



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**
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DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

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Secretary's Order No.: 2024-W-0052

RE: Approval of the Permit Application of Quarry Walk, LLC, for a Wastewater Collection and Conveyance System Construction Permit to serve the Quarry Walk residential subdivision located at 383 Yorklyn Road, Hockessin, Delaware

Date of Issuance: December 15, 2024

Effective Date: December 15, 2024

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 *Del.C.* §§6003, 6004, 6006, and all other relevant statutory authority, the Department issues this Order, approving the issuance of a Wastewater Collection and Conveyance System Construction Permit ("Construction Permit"), submitted by Quarry Walk, LLC ("Quarry Walk" or "Applicant") to construct a wastewater collection and conveyance system for sixty-one (61) dwellings located within the Quarry Walk residential subdivision, located at 383 Yorklyn Road, Hockessin, Delaware. It should be noted that the Applicant originally submitted another permit application associated with this matter, specifically, for an On-Site Wastewater Treatment and Disposal System Temporary Holding Tank to also serve the Quarry Walk subdivision. That permit application was subsequently withdrawn by the Applicant on October 8, 2024. While this Order does reference both permit applications that were submitted to the Department by Quarry Walk for this matter (as both applications were processed together), the only permit application currently pending before the Department at this time is the Construction Permit noted above.

Background, Procedural History and Findings of Fact

On January 18, 2024, the Applicant submitted a permit application to the Department, in accordance with 7 DE Admin. Code 7101, *Regulations Governing the Design, Installation, and Operation of On-Site Wastewater Treatment and Disposal Systems*, to construct a temporary holding tank system (“Holding Tank Permit application”). The proposed temporary holding tank system consists of twelve (12) 1,500-gallon tanks and related infrastructure designed to receive and temporarily store wastewater from twenty-five (25) dwellings within the Quarry Walk subdivision. The Holding Tank Permit would authorize the storage of wastewater until the pump station and force main associated with the subdivision are constructed to connect the subdivision to the New Castle County sanitary sewer system. To document the temporary nature of the holding tank system, the New Castle County Department of Public Works (“NCCDPW”) notified the Department that if the wastewater collection and conveyance infrastructure is built to New Castle County standards it would accept and operate the sanitary sewer system in the future.

Receipt of the Holding Tank Permit application was advertised by the Department on February 21, 2024. Public comments opposing the permit application and proposed project were received, as well as a request for the Department to hold a public hearing. However, a detailed review of the Holding Tank Permit application by the Department’s subject matter experts in the Division of Water (“DW”), Commercial and Government Services Section (“CGSS”), revealed that the Applicant had not yet applied for a Construction Permit to construct the wastewater conveyance system, including lift stations and force mains associated with the Quarry Walk subdivision, which is a regulatory requirement for the Department to consider issuance of the aforementioned Holding Tank Permit. Therefore, the matter was put on hold by the DW-CGSS, pending receipt of the required Construction Permit application from Quarry Walk.

On May 29, 2024, the Applicant submitted to the Department's DW-CGSS an application for the aforementioned Construction Permit, in accordance with 7 DE Admin. Code 7201, *Regulations Governing the Control of Water Pollution* ("Water Pollution Regulations"), to construct a wastewater collection and conveyance system for sixty-one (61) dwellings located within the Quarry Walk residential subdivision. The proposed system consists of approximately one thousand seven hundred and thirteen linear feet (1,713 LF) of six-inch (6") diameter sanitary sewer force main with one (1) pump station and related appurtenances including a diesel-powered backup system ("proposed project"). The proposed system is designed to tie into already existing wastewater infrastructure partially constructed under Construction Permit WPCC 3051/19 (issued by the Department on August 29, 2022), and would collect and convey residential wastewater to an existing manhole near Old Wilmington Road and enter New Castle County's sanitary sewer system. The NCCDPW confirmed with the Department's DW-CGSS that there is 15,750 gallons of sewage capacity presently available for the Quarry Walk subdivision. Additionally, the Construction Permit application noted that the project zoning is authorized and approved by New Castle County through the Auburn Valley Master Plan.

