

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

August 21, 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:

Please find attached a Proposal for Decision on Summary Disposition (PFD) in this case. Any party may, **within 20 days** after the date of issuance of the PFD, file exceptions or briefs. Any replies to exceptions, briefs, or proposed findings of fact shall be filed within 30 days after the date of issuance on the PFD. 30 Tex. Admin. Code § 80.257.

This matter has been designated **SOAH Docket No. 582-23-15497; TCEQ Docket 2022-1700-MWD**. All documents to be filed must clearly reference these assigned docket numbers. All exceptions, briefs, and replies along with certification of service to 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.

CC: Service List

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**APPLICATION OF PHAU-LOCKHART 450, LLC FOR A NEW  
TPDES PERMIT NO. WQ0016107001**

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**PROPOSAL FOR DECISION ON SUMMARY DISPOSITION**

Phau-Lockhart 450, LLC filed an application (Application) with the Texas Commission on Environmental Quality (TCEQ) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016107001 (Draft Permit). Applicant seeks authorization to discharge treated domestic wastewater from a proposed plant site (Facility) in Caldwell County, Texas. After the Executive Director (ED) of TCEQ reviewed the Application and prepared a Draft Permit, two affected persons protested the Draft Permit and TCEQ granted their requests for a contested case hearing, referring this matter to the State Office of Administrative Hearings (SOAH). TCEQ referred two issues: (1) whether the Draft Permit is protective of ground water and surface water quality; and (2) whether the Draft Permit is protective of nuisance odors.

Applicant filed a Motion for Summary Disposition (MSD) requesting a Proposal for Decision (PFD) in its favor as a matter of law. After considering the pleadings, evidence, and the applicable law, the Administrative Law Judge (ALJ) granted the MSD on July 19, 2023, and follows with this PFD finding the Commission should issue the Draft Permit without alterations.

## **I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY**

No party contested the Commission's jurisdiction to act on the Application or SOAH's jurisdiction to convene a hearing and prepare a PFD. In addition, no one contested the adequacy of notice regarding the Application or the hearing. Therefore, the ALJ will address these issues only in the findings of fact and conclusions of law in the Proposed Order attached to this PFD.

On February 2, 2022, TCEQ received the Application for the proposed TD PES system, titled the Clear Fork Ranch Wastewater Treatment Plant, to be located about .75 miles southeast of the intersection of Highway 142 and Clark Loop in Caldwell County. The ED determined the Application administratively complete on March 23, 2022, technically complete on May 18, 2022, and prepared the Draft Permit. On February 13, 2023, TCEQ signed an Interim Order, and on March 28, 2023, referred the Application to SOAH for a contested case hearing.

A preliminary hearing convened on May 31, 2023. Applicant, the ED, and the Office of Public Interest Counsel were admitted as parties. In addition, Dana Garrett, one of the affected persons, appeared and was granted party status. One of the affected persons, Shalaina Walker, did not appear, and she was not granted party

status. Jurisdiction and notice were established and deemed sufficient as required by law, and the Administrative Record, Ex. C, was admitted into the record without objection. The Administrative Record established a prima facie demonstration that: (1) the Draft Permit meets all state and federal legal and technical requirements; and (2) a permit, if issued consistent with the Draft Permit, would protect human health and safety, the environment, and physical property. Tex. Gov't Code § 2003.047(i-1).

The same day, the parties submitted a joint proposed scheduling order, which was adopted by SOAH Order on June 8, 2023. The order provided a June 7 deadline for all parties to provide initial disclosures, and a July 14 deadline for Mr. Garrett, as the sole protestant with party status, to designate any expert witnesses, file proposed order of witness, and file direct testimony and exhibits to rebut the prima facie demonstration in favor of the draft permit under Texas Government Code section 2003.047(i-1). Mr. Garrett did not submit any filings.

On June 29, 2023, Applicant filed and served its MSD on the two issues referred by TCEQ. Pursuant to SOAH's procedural rules, a response to the Motion was due "no later than 15 days after the filing of the motion." 1 Tex. Admin. Code § 155.505(b)(2). That deadline passed on July 14, 2023, and no response was filed. The MSD was granted on July 19, 2023, and the record closed on that same date.

