

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER

concerning the application by Restore the Grasslands LLC and Harrington/Turner Enterprises, LP for new TPDES Permit No. WQ0016003001; TCEQ Docket No. 2022-0326-MWD.

On May 18, 2022, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration filed by numerous entities and individuals concerning the application by Restore the Grasslands LLC and Harrington/Turner Enterprises, LP (Applicants) for new TPDES Permit No. WQ0016003001. The application seeks authorization to discharge treated domestic wastewater at a daily average flow not to exceed 0.10 million gallons per day (MGD) in the Interim Phase, and a daily average flow not to exceed 0.20 MGD in the Final Phase. The proposed wastewater treatment facility will be located approximately 0.4 miles northwest of the intersection of North Murphy Road and Rolling Ridge Drive, in Collin County, Texas.

The requests for hearing and reconsideration 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 or reconsideration filed by the Executive Director, the Office of Public Interest Counsel, and the Applicants; the requesters' timely replies; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that the following entities and individuals are affected persons under applicable law and that their hearing requests should be granted: the City of Murphy; the City of Parker; North Texas Municipal Water District; Mir Abidi;

Elizabeth Abraham; Tracy Jo Allen; Amber Boley; Linda Braswell; Patrick Calabria and Katherine and William Harvey; Kim Caldwell; Harold Camp; Lance Caughtfield; Scott and Wendy Clark; Don Wade Cloud, Jr. and Scheri Cloud; Ashley Conner; Maya, Meerna, and Michael Dalal; Cyndi Daugherty; Rick Debus; Tami DeWeese; Jeffrey Dwight and Dan Shoop; Alicia Sue Evans; Shawna Fastnaught; Amanda Ferrara; Karen Fey; Wendy Galarneau; Michael and Alesha Haynes; Laura and Tony Hernandez; Charles Ho; John and Jena Holton; Deborah Ison; Mary Nell Jackson; Mary G. Trudy Jackson; Rico Jones and Ariel Tonnu; Theodore Lane; Kay Ann Learned; Greg and Susan Ligon; Angelique Loncar; Steve and Linda Loop; Edwin and Dianne Lundberg; Andrew and Mayela Malczewski; Tom and Jessica Marshall; Teral and Larry McDowell; James and Carolyn Moebius; Amit Nangia and Ranjani Venkataraman; Ludwig and Lynne Orozco and the Orozco Family Living Trust; Lee Pertle; Emily Plummer; Heather Powell; Soumit and Sylvia Roy; Kimberly Ryan; Frank Sarris; Helena Thompson; Leticia Trevino; Sunil and Sreelaxmi Unnikrishnan; Alexander Vinyukov; Gordy and Diane Viere; Ashley Wilson; Matthew Wilson; and Katherine and Robert Wunderlich.

The Commission also determined to refer the hearing requests filed by the Rolling Ridge Estates Homeowner's Association; Ellen and Tim Davis; Laura Deel; Dan Gould; Ray and Ruth Hemmig; Patrick Hoare; Alex, Lauren, and Robert Jaczak; Brian Jones; Rudy and Amy Lopez; Jonathan Phelps; Juli Richards; and Asit Shankar to the State Office of Administrative Hearings (SOAH) for a preliminary determination on whether they qualify as affected persons. The Commission determined that the remaining hearing requests and all requests for reconsideration be denied.

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 an affected person during the comment period, and which are relevant and material to the decision on the application. The Commission determined that the following issues met those requirements and directed that they be referred to SOAH for contested case hearing:

- A) Whether the draft permit is protective of livestock, wildlife, and wildlife habitats;
- B) Whether the draft permit is protective of the requesters' and their families' health and safety;
- C) Whether the draft permit complies with applicable siting requirements in 30 Texas Administrative Code Chapter 309, including adequate prevention of nuisance odors;
- D) Whether Applicants substantially complied with applicable notice requirements;
- E) Whether issuance of the draft permit is consistent with TCEQ's regionalization policy and Texas Water Code §§ 26.081 and 26.0282, and 30 Texas Administrative Code Chapter 351, Subchapter C, including consideration of need for the proposed facility and designation of a regional entity;
- F) Whether the draft permit complies with the Texas Surface Water Quality Standards and is protective of surface and groundwater quality, including requesters' use and enjoyment of their property;
- G) Whether the antidegradation review complies with applicable regulations and the draft permit includes adequate nutrient limits;
- H) Whether the Application is accurate and contains all required information;
- I) Whether Applicants are legal entities;
- J) Whether the draft permit includes adequate provisions to control vectors;
- K) Whether the draft permit's monitoring requirements comply with applicable regulations; and
- L) Whether the Applicants' compliance history raises any issues regarding Applicants' ability to comply with the material terms of the permit that warrant denying or altering the terms of the draft permit.

