



State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

December 13, 2021

Mary Smith
General Counsel
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F, Room 4225
Austin Texas 78753

Re: **SOAH Docket No. 582-21-2003; TCEQ Docket No. 2021-0370-LIC; Executive Director of the Texas Commission on Environmental Quality v. Joseph Ferguson**

Dear Ms. Smith:

The above-referenced matter will be considered by the Texas Commission on Environmental Quality on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

Enclosed are copies of the Proposal for Decision and Order that have been recommended to the Commission for approval. Any party may file exceptions or briefs by filing the documents with the Chief Clerk of the Texas Commission on Environmental Quality no later than Monday, January 3, 2022. Any replies to exceptions or briefs must be filed in the same manner no later than Thursday, January 13, 2022.

This matter has been designated **TCEQ Docket No. 2021-0370-LIC; SOAH Docket No. 582-21-2003**. All documents to be filed must clearly reference these assigned docket numbers. All exceptions, briefs and replies along with certification of service to

SOAH Docket No. 582-21-2003
TCEQ Docket No. 2021-0370-LIC
December 13, 2021
Page 2 of 2

the above parties shall be filed with the Chief Clerk of the TCEQ electronically at <http://www14.tceq.texas.gov/epic/eFiling/> or by filing an original and seven copies with the Chief Clerk of the TCEQ. Failure to provide copies may be grounds for withholding consideration of the pleadings.

Sincerely,

A handwritten signature in black ink that reads "Katerina DeAngelo". The signature is written in a cursive style and is positioned above a horizontal line.

KATERINA DEANGELO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

KD/lc

Attachments
cc: Mailing List

**SOAH DOCKET NO. 582-21-2003
TCEQ DOCKET NO. 2021-0370-LIC**

**EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY,
Petitioner**

v.

**JOSEPH FERGUSON,
Respondent**

§
§
§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission) seeks to deny Joseph Ferguson’s application for a water system operator license based on Mr. Ferguson’s criminal history. Mr. Ferguson requested a formal hearing on the denial of his application. Having considered the evidence and applicable law, the Administrative Law Judge (ALJ) recommends that Mr. Ferguson’s application be denied.

I. PROCEDURAL HISTORY, JURISDICTION, AND NOTICE

Mr. Ferguson applied to the Commission in January 2020, to be licensed as a water system operator.¹ His criminal charges/conviction attestation was signed on February 24, 2020, and received by the Commission on February 28, 2020.² On April 13, 2020, and June 11, 2020, the ED sent letters notifying Mr. Ferguson of the ED’s intent to deny the application based on Mr. Ferguson’s criminal history.³ The letters included a short, plain statement of facts and informed Mr. Ferguson of the reason for the denial of his application, including a reference to the relevant regulatory provisions. Mr. Ferguson made a formal hearing request.⁴ The ED referred the case to the State Office of Administrative Hearings (SOAH), and on April 28, 2021, issued a notice

¹ See Ex. ED-1.

² Ex. ED-8, p. 0022-0023.

³ Ex. ED-1, p. 0001; Ex. ED-2, p. 0003.

⁴ Ex. ED-3, p. 0005.

of hearing, which scheduled a preliminary hearing on June 1, 2021.⁵ At the preliminary hearing, the ALJ admitted Exhibits ED 1 through ED 6 for the limited purpose of establishing notice and jurisdiction and entered an agreed procedural schedule for a hearing to be held on October 14, 2021.

The hearing on the merits was held by videoconference on October 14, 2021, before ALJ Katerina DeAngelo. Mr. Ferguson represented himself. The ED was represented by attorney Alicia Ramirez, and the Commission's Office of Public Interest Counsel (OPIC) was represented by attorney Pranjal Mehta. The parties were given until November 4, 2021, to file closing briefs. Replies to the closing briefs were due on November 16, 2021. The record closed on November 16, 2021.

