

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 28, 2016

Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: **Application by Clear Lake City Water Authority for a Major Amendment to
TPDES Permit No. WQ0010539001
TCEQ Docket No. 2015-0563-MWD**

Dear Ms. Bohac:

Please find enclosed for filing the Executive Director's Exceptions to the Proposal For Decision in the above-entitled matter.

Sincerely,

A handwritten signature in black ink that reads "Michael T. Parr II". The signature is written in a cursive style and is positioned above a horizontal line.

Michael T. Parr II, *Staff Attorney*
Environmental Law Division
State Bar No. 24062936

Enclosure

**SOAH DOCKET NO. 582-15-4945
TCEQ DOCKET NO. 2015-0563-MWD**

APPLICATION BY	§	BEFORE
CLEAR LAKE CITY WATER	§	THE
AUTHORITY FOR A MAJOR	§	STATE OFFICE
AMENDMENT TO	§	OF
TPDES PERMIT NO.	§	ADMINISTRATIVE
WQ0010539001	§	HEARINGS

EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

**TO THE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:**

The Executive Director of the Texas Commission on Environmental Quality (Commission) submits the following specific exceptions (Exceptions) to the Proposal for Decision (PFD) filed by the Administrative Law Judge (ALJ) relating to the application by Clear Lake City Water Authority (CLCWA) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010539001, to authorize the establishment of two additional outfalls.

I. OVERVIEW

The Executive Director supports the ALJs' conclusion that the application filed on February 26, 2013 by CLCWA for a major amendment to TPDES Permit No. WQ0010539001, authorizing the establishment of two additional outfalls, should be granted and that the proposed permit drafted by the Executive Director should be issued. However, the Executive Director, through these exceptions, provides corrections to some of the provisions in the ALJs' proposed order for accuracy and clarity.

II. CORRECTIONS TO THE PROPOSED ORDER

a. Finding of Fact No. 6

The effluent limitation for *E. coli* in the proposed permit for Outfalls

002 and 003 should be listed as "126 CFU or MPN/100 ml *E. coli*." This is because the discharge from Outfalls 002 and 003 are into a freshwater body and the indicator bacteria for freshwater is *E. coli*, not Enterococci, which corresponds with the limit of 35 CFU or MPN/100 ml for Outfall 001.

b. Ordering Provision No. 1

The change to the proposed permit referenced in the ordering provision should be reflected as "the 5-day Biochemical Oxygen Demand parameter is replaced with 5-day Carbonaceous Biochemical Oxygen Demand on pages 2, 2b, and 2c." The Executive Director inadvertently omitted the term "Biochemical" when requesting the change from 5-day Biochemical Oxygen Demand to 5-day Carbonaceous Biochemical Oxygen Demand in his Closing Arguments.

III. CONCLUSION

While the Executive Director appreciates and fully supports the ALJs' recommendation to grant CLCWA's application and issue the permit proposed by the Executive Director, the Executive Director seeks to ensure the record accurately reflects the proposed permit, and seeks to clarify his request from his Closing Arguments to alter the 5-day Biochemical Oxygen Demand parameter in the proposed permit, as referenced in his Closing Arguments and in the ALJ's proposed order. Therefore, the Executive Director respectfully requests that the Commission adopt the ALJs' proposed order with the Executive Director's recommended changes presented herein and issue the proposed permit.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.
Executive Director

Robert Martinez, Director
Environmental Law Division



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CERTIFICATE OF SERVICE

I certify that on June 28, 2016 the "Executive Director's Exceptions to the Proposal For Decision" for Permit No. WQ0010539001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk. I hereby certify by my signature below that on June 28, 2016, a true and correct copy of the foregoing document was served by electronic mail to each party on the attached Service List.



Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936

**SERVICE LIST
CLEAR LAKE CITY WATER AUTHORITY
TCEQ DOCKET NO. 2015-0563-MWD
TPDES PERMIT NO. WQ0010539001**

Honorable Rebecca S. Smith
Administrative Law Judge
State Office of Administrative
Hearings

BY ELECTRONIC FILING

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