## II. APPLICABLE LAW

Applicant, as the moving party, bears the burden of proof by a preponderance of the evidence.<sup>1</sup> The Application was filed after September 1, 2015, and the Commission referred it to SOAH under Texas Water Code section 5.556, which governs referral of environmental permitting cases to SOAH.<sup>2</sup> Therefore, this case is subject to Texas Government Code section 2003.047(i-1)-(i-3), as enacted in 2015, which provides:

- (i-1) In a contested case regarding a permit application referred under Section 5.556 [of the] Water Code, the filing with [SOAH] of the application, the draft permit prepared by the executive director of the commission, the preliminary decision issued by the executive director, and other sufficient supporting documentation in the administrative record of the permit application establishes a prima facie demonstration that:
  - 1) the draft permit meets all state and federal legal and technical requirements; and
  - (2) a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property.
- (i-2) A party may rebut a demonstration under Subsection (i-1) by presenting evidence that:
  - (1) relates to . . . an issue included in a list submitted under Subsection (e) in connection with a matter referred under Section 5.556, Water Code; and

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<sup>1</sup> 30 Tex. Admin. Code § 80.17(a); 1 Tex. Admin. Code § 155.427.

<sup>2</sup> Tex. Water Code §§ 5.551(a), .556.

- (2) demonstrates that one or more provisions in the draft permit violate a specifically applicable state or federal requirement.
  
- (i-3) If in accordance with Subsection (i-2) a party rebuts a presumption established under Subsection (i-1), the applicant and the executive director may present additional evidence to support the draft permit.<sup>3</sup>

Although this law creates a presumption, sets up a method for rebutting that presumption, and shifts the burden of production on that rebuttal, it does not change the underlying burden of proof. The burden of proof remains with Applicant to establish by a preponderance of the evidence that the Application would not violate applicable requirements and that a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property.<sup>4</sup> In this case, the Application, the Draft Permit, and the other materials listed in Texas Government Code section 2003.047(i-1), which are collectively referred to as the prima facie demonstration, were offered and admitted into the record at the preliminary hearing.<sup>5</sup>

Summary disposition of a contested case shall be rendered if the pleadings, admissions, affidavits, stipulations, deposition transcripts, interrogatory answers, other discovery responses, exhibits and authenticated or certified public records, if any, on file in the case at the time of the hearing, or filed thereafter and before

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<sup>3</sup> *Accord* 30 Tex. Admin. Code § 80.17(c).

<sup>4</sup> 30 Tex. Admin. Code § 80.17(a), (c).

<sup>5</sup> App. Ex. C.

judgment with the permission of the judge, show that there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion or in an answer or any other response.<sup>6</sup>

### **III. EVIDENCE**

The following relevant facts are based on the Administrative Record, which Applicant presented as uncontested summary disposition evidence.

#### **A. FACILITY DESCRIPTION**

The Application describes that the proposed Facility, to be identified as the Clear Fork Ranch Wastewater Treatment Facility, will be located approximately 0.75 miles southeast of the intersection of Clark Loop and State Highway 142, in Caldwell County, Texas 77845, and will serve the Clear Fork Ranch Development. The Facility would be an activated sludge process plant, operated in the conventional mode. The Draft Permit authorizes sludge generated at the Facility to be disposed of at any TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

#### **B. WASTEWATER TREATMENT**

The Draft Permit authorizes the discharge of treated domestic wastewater at a daily average flow limit of 0.125 million gallons per day (MGD) in the Interim Phase I; at a daily average flow limit of 0.25 MGD in the Interim Phase II; and a Final Phase

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<sup>6</sup> 30 Tex. Admin. Code § 80.137(c).

flow limit of 0.499 MGD. Treatment units in the Interim I phase will include a headworks screen, an aeration basin, a final clarifier, an aerobic digester, and a chlorine contact chamber. Treatment units in the Interim II phase will include a headworks screen, two aeration basins, a clarifier, an aerobic digester, and a chlorination chamber. Treatment units in the Final phase will include a headworks screen, four aeration basins, two clarifiers, two aerobic digesters, and two chlorination chambers.

TCEQ's rules require disinfection of domestic wastewater in a manner conducive to the protection of both public health and aquatic life. 30 Tex. Admin. Code § 309.3(g)(1). The rules do not mandate a specific method of disinfection, as a permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval from the ED. Applicant has chosen chlorine disinfection. The Draft Permit provides that the effluent from the Facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/l. The Draft Permit limit for maximum total chlorine residual is 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.

