

BRACEWELL

August 15, 2025

VIA EFILING

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

Re: TCEQ Docket No. 2025-1049-IWD
Golden Triangle Polymers Company, LLC
Water Quality Permit No. WQ0005432000

Dear Ms. Gharis:

Enclosed for filing is the Applicant Golden Triangle Polymers Company, LLC's Response to Request for Contested Case Hearing and Request for Reconsideration in the above-referenced matter.

Very truly yours,



Whit Swift
Partner

Enclosure

cc: Mailing List

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TCEQ DOCKET NO. 2025-1049-IWD

**APPLICATION BY
GOLDEN TRIANGLE POLYMERS
COMPANY, LLC
FOR TPDES PERMIT
NO. WQ0005432000**

**§ BEFORE THE TEXAS COMMISSION
§
§ ON
§
§ ENVIRONMENTAL QUALITY**

**GOLDEN TRIANGLE POLYMERS COMPANY, LLC’S RESPONSE TO REQUEST
FOR CONTESTED CASE HEARING AND REQUEST FOR RECONSIDERATION**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

Golden Triangle Polymers Company, LLC (“Applicant”) files this response to the request for a contested case hearing and the request for reconsideration on its application (“Application”) for Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0005432000 (the “Permit”) that will authorize the discharge of utility wastewater and stormwater on an intermittent and flow-variable basis via Outfall 001 (Phase 1); process wastewater, utility wastewater, and stormwater at a daily average flow not to exceed 2,650,000 gallons per day via Outfall 001 (Phase 2); and process wastewater, utility wastewater and stormwater at a daily average flow not to exceed 5,150,000 gallons per day via Outfall 001 (Phase 3) from the new Golden Triangle Polymers Plant, in Orange County, Texas (“Facility”).

The approval of the Permit is supported by the information and demonstrations included in the Application and the Executive Director’s thorough administrative and technical reviews of the Application. The Executive Director has issued her Response to Comments (“RTC”) and rendered her final decision that the Application meets all statutory and regulatory requirements and should, therefore, be approved by the Commission. One individual, Mr. Jonathan Webster, has requested a contested case hearing on the Application. Mr. Webster’s hearing request fails to identify a personal justiciable interest in the Application, and he is not an affected person. Mr. Webster does

not live in Texas. The contact information provided by Mr. Webster and included in the Commissioners' Integrated Database ("CID") indicates that Mr. Webster lives at 6 Manor Lane, Easton, Connecticut. According to GoogleEarth, the straight-line distance between Orange, Texas, and Easton, Connecticut is approximately 1,500 miles. Mr. Webster's comments and hearing request provide no indication that he has any connection to or use of the area around the Facility or along the discharge route. The interests expressed in his request are common to members of the general public. Because Mr. Webster does not meet the requirements for standing and is not an affected person, Applicant respectfully requests that the Commissioners deny the request for a contested case hearing.

Mr. Webster also requests that the Commission reconsider the Executive Director's decision on the Application. Because Mr. Webster's request simply registers disagreement with the Executive Director's decision on the Application and provides no support for his request in response to the Executive Director's RTC, the Applicant respectfully requests that the Commissioners deny the request for reconsideration.

I. Introduction

The Application seeks approval to discharge treated process wastewater, utility wastewater, and stormwater from an integrated polymers production facility consisting of multiple independent petrochemical units including an ethane cracker and two high density polyethylene units. The ethane cracker will produce ethylene from ethane feedstock while the polyethylene units will produce polyethylene pellets from ethylene feedstock. Railcar loading of polyethylene pellets will occur onsite for transport of pellets to customers. The polyethylene units and ethane cracker are designed to be commissioned and operated in three phases that are reflected in the Permit. The Permit does not authorize the discharge of domestic wastewater. Domestic wastewater generated

at the Facility will be routed to a third party, Orange County WCID #2, that is authorized to receive, treat, and discharge treated domestic wastewater.

