

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 5, 2024

Honorable ALJ Linda Brite  
State Office of Administrative Hearings  
P.O. Box 13025  
Austin, Texas 78711-3025

RE: Undine Texas Environmental, LLC TPDES  
Permit No. WQ0016046001  
SOAH Docket No. 582-23-20937; TCEQ Docket No. 2023-0163-MWD

Honorable Administrative Law Judge Brite:

Enclosed please find a copy of the Executive Director's Replies to Exceptions to the Proposal for Decision for the Contested Case Hearing listed above.

If you have any questions, please do not hesitate to call me at (512) 239-3417 or email at [Kathy.humphreys@tceq.texas.gov](mailto:Kathy.humphreys@tceq.texas.gov).

Sincerely,

A handwritten signature in cursive script that reads "Kathy J. Humphreys".

Kathy Humphreys  
Staff Attorney  
Texas Commission on Environmental Quality  
Environmental Law Division  
512-239-3417  
[Kathy.humphreys@tceq.texas.gov](mailto:Kathy.humphreys@tceq.texas.gov)

Enclosures

SOAH DOCKET NO. 582-23-20937  
TCEQ DOCKET NO. 2023-0163-MWD

APPLICATION OF § BEFORE THE STATE OFFICE  
UNDINE TEXAS ENVIRONMENTAL, §  
LLC FOR TPDES § OF  
PERMIT NO. WQ0016046001 § ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR'S REPLIES TO 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 Replies to Exceptions to the Proposal for Decision.

II. DISCUSSION

Ronnie Autry and Brazoria County (collectively "Protestants") submitted Exceptions to the Administrative Law Judge's Proposal for Decision.<sup>1</sup> The Protestants' Exceptions reiterate the arguments they made during the hearing on the merits and in their closing arguments.

As provided in the Executive Director's prefiled testimony and during cross examination at the hearing on the merits, the Executive Director considered the information provided by the Protestants in their prefiled testimony, and based on that testimony, reassessed the characteristics of the discharge route. Dr. Wallace reevaluated the aerial imagery of the area and determined that the flow status would be better characterized as intermittent with pools and limited aquatic life use. Dr. Lu subsequently performed an additional Dissolved Oxygen (DO) model, to ensure the proposed effluent limits would be adequate to maintain the DO levels above Dr. Wallace's updated DO criteria. Finally, based on the revised memos, Venkata Kancharla confirmed that the change to the aquatic life use designation for Angleton Drainage Ditches Nos. 7 and 22 did not impact the draft permit. This additional review supported the Executive Director's position that the draft permit, if issued, will comply with all applicable statutory and regulatory requirements, and should be issued as drafted.

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<sup>1</sup> The Applicant did not file Exceptions to the Proposal for Decision.

The Protestants did not successfully rebut any portion of the Executive Director's review of the application; thus, the Executive Director maintains that the draft permit complies with all applicable statutory and regulatory requirements and should be issued without changes.

### III. CONCLUSION

The Executive Director maintains her position that the draft permit meets all applicable statutory and regulatory requirements and respectfully recommends the Administrative Law Judge issue a Revised Proposal for Decision with the Executive Director's recommended changes in her Exceptions to the Proposal for Decision to accurately reflect the record and the provisions in the Draft Permit.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,  
Executive Director

Erin E. Chancellor, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



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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 5<sup>th</sup> day of March 2024.



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Kathy Humphreys, Staff Attorney  
Environmental Law Division

**FOR APPLICANT UNDINE TEXAS ENVIRONMENTAL, LLC:**

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