

SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD

APPLICATION OF § BEFORE THE STATE OFFICE
R040062, LP §
FOR TPDES PERMIT § OF
NO. WQ0016008001 § ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR'S EXCEPTION TO THE ADMINISTRATIVE LAW JUDGE'S
PROPOSAL FOR DECISION

I. OVERVIEW

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) submits her Exception to the Proposal for Decision. The Executive Director supports the Administrative Law Judge's (ALJs) conclusions that R040062, LP has met its burden of proof on the agreed issues related to consent¹, regionalization², and water quality³, and the draft permit be issued without changes.⁴ The Executive Director is providing a suggested change to the Findings of Fact.

II. EXCEPTION to the PROPOSAL for DECISION

A. Executive Director's Recommended Change to Findings of Fact

The Executive Director recommends the following change to the ALJ's Findings of Fact:

1. Finding of Fact #16 (Correction/Clarification)

Finding of Fact #16 indicates that the ED completed the technical review of the Application on November 6, 2021. The Executive Director notes that TCEQ records and the record⁵ for this case indicate that the technical review of the application was completed on November 16, 2021.

¹ 582-23-10368 PFD at 16.

² 582-23-10368 PFD at 26.

³ 582-23-10368 PFD at 31.

⁴ 582-23-10368 PFD at 32.

⁵ 582-23-10368 Administrative Record, Tab A, at Page 3, Bates Stamp 00009.

III. Conclusion

The Executive Director maintains her position that the draft permit meets all applicable statutory and regulatory requirements. The ED supports the ALJ's position that the application be granted and the draft permit be issued without changes. The ED respectfully recommends the Administrative Law Judge issue a Revised Proposal for Decision reflecting the ED's correction to the Findings of Fact.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following by U.S. Regular Mail, Certified Mail (return receipt requested), electronic mail, hand delivery, and/or facsimile at the addresses listed below on this 11th day of December 2023.



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