II. APPLICABLE LAW

Mr. Ferguson, as the moving party and the applicant, bears the burden of proof by a preponderance of the evidence to show his application should be approved.⁶

Chapter 53 of the Texas Occupations Code provides the framework for licensing agencies to use in evaluating applicants and licensees who have criminal convictions and authorizes a licensing agency, such as the Commission, to suspend or revoke a license, or disqualify a person from receiving a license, if that person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.⁷

Each licensing authority is directed to issue guidelines stating the reasons a particular crime is deemed to relate to a given license and outlining any other criteria that the agency uses to make

⁵ Ex. ED-4, p. 0006; Ex. ED-5, p. 0013.

⁶ 30 Tex. Admin. Code §§ 30.38, 80.17, 80.117.

⁷ Tex. Occ. Code § 53.021(a)(1).

licensing decisions.⁸ To determine whether an offense directly relates to the occupation, the agency must consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- (4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
- (5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.⁹

The Commission has issued guidelines addressing the Consequences of Criminal Convictions for Occupational Licensing (Guidelines).¹⁰ The Guidelines state that a criminal conviction above a Class C misdemeanor may result in a denial of a new or renewal license.¹¹ The Guidelines further state that water system operators have “means and opportunity to practice deceit, fraud, and misrepresentation” related to “the need for service, parts, and equipment” and to “environmental compliance reporting to local, state, or federal regulatory authorities.”¹²

If the agency determines that a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the Commission must also consider:

- (1) the extent and nature of the person’s past criminal activity;
- (2) the age of the person when the crime was committed;

⁸ Tex. Occ. Code § 53.025(a).

⁹ Tex. Occ. Code § 53.022; 30 Tex. Admin. Code § 30.34(a).

¹⁰ Ex. ED-9.

¹¹ Ex. ED-9, p. 0036.

¹² Ex. ED-9, p. 0044.

- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- (7) other evidence of the person's fitness, including letters of recommendation.¹³

An applicant has the responsibility, to the extent possible, to obtain and provide to the agency any letters of recommendations or any other evidence of the applicant's fitness for the license.¹⁴

III. EVIDENCE

At the hearing, the ED offered ten exhibits, all of which were admitted, and presented the testimony of Jaya Zyman, the Deputy Director of the Commission's Occupational Licensing and Registration Division. Mr. Ferguson testified on his own behalf and did not offer any evidence. OPIC did not offer any evidence.

A. Background

The criminal proceeding underlying the denial of Mr. Ferguson's application is largely undisputed. In June 2016, in Dallas County Criminal Court No. 9, Mr. Ferguson was convicted of the Class A misdemeanors for evading arrest and having a false driver's license.¹⁵ He also received

¹³ Tex. Occ. Code § 53.023; 30 Tex. Admin. Code § 30.34(b).

¹⁴ Tex. Occ. Code § 53.023(b); 30 Tex. Admin. Code § 30.34(c).

¹⁵ Ex. ED-8, p. 0031-0032.

deferred adjudication for a state jail felony for possession of a controlled substance.¹⁶ According to Mr. Ferguson, he has satisfied the conditions of his deferred adjudication. In August 2016, in Matagorda County Court, Mr. Ferguson was convicted of the Class A misdemeanor of evading arrest and the third-degree felony of tampering with physical evidence with intent to impair.¹⁷ For the third-degree felony, Mr. Ferguson received a sentence of ten years confinement, but the sentence was suspended, and Mr. Ferguson was placed on probation, which extends until August 2026.¹⁸ The ED notified Mr. Ferguson that he intended to deny Mr. Ferguson's application based on the conviction of the third-degree felony.¹⁹

B. Testimony

Mr. Ferguson testified that he has not been involved in any crime or been arrested since the incidents associated with the 2016 criminal proceedings. Mr. Ferguson testified that he was 26 years old at the time of his arrests and that he is now 32 years old. He testified that he has successfully completed probation related to the June 2016 proceedings and acknowledged that he is still on probation for the third-degree felony conviction until 2026. According to Mr. Ferguson, the only "intent to impair" was the intent to impair himself in that he ingested marijuana, and that he did not hurt or intend to hurt anyone else.

