gallons of waste water to be discharged in the area around my home on a daily basis. We have many low lying roads that will have the pavement washed out with this amount of discharge. I request a public hearing.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Wednesday, October 30, 2024 5:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Wednesday, October 30, 2024 2:26 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC, OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594, CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615

FAX:

COMMENTS: When the flooding comes with over a million gallons of waste water discharge a day, I don't believe our emergency services will be able to handle all of the 911 calls for rescue. I request a public hearing to discuss this matter.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Wednesday, October 30, 2024 5:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
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From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Wednesday, October 30, 2024 2:35 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC,OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594,CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615

FAX:

COMMENTS: Please be aware that there are multiple entities wanting to discharge over 2 million gallons a day in the area around my house. This amount of discharge on a daily basis will cause catastrophic flooding. This will damage private as well as public property like roads and bridges. Please don't approve this request. I am requesting a public hearing.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Friday, November 1, 2024 4:50 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016257001

From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Friday, November 1, 2024 9:32 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC, OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594, CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615

FAX:

COMMENTS: Do not approve this application. Willimason County Court Order issued on July 21, 2015, regulates solid waste disposal. In section 4, the court order points out that contaminated wildlife can spread contamination to surrounding land and ground water. It is breaking the law if we allow this spread of contamination to spread.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Friday, November 1, 2024 4:51 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016257001

From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Friday, November 1, 2024 11:16 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC, OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594, CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615

FAX:

COMMENTS: Do not approve this proposal. The Williamson County Commissioners Court order of July 21, 2015, section 4, stated that solid waste streams can be explosive and for that reason it is against the law to allow solid waste disposal plants to be located in unincorporated areas of Williamson County.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Friday, November 1, 2024 4:52 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016257001

From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Friday, November 1, 2024 12:02 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

PN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC,OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594,CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615

FAX:

COMMENTS: Do not approve this application. The Williamson County Commissioners Court order of July 21, 2015, regulating solid waste disposal, section 4, said that soils in Williamson County allow migration of waste and hazardous materials into ground water. This affects the drinking water of many citizens of Williamson County. That is one reason it is against the law to allow solid waste disposal plants to operate in unincorporated areas of Williamson County.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Tuesday, November 5, 2024 5:46 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Tuesday, November 5, 2024 1:18 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC, OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594, CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615

FAX:

COMMENTS: I request a public hearing so the community can get more information. Please don't approve this application. It will drastically increase traffic with heavy duty trucks hauling the solid waste to the plant. This causes dangerous traffic congestion along with polluting the air around my property.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Tuesday, November 5, 2024 5:46 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016257001

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: pbwilkins@gmail.com <pbwilkins@gmail.com>
Sent: Tuesday, November 5, 2024 1:57 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC, OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594, CN606081602

NAME: Beverly Wilkins

EMAIL: pbwilkins@gmail.com

COMPANY:

ADDRESS: 1983 COUNTY ROAD 105
HUTTO TX 78634-3048

PHONE: 8307766615

FAX:

COMMENTS: Don't look at each application in isolation. The cumulative volume of water that will be discharged into Mankins Branch which flows in the San Gabriel River would be close to 3 million gallons a day. This would occur if the following applications are approved - WQ0016585001, WQ0016257001, and WQ0016474001. 3 millions gallons would fill 6 Olympic swimming pools every day. This is like 3 football fields 10 foot deep. This amount of water discharged every day is terrifying. This amount of water will take out fences, bridges, roads and contaminate ground water and kill wildlife. I request a public hearing.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Tuesday, October 29, 2024 2:17 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016257001

From: slfaulk69@gmail.com <slfaulk69@gmail.com>
Sent: Friday, October 25, 2024 6:22 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016257001

REGULATED ENTITY NAME NEW HORIZONS WWTP

RN NUMBER: RN111609582

PERMIT NUMBER: WQ0016257001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: NEW HORIZONS UTILITY LLC,OPTIN HOLDINGS 1 LLC

CN NUMBER: CN606081594,CN606081602

NAME: Stacey Faulk

EMAIL: slfaulk69@gmail.com

COMPANY:

ADDRESS: 2290 COUNTY ROAD 105
HUTTO TX 78634-3348

PHONE: 5124227261

FAX:

COMMENTS: Hello, I am TOTALLY opposed to the approval of this application. My address is 2290 CR 105. The creek runs South to North on my property that empties into the Mankins Branch. The amount of water that flows down this creek with only rain and runoff is enough to make this creek run as a river and is very susceptible to flooding! I have owned my ranch now for almost 20 years and have seen County Road 105 be completely removed from the rushing water flow and whole trees that float down this creek

many times! This creek CANNOT handle this amount of water flow from the water treatment facilities being applied for! There needs to be another option! This will be catastrophic for all families/home owners who live along this creek, not to mention the wildlife! This is a small spring feed creek and the volume of treated water being discussed is going to cause irreparable damage to many!

Attachment 7

AFFIDAVIT OF GRANT WILLIAMS

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

My name is Grant Williams. I am of legal age and competent to make this affidavit. I am a partner at JW Development, Inc., which is developing Optin Holdings 1, LLC's ("Optin") development. I am personally acquainted with the facts stated in this affidavit, which are, to the best of my knowledge, true and correct.

From the end of the summer through the fall of 2022, I had several conversations with David Munk, Senior Utility Engineer with the City of Georgetown, in which I inquired about the City of Georgetown's ability to provide wastewater service to Optin's development. During these conversations, Mr. Munk informed me that Georgetown could not provide wastewater service to Optin's development. Finally, on or about October 6, 2022, Mr. Munk again reiterated that Georgetown could not provide wastewater service to Optin's development, and he went on to state that he was not authorized by his attorney to issue a Denial of Service letter so as to document Georgetown's inability to provide wastewater service to New Horizons. Exhibits A, B and C, which are attached to this affidavit, reflect our reliance on Mr. Munk's representations.



Grant Williams
Affiant

SUBSCRIBED AND SWORN BEFORE ME this 10th day of March 2025.

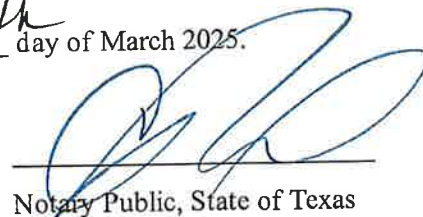

Notary Public, State of Texas

Exhibit A

From: kmatocha@jonahwater.com <kmatocha@jonahwater.com>
Sent: Friday, September 16, 2022 12:20 PM
To: Grant <Grant@JWDEVELOPMENTINC.COM>
Cc: vcarrizales@jonahwater.com <vcarrizales@jonahwater.com>
Subject: RE: Denial of service letter

It appears this property is not within our wastewater CCN area. After discussing this with our Assistant General Manager, it was determined that due to this fact, we will be unable to write a denial letter.

Kindest regards,



Kimber Matocha

Administrative Development Coordinator

www.jonahwater.com

OFFICE: 512-759-1286 FAX: 512-759-2983
4060 FM 1660 | Hutto, TX 78634

Let your light shine before others, that they may see your good works and glorify your Father in Heaven Matthew 5:16

From: Grant <Grant@JWDEVELOPMENTINC.COM>
Sent: Friday, September 9, 2022 11:01 AM
To: kmatocha@jonahwater.com
Subject: Denial of service letter

Good Morning!

I'm a developer out of Austin looking for a Denial of Service letter for Wastewater treatment at this location, 301, COUNTY ROAD 107, GEORGETOWN, TX, 78626.

For us to file for a WWTP discharge permit, we need a denial of WW services letter from Jonah Sud, Round Rock, and Georgetown. We already had two verbal denials from the cities, so we are reaching out to get it in writing for the application. The parcel in question is 40 acres and includes the one shown in the map plus the parcels to the east. Let me know if you have any additional questions.

Thanks and have a great day.

-Grant Williams

Partner

[Book a Meeting](#)

JW Development Inc.

M:512-470-8449

O: 512-901-9800



DEVELOPMENT PARTNERS

Exhibit B

From: Kit Perkins <cperkins@roundrocktexas.gov>
Sent: Wednesday, October 5, 2022 10:46 AM
To: Grant <Grant@JWDEVELOPMENTINC.COM>
Cc: ron@uw.solutions <ron@uw.solutions>; jthomas@integratedwaterservices.com <jthomas@integratedwaterservices.com>; David Freireich <dfreireich@roundrocktexas.gov>
Subject: RE: Denial of Service letter

Grant,

David is out this week so I wanted to respond to this in his place.

Your property at 301 County Rd 107, Georgetown, TX 78626 is outside of Round Rock's ETJ and wastewater CCN service area. Therefore Round Rock cannot provide wastewater service to your property.

If you need additional information, please let me know.