Since the Construction Permit application was associated with the Holding Tank Permit application (which garnered significant public interest as well as a public hearing request), the Department processed both applications together and scheduled a public hearing concerning both permitting matters to be held on June 25, 2024. Public notice of the Department's public hearing was advertised in both the *News Journal* and the *Delaware State News* on June 2, 2024. Notice of the public hearing was placed on the State of Delaware Public Meeting Calendar as well.

The Department's public hearing was held virtually on the Zoom platform on June 25, 2024, resulting in not only a greater level of participation by members of the public (when compared historically to in-person attendance at such events), but also enabling virtual attendees to use automated closed captioning in their choice of over 20 languages to further enhance their understanding of Quarry Walk's proposed project.

Department staff, representatives of the Applicant, and members of the public attended the public hearing held by the Department in this matter. To allow the public ample time to review the applications, draft permits and provide comments, the hearing record remained open through July 10, 2024. All comments received by the Department were posted on the DNREC public hearing web page dedicated to this matter upon their receipt. Proper notice of the hearing was provided as required by law.

Subsequent to the close of the public comment period on July 10, 2024, Hearing Officer Lisa A. Vest requested a Technical Response Memorandum (“TRM”) from the Department’s subject matter experts in the DW-CGSS. The DW-CGSS provided their TRM, dated December 2, 2024, in response to the public comments received in this matter, and the same is discussed herein in greater detail below.

On October 8, 2024, the Department received a letter from Quarry Walk requesting the withdrawal of their Holding Tank Permit application. The letter stated that there was no longer a need to construct the above described temporary holding tank system, and instead the Applicant wanted to focus efforts on the construction of the pump station and force main, pursuant to the Construction Permit application. Accordingly, the Department is no longer considering the issuance of the Holding Tank Permit, and thus the TRM provided by the DW-CGSS addresses only those comments and questions associated with the pending Construction Permit application and the proposed Draft Permit associated with the same.

Subsequent to the receipt of the Department’s TRM referenced above, Hearing Officer Vest prepared her Hearing Officer’s Report (“Report”), dated December 11, 2024. Ms. Vest’s Report set forth the procedural history, summarized and established the record of information (“Record”) relied on in the Report, and provided findings of fact, reasons, and conclusions that recommend the approval of the Department’s issuance of the finalized Construction Permit, with appropriate conditions, required for the Applicant’s proposed project as set forth above.

The Report, along with its Appendices, is incorporated herein by reference. The Report also addressed the concerns associated with this proposed project, as voiced in the public comments received in this matter, and concluded that the same did not warrant the Department's denial of the above listed permits/authorizations, nor the delay of the decision regarding the same to receive any additional information.

Reasons and Conclusions

Currently pending before the Department is the above described Construction Permit application necessitated by Quarry Walk's proposed project, and the proposed Draft Permit associated with the same. I find that the Applicant is required to obtain said Construction Permit, for the reasons noted above, and that the proposed project is subject to various state and federal regulatory requirements, as previously set forth herein.

The Department's TRM provided a thorough review of the concerns voiced in the public comments received in this matter as they relate to the Applicant's pending Construction Permit. Again, since the Applicant has withdrawn their previously submitted Holding Tank Permit application, the comments received regarding that portion of the proposed project are no longer relevant to this pending permitting matter.

The following section of this Order summarizes the main areas of concern raised in the public comments regarding Quarry Walk's pending Construction Permit application, and the Department's responses to the same. It should be noted that, where comments received were similar in nature, the Department combined those comments together and paraphrased for the purposes of brevity and clarity. Again, all of the public comments received by the Department regarding the Applicant's proposed project have been incorporated into the Record generated in this matter and are available for review in their entirety on the Department's hearing web page dedicated to this hearing matter.

1. Proposed Sequence of Construction

Many of the comments received from the public in this matter questioned the installation of the temporary holding tank system prior to the construction of the pump station and force main. The comments supported the construction of the pump station and force main only. In response, the Department's TRM states that, with the Applicant having withdrawn their Holding Tank Permit application, the Department will not be issuing a Holding Tank Permit to Quarry Walk. Thus, the concerns associated with Quarry Walk's original sequence of construction are addressed. The Applicant's withdrawal letter of October 8, 2024, is attached to the Department's TRM as Appendix I.

