

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by the City of Star Harbor for new TCEQ Permit No. WQ0016017001; TCEQ Docket No. 2022-0325-MWD.

On June 1, 2022, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing file by Don Norwood and Castell Realty, LLC concerning the application by the City of Star Harbor (Applicant) for new TCEQ Permit No. WQ0016017001, which authorizes the disposal of treated domestic wastewater at a daily average flow limit of 60,000 gallons per day via irrigation of 22 acres of public-access golf course land in Henderson County. The requests for hearing were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code (TAC) Chapter 55. The Commission also considered the responses to the requests for hearing filed by the Executive Director and the Office of Public Interest Counsel; replies; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that Don Norwood is an affected person under applicable law and granted his hearing request. The Commission denied the hearing request of Castell Realty, LLC.

The Commission next determined whether the granted requests for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by the affected person during the comment period, and that are relevant and material to its decision on the application. The Commission determined that the following issues met those requirements and directed that

they be referred to the State Office of Administrative Hearings (SOAH): A) Whether proper notice of the application was provided in accordance with TCEQ rules; B) Whether the application correctly identified private groundwater wells within one mile of the proposed facility and effluent pond; C) Whether the application includes all required maps, diagrams, bases of design, calculations, and other pertinent data required by 30 TAC Chapter 309; D) Whether the proposed facility and effluent pond comply with the siting, buffer zone, and liner requirements; E) Whether the application includes all information required for determining or reviewing facility design, hydraulic application rates, and effluent storage calculations; F) Whether the water balance study in the application complies with the applicable rules; G) Whether the application contains complete and accurate information on nitrogen application rates, soil testing, and irrigation best management practices; H) Whether the effluent limits in the draft permit were properly calculated and comply with the applicable rules; I) Whether the draft permit will be protective of surface water and groundwater; J) Whether the Adjacent Landowners Map submitted with the application identified all required property owners; and K) Whether the application includes adequate calculations for agronomic uptake of nutrients and other pollutants and correctly identifies suitable crop types for the disposal site.

The Commission also determined to refer the matter to TCEQ's Alternative Dispute Resolution Program, to run concurrently with SOAH preliminary hearing scheduling efforts. Finally, pursuant to 30 TAC § 50.115(d)(2), the Commission specified that the maximum duration of the contested case hearing shall be 150 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- (1) The hearing request filed by Don Norwood is hereby GRANTED;
- (2) The hearing request filed by Castell Realty, LLC is hereby DENIED;

(3) The following issues are REFERRED to SOAH for a contested case hearing on the application:

- A) Whether proper notice of the application was provided in accordance with TCEQ rules;
- B) Whether the application correctly identified private groundwater wells within one mile of the proposed facility and effluent pond;
- C) Whether the application includes all required maps, diagrams, bases of design, calculations, and other pertinent data required by 30 TAC Chapter 309;
- D) Whether the proposed facility and effluent pond comply with the siting, buffer zone, and liner requirements;
- E) Whether the application includes all information required for determining or reviewing facility design, hydraulic application rates, and effluent storage calculations;
- F) Whether the water balance study in the application complies with the applicable rules;
- G) Whether the application contains complete and accurate information on nitrogen application rates, soil testing, and irrigation best management practices;
- H) Whether the effluent limits in the draft permit were properly calculated and comply with the applicable rules;
- I) Whether the draft permit will be protective of surface water and groundwater;
- J) Whether the Adjacent Landowners Map submitted with the application identified all required property owners; and
- K) Whether the application includes adequate calculations for agronomic uptake of nutrients and other pollutants and correctly identifies suitable crop types for the disposal site;

(4) This matter is referred to the TCEQ's Alternative Dispute Resolution Program to run concurrently with the SOAH scheduling process;

(5) All issues not identified as being referred to SOAH in Ordering Provision No. 3 are hereby DENIED;

- (6) The maximum duration of the hearing is set at 150 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH; and
- (7) If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Jon Niermann, Chairman

6/6/22

Date Signed