

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

October 6, 2025

Michael Parr  
Texas Commission on Environmental Quality

**VIA EFILE TEXAS**

Jessica Anderson  
Office of Public Interest Counsel

**VIA EFILE TEXAS**

Danny Worrell  
Harris County Municipal Utility District No. 531

**VIA EFILE TEXAS**

Madhu Sekaran  
Protestants

**RE: SOAH Docket Number 582-25-18697; TCEQ No. 2025-0116-MWD; *Application by Harris County Municipal Utility District No. 531 for New TPDES Permit No. WQ0016334001***

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.

All exceptions, briefs, and replies along with certification of service to the above parties and the ALJ 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 BY  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 531  
FOR NEW TPDES PERMIT NO. WQ0016334001**

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**TABLE OF ABBREVIATIONS**

<b>ABBREVIATION</b>	<b>MEANING</b>
ALJ	Administrative Law Judge
App. Ex.	Applicant's Exhibit
App. Ex. MSD A, MSD B, etc.	Applicant's Motion for Summary Disposition Exhibits
Applicant	Harris County Municipal Utility District No. 531
Application	Application for new Texas Pollutant Discharge Elimination System Permit No. WQ0016334001

<b>ABBREVIATION</b>	<b>MEANING</b>
Commission/TCEQ	Texas Commission on Environmental Quality
DO	Dissolved Oxygen
Draft Permit	Draft Permit for new Texas Pollutant Discharge Elimination System
ED	Executive Director of the Texas Commission on Environmental Quality
Facility	Harris County Municipal Utility District No. 531 Wastewater Treatment Facility
GPD	gallons per day
mg/l	milligrams per liter
Motion for Summary Disposition	MSD
MUD	Municipal Utility District
NAPD	Notice of Application and Preliminary Decision
NORI	Notice of Intent of Receipt of Application and Intent to Obtain a Water Quality Permit
OPIC	Office of Public Interest Counsel of the Texas Commission on Environmental Quality
PFD	Proposal for Decision on Summary Disposition
Protestants	Darrin Whatley and Jay Gusler
SOAH	State Office of Administrative Hearings
TPDES	Texas Pollutant Discharge Elimination System
TSWQS	Texas Surface Water Quality Standards

**BEFORE THE**  
**STATE OFFICE OF ADMINISTRATIVE**  
**HEARINGS**

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**APPLICATION BY**  
**HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 531**  
**FOR NEW TPDES PERMIT NO. WQ0016334001**

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**PROPOSAL FOR DECISION ON SUMMARY DISPOSITION**

Harris County Municipal Utility District (MUD) No. 531 (Applicant) filed an application (Application) with the Texas Commission on Environmental Quality (TCEQ or Commission) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016334001 to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 50,000 gallons per day (GPD) in the Interim Phase and 100,000 GPD in the Final Phase. The wastewater would be discharged from the proposed Harris County MUD 531 Wastewater Treatment Facility (Facility), eventually flowing into Segment No. 1009 of the San Jacinto River Basin. The State Office of Administrative Hearings (SOAH) Administrative Law

Judge (ALJ) granted Applicant's Motion for Summary Disposition (MSD) and recommends the draft permit (Draft Permit)<sup>1</sup> be issued.

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

Matters of notice and jurisdiction were undisputed and, therefore, are addressed in the Findings of Fact and Conclusions of Law in the Proposed Order attached to this Proposal for Decision on Summary Disposition (PFD) without further discussion here.

The Application was filed on April 28, 2023.<sup>2</sup> On June 21, 2023, the Executive Director (ED) of TCEQ determined it was administratively complete; on January 3, 2024, the ED declared it technically complete and prepared the Draft Permit.<sup>3</sup> On April 8, 2025, the Commission referred the matter to SOAH for a hearing.<sup>4</sup>

On July 7, 2025, SOAH ALJ Whitney L. Stoenner convened a preliminary hearing via videoconference. The administrative record and jurisdictional documents were admitted into evidence, and SOAH took jurisdiction.<sup>5</sup> Attorneys Danny Worrell and Cole Lempke appeared on behalf of Applicant. ED appeared

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<sup>1</sup> App. Ex. C, Tab C at 0006-43.

<sup>2</sup> App. Ex. C, Tab C at 0004.

<sup>3</sup> App. Ex. C, Tab C at 0060.

<sup>4</sup> App. Ex. A.

<sup>5</sup> App. Exs. A-C. Applicant Exhibit C contains the Administrative Record in this case, which includes Tabs A-D.

through Staff attorney Michael Parr. The TCEQ Office of Public Interest Counsel (OPIC) appeared through Staff attorney Jessica Anderson. Darrin Whatley and Jay Gusler (jointly, Protestants) appeared and were admitted as parties.