Thanks,

Kit Perkins, P.E.
City of Round Rock
cperkins@roundrocktexas.gov
(W) 512-341-3145

From: Grant <Grant@JWDEVELOPMENTINC.COM>
Sent: Monday, October 3, 2022 3:29:57 PM
To: David Freireich <dfreireich@roundrocktexas.gov>
Cc: Ron Lusk <ron@uw.solutions>; Jeff Thomas <jthomas@integratedwaterservices.com>
Subject: Re: Denial of Service letter

External Email - Please verify sender authenticity

Hey David,

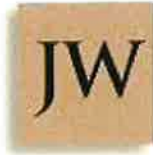
We're meeting with TCEQ tomorrow to discuss our permit application. Our engineers have informed me that an email from you stating that Round Rock can't serve us is adequate if you can provide that.

Thanks and have a great day.

-Grant Williams

Partner
[Book a Meeting](#)
JW Development Inc.
M:512-470-8449

O: 512-901-9800



DEVELOPMENT PARTNERS

From: Grant

Sent: Friday, September 9, 2022 11:13 AM

To: dfreireich@roundrocktexas.gov <dfreireich@roundrocktexas.gov>

Cc: Ron Lusk <ron@uw.solutions>; Jeff Thomas <jthomas@integratedwaterservices.com>

Subject: Denial of Service letter

David,

We're looking for a Denial of Service letter for Wastewater treatment at this location, 301, COUNTY ROAD 107, GEORGETOWN, TX, 78626.

I know this is an unusual request, but we appreciate you taking the time to reach out to legal to get approval for this. Our goal is to apply for a WWTP as Round Rock had previously told us there was no capacity for us. We are not located in the CCN, but we do border it. Let us know if you have any questions, I've CC'd our permitting team.

Thanks and have a great day.

-Grant Williams

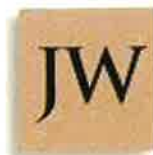
Partner

[Book a Meeting](#)

JW Development Inc.

M:512-470-8449

O: 512-901-9800



DEVELOPMENT PARTNERS

Exhibit C

From: Grant <Grant@JWDEVELOPMENTINC.COM>
Sent: Tuesday, November 8, 2022 10:37 AM
To: Troy Hotchkiss <thotchkiss@integratedwaterservices.com>
Subject: Georgetown

Troy,

I spoke with David Munk on Oct 6th, and he told me that Georgetown cannot serve us but can't send a Denial of Service letter. Round Rock and Jonah have confirmed they cannot serve us as well.

Thanks and have a great day.

-Grant Williams

Partner

[Book a Meeting](#)

JW Development Inc.

M:512-470-8449

O: 512-901-9800



Attachment 8


AFFIDAVIT OF RON LUSK

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

My name is Ron Lusk. I am of legal age and competent to make this affidavit. I am the manager for New Horizons Utility, LLC (“New Horizons”), which is the co-applicant with Optin Holdings 1, LLC (“Optin”) that owns the land on which the proposed facility is to be located for TDPES Permit No. WQ0016257001, and I am one of the signatories to the application for the permit. I am personally acquainted with the facts stated in this affidavit, which are, to the best of my knowledge, true and correct.

Since Optin was unable to work out a viable option for wastewater service with the City of Georgetown, we began to talk with other landowners and parties with an interest in various developments for joint wastewater treatment projects. Ultimately, the parties went their separate ways, and some have pursued the permitting of their own wastewater facilities. At least in our case, this was made possible by legislation passed in 2023 that requires a city to release area from the city’s extraterritorial jurisdiction upon a qualifying petition or election of the area’s residents or landowners. Of the three applications for wastewater treatment facilities submitted to the Commission by the parties discussed above, Georgetown has opposed only ours.


[Signature page follows.]



Ron Lusk
Affiant

SUBSCRIBED AND SWORN BEFORE ME this 10th day of March 2025.





Notary Public, State of Texas

Attachment 9

RESOLUTION NO. 121223-5.E

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS ("GEORGETOWN") RELEASING APPROXIMATELY 15.63 ACRES OF LAND FROM THE CITY OF GEORGETOWN'S EXTRATERRITORIAL JURISDICTION ("ETJ"), SAID LAND BEING GENERALLY LOCATED NORTH OF UNIVERSITY BOULEVARD AND WEST OF STATE HIGHWAY 130, WILLIAMSON COUNTY, TEXAS, RESULTING IN A REDUCTION OF GEORGETOWN'S ETJ; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 20, 2023, the City of Georgetown, Texas, received a petition requesting release from its ETJ of a 15.63 acre tract of land in the John McQueen Survey (the "Petition"), a true and correct copy of such Petition being attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, pursuant to Subchapter D of Chapter 42 of Local Government Code, landowners or residents may submit a petition seeking release of an area of land from the City's ETJ; and

WHEREAS, the City Secretary has reviewed the Petition and confirmed that it meets the requirements of Subchapter D of Chapter 42 of the Local Government Code and the petition requirements of Chapter 277 of the Election Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS:

SECTION 1. The City Council of the City of Georgetown, Texas ("**City Council**"), does hereby find that the forgoing recitals are true and correct and adopts the recitals by this reference for all purposes.

SECTION 2: To the extent required by state law, the City Council does hereby adjust the boundaries and limits of the ETJ of the City of Georgetown, Texas, such that the ETJ of the City of Georgetown, Texas, shall be and is hereby adjusted to release and remove the Area subject to the Petition, as such Area is more particularly described and depicted in Exhibit B attached hereto and incorporated herein by reference, from the ETJ of the City of Georgetown, Texas.

SECTION 3. The City Council is not consenting to this reduction of its ETJ except as required by state law.

SECTION 4. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED by the City Council of the City of Georgetown, Texas, on the
12th day of December, 2023.

CITY OF GEORGETOWN, TEXAS

By: _____
Josh Schroeder, Mayor

ATTEST:

By: Robyn Densmore
Robyn Densmore, City Secretary

APPROVED AS TO FORM:

By: Skye Masson
Skye Masson, City Attorney

Exhibit A

Petition

Resolution No. _____
Regarding Release of Petition Area

OCT 20 2023

City Secretary

COUNTY OF WILLIAMSON §

The undersigned (hereinafter called "Petitioner"), being a majority of the persons who hold title to land(s) situated within the area hereinafter described, which represents a total value of more than 50% of the value of all such area as indicated by the tax rolls of the WILLIAMSON County Appraisal District, acting pursuant to Section 42.102 of the Texas Local Government Code, as amended, hereby respectfully petitions the City of GEORGETOWN, Texas (hereinafter called the "City"), for the removal of the area described in Exhibit A herein (the "Property") from the extraterritorial jurisdiction (the "ETJ") of the City.

I.

II.

III.

IV.

v.

The Property is located in WILLIAMSON County, Texas, and totals approximately 5.07 acres, as described in Exhibit “A”, all of which is located within the extraterritorial jurisdiction of the City and, to the best of the Petitioner’s knowledge, is not subject to any of the exceptions from

applicability described in Section 42.101, Texas Local Government Code.

VI.

This Petition shall be verified by the City Secretary of the City or other person at the City responsible for verifying signatures.

VII.

The City must notify the residents or landowners of the District of the results of the Petition, which notification requirement may be satisfied by notifying the Petitioner in writing.

VIII.

If Petitioner has obtained the signatures on the Petition required under Section 42.104, Texas Local Government Code to release the District from the City's ETJ, the City shall immediately release the District from its ETJ pursuant to Section 42.105(c), Texas Local Government Code.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that this Petition be filed with the City Secretary of the City of GEORGETOWN Texas, and that, thereafter, the District be removed from the extraterritorial jurisdiction of the City, in the manner provided by law, including particularly Sections 42.102-105 of the Texas Local Government Code, as amended, that after this Petition has been granted, that it and the Petitioner's action thereon be filed of record and be recorded in the Office of the City Secretary of GEORGETOWN, Texas; and that Petitioner have such other order and relief to which they may show itself entitled. If the City Council has not released the Property from the ETJ by the later of the 45th day after the date the City receives this Petition or the next meeting of the City Council that occurs after the 30th day after the date the City receives this Petition, the Property shall be released by operation of law pursuant to Chapter 42.105(d), Texas Local Government Code.

[Remainder of Page Intentionally Blank]

RESPECTFULLY SUBMITTED this 20th day of October, 2023.

NAME: RICHARD GARY

DATE OF BIRTH: [REDACTED]

RESIDENCE ADDRESS: 7801 N CAPITAL OF TX HWY #390, AUSTIN, TX, 78731

DATE OF SIGNING: 10/19/2023

Richard GARY
PRINTED NAME

Richard Gary
SIGNATURE

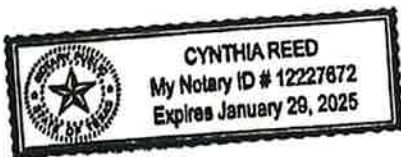
STATE OF TEXAS

§
§

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this 19 day of October,
2023, by Richard Gary, Manager of Opti Holdings 1, an individual, on
behalf of said OWNER.