Treated effluent will discharge directly to the Sabine River Tidal in Segment No. 0501 of the Sabine River Basin. The designated uses for Segment No. 0501 are primary contact recreation and high aquatic life use.

II. Procedural Background

Applicant filed the Application for Permit No. WQ0005432000 on June 29, 2023, and the Executive Director of the TCEQ declared the Application administratively complete on August 7, 2023. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (“NORI”) was published in English on August 19, 2023, in the *Orange Leader* and in Spanish on August 17, 2023, in *El Perico*. A Combined NORI and Notice of Application and Preliminary Decision (“NAPD”) was published on May 3, 2025, in English in the *Orange Leader* and on May 1, 2025, in Spanish in *El Perico*.

The public comment period ended on June 2, 2025. The Executive Director evaluated the comments filed on the Application and draft Permit and filed its RTC with the TCEQ Chief Clerk on June 9, 2025. The Chief Clerk issued a letter dated June 12, 2025, transmitting the RTC and alerting the public of the Executive Director’s decision that the Application meets the requirements of applicable law for permit issuance. The Executive Director’s RTC addressed the relevant and material concerns identified in the timely comments filed on the Application, including the comments filed by the requestor Mr. Webster.

On August 1, 2025, the Chief Clerk issued a letter stating that the Commissioners will consider the contested case hearing requests on September 10, 2025. The Applicant hereby provides its response to the contested case hearing request and request for reconsideration in accordance with Commission rules and the agenda setting letter.

III. Legal Standards for Review of Requests for Contested Case Hearing.

Texas law and TCEQ rules identify the legal standard for participation in a contested case hearing and the required elements of a valid contested case hearing request. To be granted a contested case hearing, the request must be made by an “affected person,”¹ it must “request a contested case hearing,”² and the request must be timely.³ Each of these three prongs is a mandatory requirement, and the request must be denied if there is a failure to meet any one of them.

A. The Request Must Be Made by an Affected Person

The Texas Water Code allows only “affected persons” to participate in a contested case hearing on water quality permit applications.⁴ The Texas Legislature has defined the universe of “affected persons” who may validly demand that a contested case hearing be held by or on behalf of the Commission. 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” may be granted a hearing.⁵ “An interest common to members of the general public does not qualify as a personal justiciable interest.”⁶

TCEQ rules specify the factors that must be considered in determining whether a person is an affected person. Those factors are:

- (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;

¹ 30 TEX. ADMIN. CODE § 55.201(b)(4).

² 30 TEX. ADMIN. CODE § 55.201(d)(3).

³ 30 TEX. ADMIN. CODE § 55.211(c)(2)(B). To be timely, a request for contested case hearing must be filed no later than 30 days after the TCEQ Chief Clerk mails (or otherwise transmits) the Executive Director’s decision and response to comments on an application and draft permit. *See* 30 TEX. ADMIN. CODE § 55.201(a).

⁴ *See* TEX. WATER CODE § § 5.556; 5.115.

⁵ TEX. WATER CODE § 5.115(a); *see also* 30 TEX. ADMIN. CODE § 55.203(a).

⁶ *Id.*

- (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 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.⁷

Consistent with the Senate Bill 709 changes to the Texas Water Code adopted in 2015, the Commission may consider additional factors in determining whether a person is an affected person, including:

- (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.⁸

In considering evidence to apply the above factors to a given request, the Third Court of Appeals has explained that TCEQ “enjoys the discretion to weigh and resolve matters that may go to the merits of the underlying 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.”⁹ TCEQ’s application of the factors described above “may include reference to the permit application, attached expert reports, the analysis and opinions of professionals on its staff,

⁷ 30 TEX. ADMIN. CODE § 55.203(c).

⁸ TEX. WATER CODE § 5.115(a-1); 30 TEX. ADMIN. CODE § 55.203(d).