Neither Protestants nor OPIC filed testimony or exhibits by the August 15, 2025 deadline established by the procedural schedule in this matter.<sup>6</sup> On August 18, 2025, Applicant filed a MSD requesting a PFD in its favor as a matter of law.<sup>7</sup> Protestants filed a response to Applicant's MSD on September 26, 2025.<sup>8</sup> On September 29, 2025, after considering the pleadings, evidence, and applicable law, the ALJ granted the MSD due to the lack of evidence rebutting the prima facie demonstration; the ALJ concluded the Commission should issue the Draft Permit without alteration.<sup>9</sup>

## II. REFERRED ISSUES

The Commission referred the following issues to SOAH:

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<sup>6</sup> See *SOAH Order No. 1 Memorializing Preliminary Hearing, Determining Party Status, Adopting Procedural Schedule, and Scheduling Hearing on the Merits* (July 14, 2025).

<sup>7</sup> Applicant's MSD contains five exhibits, labeled exhibits A-E. To avoid confusion between the MSD exhibits and those admitted during the preliminary hearing, the ALJ will refer to the MSD exhibits as Applicant's Exhibits MSD-A, MSD-B, etc. The ALJ initially granted Applicant's MSD on September 4, 2025; however, upon review of the record, the ALJ determined that, pursuant to the procedural schedule in this matter, the deadline for responses to Applicant's MSD was September 26, 2025. Accordingly, the ALJ reopened the record to allow the parties to respond to Applicant's MSD.

<sup>8</sup> On August 19, 2025, Protestants filed *Protestants' Responses to Applicant's Discovery Requests*. However, these responses did not provide evidence related to the issues referred to SOAH by the Commission.

<sup>9</sup> See *SOAH Order No. 5 Granting Motion for Summary Disposition* (September 29, 2025). Order No. 5 closed the record in this matter upon receipt of Protestants' response to the MSD; however, after the order was signed, on that same date, Applicant filed a Reply in Support of Motion for Summary Disposition.

- A. Whether the Draft Permit is protective of wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards (TSWQS); and
- B. Whether the Draft Permit adequately addresses nuisance odor, in accordance with 30 Texas Administrative Code section 309.13(e).

### **III. APPLICABLE LAW**

#### **A. BURDEN OF PROOF AND PRIMA FACIE CASE**

Applicant, as the moving party, bears the burden of proof by a preponderance of the evidence.<sup>10</sup> The Commission referred the Application to SOAH under Texas Water Code section 5.556, which governs the referral of environmental permitting cases to SOAH.<sup>11</sup> Therefore, this case is subject to Texas Government Code section 2003.047(i-1)-(i-3), which provides:

- (i-1) In a contested case regarding a permit application referred under section 5.556..., [of the] Water Code, the filing with the office 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

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<sup>10</sup> 30 Tex. Admin. Code § 80.17(a); 1 Tex. Admin. Code § 155.427.

<sup>11</sup> Tex. Water Code §§ 5.551(a), .556.



- (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 [of issues referred by the Commission] in connection with a matter referred under Section 5.556, Water Code; and
  - (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.

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>12</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

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<sup>12</sup> 30 Tex. Admin. Code § 80.17(a), (c).

as the prima facie demonstration, were offered and admitted into the record at the preliminary hearing for all purposes.<sup>13</sup>

## **B. WASTEWATER DISCHARGE PERMIT REQUIREMENTS**

Chapter 26 of the Texas Water Code requires a person seeking to discharge wastewater into “water in the state”<sup>14</sup> to file an application with TCEQ.<sup>15</sup> TCEQ reviews the applications in accordance with 30 Texas Administrative Code chapter 281. Based on a technical review, TCEQ prepares a draft permit and a technical summary that discusses the application’s facts and significant factual, legal, methodological, and policy questions considered while preparing the draft permit.<sup>16</sup>

Domestic wastewater treatment facilities in Texas are subject to wastewater discharge permit requirements. Standard requirements, which the TCEQ has adopted specifically for use in such permits, are found in 30 Texas Administrative Code, chapter 305, subchapter F. The Commission has also adopted the TSWQS, which are applicable to wastewater discharges in accordance with section 303 of the federal Clean Water Act and section 26.023 of the Texas Water Code, and are found

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<sup>13</sup> See App. Exs. A-C.

<sup>14</sup> “Water in the state” means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state. Tex. Water Code § 26.001(5).

<sup>15</sup> Tex. Water Code § 26.027(b).