(SEAL)



[Signature]
Notary Public in and for the State of Texas

Cynthia Reed
Printed Name

EXHIBIT "A"

**LEGAL DESCRIPTION OF AREA TO BE REMOVED FROM THE
EXTRATERRITORIAL JURISDICTION**

AW0426 AW0426 - Mcqueen, J. Sur., ACRES 5.07

[SEE ATTACHED SURVEY]

EXHIBIT "B"

**AFFIDAVIT OF OWNERSHIP OF AREA TO BE REMOVED FROM THE
EXTRATERRITORIAL JURISDICTION**

Affidavit of Ownership

State of TEXAS

County of WILLIAMSON

Richard Gary and Joe Williams, as Managers of Optin Holdings 1, CR107, and having authority to make the claims below say that:

For Property Description

Optin Holdings 1, CR107 is the legal owner of one parcel of property, identified as follows:

301 CR 107, Georgetown, Property ID R040056, 5.07 acres

AW0426 AW0426 - McQueen, J. Sur., ACRES 5.07

Possession


Optin Holdings1, CR107 took ownership of the properties on:

January 18, 2023, for Property ID R040056 as recorded by instr# 2023005095

Liens

No claim or action has been brought to my attention which questions my title or right to possession of the property and to my knowledge, no actions are pending against me in any court.

We attest we are the majority owners of this entity and by right have authority to make this request.


MANAGER for Optin Holdings 1, CR017, Richard Gary

10-19-23
Date


MANAGER for Optin Holdings 1, CR017, Joe Williams

10-19-23
Date

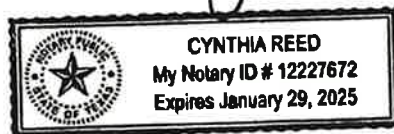
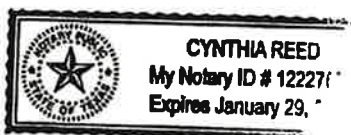
This instrument was acknowledged before me on this 19th day of October 2023, by personal appearance before me of Richard Gary and Joe Williams as Managers of Optin Holdings, TX Series LLC.

State of TEXAS

County of WILLIAMSON


Notary Public

My Commission Expires Jan 29, 2025



FIELD NOTES:

5.07 ACRES

All that certain tract or parcel of land situated in Williamson County, Texas, out of the John McQueen Survey, Abstract No. 426 and being a portion of that tract described as 20 acres to R.D. Hyden, Sr. and wife Lena Hyden by deed dated September 26, 1974 and recorded under Volume 596, Page 512 of the Deed Records Williamson County, Texas, and also being all of that tract described as 0.69 acre to R.D. Hyden, Sr. and wife Lena Hyden by deed dated February 24, 1975 and recorded under Volume 604, Page 611 of said Deed Records and further described by metes and bounds as follows:

BEGINNING at a 1/2 inch Iron pin found at the corner of a pipe and wire fence line at the end of wooden fence in the northerly margin of Williamson County Road 107 for the southeasterly corner of a called 21.97 acre tract to Robert K. Fowler, Trustee by Special Warranty Deed with Vendor's Lien dated May 10, 2002 and recorded under Document No. 2002037279 of the Official Public Records of Williamson County, Texas and the southwesterly corner of said Hyden tract (Vol. 604, Pg. 611) and this tract, from which a 1/2 inch iron pin found for the southwesterly corner of said Fowler tract bears S 68°24'41" W 299.81 feet;

THENCE N 01°52'01" W 436.86 feet along easterly line of said Fowler tract and the westerly line of said Hyden tract (Vol. 604, Pg. 611) to a 5/8 inch iron pin found for an angle point of this tract and being the northerly corner of said to Hyden tract (Vol. 604, Pg. 611) and an angle point of said Hyden tract (Vol. 596, Pg. 512) and this tract;

THENCE N 21°48'27" W 346.14 feet continuing along the easterly line of said Fowler tract and the westerly line of said Hyden tract (Vol. 596, Pg. 512) and this tract to a 5/8 inch iron pin found at a fence corner for an angle point in the westerly line of a called 15.612 acre tract to R.D. Hyden, Sr. and wife Lena Hyden in a Warranty Deed dated August 14, 1986 recorded under Volume 1405, Page 41 of the Official Records of Williamson County, Texas and being the northwesterly corner of said Hyden tract (Vol. 596, Pg. 512) and this tract, from which a 3/4 inch iron pipe at an angle point in the easterly line of said Fowler tract and in the westerly line of said Hyden tract (Vol. 1405, Pg. 41) bears N 21°18'51" W 79.09 feet;

THENCE along the westerly line of said Hyden tract (Vol. 1405, Pg. 41) and the northerly line of the said Hyden tract (Vol. 596, Pg. 512) and this tract, the following two (2) courses:

1. S 80°35'42" E 218.82 feet to a 1/2 inch iron pin with yellow plastic cap inscribed "CS, LTD" set for an angle point;
2. S 83°37'47" E 121.65 feet to an iron pipe found for an interior corner of said Hyden tract (Vol. 1405, Pg. 41) and being the northeasterly corner of said Hyden tract (Vol. 596, Pg. 512) and this tract;

THENCE S 19°29'57" E 587.95 feet to a 3/4 inch iron pipe found in the northerly margin of said County Road for the southwesterly corner of said Hyden tract (Vol. 1405, Pg. 41) and the southeasterly corner of said Hyden tract (Vol. 596, Pg. 512), and this tract from which a 5/8 inch iron pin found at the southeasterly corner of said Hyden tract (Vol. 1405, Pg. 41), bears N 69°01'21" E 183.55 feet;

THENCE S 68°22'03" W 272.34 feet along the northerly margin of said County Road and the southerly line of said Hyden tract (Vol. 596, Pg. 512) and this tract to a 1 inch iron pin found, for the southeasterly corner of said Hyden tract (Vol. 604, Pg. 611) and the southwesterly corner of said Hyden tract (Vol. 596, Pg. 512) for an angle point of this tract;

1/8/2013

Page 2 of 3

THENCE S 68°27'08" W 147.34 feet along the northerly margin of said County Road and the southerly line of said Hyden tract (Vol. 604, Pg. 611) and this tract to the Point of Beginning and containing 5.07 acres.

Bearings cited hereon based on Grid North, Texas State Plane Coordinated System, Central Zone NAD83(93).

Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628


Kenneth Louis Crider
Registered Professional Land Surveyor No: 5624 3113



KLC/dbc

2008 12 25 13
DEATH D:
P: 2 NC

SUBJECT TO
RESTRICTIVE COVENANTS - VOLUME 566 PAGE 755, DEED RECORDS WILLAMSON
COUNTY, TEXAS

RIGHT-OF-WAY EASEMENT DATED JULY 22, 1972, GRANTED BY JOHN WAKEFIELD AND LOTIE M. WAKEFIELD TO JOHAN WATER SUPPLY CORP., RECORDED

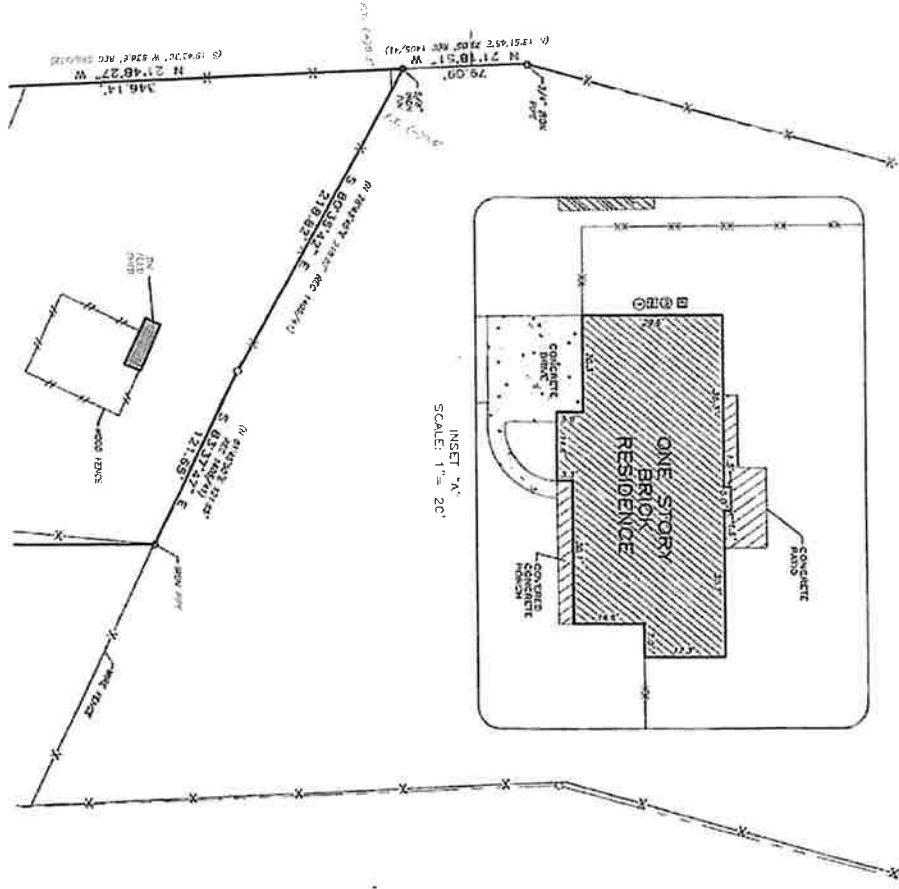
WILLAMSON COUNTY TEXAS.