Mr. Ferguson has been employed in the operations department of Caney Creek Municipal Utility District for approximately the past three years. Mr. Ferguson believes that he has shown "a lot of rehabilitation" and wants to move forward with his life and his career. Mr. Ferguson did not offer any recommendation letters or documentation to support his application relating to specific rehabilitative classes or other steps he took. According to Mr. Ferguson, pandemic conditions have

¹⁶ Ex. ED-8, p. 0032-0033.

¹⁷ Ex. ED-8, p. 0029-0030. It appears that the ED considered the third-degree felony as deferred adjudication during the application review, however, the evidentiary record indicates that Mr. Ferguson entered a plea of guilty and was convicted for this matter.

¹⁸ Ex. ED-8, p. 0030.

¹⁹ Ex. ED-1, p. 0001; Ex. ED-2, p. 0003.

prevented him from accessing documentation of compliance with court-ordered requirements or other evidence of rehabilitative efforts or fitness for the license.²⁰

Ms. Zyman testified that she reviews occupational licensing applicants' criminal convictions that are elevated to the Licensing Division's Executive Review Committee.²¹ Ms. Zyman explained that she relies on the Guidelines²² to determine whether a criminal conviction should preclude issuance of a license and that the Guidelines identify which crimes relate to which licenses and categorize the licenses by risk level. Ms. Zyman stated that the Licensing Division's objective is twofold: first, to provide protection of public safety and second, to prevent the opportunity to reoffend. According to Ms. Zyman, a license may be denied on three grounds: the conviction directly relates to the licensed occupation, the conviction involves a sexually violent crime, or the conviction involves a serious violent crime.

Ms. Zyman testified that Mr. Ferguson's application for a water system operator license was elevated to the Executive Review Committee due to the third-degree felony conviction for tampering with physical evidence with intent to impair, which raises concerns about the potential threat of Mr. Ferguson tampering or falsifying the reports and documentation he would be required to prepare and maintain under the license. The ED determined that this conviction is directly related to the licensed occupation because the water system operator license is at high risk of providing licensees with the means and opportunity to practice deceit, fraud, and misrepresentation related to environmental compliance reporting to local, state, or federal regulatory authorities. There is also some risk of practicing deceit, fraud, or misrepresentation related to the need for service, parts, and equipment. The executive review committee's conclusion was that if Mr. Ferguson was capable of tampering with evidence with intent to impair, he may be susceptible to also tampering with or falsifying environmental reports and that this would jeopardize public

²⁰ Ex. ED-3.

²¹ Ms. Zyman testified that applications that contain attestations for high-level crimes are elevated to the Licensing Division's Executive Review Committee.

²² Ex. ED-9.

health and safety. Ms. Zyman stated that, based on all the presented evidence, she had not heard anything that changed her opinion that a license should not be issued in this case.

IV. ANALYSIS AND RECOMMENDATION

Texas Occupations Code § 53.021(a)(1) authorizes the Commission to deny, suspend, or revoke a license if the person has been convicted of an offense directly related to the duties and responsibilities of the licensed profession. The ED argues, and OPIC agrees, that Mr. Ferguson is subject to denial because his offense—third-degree felony for tampering with physical evidence with intent to impair—directly relates to the duties and responsibilities of a licensed water system operator.

