

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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.



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
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AUSTIN TX 78701-2442

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FAULK , CODY
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TEXAS HOUSE OF REPRESENTATIVES DISTRICT 52
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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**

**§
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§
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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

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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
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