IF EASEMENT DATED MAY 25 1977, GRANTED BY R.H. HOFEN SR TO L&N LIGHT & POWER COMPANY RECORDED VOLUME 697, PAGE 729 DEED RECORDS, WILL LAMSTIN POLIORITY BEGAT

THIS SURVEY WAS PERFORMED UNDER THE FOLLOWING GUIDELINES OF WILLIAMSON COUNTY SUBDIVISION AND REGULATION APPENDIX A, A6.

BEARINGS CITED HEREON ARE BASED ON GRID NORTH TEXAS STATE PLANE COORDINATE SYSTEM (CENTRAL ZONE) NAD23.

LEGEND	
Q	1/2" IRON PIN FOUND
Q	(UNLESS OTHERWISE NOTED)
Q	1/2" IRON PIN SET
Q	"YELLOW PLASTIC CAP "CS. LTD."
Q	FENCE POST
Q	UTILITY POLE
Q	WOODEN FENCE
Q	WOODEN CHAIN LINK FENCE
Q	ELECTRIC LINES
Q	PAVEMENT
Q	DEED RECORDS WILLIAMSON CO
Q	OPTIONAL RECORDS WILLIAMSON CO
Q	OFFICIAL PUBLIC RECORDS WILLIAMSON CO
Q	AIR CONDITIONER
Q	CLEARING
Q	CEMENT
Q	CEMENT
Q	TELEPHONE
Q	WATER

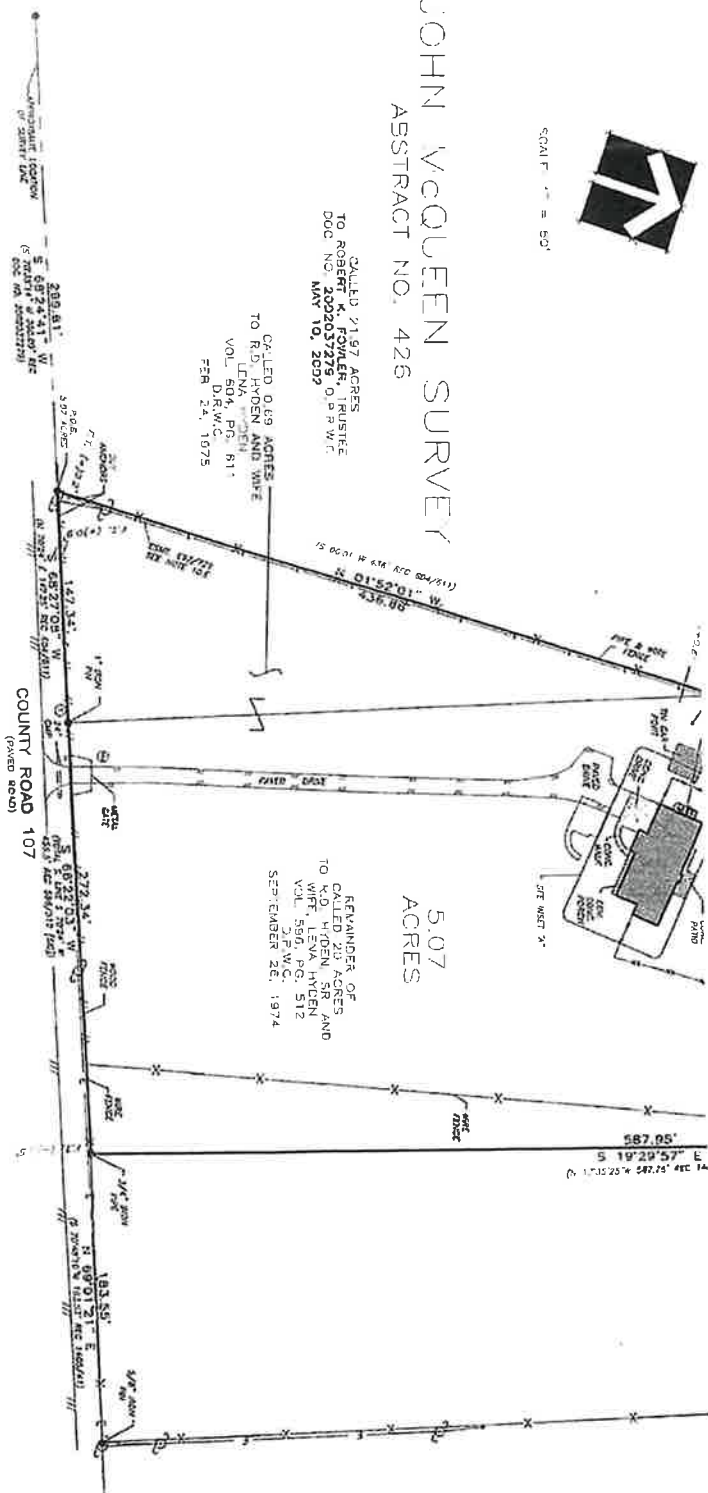




CALL 2197 ACRES
TO ROBERT K. FOWLER, TRUSTEE
DOC NO. 2002037275 O.P.R.W.T.
MAY 10, 2002

CALLED 0.69 ACRES
 TO R.D. HYDEN AND W.
 LENA HYDEN
 VOL. 504, PG. 611
 D.R.W.C.
 FEB. 24, 1975

5.07
ACRES
REMAINDER OF
CALLED 20 ACRES
TO K.O. HYDEN SR AND
WIFE, LEVA HYDEN
VOL. 560, PG. 512
J.P.W.C.
SEPTEMBER 26, 1974



HENRY MILLARD SURVEY
ABSTRACT NO. 452

STATE OF TEXAS

1. *What is the purpose of the study?*

[illegible]

3613 Williams Drive, Suite 903 - Georgetown, Texas 78626
(512) 930-1600/(512) 930-9389 fax
www.cashberryburveying.com

SHI

OF

Exhibit B

Legal Description and Map

Resolution No. _____
Regarding Release of Petition Area

FIELD NOTES:

5.07 ACRES

All that certain tract or parcel of land situated in Williamson County, Texas, out of the John McQueen Survey, Abstract No. 426 and being a portion of that tract described as 20 acres to R.D. Hyden, Sr. and wife Lena Hyden by deed dated September 26, 1974 and recorded under Volume 596, Page 512 of the Deed Records Williamson County, Texas, and also being all of that tract described as 0.69 acre to R.D. Hyden, Sr. and wife Lena Hyden by deed dated February 24, 1975 and recorded under Volume 604, Page 611 of said Deed Records and further described by metes and bounds as follows:

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THENCE N 21°48'27" W 346.14 feet continuing along the easterly line of said Fowler tract and the westerly line of said Hyden tract (Vol. 596, Pg. 512) and this tract to a 5/8 inch iron pin found at a fence corner for an angle point in the westerly line of a called 15.612 acre tract to R.D. Hyden, Sr. and wife Lena Hyden in a Warranty Deed dated August 14, 1986 recorded under Volume 1405, Page 41 of the Official Records of Williamson County, Texas and being the northwesterly corner of said Hyden tract (Vol. 596, Pg. 512) and this tract, from which a 3/4 inch iron pipe at an angle point in the easterly line of said Fowler tract and in the westerly line of said Hyden tract (Vol. 1405, Pg. 41) bears N 21°18'51" W 79.09 feet;

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2. S 83°37'47" E 121.65 feet to an iron pipe found for an interior corner of said Hyden tract (Vol. 1405, Pg. 41) and being the northeasterly corner of said Hyden tract (Vol. 596, Pg. 512) and this tract;

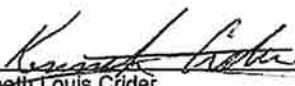
THENCE S 19°29'57" E 587.95 feet to a 3/4 inch iron pipe found in the northerly margin of said County Road for the southwesterly corner of said Hyden tract (Vol. 1405, Pg. 41) and the southeasterly corner of said Hyden tract (Vol. 596, Pg. 512), and this tract from which a 5/8 inch iron pin found at the southeasterly corner of said Hyden tract (Vol. 1405, Pg. 41), bears N 69°01'21" E 183.55 feet;

THENCE S 68°22'03" W 272.34 feet along the northerly margin of said County Road and the southerly line of said Hyden tract (Vol. 596, Pg. 512) and this tract to a 1 inch iron pin found, for the southeasterly corner of said Hyden tract (Vol. 604, Pg. 611) and the southwesterly corner of said Hyden tract (Vol. 596, Pg. 512) for an angle point of this tract;

THENCE S 68°27'08" W 147.34 feet along the northerly margin of said County Road and the southerly line of said Hyden tract (Vol. 604, Pg. 611) and this tract to the Point of Beginning and containing 5.07 acres.

