TCEQ DOCKET NO. 2026-0182-MWD

APPLICATION BY HIGHTEN JARRELL 115 LLC FOR TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. WQ0016565001	**§**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

HIGHTEN JARRELL 115 LLC'S RESPONSE TO HEARING REQUESTS

TO THE HONORABLE COMMISSIONERS:

COMES NOW, Applicant Highten Jarrell 115 LLC (Highten Jarrell or Applicant) and files this Response to Hearing Requests relating to the issuance of proposed Texas Pollutant Discharge Elimination System Permit (TPDES) No. WQ0016565001, and would respectfully show the following:

I. SUMMARY OF RESPONSE

The Texas Commission on Environmental Quality (TCEQ or Commission) received hearing requests from two (2) individuals/couples/families and a filing by one individual that does not constitute a hearing request.[1] Some of these requests were made multiple times by the same individuals or families and were identical. Except for these two (2) requests, the Commission received many other hearing requests that have **all** been withdrawn as of the deadline for filing such hearing requests.[2] Thus, the only hearing requests received by the Commission and not withdrawn are by Carolyn Lankford and Kevin and Regina Beam. The address listed for the Lankford/Beam property is the same (as depicted on Exhibit A), the hearing requests are identical and were filed on the same day (August 16, 2024), almost a year before the public meeting. Importantly, neither Lankford nor Beam filed any hearing request after the Executive Director filed her Response to Comments on November 5, 2025 and none of their pleadings demonstrate

[1] Hearing requestors' locations are identified in the attached **Exhibit A Landowner Map** based on the TPDES Application filed on June 26, 2024. Despite showing her location approximately t 2.1 miles away from the site on the other side of U.S. Interstate I-35, Applicant does not consider Ms. Islas' filing to constitute a hearing request. Rather her request for "public case hearing/meeting" appears more akin to a request for public meeting, a number of which were filed in the same time frame preceding the public meeting.

[2] *See* **Exhibit B**, TCEQ's March 9, 2026 Commission Integrated Database showing hearing request and comment withdrawals by Elizabeth, Nathan and Luke Exley and multiple other "supporters" of the Exley family.

their justiciable interest, that is, how they meet the affected person standard or what issues are relevant and material to the Commission's consideration.

Accordingly, the Commission should deny all requests and remand the application to the Executive Director (ED) for the issuance of the uncontested TPDES permit. Alternatively, should TCEQ grant any request and refer this case to the State Office of Administrative Hearings (SOAH) for hearing, it should limit the issues as 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.

Additionally, the Commission should not grant *any* request for which no prior comment was filed and, should the case be referred, include a directive in the Interim Order that prohibits the admission of any party that failed to previously file public comment in accordance with title 30 Texas Administrative Code (TAC) §§ 80.109(b)(5), 55.203 or 55.205 and Texas Water Code (TWC) § 5.115(a-1)(2) and is in excess of SOAH's delegated authority under TWC § 5.311.

II. BACKGROUND

Applicant seeks a minor permit that would authorize the discharge of treated domestic wastewater from a wastewater treatment plant (WWTP) of 450,000 gallons per day in the final phase. The proposed WWTP will serve a residential subdivision in Williamson County, Texas located in the Brazos River Basin. The Draft Permit proposes effluent limitations in all permitting phases of 5 mg/L carbonaceous biochemical oxygen demand five-day ($CBOD_5$), 5 mg/L total suspended solids (TSS), 2 mg/L ammonia-nitrogen (NH_3-N), 0.5 mg/L total phosphorus (TP), 126 colony forming units (CFU) of *E. coli* per 100 ml, and 5.0 mg/L minimum dissolved oxygen (DO) which constitutes tertiary treatment.[3]

Treated effluent will be discharged to North Fork Donahoe Creek, then to Donahoe Creek, then to Little River in Segment No. 1213 of the Brazos River Basin. In accordance with 30 TAC § 307.5 and TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), the ED performed a Tier 1 antidegradation review of the receiving waters confirming that existing water quality uses will not be impaired. The ED's Tier 2 antidegradation evaluation

