

SOAH DOCKET NO. 582-22-1222
TCEQ DOCKET NO. 2021-0999-MWD

APPLICATION OF § BEFORE THE STATE OFFICE
CITY OF LIBERTY HILL FOR TPDES § OF
PERMIT NO. WQ0014477001 § ADMINISTRATIVE HEARINGS

**Executive Director’s Exceptions To The Supplemental Proposal For Decision On
Remand**

To the Commissioners of the Texas Commission on Environmental Quality:

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) submits her Exceptions to the Proposal for Decision relating to the application by the City of Liberty Hill (City) for Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014477001 in Williamson County. As discussed below, the Executive Director (ED) respectfully requests the Commission issue the permit as drafted by the ED, without the conditions as recommended by the Administrative Law Judges (ALJs).

I. Background

The TCEQ received an application from Liberty Hill for a renewal of an existing permit with minor amendment on September 5, 2018. The application was deemed administratively complete on November 9, 2018. The application was deemed technically complete on March 12, 2020. A virtual public meeting was held on August 17, 2020. The Hearing Request/Request for Reconsideration period ended on July 23, 2021. During an Open Meeting on October 6, 2021, the Commission considered the hearing requests, responses to hearing requests, all timely public comments, and the Executive Director’s Response to Comments. The Commission referred ten issues to SOAH for a Contested Case Hearing. The preliminary hearing took place on March 28, 2022. The hearing on the merits was conducted via Zoom from July 20, 2022, through July 22, 2022. The record closed on August 23, 2022. The ALJs issued their Proposal for Decision (PFD) on October 24, 2022.

At an open public meeting on February 8, 2023, the Commission determined that this matter should be referred back to SOAH for the parties to present additional evidence to determine the total phosphorus (TP) effluent limit necessary to comply

with the Texas Surface Water Quality Standards (TSWQS). The preliminary hearing on remand was held on March 29, 2023, where a procedural schedule was adopted. A second preliminary hearing on remand was held on July 21, 2023, where the ALJs discussed hearing logistics and ruled on outstanding motions. The hearing on the merits was conducted via Zoom from July 26, 2023, through July 28, 2023.

II. ALJs' Recommendation: Total Phosphorus limit of 0.015 mg/L

On remand, the ALJs recommend that the Commission grant the City of Liberty Hill's Application for a TPDES permit with a TP effluent limit of 0.015 mg/L. The Executive Director respectfully requests the Commission deny this change and issue the permit as drafted by the Executive Director.

The Executive Director's role in this proceeding was to complete the administrative record and to support the Executive Director's position developed in the underlying proceeding. Following the Agenda meeting on February 8, 2023, when the Commission referred the case back to SOAH, the City of Liberty Hill did not revise its application and continued to seek an effluent limit of 0.15 mg/L TP.¹ No new or additional information was provided by the Applicant; therefore, there was no new information for the ED to review. The 2013 antidegradation review remains valid and applicable.² Further, because this application was for a renewal with no increase in flow, the new permit will not degrade water quality by more than a de minimis amount. There are no TPDES permits currently issued with a TP limit below 0.15 mg/L.³ Thus, the Executive Director recommends the commission issue the permit with the 0.15 mg/L TP limit.

The Executive Director maintains her position that the draft permit meets all applicable statutory and regulatory requirements. The Executive Director has recommended a TP limit of 0.15 mg/L for all phases.⁴ The ED determined that a TP limit of 0.15 mg/L for all permit phases will help prevent the excessive growth of algae and improve aesthetic parameters.⁵

¹ PFD on Remand at 2.

² ED-PS-1-R at 0023:17-22.

³ Tr. Vol. 3 at 15:2-8.

⁴ ED-JL-1 at 13:9-13.

⁵ ED-PS-1-R at 0027:2-5.

III. Conclusion

The Executive Director respectfully recommends that the Commission issue the City of Liberty Hill draft permit as drafted by the Executive Director. The draft permit as written is in compliance with all applicable statutory and regulatory requirements. The Executive Director recommends the Commissioners reject the proposal of the ALJs in their PFD and issue the City of Liberty Hill permit.

Respectfully submitted,

Texas Commission on Environmental Quality

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of November 2023, a true and correct copy of the foregoing document was sent via first class mail, electronic mail, or hand delivery to all parties of record.



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