Bearings cited hereon based on Grid North, Texas State Plane Coordinated System, Central Zone NAD83(93).

Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628


Kenneth Louis Crider

Registered Professional Land Surveyor No. 5624 

KLC/dbc

SUBJECT TO:
1. RESTRICTIVE COVENANTS, VOLUME 566 PAGE 755, DEED RECORDS WILLIAMSON
COUNTY, TEXAS

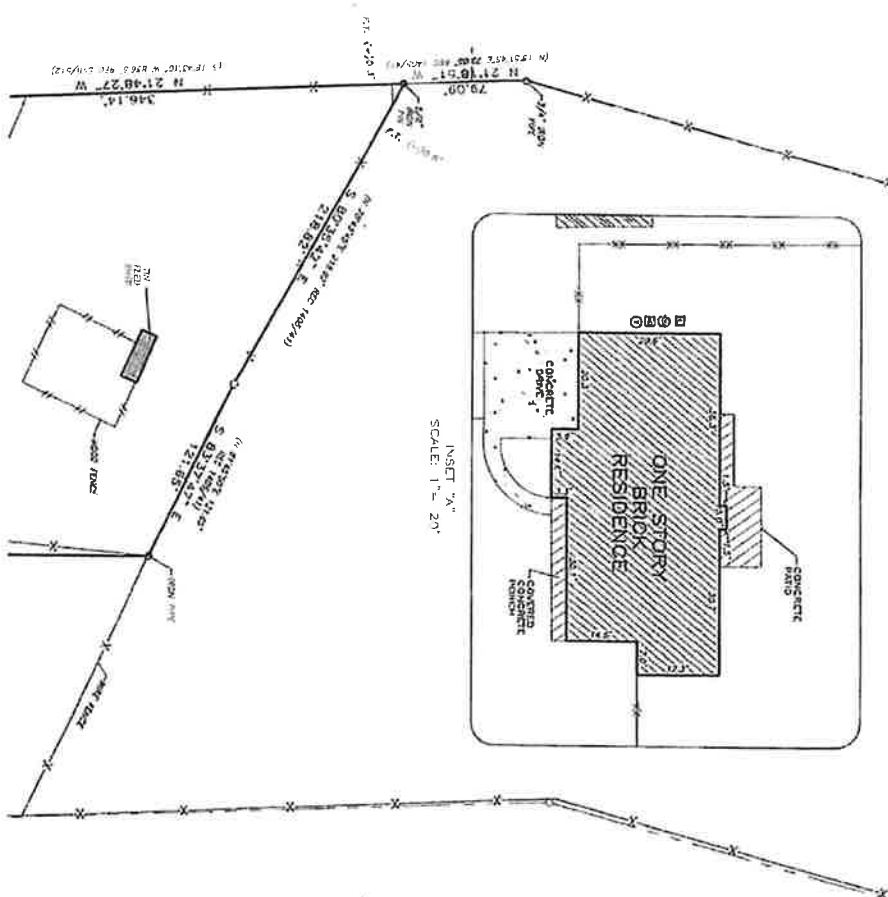
IC 5 RIGHT OF WAY EASEMENT DATED JULY 22, 1972, GRANTED BY JOHN WOLFENFELD AND LOTTE M. WOLFENFELD TO JOHNNY WATERS SUPERVISOR, RECORDED VOLUME 563, PAGE 644, DEED RECORDS WILLIAMSON COUNTY, TENNESSEE

10.0 EASEMENT DATED JANUARY 29, 1976, GRANTED BY FOMALO HYDEN TO TEXAS
LIGHT & POWER COMPANY, RECORDED VOLUME 680, PAGE 75, DEED RECORDS
WILLIAMSON COUNTY, TEXAS

IS A DIVISION OF THE HEATH DESCRIBED PROPER, WHICH LIES WITHIN THE BOUNDARIES OF A ROAD OR HIGHWAY

NEARINGS CITED HEREON ARE BASED ON GRID NORTH TEXAS STATE BUREAU SURVEY WAS FUNDRAISED UNDER THE FOLLOWING GUIDELINES OF WILLIAMSON COUNTY SUBDIVISION, AND REGULATIONS 2. ENHANCE A AS

1	1/2" RAIN PEN FOUND (UNLESS OTHERWISE NOTED)
2	1/2" RAIN PEN SET
3	W/4"X6" PLASTIC CAP CS. LTD.
4	FRIDGE PRESS
5	WIRE FRIDGE
6	CHAIN LINK FRIDGE
7	ELECTRIC LAMP
8	PAVING
9	DEED RECORDS WILLAMSON CO.
10	DEED RECORDS WILLAMSON CO.
11	CIVIL PLANNED RECORDS WILLAMSON CO.
12	FOR CONTINUER
13	CHANDLER
14	ELECTRIC
15	15. ELMHURST
16	WATER





SCALE: 1" = 50'

