

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

September 25, 2023

Texas Commission on Environmental Quality

VIA EFILE TEXAS

Phau Lockhart 450, LLC

VIA EFILE TEXAS

RE: SOAH Docket Number 582-23-15497.TCEQ; In Re: Application of Phau-Lockhart 450, LLC for a New TPDES Permit No. WQ0016107001; TCEQ No. 2022-1700-MWD

Dear Parties:

A Proposal for Decision (PFD) on Summary Disposition was issued on August 21, 2023. Applicant Phau Lockhart 450, LLC (Applicant) timely filed exceptions to the PFD. No other party filed exceptions. After reviewing the exceptions, the ALJ finds they are well-taken and should be sustained.

- **Finding of Fact No. 9:** To accurately describe the effluent limits in the October 6, 2022 draft permit, Finding of Fact 9 should be amended as follows:

The effluent limitations in all phases of the Draft Permit, based on a 30-day average, are ~~10~~ 5 mg/l Carbonaceous Biochemical Oxygen Demand (CBOD5), ~~15~~ 5 mg/l Total Suspended Solids (TSS), ~~3.0~~ 2 mg/l Ammonia Nitrogen (NH3-N), **0.5 mg/l Total Phosphorus (TP)**, 126 colony forming units or most probable number of E. coli per 100 ml; and the effluent must contain a minimum Dissolved Oxygen (DO) level of 4.0 mg/l, which must be monitored once per week by grab sample.

- **Final Order 2 (Proposed Order at 7):** This finding contains an omission and incorrectly lists a single date for the publication of the notice of preliminary hearing, which was issued by TCEQ on April 19, 2023, and published in the Lockhart Post Register by PHAU on April 27, 2023. The provision should be amended as follows:

PHAU recommends editing Finding of Fact 25 as follows: On April 19, 2023, notice of the preliminary hearing was issued by the TCEQ. On April 27, 2023, Applicant published said notice in the Lockhart Post Register in English. The notice included the time, date, and place of the hearing, as well as the matters asserted, in accordance with the applicable statutes and rules.

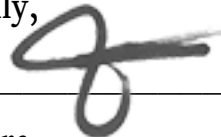
- **Final Order 2 (Proposed Order at 7):** To provide clarity and align with the more stringent effluent limits in the October 6, 2022 draft permit issued after the Response to Public Comment, PHAU recommends editing Final Order 2 as follows:

The Commission adopts the ED's Response to Public Comment in accordance with 30 Texas Administrative Code section 50.117. **If there is any conflict between the Commission's Order and the ED's Response to Public Comment, the Commission's Order prevails.**

With no other changes recommended, the ALJ recommends the Proposed Order and PFD be adopted by the Commission.

Signed September 25, 2023.

Respectfully,



Vasu Behara

Presiding Administrative Law Judge

CC: Service List