[3] Draft Permit at 2-2b.

preliminarily determined that no significant degradation of water quality is expected in Donahoe Creek, which has been identified as having high aquatic life use, such that existing uses will be maintained and protected. 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

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 the individuals who filed hearing requests 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 INDIVIDUALS

1. **Carolyn Lankford**, 881 E. County Road 304, Jarrell, Texas 76537. Ms. Lankford filed her only hearing request on August 16, 2024, more than eight (8) months before the public meeting on April 22, 2025 and 16 months before the deadline to submit hearing requests and has filed nothing subsequently. At no time did Ms. Lankford allege, let alone, demonstrate her justiciable interest. In fact, her property as depicted by Exhibit A, is not adjacent to the proposed site, is not located on the discharge route and based on mapping showing Jarrell-Schwertner Water Supply Corporation water system lines, as well as a lack of well data from Texas Water Development board, appears to get her drinking water from a retail public utility not via individual groundwater well. As such, she lacks a justiciable interest and has not demonstrated that she has a legal right, duty, privilege, power, or economic interest that would be affected by the application or that her interest is not common to members of the general public.

2. **Kevin and Regina Beam**, 881 E. County Road 304, Jarrell, Texas 76537. As stated above (and similar argument incorporated herein), the Beams' hearing request was identical to Ms. Lankford's, also filed on August 16, 2024, and similarly failed to articulate a justiciable interest. Since the Beams have not demonstrated a legal right, duty, privilege, power, or economic interest that would be affected by the application or that their interest is not common to members of the general public, their hearing request should be denied.

3. **Jennifer Islas**, 118 Double Creek Spur, Jarrell, Texas 76537. Ms. Islas states in her only submittal (of August 30, 2024) that she is requesting a "public case hearing/meeting." Not only is this not a request for a contested case hearing but her residence is over 2.15 miles from the proposed WWTP (2.2 miles from the discharge point) and on the opposite side of U.S. Interstate I-35 from the proposed facility. At no time after her 2024 filing, did Ms. Islas clarify that she has a legal right, duty, privilege, power, or economic interest that would be affected by the

application or that her interest is not common to members of the general public. If the Commission even considers her filing to be a request for hearing, it should be denied since she is not an affected person.

V. RELEVANT AND MATERIAL ISSUES

In light of the complete failure to demonstrate their justiciable interest and standing, as no requestor/filer is located on the discharge route, none relies on drinking water from an on-site groundwater well and no filing articulates how there is a unique impact different from members of the general public for spills and odors, an analysis of relevant and material issues raised by these non-affected individuals is unnecessary and beside the point. Additionally, several issues like erosion, property values, pathogens/PFAS, mandated reuse and facility location and conveyance of wastewater by pipe are either outside the Commission's jurisdiction completely or not required by rule.

However, should the Commission determine that any of the individual requestors have standing, the following relevant and material issues were raised: 1) the protection of surface water quality (alleged increase of nitrogen affecting water-algae growth), 2) the protection of groundwater quality (alleged contamination of nearby wells), and 3) odor.

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Applicant respectfully prays that the Commission deny all hearing requests and remand the uncontested permit to the Executive Director for issuance; but in the alternative that if it grants any hearing request, that the case be referred for a proceeding to last no longer than 180 days.

Respectfully submitted,

Helen S. Gilbert

By:_____

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ATTORNEY FOR HIGHTEN JARRELL 115 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 9th day of March 2026:

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By: Helen S. Gilbert
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EXHIBIT B

TCEQ Commissioners' Integrated Database - All Comments

Back to Report Result 1 - 1

| 1 - 100 | 101 - 137 |

Comments:

Comment letters, etc. received since November 2008 can be downloaded as a PDF by clicking on the Correspondence Type.