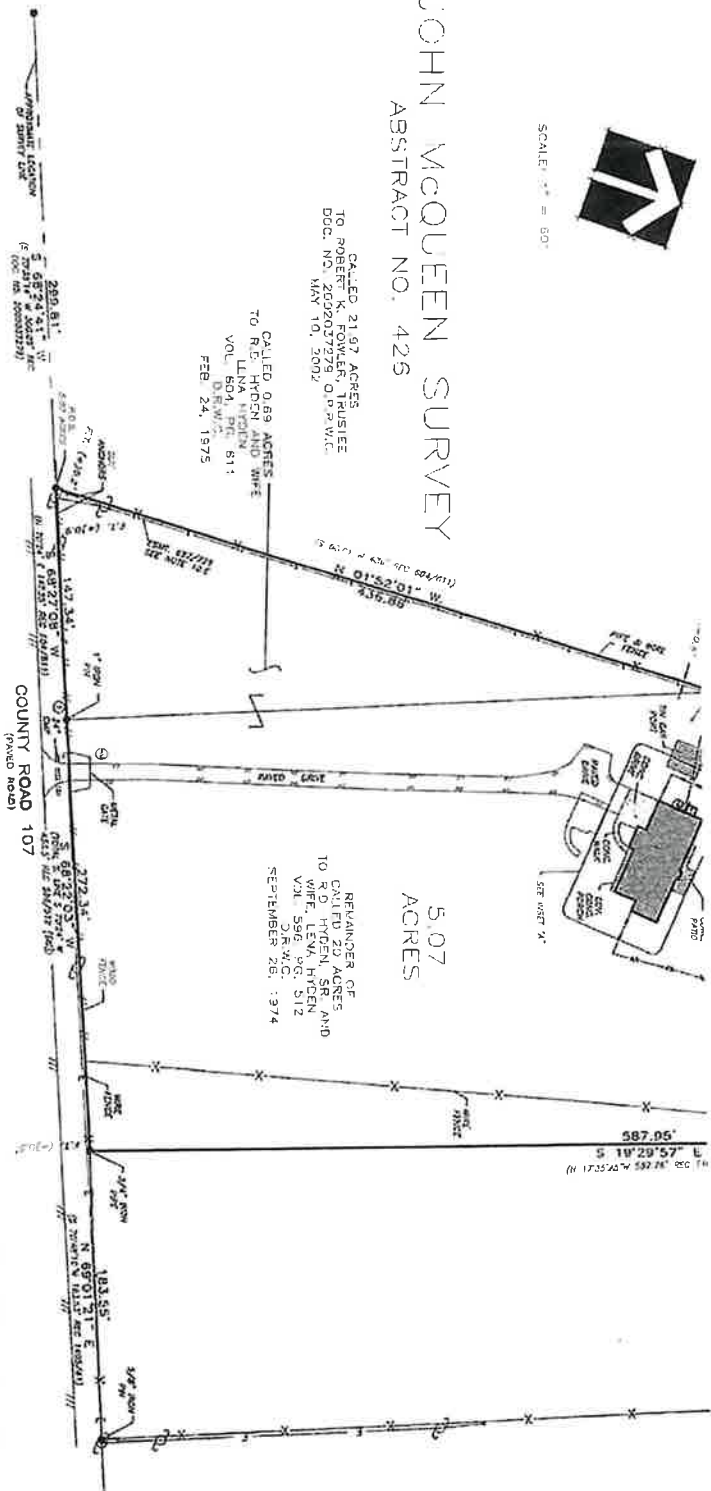
JOHN MCQUEEN SURVEY ABSTRACT NO. 425

CALLD 21.97 ACRES
TO ROBERT A. HEDEN, JR.
DOC. NO. 200207220, O.P.W.C.
MAY 10, 2002

CALLD 0.69 ACRES
TO R.E. HYDEN AND WIFE
VOL. 80, PAGE 811
FEB. 24, 1975

5.07
ACRES

REVENUE OF
CALLD 20 ACRES
TO R.D. HYDEN, SR.
WIFE LENA HYDEN
VOL. 596, PG. 512
SEPTEMBER 26, 1974



HENRY MILLARD SURVEY ABSTRACT NO. 452

UNITED STATES TITLE COMPANY NATIONAL TITLE INSURANCE CO./EDWARD R. FETTER AND SISTER D. FETTER/DEED NO. 1208923

TO R.D. HYDEN, SR. AND WIFE LENA HYDEN
VOL. 596, PG. 512
SEPTEMBER 26, 1974

3613 Williams Drive, Suite 203 - Georgetown, Texas 78628
(512) 530-1600/(512) 530-2329 fax
www.dbsurveygroup.com

SHEET
3
OF
3

Attachment 10

RESOLUTION NO. 121223-5.F

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS (“GEORGETOWN”) RELEASING APPROXIMATELY 5.07 ACRES OF LAND FROM THE CITY OF GEORGETOWN’S EXTRATERRITORIAL JURISDICTION (“ETJ”), SAID LAND BEING GENERALLY LOCATED NORTH OF UNIVERSITY BOULEVARD AND WEST OF STATE HIGHWAY 130, WILLIAMSON COUNTY, TEXAS, RESULTING IN A REDUCTION OF GEORGETOWN’S ETJ; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 20, 2023, the City of Georgetown, Texas, received a petition requesting release from its ETJ of a 5.07 acre tract of land in the John McQueen Survey (the “Petition”), a true and correct copy of such Petition being attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, pursuant to Subchapter D of Chapter 42 of Local Government Code, landowners or residents may submit a petition seeking release of an area of land from the City’s ETJ; and

WHEREAS, the City Secretary has reviewed the Petition and confirmed that it meets the requirements of Subchapter D of Chapter 42 of the Local Government Code and the petition requirements of Chapter 277 of the Election Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS:

SECTION 1. The City Council of the City of Georgetown, Texas (“**City Council**”), does hereby find that the forgoing recitals are true and correct and adopts the recitals by this reference for all purposes.

SECTION 2: To the extent required by state law, the City Council does hereby adjust the boundaries and limits of the ETJ of the City of Georgetown, Texas, such that the ETJ of the City of Georgetown, Texas, shall be and is hereby adjusted to release and remove the Area subject to the Petition, as such Area is more particularly described and depicted in Exhibit B attached hereto and incorporated herein by reference, from the ETJ of the City of Georgetown, Texas.

SECTION 3. The City Council is not consenting to this reduction of its ETJ except as required by state law.

SECTION 4. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED by the City Council of the City of Georgetown, Texas, on the 12th day of December, 2023.

CITY OF GEORGETOWN, TEXAS

By: 
Josh Schroeder, Mayor

ATTEST:

By: 
Robyn Densmore, City Secretary

APPROVED AS TO FORM:

By: 
Skye Masson, City Attorney

Exhibit A

Petition

Resolution No. _____
Regarding Release of Petition Area

OCT 20 2023

City Secretary

The Property is located in WILLIAMSON County, Texas, and totals approximately 5.07 acres, as described in Exhibit "A", all of which is located within the extraterritorial jurisdiction of the City and, to the best of the Petitioner's knowledge, is not subject to any of the exceptions from

applicability described in Section 42.101, Texas Local Government Code.

VI.

This Petition shall be verified by the City Secretary of the City or other person at the City responsible for verifying signatures.

VII.

The City must notify the residents or landowners of the District of the results of the Petition, which notification requirement may be satisfied by notifying the Petitioner in writing.

VIII.

If Petitioner has obtained the signatures on the Petition required under Section 42.104, Texas Local Government Code to release the District from the City's ETJ, the City shall immediately release the District from its ETJ pursuant to Section 42.105(c), Texas Local Government Code.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that this Petition be filed with the City Secretary of the City of GEORGETOWN Texas, and that, thereafter, the District be removed from the extraterritorial jurisdiction of the City, in the manner provided by law, including particularly Sections 42.102-105 of the Texas Local Government Code, as amended, that after this Petition has been granted, that it and the Petitioner's action thereon be filed of record and be recorded in the Office of the City Secretary of GEORGETOWN, Texas; and that Petitioner have such other order and relief to which they may show itself entitled. If the City Council has not released the Property from the ETJ by the later of the 45th day after the date the City receives this Petition or the next meeting of the City Council that occurs after the 30th day after the date the City receives this Petition, the Property shall be released by operation of law pursuant to Chapter 42.105(d), Texas Local Government Code.

[Remainder of Page Intentionally Blank]

RESPECTFULLY SUBMITTED this 20th day of October, 2023.

NAME: RICHARD GARY

DATE OF BIRTH: [REDACTED]

RESIDENCE ADDRESS: 7801 N CAPITAL OF TX HWY #390, AUSTIN, TX, 78731

DATE OF SIGNING: 10/19/2023

Richard GARY
PRINTED NAME

Richard Gary
SIGNATURE

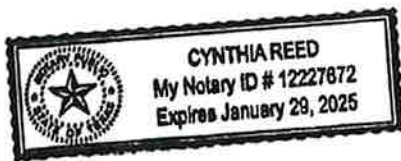
STATE OF TEXAS

§
§

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this 19 day of October,
2023, by Richard Gary, Manager of OptiHolding 1, an individual, on
behalf of said OWNER.

(SEAL)



[Signature]
Notary Public in and for the State of Texas

Cynthia Reed
Printed Name

EXHIBIT "A"

**LEGAL DESCRIPTION OF AREA TO BE REMOVED FROM THE
EXTRATERRITORIAL JURISDICTION**

AW0426 AW0426 - Mcqueen, J. Sur., ACRES 5.07

[SEE ATTACHED SURVEY]

EXHIBIT "B"

**AFFIDAVIT OF OWNERSHIP OF AREA TO BE REMOVED FROM THE
EXTRATERRITORIAL JURISDICTION**

Affidavit of Ownership

State of TEXAS

County of WILLIAMSON

Richard Gary and Joe Williams, as Managers of Optin Holdings 1, CR107, and having authority to make the claims below say that:

For Property Description

Optin Holdings 1, CR107 is the legal owner of one parcel of property, identified as follows:

301 CR 107, Georgetown, Property ID R040056, 5.07 acres

AW0426 AW0426 - Mcqueen, J. Sur., ACRES 5.07

Possession

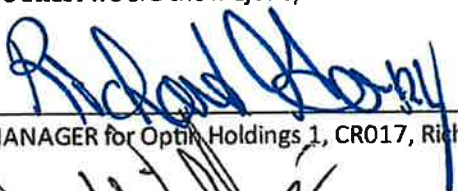
Optin Holdings1, CR107 took ownership of the properties on:

January 18, 2023, for Property ID R040056 as recorded by instr# 2023005095

Liens

No claim or action has been brought to my attention which questions my title or right to possession of the property and to my knowledge, no actions are pending against me in any court.

We attest we are the majority owners of this entity and by right have authority to make this request.


MANAGER for Optin Holdings 1, CR017, Richard Gary

10-19-23
Date

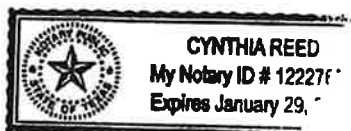

MANAGER for Optin Holdings 1, CR017, Joe Williams

10-19-23
Date

This instrument was acknowledged before me on this 19th day of October 2023, by personal appearance before me of Richard Gary and Joe Williams as Managers of Optin Holdings, TX Series LLC.

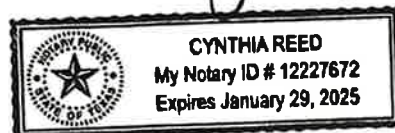
State of TEXAS

County of WILLIAMSON




Notary Public

My Commission Expires Jan 29, 2025



FIELD NOTES:

5.07 ACRES

All that certain tract or parcel of land situated in Williamson County, Texas, out of the John McQueen Survey, Abstract No. 426 and being a portion of that tract described as 20 acres to R.D. Hyden, Sr. and wife Lena Hyden by deed dated September 26, 1974 and recorded under Volume 596, Page 512 of the Deed Records Williamson County, Texas, and also being all of that tract described as 0.69 acre to R.D. Hyden, Sr. and wife Lena Hyden by deed dated February 24, 1975 and recorded under Volume 604, Page 611 of said Deed Records and further described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron pin found at the corner of a pipe and wire fence line at the end of wooden fence in the northerly margin of Williamson County Road 107 for the southeasterly corner of a called 21.97 acre tract to Robert K. Fowler, Trustee by Special Warranty Deed with Vendor's Lien dated May 10, 2002 and recorded under Document No. 2002037279 of the Official Public Records of Williamson County, Texas and the southwesterly corner of said Hyden tract (Vol. 604, Pg. 611) and this tract, from which a 1/2 inch iron pin found for the southwesterly corner of said Fowler tract bears S 68°24'41" W 299.81 feet;