### **C. EFFLUENT LIMITATIONS**

The ED found that the end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with the Texas Surface Water Quality Standards (TSWQS) for pH when the discharge authorized is from a minor facility. The ED further found that the discharge from the Facility is



not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat.

Segment No. 1010 is not currently listed on the State's inventory of impaired and threatened waters. The ED determined that the Facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment. To ensure that effluent limitations for this discharge are consistent with the waste load allocations provided in the Total Maximum Daily Load, a concentration based effluent limitation for *E. coli* of 126 colony forming units or most probable number per 100 milliliters has been included in the Draft Permit.

#### **D. DISCHARGE ROUTE**

The treated effluent will be discharged to Clear Fork Plum Creek, then to Plum Creek in Segment No. 1810 of the Guadalupe River Basin. The unclassified receiving water use is high aquatic life use for Clear Fork Plum Creek. The designated uses for Segment No. 1810 are primary contact recreation, aquifer protection, and high aquatic life use.

#### **E. ANTIDegradation REVIEW**

In accordance with 30 Texas Administrative Code section 307.5 and the TCEQ implementation procedures for TSWQS, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action and numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water

quality is expected in Clear Fork Plum Creek, which has been identified as having high aquatic life use, and that existing uses will be maintained and protected. Segment No. 1810 is not currently listed on the State's inventory of impaired and threatened waters.

#### **F. NUISANCE ODORS**

To control and abate odors, the TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 Texas Administrative Code section 309.13(e), which provides options for applicants to satisfy the nuisance odor abatement and control requirements. The options are: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control. The Application provides that Applicant will comply with the requirement to abate and control nuisance odors by locating its treatment units at least 150 feet from the nearest property line and by legal restrictions prohibiting residences within that buffer zone.

TCEQ rules make clear that such a buffer zone is sufficient to meet the "compliance requirement to abate and control a nuisance of odor." 30 Tex. Admin. Code § 309.13(e).

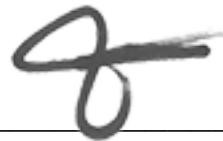
#### **IV. ANALYSIS AND RECOMMENDATION**

The ALJ found that there is no genuine issue as to any material fact regarding the two issues referred to SOAH because no party presented any evidence to rebut

the prima facie presumption that the Draft Permit meets all applicable legal and technical requirements, and, if issued, would be adequately protective of public and environmental health and safety. Therefore, the uncontroverted summary disposition evidence shows the following: (1) the Draft Permit is protective of groundwater and surface water quality, including the protection of the requesters' and their families' health, existing uses of the receiving waters, aquatic life, flora, and fauna, in accordance with applicable regulations, including the Texas Surface Water Quality Standards; and (2) the Draft Permit adequately protects against nuisance odors in accordance with 30 Texas Administrative Code section 309.13.

The ALJ recommends that the Commission adopt the attached proposed order containing Findings of Fact and Conclusions of Law and issue the Draft Permit to Applicant.

**Signed August 21, 2023.**



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Vasu Behara  
Presiding Administrative Law Judge



## **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

### **AN ORDER GRANTING THE APPLICATION BY PHAU-LOCKHART 450, LLC FOR TPDES PERMIT NO. WQ0016107001 IN CALDWELL COUNTY, TEXAS; SOAH DOCKET NO. 582-23-15497; TCEQ DOCKET NO. 2022-1700-MWD**

On \_\_\_\_\_, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the Application of Phau-Lockhart 450, LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016107001 in Caldwell County, Texas. A Proposal For Decision (PFD) was submitted by Vasu Behara, Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), after granting Applicant's Motion for Summary Disposition on July 19, 2023. After considering the PFD, the Commission makes the following findings of fact and conclusions of law.

### **I. FINDINGS OF FACT**

#### **Application**

1. Applicant filed an application (Application) for a new TPDES permit and TCEQ received it on or about February 2, 2022.
2. The Application requested authorization to discharge treated domestic wastewater from a proposed plant site (Facility), to be identified as the Clear Fork Ranch Wastewater Treatment Facility, will be located approximately

0.75 miles southeast of the intersection of Clark Loop and State Highway 142, in Caldwell County, Texas 77845, and will serve the Clear Fork Ranch Development.

