

SOAH DOCKET NO. 582-23-11653  
TCEQ DOCKET NO. 2022-1732-MWD

APPLICATION OF  
CIVITAS AT BUDA, LLC  
FOR TPDES PERMIT  
NO. WQ0016154001

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BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR'S EXCEPTIONS 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 Exceptions to the Proposal for Decision. The Executive Director supports the Administrative Law Judge's (ALJs) conclusions that Civitas at Buda has met its burden of proof on the agreed issues A<sup>1</sup>, B<sup>2</sup>, and C<sup>3</sup>, the application be granted<sup>4</sup>, and the draft permit be issued without changes.<sup>5</sup> The Executive Director is providing suggested changes to the Findings of Fact.

II. EXCEPTIONS to the PROPOSAL for DECISION

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

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

**1. Finding of Fact #11 (Correction/Clarification)**

Finding of Fact #11 indicates that the Applicant published the Spanish Notice of Application and Preliminary Decision (NAPD) on September 21, 2022. The Executive Director notes that TCEQ records and the record<sup>6</sup> for this case indicate that the NAPD was published on September 22, 2022.

**2. Finding of Fact #15 (Correction/Clarification)**

Finding of Fact #15 indicates that the ED's final decision letter was mailed on December 29, 2022. However, the ED's Response to Comments was mailed on

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<sup>1</sup> 582-23-11653 PFD at 25.

<sup>2</sup> 582-23-11653 PFD at 26.

<sup>3</sup> 582-23-11653 PFD at 31.

<sup>4</sup> 582-23-11653 PFD at 1.

<sup>5</sup> 582-23-11653 PFD at 10.

<sup>6</sup> 582-23-11653 Administrative Record, Tab A, at Page 3, Bates Stamp 00006.

December 29, 2022, without a Final Decision Letter. No Final Decision Letter was included in the mailing because this case was directly referred to SOAH. For direct referral cases, the Office of the Chief Clerk does not include a Final Decision Letter since the case will not have a HR/RFR period.

**3. Finding of Fact #19 (Correction/Clarification)**

Finding of Fact #19 indicates that on August 21, 2023, the preliminary hearing was convened. The Executive Director notes that the preliminary hearing was held on May 23, 2023, and that the prehearing conference was held on August 21, 2023.

**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 corrections to the Findings of Fact.

Respectfully submitted,

Texas Commission on Environmental Quality

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Interim Executive Director

Erin Chancellor, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
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REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

#### IV. 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 11<sup>th</sup> day of December 2023.



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