

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by DHJB Development, LLC for amendment of TPDES Permit No. WQ0014975001; TCEQ Docket No. 2013-2228-MWD; SOAH Docket No. 582-14-3427.

On July 1, 2015, the Texas Commission on Environmental Quality (Commission) considered during its open meeting the Administrative Law Judge's (ALJ's) Amended Proposal for Decision and Amended Proposed Order concerning the application by DHJB Development, LLC (Applicant) for amendment of TPDES Permit No. WQ0014975001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 350,000 gallons per day in the final phase in Comal County. The Commission also considered timely public comments and the Executive Director's Response to Comments; the record; and timely related filings, including exceptions and replies.

After reviewing the record, filings, and hearing from the ALJ and parties during oral argument, the Commission determined to grant DHJB Development, LLC's application for amendment of TPDES Permit No. WQ0014975001. The Commission further directed the Applicant to draft a proposed order pursuant to, and consistent with, 30 Texas Administrative Code §10.5 containing Findings of Fact and Conclusions of Law on all the contested issues consistent with the ALJ's recommendations on the issues to the extent that they are not in conflict with the Commission's directions, as set forth in the ALJ's Amended Proposal For

Decision with the following exceptions: A) The Commission finds that, pursuant to the law applicable to a TPDES permit, the Applicant met its burden of proving the permit will not impair the use and enjoyment of the Graham-Hastings property pursuant to 30 TAC §307.1 or create nuisance conditions; B) The Commission finds that in accordance with TCEQ's regulations implementing the Texas Surface Water Quality Standards at 30 TAC Chapter 307, the discharge under the terms of the permit will comply with all of the general criteria, antidegradation policy, toxic material provisions, and site-specific uses and criteria; C) The Commission finds that, pursuant to the law applicable to a TPDES permit, the Applicant met its burden of proving the permit will not adversely impact the cattle that graze in the area; D) The Commission finds that, pursuant to the law applicable to a TPDES permit, the discharge route has been properly characterized; and E) The Commission finds that Findings of Fact regarding issues outside of the Commission's jurisdiction in this matter, such as erosion, stormwater, and property access, are superfluous to the Commission's decision and should not be included in the order.

The Commission further directed the Applicant to circulate among all parties a proposed Order no later than July 15, 2015. The Commission determined that the Applicant shall file and serve on all parties the final version of the proposed order, along with a redline strikeout of the changes made in comparison to the ALJ's Amended Order, with the Commission no later than July 24, 2015. The Commission also determined that parties wishing to comment on the filed proposed order shall file comments with the Commission no later than August 7, 2015 and the Applicant shall file any Response to Comments no later than August 23, 2015. Finally, the Commission directed the Office of General Counsel to set the proposed order for consideration at the soonest practicable agenda date.

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

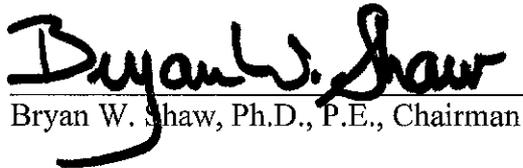
1. DHJB Development, LLC's application for amendment of TPDES Permit No. WQ0014975001 is determined to be granted;
2. The Applicant is directed to draft a proposed order pursuant to, and consistent with, 30 Texas Administrative Code §10.5 containing Findings of Fact and Conclusions of Law on all the contested issues consistent with the ALJ's recommendations on the issues, to the extent that they are not in conflict with the Commission's directions, as set forth in the ALJ's Amended Proposal For Decision with the following exceptions:
  - A) The Commission finds that, pursuant to the law applicable to a TPDES permit, the Applicant met its burden of proving the permit will not impair the use and enjoyment of the Graham-Hastings property pursuant to 30 TAC §307.1 or create nuisance conditions;
  - B) The Commission finds that in accordance with TCEQ's regulations implementing the Texas Surface Water Quality Standards at 30 TAC Chapter 307, the discharge under the terms of the permit will comply with all of the general criteria, antidegradation policy, toxic material provisions, and site-specific uses and criteria;
  - C) The Commission finds that, pursuant to the law applicable to a TPDES permit, the Applicant met its burden of proving the permit will not adversely impact the cattle that graze in the area;
  - D) The Commission finds that, pursuant to the law applicable to a TPDES permit, the discharge route has been properly characterized; and
  - E) The Commission finds that Findings of Fact regarding issues outside of the Commission's jurisdiction in this matter, such as erosion, stormwater, and property access, are superfluous to the Commission's decision and should not be included in the order;
3. The Applicant is directed to circulate among all parties a proposed order no later than July 15, 2015. The Applicant shall file and serve on all parties the final version of the

proposed order, along with a redline strikeout of the changes made in comparison to the ALJ's Amended Order, with the Commission no later than July 24, 2015;

4. Parties wishing to comment on the filed proposed order shall file comments with the Commission no later than August 7, 2015. The Applicant shall file any Response to Comments no later than August 23, 2015. The Office of General Counsel is directed to set the proposed order for consideration at the soonest practicable Agenda date; and
5. 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.

Issue date: JUL 10 2015

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
Bryan W. Shaw, Ph.D., P.E., Chairman