

TCEQ DOCKET NO. 2025-0699-MWD

APPLICATION BY JC WATER	§	BEFORE THE
RESOURCE RECOVERY FACILITY,	§	TEXAS COMMISSION ON
LLC FOR TEXAS POLLUTANT	§	
DISCHARGE ELIMINATION SYSTEM	§	ENVIRONMENTAL QUALITY
PERMIT NO. WQ0016386001		

JC WATER RESOURCE RECOVERY FACILITY, LLC'S RESPONSE TO HEARING REQUESTS

TO THE HONORABLE COMMISSIONERS:

COMES NOW, Applicant JC Water Resource Recovery Facility, LLC (JC Water or Applicant) and files this Response to Hearing Requests relating to the issuance of proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016386001, and would respectfully show the following:

I. SUMMARY OF RESPONSE

The Texas Commission on Environmental Quality (TCEQ or Commission) received timely hearing requests from two individuals with justiciable interests. Hearing requests for six others lack standing, fail to raise any issues at all or fail to raise relevant and material issues. Accordingly, Applicant is unopposed to the party status of Curry and Lyle Reagan but opposed to all other hearing requests. Should the Commission refer this case to the State Office of Administrative Hearings (SOAH) for hearing, it should limit the issues to those set forth below and direct that the proceeding not exceed 180 days consistent with section 2003.047(e-2)(1) of the Texas Government Code.

II. BACKGROUND

Applicant seeks authorization to discharge treated domestic wastewater from a wastewater treatment plant (WWTP) that will serve approximately 450 single family homes in a residential development owned by Big Horn 124, LLC located in Johnson County, Texas. The discharge will flow approximately 0.37 miles before it exits the 111.97-acre Big Horn property. The proposed TPDES permit would allow a daily average flow of 0.06 million gallons per day (MGD) in the Interim phase and 0.108 MGD in the Final phase which is considered a minor discharge. The

Draft Permit proposes effluent limitations in all phases of 10 mg/L carbonaceous biochemical oxygen demand five-day (CBOD₅), 15 mg/L total suspended solids (TSS), 3 mg/L ammonia-nitrogen (NH₃-N), 0.5 mg/L total phosphorus (TP), 126 colony forming units (CFU) of *E. coli* per 100 ml, and 4.0 mg/L minimum dissolved oxygen (DO).¹

In accordance with 30 Texas Administrative Code (TAC) § 307.5 and TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), the Executive Director (ED) performed a Tier 1 antidegradation review of the receiving waters confirming that existing water quality uses will not be impaired. Additionally, there are no water bodies with exceptional, high or intermediate aquatic life uses (ALU) present that require a Tier 2 determination. Treated effluent will be discharged to an unnamed tributary, then to Robinson Branch, then to Lake Pat Cleburne in Segment No. 1228 in the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and Robinson Branch. The designated uses for Segment No. 1228 are primary contact recreation, public water supply, and high ALU. The discharge 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. In all technical respects, the proposed permit complies with all Commission rules and policy.

III. AUTHORITY

Hearing requests must meet the criteria set out in 30 TAC § 55.201, including the requirements that the request be based on comments not withdrawn and the request identified the Requester's location and distance relative to the proposed facility or activity.² In addition, "for applications filed on or after September 1, 2015, [the hearing request] must be based only on the Requester's timely comments."³ That means that if the requestors identified in Section IV below did not file comments during the comment period, their requests may not be considered. Similarly, if a requester filed a comment and hearing request prior to the 30-day hearing request period following the ED's Response to Comments but did not address an interest that legal right, duty, privilege, power, or economic interest that is different than members of the general public and

¹ November 10, 2023, ED's Statement of Basis/Technical Summary and Executive Director's Preliminary Decision at 3.

² 30 TAC § 55.201(c), (d)(2).

³ 30 TAC § 55.201(c).

filed no further pleading substantiating their standing, that requester may not be considered an “affected person.”

For a hearing request to be granted, an “affected person” with a personal justiciable interest must demonstrate a non-speculative injury resulting from the granting of the permit. Section 55.203 provides the standing criteria for the individual requestors in this case, as follows:

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Except as provided by § 55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
 - (6) for a hearing request on an application filed on or after September 1, 2015, whether the requester 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.
- (d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also 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. . . .

IV. RESPONSE TO INDIVIDUAL HEARING REQUESTS⁴

1. **Curry Reagan**, 6100 W. Highway 67, Cleburne, Texas 76033. Curry Reagan is an adjacent landowner on property located on the discharge route less than one mile from the proposed WWTP outfall. He raises the relevant and material issue of “algae” and protection of aquatic life and wildlife. (Hearing Request of April 7, 2025).

2. **Lyle Reagan**, 6104 W. Highway 67, Cleburne, Texas 76033. Lyle Reagan is an adjacent landowner, whose property is surrounded by Curry Reagan’s property and not located on the discharge route, but is within one mile of the proposed WWTP. Lyle Reagan raises only the relevant and material issue of smell (nuisance odors). The issue of flooding is outside the jurisdiction of the TCEQ and the Commission has specifically ruled that per-fluoroalkyl substances (or PFAS) are not relevant and material to TPDES permits, that the issue is not a relevant and material issue for the Commission to determine.⁵ (Hearing Request of March 31, 2025).