3. The Facility would be an activated sludge process plant, operated in the conventional mode. The Draft Permit authorizes sludge generated at the Facility to be disposed of at any TCEQ authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.
4. The treated effluent will be discharged to Clear Fork Plum Creek, then to Plum Creek in Segment No. 1810 of the Guadalupe River Basin. The unclassified receiving water use is high aquatic life use for Clear Fork Plum Creek. The designated uses for Segment No. 1810 are primary contact recreation, aquifer protection, and high aquatic life use.
5. TCEQ's Executive Director (ED) declared the Application administratively complete on March 23, 2022, and technically complete on May 18, 2022.
6. The ED completed the technical review of the Application, prepared a draft permit (Draft Permit) and made it available for public review and comment.

### **The Draft Permit**

7. The Draft Permit would authorize the discharge of treated domestic wastewater at a daily average flow limit of 0.125 million gallons per day (MGD) in the Interim Phase I; at a daily average flow limit of 0.25 MGD in the Interim Phase II; and a Final Phase flow limit of 0.499 MGD.
8. Treatment units in the Interim I phase will include a headworks screen, an aeration basin, a final clarifier, an aerobic digester, and a chlorine contact chamber. Treatment units in the Interim II phase will include a headworks screen, two aeration basins, a clarifier, an aerobic digester, and a chlorination chamber. Treatment units in the Final phase will include a headworks screen, four aeration basins, two clarifiers, two aerobic digesters, and two chlorination chambers. The Facility has not been constructed.

9. The effluent limitations in all phases of the Draft Permit, based on a 30-day average, are 10 mg/l Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>) , 15 mg/l Total Suspended Solids (TSS), 3.0 mg/l Ammonia Nitrogen (NH<sub>3</sub>-N), 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.
10. The effluent from the proposed facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/l. The permit limit for maximum total chlorine residual is 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.
11. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action and numerical and narrative criteria to protect existing uses will be maintained.
12. A Tier 2 antidegradation review has preliminarily determined that no significant degradation of water quality is expected in Clear Fork Plum Creek which has been identified as having high aquatic life use, and that existing uses will be maintained and protected.
13. The end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with the Texas Surface Water Quality Standards for pH when the discharge authorized is from a minor facility.
14. The discharge from the Facility is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat.
15. Segment No. 1810 is not currently listed on the State's inventory of impaired and threatened waters list. The Facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment.
16. The Draft Permit requires Applicant to comply with the requirement to abate and control nuisance odors by locating its treatment units at least 150 feet from

the nearest property line and by legal restrictions prohibiting residences within that buffer zone.

### **Notice and Jurisdiction**

17. The Notice of Receipt of the Application and Intent to Obtain Water Quality Permit was published on April 7, 2022, in the *Lockhart Post Register* in English.
18. The Notice of Application and Preliminary Decision was published on June 23, 2022, in the *Lockhart Post Register* in English.
19. Applicant filed an “Alternative Language Exemption” on July 5, 2022, certifying that it conducted a diligent search for a newspaper or publication of general circulation and none could be found in any of the alternative languages in which notice is required.
20. The comment period for the Application closed on July 25, 2022.
21. TCEQ’s Office of the Chief Clerk received timely comments from Dana Garrett, Shalaina Walker, and the Guadalupe Blanco River Authority (GBRA).
22. TCEQ received timely hearing requests from Protestants based upon issues raised during the public comment period.
23. The ED issued its Response to Public Comment on September 23, 2022.
24. On February 8, 2023, the Commission considered the hearing request at its open meeting and, on February 13, 2023, issued an Interim Order, directing that the following two issues be referred to SOAH, denying all issues not referred, and setting the maximum duration of the hearing at 180 days from the date of the preliminary hearing until the date the PFD is issued by SOAH: (1) whether the Draft Permit is protective of groundwater and surface water quality, including the protection of the requesters’ and their families’ health, existing uses of the receiving waters, aquatic life, flora, and fauna, in accordance with applicable regulations, including the Texas Surface Water Quality Standards; and (2) whether the Draft Permit adequately protects

against nuisance odors in accordance with 30 Texas Administrative Code section 309.13.

25. On April 19, 2023, notice of the preliminary hearing was published 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.