⁹ *Sierra Club v. Tex. Comm'n on Env'tl. Quality*, 455 S.W.3d 214, 223 (Tex. App.—Austin 2014, pet. denied).

and any reports, opinions, and data it has before it” and specifically may include modeling reports that assess the impact of the proposed emission or discharge.¹⁰ In making these determinations, the court was applying the Texas Supreme Court’s 2013 decision in *Texas Commission on Environmental Quality v. City of Waco*, which affirmed TCEQ’s discretion to rely on such information in making an affected person determination.¹¹

B. The Request Must Be Filed Timely with the TCEQ.

TCEQ rules provide that a request for a contested case hearing must be filed no later than 30 days after the Chief Clerk mails (or otherwise transmits) the Executive Director’s decision and RTC and provides instructions for requesting that the Commission reconsider the decision or hold a contested case hearing.¹²

TCEQ’s rules do not provide a cure period or other opportunity to correct deficient hearing requests, whether the attempt to cure deficient requests consists of adding or referring to new members or adducing new facts to bolster claims of affected-person status for associations, their members, or individual requestors. TCEQ’s rules require a specific deadline for submitting requests within 30 days after the Executive Director’s decision and issuance of the RTC.¹³ A contested case hearing request must meet this deadline and must identify the requestor’s name and their “personal justiciable interest affected by the application.”¹⁴ The deadline to submit requests for a contested case hearing passed on July 14, 2025. TCEQ’s rules that govern the schedule for submitting responses to hearing requests depend on the request itself—including any descriptions of the bases for affected-person status or statements about personal justiciable interests—being

¹⁰ *See id.*

¹¹ 413 S.W.3d 409 (2013).

¹² 30 TEX. ADMIN. CODE § 55.201(a)&(c).

¹³ 30 TEX. ADMIN. CODE § 55.201(a).

¹⁴ 30 TEX. ADMIN. CODE § 55.201(d)(2).

complete.¹⁵ The rights of the Applicant, the Executive Director, and the Office of Public Interest Counsel to file responses to contested case hearing requests will be impaired by any attempt to bolster or supplement the affected-person status claims with new information via a reply and any attempt to provide such information should be treated as an untimely filed contested case hearing request.

C. The Required Elements of a Request for Contested Case Hearing

TCEQ rules at 30 TEX. ADMIN. CODE § 55.201(d) identify the requirements for a request for a contested case hearing:

A hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) for applications filed: ...
 - (B) 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. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and

¹⁵ See 30 TEX. ADMIN. CODE § 55.209.

(5) provide any other information specified in the public notice of application.¹⁶

TCEQ rules regarding the scope of contested case hearings also provide that 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.¹⁷

IV. Application of the Legal Standards to the Request for Contested Case Hearing.

A. Mr. Webster Is Not an Affected Person

To establish that he is an “affected person” entitled to a contested case hearing on the Application, Mr. Webster must show that (1) issuance of the Permit as proposed would cause him to suffer an injury (*i.e.*, a concrete and particularized invasion of a legally protected interest, *not common to the general public*, that is actual or imminent as opposed to conjectural or hypothetical), (2) the alleged injury is “fairly traceable” to the issuance of the Permit as proposed, and (3) that the injury would likely be redressed by a favorable decision on the party’s complaints regarding the proposed permit (*i.e.*, the Commission’s refusal to grant the permit or imposition of additional conditions).¹⁸ As noted by *City of Waco*, a requestor must show that “potential harm” is “more than speculative. There must be some allegation or evidence that would tend to show that the [requestor’s legally protected interests] will be affected by the action.”¹⁹

¹⁶ 30 TEX. ADMIN. CODE § 55.201(d).

¹⁷ 30 TEX. ADMIN. CODE § 50.115(c).

¹⁸ See *City of Waco v. Tex. Comm’n on Env’tl. Quality*, 346 S.W.3d 781, 802 (Tex. App.—Austin 2011), *rev’d on other grounds*, 413 S.W.3d 409 (2013).