2. Environmental Protection Concerns

Some of the comments received from the public in this matter voiced concerns regarding the potential impacts on the environment from the construction of the wastewater infrastructure. In response, the TRM notes that, in accordance with Section 4.0 of the *Water Pollution Regulations*, the Department issues Wastewater Collection and Conveyance System Construction Permits (also known as "WPCC Permits") for the construction of facilities and infrastructure that will store, collect, convey, and/or treat sewerage and other wastewaters. Such permits are issued to safeguard the environment and ensure that facilities and infrastructure are designed to manage the wastes properly.

The proposed Draft Permit for the Quarry Walk subdivision pump station and force main is based on construction plans and specifications signed and sealed by a Delaware-registered Professional Engineer (on behalf of the Applicant), with all drawings, calculations, slopes, pipe type and sizes, and pump/performance curves having also been reviewed by Derrick Caruthers, Engineer IV (one of the Department's subject matter experts in the DW-CGSS, who is also a Delaware-registered Professional Engineer). Thus, certified engineering experts for both the Applicant and the Department agree that the Applicant's proposed design is in-line with appropriate engineering standards and is protective of public health and the environment.

To ensure the construction and use of the proposed wastewater infrastructure is protective of water quality and public health, safety and welfare, the proposed Draft Permit (attached to the Department's TRM as Appendix II) includes the following operational and reporting requirements:

- The Permittee is required to construct wastewater infrastructure in accordance with the submitted and approved construction plans.
- The Permittee must notify the Department of any proposed change in the authorized construction activity, of any proposed substantive change in the operation of the facility, or of any anticipated facility expansions, production increases, or process modifications. Examples include the construction of additional wastewater collection, transmission or treatment facilities and changes which will result in new, different, or increased discharges of pollutants. Following such notice, the Department may require the submission of a new permit application and the permit reopened and modified to address the proposed changes.
- The Permittee must submit to the Department an "as-built" set of plans of the infrastructure constructed, bearing the seal and signature of a Delaware-registered Professional Engineer.
- The Permittee must allow Department inspectors access to the construction site to inspect any records, equipment, and/or observe construction activities.

In light of the above requirements, the Department's TRM concludes that the construction of the pump station and force main will be in-line with all applicable engineering standards and protective of public health and the environment.

3. Spills

Some of the public comments received in this matter voiced concerns over the potential environmental impact from spills/releases from the proposed project's wastewater infrastructure. In response, the TRM refers back to the Department's previous response to comments associated with potential environmental protection concerns, and notes that the design of the proposed wastewater conveyance system conforms to the applicable engineering standards developed to assure proper construction and operation of such systems. In the event a spill was to occur once the system is in operation, pursuant to the provisions of 7 *Del. C.* §6028 and Part II.A.2 of the proposed Draft Permit, the Permittee is required to report any spills/releases from the pump station (or force main) to the Department within 24 hours from the time the Permittee becomes aware of the event. Additionally, the Permittee is required to submit the following information within five (5) days of the notification:

- The facility name and location of release
- An estimate of the quantity of sewage released
- The date, time, and duration of the release
- The clean-up and disinfection methods utilized
- The date and time of completed clean-up and disinfection activities
- Any other information as the Department may require

Further, Part II.A.4 of the proposed Draft Permit requires the Permittee to minimize any adverse impact to Waters of the State resulting from noncompliance with the Permit (which includes a spill/release).

In light of the above, the Department's TRM thus considers any potential environmental impact from spills/releases to be limited, with the ability to be managed and mitigated as needed if a spill/release were to occur.

4. Odors

Some of the public comments voiced concerns regarding the potential for odors from the wastewater infrastructure. In response, the TRM notes that wastewater odors are caused by the natural release of hydrogen sulfide gas from septic environments. Odors from pump stations are usually caused by pipe blockages and the buildup of fats, oils, and grease. Therefore, odors can be successfully controlled, provided the pump station is properly sized and maintained. The design of the Applicant's proposed project is, as previously noted, in-line with appropriate engineering standards and is protective of public health and the environment, thereby attesting to the proper sizing of the pump station. New Castle County has indicated to the Department that it will be responsible for operating the pump station and force main once it is connected to their sanitary sewer system. Thus, the Department considers the potential for odors from the pump station and force main to be limited, with the ability to be managed and mitigated as needed.