### **Proceedings at SOAH**

26. On May 31, 2023, a preliminary hearing was convened in this case via videoconference by SOAH ALJ Vasu Behara. Attorney Derek R. McDonald appeared for Applicant; attorney Michael Parr appeared for the ED; attorney Jennifer Jamison appeared for the Office of Public Interest Counsel (OPIC); and Dana Garrett appeared for himself.
27. Applicant, the ED, and the Office of Public Interest Counsel were admitted as parties. In addition, Dana Garrett, one of the affected persons, appeared and was granted party status. One of the affected persons, Shalaina Walker, did not appear and was not granted party status.
28. Jurisdiction was noted by the ALJ and the administrative record, Ex. C., was admitted.
29. The parties submitted a joint proposed scheduling order, which was adopted by SOAH Order on June 8, 2023. The order provided a June 7 deadline for all parties to provide initial disclosures, and a July 14 deadline for Mr. Garrett, as the sole protestant with party status, to designate any expert witnesses, file proposed order of witness, and file direct testimony and exhibits to rebut the prima facie demonstration in favor of the draft permit under Texas Government Code section 2003.047(i-1). Mr. Garrett did not submit any filings.
30. On June 29, 2023, Applicant timely filed a Motion for Summary Disposition (MSD) and asserted that summary disposition should be granted pursuant to Texas Government Code section 2003.047(i-1)-(i-2) because no party presented any evidence to rebut the prima facie demonstration made by the Applicant. No party filed response to the MSD. The MSD was granted on July 19, 2023, and the record closed on that same date.



**Issue 1: Whether the Draft Permit is protective of groundwater and surface water quality, including the protection of the requesters' and their families' health, existing uses of the receiving waters, aquatic life, flora, and fauna, in accordance with applicable regulations, including the Texas Surface Water Quality Standards.**

31. No party presented evidence rebutting the prima facie demonstration that the the Draft Permit is adequately protective of water quality.

**Issue 2: Whether the Draft Permit adequately protects against nuisance odors in accordance with 30 Texas Administrative Code section 309.13.**

32. No party presented evidence rebutting the prima facie demonstration that the the Draft Permit adequately protects against nuisance odors.

## **II. CONCLUSIONS OF LAW**

1. TCEQ has jurisdiction over this matter. Tex. Water Code chs. 5, 26.
2. SOAH has jurisdiction to conduct a hearing and to prepare a PFD in contested cases referred by the Commission under Texas Government Code section 2003.047.
3. Notice was provided in accordance with Texas Water Code sections 5.114 and 26.028; Texas Government Code sections 2001.051 and 2001.052; and 30 Texas Administrative Code sections 39.405 and 39.551.
4. Summary disposition of a contested case shall be rendered if the pleadings, admissions, affidavits, stipulations, deposition transcripts, interrogatory answers, other discovery responses, exhibits and authenticated or certified public records, if any, on file in the case at the time of the hearing, or filed thereafter and before judgment with the permission of the judge, show that there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion or in an answer or any other response. 30 Tex. Admin. Code § 80.137(c).

5. The Application is subject to the requirements in Senate Bill 709, effective September 1, 2015. Tex. Gov't Code § 2003.047(i-1)-(i-3).
6. The Administrative Record established a prima facie case that: (1) the Draft Permit meets all state and federal legal and technical requirements; and (2) a permit, if issued consistent with the Draft Permit, would protect human health and safety, the environment, and physical property. Tex. Gov't Code § 2003.047(i-1); 30 Tex. Admin. Code § 80.17(c)(1).
7. Applicant retains the burden of proof on the issues regarding the sufficiency of the Application and compliance with the necessary statutory and regulatory requirements. 30 Tex. Admin. Code § 80.17(a).
8. No party rebutted the prima facie demonstration by demonstrating that one or more provisions in the Draft Permit violate a specifically applicable state or federal requirement that relates to a matter referred by TCEQ. Tex. Gov't Code § 2003.047(i-2); 30 Tex. Admin. Code § 80.117(c).
9. The Draft Permit is adequately protective of water quality.
10. The Draft Permit adequately protects against nuisance odors.

**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. Application for Texas Pollutant Discharge Elimination System Permit No. **WQ0016107001** is granted as set forth in the Draft Permit.
2. The Commission adopts the ED's Response to Public Comment in accordance with 30 Texas Administrative Code section 50.117.
4. 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.
5. The effective date of this Order is the date the Order is final, as provided by Texas Government Code section 2001.144 and 30 Texas Administrative Code section 80.273.

6. TCEQ's Chief Clerk shall forward a copy of this Order to all parties.
7. 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**

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**Jon Niermann, Chairman, For the Commission**