¹⁹ *Id.* at 805-06 (quoting *Save Our Springs Alliance, Inc. v. City of Dripping Springs*, 304 S.W.3d 871, 883 (Tex. App.—Austin 2010, pet. denied)); see also *United Copper v. Grissom*, 17 S.W.3d 797, 803-04 (Tex. App.—Austin

The comment and hearing request filed by Mr. Webster identifies an address in Easton, Connecticut – a town that is approximately 1500 miles from Orange, Texas. There is no information in the record indicating that Mr. Webster owns or lives on property along the Sabine River in the vicinity of the proposed discharge or the discharge route. Mr. Webster did not express any injury that is “fairly traceable” to himself related to the Application or the Permit recommended for approval by the Executive Director. The interests Mr. Webster expresses in the hearing request are general public policy concerns (*e.g.*, cumulative impacts of discharges from petrochemical plants on climate resilience, climate justice and adequacy of TCEQ community engagement) that are common to members of the general public. In expressing only issues common to the general public, Mr. Webster has shown no personal justiciable interest in the Application or potential harm that would result to him from issuance of the Permit as proposed. Moreover, he identifies an address that is some 1500 miles away from the Facility. Mr. Webster fails to qualify as affected person.

V. Requests for Reconsideration

Texas Water Code Section 5.556 provides that a person may request that the Commission reconsider the Executive Director’s decision on a TPDES permit application. TCEQ rules require that a request for reconsideration of the Executive Director’s decision must meet the following requirements:

- (1) The request must be in writing and be timely filed by United States mail, facsimile, or hand delivery with the Chief Clerk;
- (2) The request should contain the name, address, daytime telephone number,

2000, pet. dism’d) (“potential harm” that conferred standing was established by United Copper’ own data indicating that its operations would increase levels of lead and copper particulate at Grissom’s home and his child’s school, together with proof that Grissom and his child suffered from “serious asthma”); *Heat Energy Advanced Tech., Inc. v. West Dallas Coal. for Envtl. Justice*, 962 S.W.2d 288, 295 (Tex. App.—Austin 1998, pet. denied) (“potential harm” established where association member’s house was located one-and-a-half blocks from facility, permit applicant had acknowledged in another Commission proceeding that facility emitted odors, and association member claimed to detect strong odors coming from it).

and, where possible, fax number of the person who files the request; and

- (3) The request for reconsideration must expressly state that the person is requesting reconsideration of the Executive Director's decision and give reasons why the decision should be reconsidered.²⁰

Neither the Texas Water Code nor any TCEQ rule provides a standard for determining when the Commission should grant a request for reconsideration.

Mr. Webster filed a request for “public reconsideration of the Executive Director’s preliminary approval” along with his request for a contested case hearing. Mr. Webster’s request for reconsideration fails to raise a material fact issue or identify a basis upon which the Executive Director’s decision should be reconsidered. Instead, he merely requests that the Executive Director’s preliminary approval be reconsidered. Thus, the request fails to identify any issue that merits sending the Application back to the Executive Director for reconsideration and should be denied.

VI. Conclusion and Prayer

For the reasons discussed above, Applicant respectfully requests that the Commission deny the contested case hearing request and request for reconsideration, adopt the Executive Director’s Response to Public Comments, and issue TPDES Permit No. WQ0005432000.

Respectfully Submitted,



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²⁰ 30 TEX. ADMIN. CODE § 55.201(e).

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ATTORNEYS FOR GOLDEN TRIANGLE
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Golden Triangle Polymers Company, LLC's Response to Request for Contested Case Hearing and Request for Reconsideration was filed electronically with the Chief Clerk of the Texas Commission on Environmental Quality on August 15, 2025. I further certify that a copy of the foregoing was sent to all persons on the attached mailing list via U.S. mail.



Whitney L. Swift

MAILING LIST
GOLDEN TRIANGLE POLYMERS COMPANY, LLC
DOCKET NO. 2025-1049-IWD; PERMIT NO. WQ0005432000

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