Date Received	Commentor	Correspondence Type	Comments Submitted Electronically
02/27/2026 12:35 PM	EXLEY, ELIZABETH ANNA	Withdrawal Comment Letter	I withdraw my contested case and comments for this WWTP
02/27/2026 12:35 PM	EXLEY, ELIZABETH ANNA	Withdrawal - Hearing Request	I withdraw my contested case and comments for this WWTP
02/25/2026 2:53 PM	EXLEY,PAUL	Withdrawal Comment Letter	I withdraw my contested case comments
02/25/2026 2:53 PM	EXLEY,PAUL	Withdrawal - Hearing Request	I withdraw my contested case comments
02/25/2026 12:39 PM	EXLEY, ELIZABETH ANNA	To Be Determined	I withdraw all my comments and contested case requests. It is still showing a Gohgenini) HighTen 115 contested file.
02/24/2026 10:36 AM	STEVICK,SARAH	Withdrawal Comment Letter	"I withdraw my contested case comments
02/24/2026 10:36 AM	STEVICK,SARAH	Withdrawal - Hearing Request	"I withdraw my contested case comments
02/24/2026 10:36 AM	STEVICK,SARAH	Withdrawal - RFR	"I withdraw my contested case comments
02/23/2026 12:07 PM	EXLEY,LUKE DEAN	Withdrawal Comment Letter	I withdraw my contested case comments.
02/23/2026 12:07 PM	EXLEY,LUKE DEAN	Withdrawal - Hearing Request	I withdraw my contested case comments.
02/23/2026 12:07 PM	EXLEY,LUKE DEAN	Withdrawal - Public Meeting Request	I withdraw my contested case comments.
02/23/2026 12:07 PM	EXLEY,LUKE DEAN	Withdrawal - RFR	I withdraw my contested case comments.
12/07/2025 10:25 PM	HALLAM,DARIN	Withdrawal - Hearing Request	Withdrawing all contested case requests
12/05/2025 10:55 PM	EXLEY, ELIZABETH ANNA	Withdrawal - Hearing Request	James and Elizabeth Exley would like to withdraw our contested case requests confirm.
12/03/2025 9:40 PM	EXLEY,PAUL	Withdrawal - Hearing Request	I am withdrawing all contested case requests
11/12/2025 11:11 AM	EXLEY, ELIZABETH ANNA	Hearing Request English	Name: James and Elizabeth Exley 653 E County Rd. 304 Jarrell, Tx 76537 51 Jarrell 115 LLC. RN112000088 - HIGH TEN WWTP Permit TPDES #WQ001656 VERY affected persons within 300 feet of this proposed WWTP. I request a cor commented many times before and have NOT dropped any comments. So rea some of them: We have honeybees and collect their honey and beeswax for n primary income and they are also for pollinating our agriculture vegetables/fr honeybees are known (research shown) to visit and drink dirty water and brir melting sugared honey. This WWTP will have dirty and contaminated water in near my hives which will introduce pharmaceuticals, bacteria, and pollutants i response that this WWTP effluent is 'safe' IS TOTALLY missing my point and is in open cleaning/processing tanks that my bees can and will access because i attract them! Bees are very sensitive to chemicals (including bleach or chlorin and my livelihood. We ask they fully enclose/cover all waste water treatment hardware cloth so pollinators cannot access any contaminants but this still all WWTP developer said they will be piping ALL effluent, ALL storm and ALL stre OUR culvert that flows FIRST across our land before entering a seasonal creek ERODE/damage our culvert with this increased flow CONTINUALLY entering th more
			The director's response about this WWTP effluent being 'safe' is not the issue. that my bees can and will access because it has water and odors that will attr to chemicals (including bleach or chlorination) pollutants, pharmaceuticals an livelihood. We ask they fully enclose/cover all treatment water sources (exclu a 1/8 inch hardware cloth so pollinators cannot access any contaminants but