The factors listed in Texas Occupations Code § 53.022 and 30 Texas Administrative Code § 30.34(a) must be considered in determining whether an offense directly relates to the duties of a licensed occupation. A third-degree felony for tampering with physical evidence with intent to impair is a serious crime. The Commission provided testimony that water system operators prepare and maintain various reports and that, based on the fraudulent nature of Mr. Ferguson's criminal history, there is a concern that Mr. Ferguson may be susceptible to tamper with or falsify environmental reports, which would jeopardize public health and safety. The Commission has classified the water system operator license as a high risk of providing licensees with the means and opportunity to practice deceit, fraud, and misrepresentation related to environmental compliance reporting to local, state, or federal regulatory authorities, and as a low risk of practicing deceit, fraud, or misrepresentation related to the need for service, parts, and equipment.²³ Therefore, a water system operator license might offer Mr. Ferguson an opportunity to engage in further criminal activity of the same type as in which he was previously involved. Mr. Ferguson presented very little evidence of his rehabilitation to show that he would not be likely to tamper with, fabricate, or falsify environmental reports and, therefore, he failed to meet his burden on the

²³ Ex. ED-9, p. 0044.

application. Therefore, the ALJ agrees that Mr. Ferguson's offense directly relates to the duties and responsibilities of a water system operator.

Further, the Commission must determine whether Mr. Ferguson is fit to be licensed despite his criminal history. That determination is made after consideration of the factors set forth in Texas Occupations Code § 53.023, in view of the evidence on his fitness to perform the duties and discharge the responsibilities of a licensed water system operator. Weighing those factors here, the record shows that Mr. Ferguson has other criminal offenses in his past—some of them serious and involve false identification. Mr. Gaines was approximately 26 years old at the times of all his offenses; thus, they cannot be characterized solely as acts of youthful indiscretion. Mr. Ferguson testified that: five years has passed since his offenses; he has successfully completed probation related to the criminal proceedings in Dallas County; he has maintained continuous employment in the last three years; and he has not been involved in any crime or been arrested since 2016, however, he is currently on probation for the third-degree felony until 2026. Mr. Ferguson did not submit any letters of recommendation. In view of these factors,²⁴ the ALJ recommends that the Commission deny Mr. Ferguson's license application.

V. FINDINGS OF FACT

1. In January 2020, Joseph Ferguson applied to the Texas Commission on Environmental Quality (Commission) to be licensed as a water system operator.
2. On April 13, 2020, and June 11, 2020, the Executive Director (ED) of the Commission notified Mr. Ferguson that his license application would be denied based on his conviction of a third-degree felony for tampering with physical evidence with intent to impair.
3. The ED referred the case to the State Office of Administrative Hearings (SOAH), and on April 28, 2021, issued a notice of hearing, which scheduled a preliminary hearing on June 1, 2021.
4. The notice of hearing provided the date, time, and place of a preliminary hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters

²⁴ See Tex. Occ. Code § 53.023(a).

- asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
5. At the preliminary hearing on June 1, 2021, the Administrative Law Judge (ALJ) admitted Exhibits ED 1 through ED 6 for the limited purpose of establishing notice and jurisdiction and entered an agreed procedural schedule for a hearing to be held on October 14, 2021.
 6. On June 14, 2021, the ALJ issued Order No. 2 in this case, setting the matter for hearing by Zoom videoconference on October 14, 2021.
 7. The hearing convened via Zoom videoconference on October 14, 2021, before ALJ Katerina DeAngelo of SOAH. Respondent Mr. Ferguson represented himself. The ED was represented by attorney Alicia Ramirez, and the Commission's Office of Public Interest Counsel was represented by attorney Pranjali Mehta.
 8. The parties were given until November 4, 2021, to file closing briefs. Replies to the closing briefs were due on November 16, 2021. The record closed on November 16, 2021.
 9. On August 11, 2016, Mr. Ferguson pleaded guilty and was convicted of a third-degree felony for tampering with physical evidence with intent to impair. Mr. Ferguson received a sentence of ten years confinement, but the sentence was suspended, and Mr. Ferguson was placed on probation, which extends until August 2026.
 10. Felony tampering with physical evidence with intent to impair is a serious offense.
 11. Mr. Ferguson was 26 years old at the time of the third-degree felony. Mr. Ferguson was 32 years old at the time of hearing.
 12. Mr. Ferguson has incurred no convictions since the third-degree felony.
 13. Mr. Ferguson has been employed in the operations department of Caney Creek Municipal Utility District for approximately the past three years.
 14. The water system operator license is at high risk of providing licensees with the means and opportunities to practice deceit, fraud, and misrepresentation related to environmental compliance related to local, state, or federal regulatory authorities. There is also some risk of practicing deceit, fraud, or misrepresentation related to the need for service, parts, and equipment.
 15. The duties of a water system operator could require Mr. Ferguson to prepare and maintain reports and documentation.
 16. Mr. Ferguson did not offer any recommendation letters or documentation to support his application related to specific rehabilitative classes or other steps he took.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over the water system operator's licensing decisions. Tex. Water Code ch. 37; 30 Tex. Admin. Code § 30.1, et seq.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this case, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; 30 Tex. Admin. Code §§ 30.38, 70.109. 80.1, et seq.
3. Mr. Ferguson received proper notice of the petition and of the hearing on the merits. Tex. Occ. Code § 53.0231; Tex. Gov't Code §§ 2001.051-.052.
4. Mr. Ferguson has the burden of proving by a preponderance of the evidence that he is fit for licensure despite his criminal history. 1 Tex. Admin. Code § 155.427; 30 Tex. Admin. Code §§ 80.17, 80.117.
5. Mr. Ferguson has the responsibility, to the extent possible, to obtain and provide to the ED the recommendations of the prosecution, law enforcement, and correctional authorities. 30 Tex. Admin. Code § 30.34(c).
6. Mr. Ferguson's felony offense directly relates to the occupation of water system operator because it is a serious crime, and the crime might offer an opportunity to engage in further criminal activity of the same type. Tex. Occ. Code § 53.022; 30 Tex. Admin. Code § 30.34; *see* Commission Guidelines RG-521, "Consequences of Criminal Convictions for Occupational Licensing."
7. The Commission must consider several factors to determine whether Mr. Ferguson is fit to hold a water system operator's license despite his criminal history. Tex. Occ. Code §§ 53.022, .023; 30 Tex. Admin. Code §§ 30.34.
8. Mr. Ferguson did not satisfy his burden to prove his fitness for the water system operator license despite his criminal history. He did not present documentary evidence such as letters of recommendation or certificates or other evidence of completion of rehabilitation efforts. Tex. Occ. Code § 53.023; 30 Tex. Admin. Code § 30.34(c).

9. Based on the evidence and consideration of the required factors, Mr. Ferguson's application for water operator license should be denied.

SIGNED December 13, 2021.

Handwritten signature of Katerina DeAngelo in black ink, written in a cursive style.

KATERINA DEANGELO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AN ORDER DENYING THE APPLICATION BY JOSEPH FERGUSON FOR WATER SYSTEM OPERATOR LICENSE; TCEQ DOCKET NO. 2021-0370-LIC; SOAH DOCKET NO. 582-21-2003

On _____, the Texas Commission on Environmental Quality (Commission) considered the application of Joseph Ferguson for a water system operator license. A Proposal for Decision (PFD) was issued by Katerina DeAngelo, Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH) and considered by the Commission.

After considering the PFD, the Commission makes the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