THENCE N 01°52'01" W 436.86 feet along easterly line of said Fowler tract and the westerly line of said Hyden tract (Vol. 604, Pg. 611) to a 5/8 inch iron pin found for an angle point of this tract and being the northerly corner of said to Hyden tract (Vol. 604, Pg. 611) and an angle point of said Hyden tract (Vol. 596, Pg. 512) and this tract;

THENCE N 21°48'27" W 346.14 feet continuing along the easterly line of said Fowler tract and the westerly line of said Hyden tract (Vol. 596, Pg. 512) and this tract to a 5/8 inch iron pin found at a fence corner for an angle point in the westerly line of a called 15.612 acre tract to R.D. Hyden, Sr. and wife Lena Hyden in a Warranty Deed dated August 14, 1986 recorded under Volume 1405, Page 41 of the Official Records of Williamson County, Texas and being the northwesterly corner of said Hyden tract (Vol. 596, Pg. 512) and this tract, from which a 3/4 inch iron pipe at an angle point in the easterly line of said Fowler tract and in the westerly line of said Hyden tract (Vol. 1405, Pg. 41) bears N 21°18'51" W 79.09 feet;

THENCE along the westerly line of said Hyden tract (Vol. 1405, Pg. 41) and the northerly line of the said Hyden tract (Vol. 596, Pg. 512) and this tract, the following two (2) courses:

1. S 80°35'42" E 218.82 feet to a 1/2 inch iron pin with yellow plastic cap inscribed "CS, LTD" set for an angle point;
2. S 83°37'47" E 121.65 feet to an iron pipe found for an interior corner of said Hyden tract (Vol. 1405, Pg. 41) and being the northeasterly corner of said Hyden tract (Vol. 596, Pg. 512) and this tract;

THENCE S 19°29'57" E 587.95 feet to a 3/4 inch iron pipe found in the northerly margin of said County Road for the southwesterly corner of said Hyden tract (Vol. 1405, Pg. 41) and the southeasterly corner of said Hyden tract (Vol. 596, Pg. 512), and this tract from which a 5/8 inch iron pin found at the southeasterly corner of said Hyden tract (Vol. 1405, Pg. 41), bears N 69°01'21" E 183.55 feet;

THENCE S 68°22'03" W 272.34 feet along the northerly margin of said County Road and the southerly line of said Hyden tract (Vol. 596, Pg. 512) and this tract to a 1 inch iron pin found, for the southeasterly corner of said Hyden tract (Vol. 604, Pg. 611) and the southwesterly corner of said Hyden tract (Vol. 596, Pg. 512) for an angle point of this tract;

THENCE S 68°27'08" W 147.34 feet along the northerly margin of said County Road and the southerly line of said Hyden tract (Vol. 604, Pg. 611) and this tract to the Point of Beginning and containing 5.07 acres.

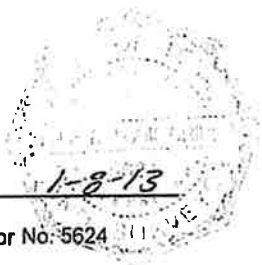
Bearings cited hereon based on Grid North, Texas State Plane Coordinated System, Central Zone NAD83(93).

Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628



Kenneth Louis Cfider

Registered Professional Land Surveyor No. 5624



KLC/dbc

REQUEST TO:
RESTRICTIVE COVENANTS VOLUME 544 PAGE 755, DEED RECORDS W LIAISON
COLONY TEXAS

C A RIGHT-OF-WAY EASEMENT DATED JULY 27, 1972, GRANTED BY JOHN W. BUEHL
 AND LUTHE M. WAGGLED TO JOHNNY WATERS SUPPLY CO., INC., RECORDED
 VOL. 164, PAGE 666, DEED RECORDS, WILLIAMSON COUNTY, TEXAS

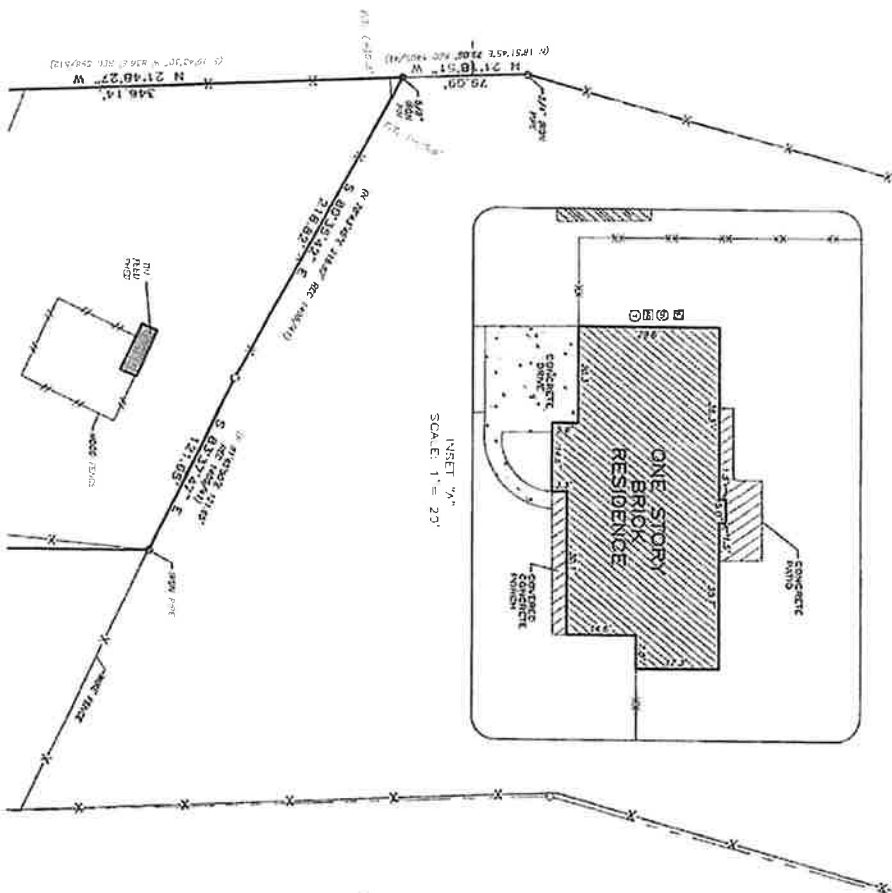
109 EASEMENT DATED JANUARY 28 1976 GRANTED BY RONALD HYDEN TO ELLA
GILIT A POWER COMPANY, RECORDER VOLUME 640 PAGE 75 DEED RECORDS
WILLIAMSON COUNTY TEXAS

THE ANY PORTION OF THE HEREIN DESCRIBED PROPERTY WILL LIES WITHIN THE BOUNDARIES OF A ROAD OR ROADWAY.

THE EMPLOYER WAS REFORMED UNDER THE FOLLOWING CODEL NET OF WILLAMSON COUNTY SUBDIVISION AND REGULATIONS APPENDIX A, A5.

COORDINATE SYSTEM (CENTRAL ZONE) NAMES

1	1/2	MIN PIN FOUND
2		W/25.00 (BRIEF NOTED)
3		W/25.00 PLASTIC CAP "CS. LTD"
4		FENCE POST
5		UTILITY POLE
6		W/25.00 FENCE
7		ELECTRIC LINES
8		PAVED LANE
9		DEED RECORDS WILLIAMSON, CO
10		DEED RECORDS WILLIAMSON, CO
11		AIR CORP RECORDS WILLIAMSON CO
12		CLAUDE
13		PALE
14		RECORDING
15		W/25.00
16		W/25.00

