

APPLICATION BY
RAMBO MATERIALS,
LLC, FOR
APPLICATION NO. 2022-
4177

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BEFORE THE
LOST PINES
GROUNDWATER
CONSERVATION
DISTRICT

APPLICANT RAMBO MATERIALS, LLC INITIAL BRIEF

TO THE HONORABLE JUDGE ABLES:

Rambo Materials, LLC (“Applicant” or “Rambo”) submits this Initial Brief and urges the District to conduct a contested case hearing to find that the Application for Drilling and Operating Permit No. 2022-4177 (the “Application”) be approved.

I. Background

The Applicant is operating a sand and gravel facility located at 267 Wilbarger Bend Road, Bastrop, Texas 78602 (the “Facility”). The Facility is located near the Colorado River. Currently, the Applicant is using an alluvial well as its water source. Rambo has already been approved to withdraw 50 acre-ft per year from an open pit in Operating Permit Number 58 53 9 0063. **See Exhibit 1.** The Applicant is now seeking a permit to produce 102-acre feet of water from the Hooper Formation. Rambo will not be transporting the water off the property.

Environmental Stewardship, a 501(c)(3) nonprofit public charity is requesting a contested case hearing on behalf of itself, its members, and members Harold “Skip” Connett and Ron Herschap. Environmental Stewardship has an interest in protecting the surface water and groundwater in Segments 1428 and 1434 of the Colorado River from contamination.

II. Rambo Materials Has Submitted an Administratively Complete Application.

Rambo’s Application is Administratively Complete. Under the District Rules, an application is considered Administratively Complete after “all information requested by the

District has been fully and accurately provided” and “all applicable fees have been paid.” District Rules, Section 1. Once the General Manager completes a technical review of the Application, they will notify the applicant, in writing, that the Application has been declared Administratively Complete, and the Application will then be set for a public hearing. District Rule 15.1 B(2), C.

In a letter dated July 5, 2024, Mr. Jim Totten, General Manager, notified Rambo that its Operating Permit Application for a well in Bastrop County had been declared Administratively Complete for purposes of further processing under District Rule 15.1 B(2).

See Exhibit 2.

The Protestant argues that because Rambo replied “N/A” to “Statement describing how the amount of water requested addresses an existing or projected need, including when that water supply need is projected to occur,” the Application is not complete. District Form 200 Operating/Transport Application.

On March 22, 2024, Rambo, through Westward Environmental, submitted a revised well operation permit application in response to comments received by the District staff. **See Exhibit 3.** The cover letter to the revised Application notes that new and revised information is being presented within the cover letter. In the next paragraph, Westward addresses the “statement describing how the amount of water requested addresses an existing or projected need, including when that water supply need is projected to occur,” by declaring that “water withdrawn from the two aquifers will be utilized for aggregate washing at the plant, dust control on the roads and pad, and an on-site septic system.”

Rambo further intended that the cover letter serve as an extension of Form 200 when it marked an “X” in Section VI when asked if there was any other information, and Westward stated “See attached cover letter and map.”

The Application is Administratively Complete, and a contested case hearing is proper as well as an expeditious route for permit approval.

III. Lost Pines Groundwater Conservation District is Not Required to Perform a Standard Hydrological Evaluation.

Rambo was required to conduct a pump test when it submitted its Operating Permit Application. A non-exempt well application that requests more than 125 gallons per minute must conduct a pump test. District Rule 5.1 B.(5). The pump test analyzed specific capacity, transmissivity, and hydraulic conductivity.

Rambo submitted an Aquifer Test Report on December 14, 2023. According to the LPGCD Pump Test Report Guidance Document, “If the pump test activity or analysis is found to be flawed or not acceptable by the District’s General Manager, the District’s Manager may require the pump test or analysis to be repeated in an acceptable manner before the groundwater production permit application may be considered.” If the General Manager noticed inconsistencies when reviewing the test, standard operating procedures would require that he contact a third-party hydrogeology company, like LRE Water, to ensure that there were no inconsistencies with the pump test on the Applicant’s end. This never occurred; therefore, the District was not required to conduct an additional hydrological evaluation. Moreover, as a practical and legal matter, respectively, the Applicant applied for a relatively small amount of groundwater and an amount consistent with the restriction in District Rule 9.1A(1)(b).

IV. Rambo Materials Does Not Contest the Pary Status of Environmental Stewardship or its Members.

At this time, Rambo is not contesting the standing of Environmental Stewardship nor the standing of its members, Mr. Ron Herschap or Mr. Harold “Skip” Connett; but would request Environmental Stewardship and its counsel make both persons who are alleged to be affected persons and members of their association available for questions at the preliminary hearing on Wednesday, October 2, 2024, at 10:00 a.m. The questions Mr. Herschap and Mr. Connett should be prepared to answer are as follows:

- A. Are you a member of Environmental Stewardship?
- B. How long have you been a member of Enviornmental Stewardship?
- C. Do you attend meetings, pay dues or read publications from Environmental Stewardship?
- D. Where do you own property with an active groundwater well in proximity to the Applicant?
- E. If own a well, do you have it registered with Lost Pines Groundwater Conservation District?

V. Conclusion

For the above stated reasons, Rambo requests that the Application be considered Administratively Complete and a hearing on the Application be conducted as expeditiously as possible since the Application is for an appropriate amount of groundwater pumped from a 204-acre property for use on-site. In addition, the Applicant would be willing to meet with Environmental Stewardship, its counsel, and the General Manager of the District in mediation or alternative dispute resolution to resolve this matter.

Respectfully submitted,

**RIGBY SLACK LAWRENCE
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ATTORNEY FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon all known counsel of record on this 30th day of September 2024.

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