3. **CW Howell, Jr.**, 200 FM 2331, Cleburne, Texas 76033. The hearing request was submitted in hand written form by “CW Howell, Jr.” According to the Johnson County Appraisal District, however, the property located at 200 FM 2331 is owned by CW Howell, *not* CW Howell, Jr. CW Howell, Jr. has not demonstrated that he has a legal right, duty, privilege, power, or economic interest that would be affected by the application or that he has the legal authority to act on behalf of landowner CW Howell or that they are one in the same person. (Hearing Request of May 23, 2024).

4. **Dana Collier**, 509 N. County Rd. 1226, Godley, Texas 76044. Ms. Collier is not located on the discharge route and has not filed any hearing request after the issuance of Response to Comments specifying how she has a legal right, duty, privilege, power, or economic interest that would be affected by the application or demonstrating that her interest is not common to members of the general public. (Hearing Request of June 3, 2024).

5. **Tony Neal**, 601 N. County Rd. 1226, Godley, Texas 76044. Mr. Neal is not located on the discharge route and has not filed any hearing request after the issuance of Response to Comments specifying how he or his family has a legal right, duty, privilege, power, or economic interest that would be affected by the application or demonstrating that his interest is not common to members of the general public. (Hearing Request of May 24, 2024).

6. **Derek and Rebecca Townsend**, 977 N. Country Rd. 1226, Godley, Texas 76044. The Townsends are not located on the discharge route and have not filed any hearing request after the issuance of Response to Comments specifying how they have a legal right, duty, privilege, power, or economic interest that would be affected by the application or demonstrating that their interests

⁴ The map attached as **Exhibit A** is based on Johnson County Appraisal District records and shows the physical location of all individual requesters relative to the proposed site.

⁵ *An Order Granting the Application by Highland Lakes Midlothian I, LLC for TPDES Permit No. WQ0015999001*, SOAH Docket No. 582-23-23818, TCEQ Docket No. 2023-0844-MWD, Explanation of Changes No. 3, rev’d Conclusion of Law No. 10 (Aug. 5, 2024).

are not common to members of the general public. (Hearing Request of April 22, 2024, at public meeting).

7. **Gary Dempsey**, 1025 N. County Rd. 1226, Godley, Texas 76044. Mr. Dempsey is not located on the discharge route, is outside the one mile radius of the proposed WWTP, and has not identified any issues, let alone issues that demonstrate he has a legal right, duty, privilege, power, or economic interest that would be affected by the application or that demonstrates that any interest is not common to members of the general public. Furthermore, he has not filed any hearing request after the issuance of Response to Comments. (Hearing Request of April 22, 2024, at public meeting).

8. **Wileta Kretzschmar**, 857 N. County Rd. 1226, Godley, Texas 76044. Ms. Kretzschmar is not located on the discharge route and has not identified any issues that demonstrate she has a legal right, duty, privilege, power, or economic interest that would be affected by the application or that demonstrates that any interest is not common to members of the general public. Furthermore, she has not filed any hearing request after the issuance of Response to Comments. (Hearing Request of May 19, 2024).

V. RELEVANT AND MATERIAL ISSUES

In the event the Commission grants any hearing requests, the Commission may only refer those relevant and material issues to SOAH that were raised during the comment period⁶ as follows:

1. Whether the draft permit is adequately protective of water quality, including the protection of surface water, aquatic life and wildlife in accordance with the Texas Surface Water Quality Standards, 30 TAC Chapter 307; and,
2. Whether the draft permit adequately addresses nuisance odor, in accordance with 30 TAC § 309.13(e).

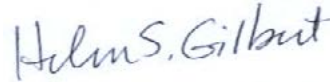
Flooding, erosion, stormwater runoff, noise, traffic, property values and PFAS are not within the TCEQ's jurisdiction and should not be referred to SOAH.

⁶ 30 TAC 55.201(c).

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Applicant respectfully prays that if the Commission grants Curry and Lyle Reagan's hearing requests, that the case be referred only on the two issues identified in Section V above for no longer than 180 days.

Respectfully submitted,



By: _____

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**ATTORNEY FOR JC WATER
RESOURCE RECOVERY FACILITY,
LLC**

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on this 30th day of June 2025:

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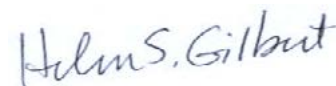
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By:



Helen S. Gilbert

EXHIBIT A

0 0.38 0.75 Miles



DEMPSEY GARY
WARREN

TOWNSEND
REBECCA & DEREK

HOWELL
CHARLES
WAYNE

REAGAN
CURRY

REAGAN
LYLE

BIG HORN






KRETZSCHMAR
WILETA MAE

NEAL TONY
LYNN ETUX

LONGORIA JOHN
DANIEL & DANA
LYINN COLLIER

JC WRRF

Legend

-  JC WRRF Property Boundary
-  Discharge Location
-  1 Mile Downstream of Discharge
-  1 Mile Buffer from Applicant Property Boundary
-  Properties within 1 Mile Buffer