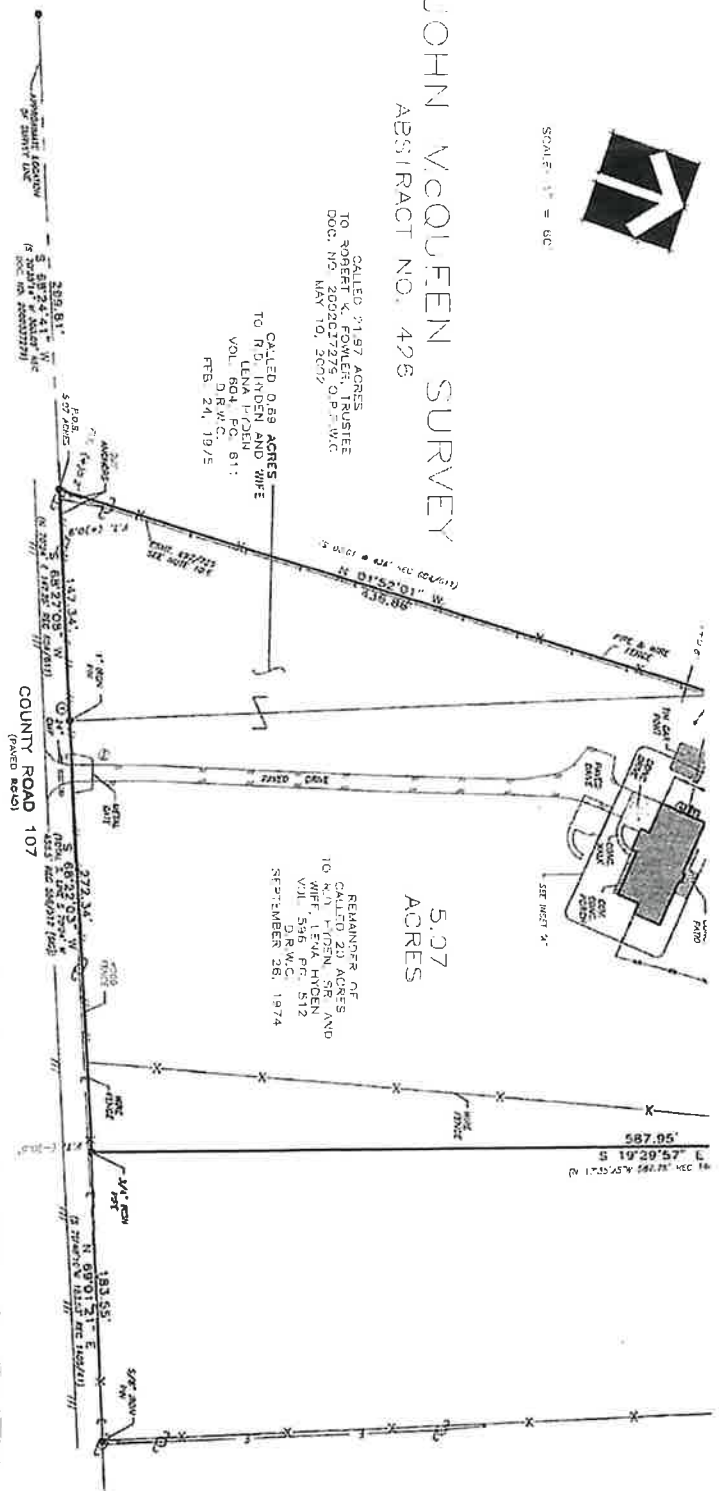




CALLED 31.97 ACRES
 TO ROBERT K. FOWLER, TRUSTEE
 DOC. NO 2002C17275 O.P. W.C.
 MAY 10, 2002

REMAINDER OF
CALLED 20 ACRES
TO K.O. HYDEN SR AND
WIFE, LENA HYDEN
VOL. 596 PG. 512
D.R.W.C.
SEPTEMBER 26, 1974

5.27
ACRES



HENRY MILLARD SURVEY
ABSTRACT NO. 452

STATE OF TEXAS

[illegible][illegible]

3615 Williams Drive, Suite 903 - Georgetown, Texas 78626
(512) 930-1600/(512) 930-9389 fax
www.cantleberryourvoying.com

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①

Exhibit B

Legal Description and Map

Resolution No. _____
Regarding Release of Petition Area

FIELD NOTES:

5.07 ACRES

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Bearings cited hereon based on Grid North, Texas State Plane Coordinated System, Central Zone NAD83(93).

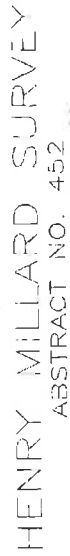
Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628


Kenneth Louis Crider
Registered Professional Land Surveyor No. 5624



KLC/dbc

●	1/2" IRON PIPE FOUND	LEGEND
○	UNLESS OTHERWISE NOTED)	
○	4" x 4" LOW PLASTIC CAP "YES, LTV"	
○	FENCE POST	
○	UTILITY POLE	
○	WIRE FENCE	
○	CHAIN LINK FENCE	
○	ELECTRIC LINES	
○	PAVE/UNT	
○	BUILD RECYCLES WILLAMSON CO	
○	OPTICAL RECORDS WILLAMSON CO	
○	OPTICAL RECORDS WILLAMSON CO	
○	AP COND/TURNER	
○	CLANGUIT	
○	CABLE TV	
○	ILLUMING	
○	TELEPHONE	



ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 08-01-2001 BY 60322 UCBAW/STP

STATE OF TEXAS 5

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
I, _____, a duly qualified and authorized officer of the County of San Diego, California, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the County of San Diego, California.

[illegible]

Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 803 - Georgetown, Texas 78628
(512) 930-1600/(512) 930-9369 (fax)
www.castleberryurveying.com

1334

02

DRAWING FILE: S:\2012 PROJECTS\2318 JOI CR 107\ 12318-SAC EXHIBIT.dwg Jan 05, 2013 - 1:17 pm Doug

Attachment 11



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

(<https://www.tceq.texas.gov>)

Home (<https://www.tceq.texas.gov>) / Permits, Registrations, and Reporting (<https://www.tceq.texas.gov/permitting>) / Wastewater Treatment (<https://www.tceq.texas.gov/permitting/wastewater>) / TCEQ Regionalization Policy for Wastewater Treatment

TCEQ Regionalization Policy for Wastewater Treatment

Information for applicants and the public about the requirements associated with regionalization and TCEQ's role in reviewing domestic wastewater permit applications.

On this page:

- **What is wastewater regionalization?**
- **When does TCEQ assess for wastewater regionalization?**
- **How has TCEQ decided on wastewater regionalization in the past?**
- **What do I need to provide as an applicant, for TCEQ to assess the need and availability of regionalization during the wastewater permitting process?**
- **How can the public participate in the wastewater permitting process?**

What is wastewater regionalization?

Regionalization is the administrative or physical combination of two or more community wastewater systems for improved planning operation or management.

Texas Water Code (TWC) Section 26.081 provides Texas' regionalization policy for wastewater treatment. It states that TCEQ is to implement a policy to "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state".

In furtherance of that policy TWC Section 26.0282 authorizes TCEQ, when considering issuing a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

▲ **Back to top**

When does TCEQ assess for wastewater regionalization?

TCEQ will assess for the need and availability of regionalization for wastewater during the permitting process. The presence of a wastewater treatment facility or wastewater collection system within three miles of a proposed new wastewater treatment facility or the expansion of an existing facility is not an automatic basis to deny an application or to compel an applicant to connect to an existing facility.

TCEQ may approve new, renewal, and major amendment applications for discharges of wastewater in any of the following situations where:

- There is no wastewater treatment facility or collection system within three miles of the proposed facility.

- The applicant requested service from wastewater treatment facilities within the 3 miles, and the request was denied.
- The applicant can successfully demonstrate that an exception to regionalization should be granted based on costs, affordable rates, and/or other relevant factors.
- The applicant has obtained a Certificate of Convenience and Necessity (CCN) for the service area of the proposed new facility or the proposed expansion of the existing facility.

▲ **Back to top**

How has TCEQ decided on wastewater regionalization in the past?

TCEQ has not denied any wastewater permit actions based solely on regionalization, and the agency supports new applicants and existing facilities productively working together to provide quality and cost-effective service. The following concerns related to regionalization were raised during previous wastewater permit actions and subsequent legal proceedings:



- lack of timely and cost-efficient wastewater services within the surrounding area
- lack of detailed cost analysis and comparison
- lack of thorough communication with existing facilities within a three-mile radius
- discharges within the Cibolo Creek Watershed per Title 30 , Texas Administrative Code (30 TAC), Section 351.65

TCEQ has previously included agreed language between the applicant and protestants in the “Other Requirements” section of the proposed permit that contains requirements about future coordination if the existing wastewater provider is able to provide service to proposed area.

▲ **Back to top**

What do I need to provide as an applicant, for TCEQ to assess the need and availability of regionalization during the wastewater permitting process?

TCEQ requires that you include justification of permit need in all wastewater permit applications for new facilities and all applications to amend an existing permit. Section 1.1 of the Domestic Technical Report for wastewater permit applications also requires the following information:

1. Determine whether or not there are any permitted domestic wastewater treatment facilities or collection systems within a three-mile radius of the proposed facility.
 - Tools to use:
 - **Wastewater Outfall Map Viewer**  (<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=d47b9419f42c49dea592203aeda99da1>)
 - **PUC CCN Map Viewer**  (<https://www.puc.texas.gov/industry/water/utilities/map.aspx>)
2. Contact any existing permitted domestic wastewater treatment facilities within a three-mile radius to inquire if they currently have the capacity to accept or are willing to expand to accept the volume of wastewater proposed.
 - If an existing facility does have the capacity to accept the proposed wastewater, submit an analysis of expenditures required to connect to the existing facility or collection system versus the cost of constructing and operating the proposed new facility or expansion.
3. Provide copies of all correspondence with the owners and/or operators of any existing permitted domestic wastewater treatment facilities and collection systems within a three-mile radius of the proposed facility.

▲ **Back to top**

How can the public participate in the wastewater permitting process?

- **Environmental Permitting: Participating in the Process** ([/agency/decisions/participation/permitting-participation](#))
- **Permits for Municipal Wastewater Treatment Plants: Learning More** ([/agency/decisions/participation/permitting-participation/municipal-wastewater](#))

▲ **Back to top**