Finally, the Commission specified that the maximum duration of the contested case hearing shall be 180 days from the date 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:

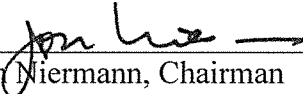
- 1) The hearing requests of the City of Murphy; the City of Parker; North Texas Municipal Water District; Mir Abidi; Elizabeth Abraham; Tracy Jo Allen; Amber Boley; Linda Braswell; Patrick Calabria and Katherine and William Harvey; Kim Caldwell; Harold Camp; Lance Caughfield; Scott and Wendy Clark; Don Wade Cloud, Jr. and Scheri Cloud; Ashley Conner; Maya, Meerna, and Michael Dalal; Cyndi Daugherty; Rick Debus; Tami DeWeese; Jeffry Dwight and Dan Shoop; Alicia Sue Evans; Shawna Fastnaught; Amanda Ferrara; Karen Fey; Wendy Galarneau; Michael and Alesha Haynes; Laura and Tony Hernandez; Charles Ho; John and Jena Holton; Deborah Ison; Mary Nell Jackson; Mary G. Trudy Jackson; Rico Jones and Ariel Tonnu; Theodore Lane; Kay Ann Learned; Greg and Susan Ligon; Angelique Loncar; Steve and Linda Loop; Edwin and Dianne Lundberg; Andrew and Mayela Malczewski; Tom and Jessica Marshall; Teral and Larry McDowell; James and Carolyn Moebius; Amit Nangia and Ranjani Venkataraman; Ludwig and Lynne Orozco and the Orozco Family Living Trust; Lee Perttle; Emily Plummer; Heather Powell; Soumit and Sylvia Roy; Kimberly Ryan; Frank Sarris; Helena Thompson; Leticia Trevino; Sunil and Sreelaxmi

Unnikrishnan; Alexander Vinyukov; Gordy and Diane Viere; Ashley Wilson; Matthew Wilson; and Katherine and Robert Wunderlich are hereby **GRANTED**;

- 2) The Chief Clerk shall **REFER** the hearing requests filed by the Rolling Ridge Estates Homeowner's Association; Ellen and Tim Davis; Laura Deel; Dan Gould; Ray and Ruth Hemmig; Patrick Hoare; Alex, Lauren, and Robert Jaczak; Brian Jones; Rudy and Amy Lopez; Jonathan Phelps; Juli Richards; and Asit Shankar to SOAH for a preliminary determination on whether each requester is an affected person;
- 3) The remaining requests for hearing and all requests for reconsideration are hereby **DENIED**;
- 4) The following issues are referred to SOAH for a contested case hearing on the application:
 - A) Whether the draft permit is protective of livestock, wildlife, and wildlife habitats;
 - B) Whether the draft permit is protective of the requesters' and their families' health and safety;
 - C) Whether the draft permit complies with applicable siting requirements in 30 Texas Administrative Code Chapter 309, including adequate prevention of nuisance odors;
 - D) Whether Applicants substantially complied with applicable notice requirements;
 - E) Whether issuance of the draft permit is consistent with TCEQ's regionalization policy and Texas Water Code §§ 26.081 and 26.0282, and 30 Texas Administrative Code Chapter 351, Subchapter C, including consideration of need for the proposed facility and designation of a regional entity;
 - F) Whether the draft permit complies with the Texas Surface Water Quality Standards and is protective of surface and groundwater quality, including requesters' use and enjoyment of their property;
 - G) Whether the antidegradation review complies with applicable regulations and the draft permit includes adequate nutrient limits;
 - H) Whether the Application is accurate and contains all required information;
 - I) Whether Applicants are legal entities;
 - J) Whether the draft permit includes adequate provisions to control vectors;
 - K) Whether the draft permit's monitoring requirements comply with applicable regulations; and
 - L) Whether the Applicants' compliance history raises any issues regarding Applicants' ability to comply with the material terms of the permit that warrant denying or altering the terms of the draft permit.
- 5) The maximum duration of the hearing is set at 180 days from the date of the preliminary hearing until the date the proposal for decision is issued by SOAH; and

6) 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

5/20/22

Date Signed