I find that the Department's TRM and the Draft Permit prepared in this matter offer a thorough and balanced review of the aspects of the Applicant's proposed project. I further find that the Department's experts in the DW-CGSS have reviewed and considered the public comments that concern Quarry Walk's proposed project, and have subsequently prepared the Draft Permit with appropriate conditions, accurately reflecting the information contained in the Record.

The mission of DNREC is to engage stakeholders to ensure the wise management, conservation, and enhancement of the State's natural resources; protect public health and the environment; provide quality outdoor recreation; improve quality of life; lead energy policy and climate preparedness; and educate the public on historic, cultural, and natural resource use, requirements, and issues. Furthermore, it is the policy of DNREC that no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance, as provided by Title VI of the *Civil Rights Act of 1964*, the *Rehabilitation Act of 1973*, the *Civil Rights Restoration Act of 1987*, and all other related nondiscrimination laws and requirements.

In the present matter, the Department has determined that the draft permits/authorizations are consistent with the Department's Environmental Justice policy.

The Record developed in this matter indicates that the Department's experts in the DW-CGSS have, based upon their technical review of the information provided by Quarry Walk, recommended approval of the Applicant's proposed project. The TRM states that the Applicant's Construction Permit application to authorize the construction of a pump station and force main to serve the Quarry Walk subdivision is complete and in accordance with the applicable regulatory requirements of the *Water Pollution Regulations*. The proposed Draft Permit also includes construction and project management requirements, records retention, and completion reporting requirements designed to ensure proper construction and equipment installation of the Quarry Walk subdivision pump station and force main in-line with applicable industry standards and is protective of public health and the environment. Further, construction of the proposed wastewater infrastructure will provide the Quarry Walk subdivision with a direct connection to New Castle County's central sewer and ultimately to a wastewater treatment facility for advanced wastewater treatment.

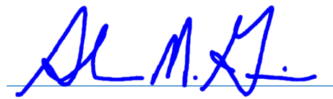
I find and conclude that the Record supports approval of the finalized Construction Permit, as prepared by the Department's experts in the DW-CGSS, as set forth above. The finalized Construction Permit to be issued by the Department is reflective of the application submitted by Quarry Walk, and consistent with the Department's technical review of the Applicant's proposed project, to ensure continued protection of public health and the environment, and consistent with the Record developed in this matter.

Accordingly, this Report recommends the issuance of the finalized Wastewater Collection and Conveyance System Construction Permit for the Quarry Walk subdivision pump station and force main, with appropriate conditions, as necessitated for the Applicant's proposed project, as set forth above.

Further, the Department concludes and specifically directs the following:

1. The Department has jurisdiction, as provided for under *7 Del.C. Ch. 60*, and all other relevant statutory authority, to make a final determination on the aforementioned pending permit requested by the Applicant, after holding a public hearing, considering the public comments, and all information contained in the Record as it relates to Quarry Walk's proposed project;
2. The Department considered all timely and relevant public comments in the Record as it relates to the Applicant's proposed project, as established in the Department's TRM (with Appendices I and II, as previously noted herein), dated December 2, 2024, and the finalized Construction Permit, all of which have now been expressly incorporated into the Record generated in this matter;
3. The Department has carefully considered the factors required to be weighed in issuing the finalized Construction Permit necessitated by the Applicant's proposed project, and finds that the Record supports approval of the same;
4. Furthermore, the Department has reviewed the Record generated in this matter in the light of potential Environmental Justice issues existing in the area surrounding the Applicant's proposed project, and has determined that the issuance of the finalized Construction Permit is consistent with the Department's Environmental Justice policy;
5. The Department shall issue to the Applicant the finalized Construction Permit, as set forth above, consistent with the technical review of the Applicant's proposed project, as conducted by the subject matter experts in the Department's DW-CGSS, and consistent with the Record developed in this matter;

6. Moreover, the finalized Construction Permit shall include all conditions as set forth in the Department's TRM and Draft Permit, to ensure that Delaware's environment and public health will be protected from harm;
7. The Department adopts the Report and all Appendices thereto as further support for this decision;
8. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
9. The Department shall serve and publish its Order on its internet site.



Shawn M. Garvin
Secretary