1. In January 2020, Joseph Ferguson applied to the Texas Commission on Environmental Quality (Commission) to be licensed as a water system operator.
2. On April 13, 2020, and June 11, 2020, the Executive Director (ED) of the Commission notified Mr. Ferguson that his license application would be denied based on his conviction of a third-degree felony for tampering with physical evidence with intent to impair.
3. The ED referred the case to the State Office of Administrative Hearings (SOAH), and on April 28, 2021, issued a notice of hearing, which scheduled a preliminary hearing on June 1, 2021.
4. The notice of hearing provided the date, time, and place of a preliminary hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
5. At the preliminary hearing on June 1, 2021, the Administrative Law Judge (ALJ) admitted Exhibits ED 1 through ED 6 for the limited purpose of establishing notice and jurisdiction and entered an agreed procedural schedule for a hearing to be held on October 14, 2021.
6. On June 14, 2021, the ALJ issued Order No. 2 in this case, setting the matter for hearing by Zoom videoconference on October 14, 2021.
7. The hearing convened via Zoom videoconference on October 14, 2021, before ALJ Katerina DeAngelo of SOAH. Respondent Mr. Ferguson represented himself. The ED was represented by attorney Alicia Ramirez, and the Commission's Office of Public Interest Counsel was represented by attorney Pranjali Mehta.
8. The parties were given until November 4, 2021, to file closing briefs. Replies to the closing briefs were due on November 16, 2021. The record closed on November 16, 2021.
9. On August 11, 2016, Mr. Ferguson pleaded guilty and was convicted of a third-degree felony for tampering with physical evidence with intent to impair. Mr. Ferguson received a sentence of ten years confinement, but the sentence was suspended, and Mr. Ferguson was placed on probation, which extends until August 2026.
10. Felony tampering with physical evidence with intent to impair is a serious offense.
11. Mr. Ferguson was 26 years old at the time of the third-degree felony. Mr. Ferguson was 32 years old at the time of hearing.
12. Mr. Ferguson has incurred no convictions since the third-degree felony.

13. Mr. Ferguson has been employed in the operations department of Caney Creek Municipal Utility District for approximately the past three years.
14. The water system operator license is at high risk of providing licensees with the means and opportunities to practice deceit, fraud, and misrepresentation related to environmental compliance related to local, state, or federal regulatory authorities. There is also some risk of practicing deceit, fraud, or misrepresentation related to the need for service, parts, and equipment.
15. The duties of a water system operator could require Mr. Ferguson to prepare and maintain reports and documentation.
16. Mr. Ferguson did not offer any recommendation letters or documentation to support his application related to specific rehabilitative classes or other steps he took.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over the water system operator's licensing decisions. Tex. Water Code ch. 37; 30 Tex. Admin. Code § 30.1, et seq.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this case, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; 30 Tex. Admin. Code §§ 30.38, 70.109. 80.1, et seq.
3. Mr. Ferguson received proper notice of the petition and of the hearing on the merits. Tex. Occ. Code § 53.0231; Tex. Gov't Code §§ 2001.051-.052.
4. Mr. Ferguson has the burden of proving by a preponderance of the evidence that he is fit for licensure despite his criminal history. 1 Tex. Admin. Code § 155.427; 30 Tex. Admin. Code §§ 80.17, 80.117.
5. Mr. Ferguson has the responsibility, to the extent possible, to obtain and provide to the ED the recommendations of the prosecution, law enforcement, and correctional authorities. 30 Tex. Admin. Code § 30.34(c).
6. Mr. Ferguson's felony offense directly relates to the occupation of water system operator because it is a serious crime, and the crime might offer an opportunity to engage in further criminal activity of the same type. Tex. Occ. Code § 53.022; 30 Tex. Admin. Code § 30.34; *see* Commission Guidelines RG-521, "Consequences of Criminal Convictions for Occupational Licensing."
7. The Commission must consider several factors to determine whether Mr. Ferguson is fit to hold a water system operator's license despite his criminal history. Tex. Occ. Code §§ 53.022, .023; 30 Tex. Admin. Code §§ 30.34.

8. Mr. Ferguson did not satisfy his burden to prove his fitness for the water system operator license despite his criminal history. He did not present documentary evidence such as letters of recommendation or certificates or other evidence of completion of rehabilitation efforts. Tex. Occ. Code § 53.023; 30 Tex. Admin. Code § 30.34(c).
9. Based on the evidence and consideration of the required factors, Mr. Ferguson's application for water operator license should be denied.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:

1. The Application by Joseph Ferguson for a water system operator's license is denied.
2. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
3. The effective date of this Order is the date the Order is final, as provided by Texas Government Code § 2001.144 and 30 Texas Administrative Code § 80.273.
4. The Commission's Chief Clerk shall forward a copy of this Order to all parties.
5. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Jon Niermann, Chairman for the Commission