



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Aaron Reed, Public Works Director

UC Meeting Date: 01/11/2023

Agenda Item Wording: **Update and Discussion Regarding the Status of the City's Wastewater Permit WQ0014488003**

Agenda Item Requestor: Charlie Busbey

Summary/Background: In May of 2019, the City's TPDES Permit WQ0014488003 was granted by the TCEQ. The Save Our Springs Organization sued the TCEQ for issuing the permit and it has been tied up in litigation since. In February of 2022, the 8th court of appeals in El Paso heard oral arguments from SOS, TCEQ, and the City of Dripping Springs. On December 13th the Court issued their opinion stating "Yet following the Texas Supreme Court's recent directive that a court's duty is to stick to the text chosen by the rule-makers, without adding to it or subtracting from it, we consider only whether substantial evidence supports the TCEQ's conclusions under the statutes and rules—as they are written. Under that rubric, we reverse the district court's ruling, and uphold the TCEQ's issuance of the permit."

Developments that have occurred since the court issued their opinion on 12/13/22:

1. 12/16/22: SOS filed a Motion for Extension of Time to file a Motion for Rehearing.
 - a. Any Motion for Rehearing would be due December 28, 2022.
 - b. SOS sought an extension until January 9, 2023
2. 12/20/22 – The Court denied SOS's Motion for Extension of Time
3. 12/28/22 – SOS filed a Motion for Rehearing. On the same day the Court issued a letter stating that "The motion will be submitted to the Court, without appearance of counsel, on Wednesday, January 11, 2023."
 - a. A Motion for Rehearing cannot be granted by the Court unless it specifically asks for briefing.
 - b. A Motion for Rehearing can be denied by the Court if it does not ask for briefing.
 - c. The Court has not asked for briefing.

Substance of Decision/Judgment

1. The City (and State) were completely victorious.
2. The Court ruled:
 - a. Tier 1 was satisfied.
 - b. Tier 2 was satisfied.
 - c. Notice requirements were satisfied.
3. The Court did not rule on whether the District Court could issue an injunction, but instead dissolved the injunction.
4. The Court affirmed the order of the Executive Director of the Texas Commission on Environmental Quality approving the City of Dripping Springs' application for a permit to discharge treated wastewater.
 - a. The permit has been issued and is active.