<sup>16</sup> 30 Tex. Admin. Code §§ 281.19, .21(b)-(c).

in 30 Texas Administrative Code chapter 307.<sup>17</sup> The TSWQS identify specific uses for the state's surface water, including recreation, domestic water supply, and aquatic life; and they establish numerical and narrative criteria to protect those uses.<sup>18</sup>

### **C. WATER QUALITY**

The TSWQS require that water in the state be maintained to preclude adverse toxic impacts to aquatic or terrestrial life.<sup>19</sup> This purpose has been implemented in narrative and numerical requirements. Under the narrative requirements, water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or other domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination thereof.<sup>20</sup> Numerical criteria related to toxicity to animal life and human health are found in 30 Texas Administrative Code section 307.6(c) and (d). The TSWQS require dissolved oxygen concentrations to be sufficient to support existing, designated, presumed, and attainable aquatic life uses.<sup>21</sup>

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<sup>17</sup> Pursuant to 30 Texas Administrative Code section 307.1, the purpose of the TSWQS is: to maintain the quality of water in the state in a manner that is consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and taking into consideration economic development of the state; to encourage and promote development and use of regional and area-wide wastewater collection, treatment, and disposal systems to serve the wastewater disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy. 30 Tex. Admin. Code § 307.1. This rule is consistent with the policy contained in Texas Water Code section 26.003.

<sup>18</sup> 30 Tex. Admin. Code §§ 307.7, .10.

<sup>19</sup> 30 Tex. Admin. Code §§ 307.4(d); .6(b)(1)-(2), (4).

<sup>20</sup> 30 Tex. Admin. Code §§ 307.4(d); .6(b)(4).

<sup>21</sup> 30 Tex. Admin. Code § 307.4(h)(1).

The Commission's antidegradation rule, in accordance with Texas Water Code section 26.003, seeks to maintain Texas water quality.<sup>22</sup> The antidegradation policy consists of three tiers; and Tier 1 and Tier 2 are applicable here.<sup>23</sup> Tier 1 states that existing uses and water quality sufficient to protect those existing uses must be maintained.<sup>24</sup> Under Tier 2, no activities subject to regulatory action that would cause degradation<sup>25</sup> of waters that exceed fishable or swimmable<sup>26</sup> quality are allowed unless it can be demonstrated to the Commission's satisfaction that lowering the water quality is necessary for important economic or social development.<sup>27</sup>

With exceptions not applicable to the instant case, all domestic wastewater that discharges into water in the state must be disinfected in a manner conducive to the protection of public health and aquatic life.<sup>28</sup>

#### **D. NUISANCE ODORS**

Nuisance odor prevention is the reduction, treatment, and dispersal of potential odor conditions that: (1) interfere with another's use and enjoyment of property, (2) are caused by or generated from a wastewater treatment plant unit, and

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<sup>22</sup> 30 Tex. Admin. Code § 307.5.

<sup>23</sup> 30 Tex. Admin. Code § 307.5(b)(1)-(2).

<sup>24</sup> 30 Tex. Admin. Code § 307.5(b)(1).

<sup>25</sup> Degradation is the lowering of water quality by more than a de minimis extent, but not to the extent an existing use is impaired. 30 Tex. Admin. Code § 307.5(b)(2).

<sup>26</sup> Fishable or swimmable waters are defined as waters that have quality sufficient to support propagation of indigenous fish, shellfish, terrestrial life, and recreation in and on the water. 30 Tex. Admin. Code § 307.5(b)(2).

<sup>27</sup> 30 Tex. Admin. Code § 307.5(b)(2).

<sup>28</sup> 30 Tex. Admin. Code § 309.3(g)(1).

(3) cannot be prevented by normal operation and maintenance of the wastewater treatment unit.<sup>29</sup> By rule, the Commission has established three alternative methods to meet the requirement to abate and control nuisance odors prior to construction of a new wastewater treatment plant.<sup>30</sup> These methods include: (1) buffer zones from the nearest property line, of 500 feet for lagoons with anaerobic activity and 150 feet for all other wastewater treatment plant units; (2) a nuisance odor prevention request in the form of an engineering report containing specific elements; or (3) evidence of legal restrictions prohibiting residential structures within the portion of the buffer zone not owned by the applicant.<sup>31</sup>

## **E. SUMMARY DISPOSITION**

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.<sup>32</sup>

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<sup>29</sup> 30 Tex. Admin. Code § 309.11(6).

<sup>30</sup> 30 Tex. Admin. Code § 309.13(e).

<sup>31</sup> 30 Tex. Admin. Code § 309.13(e).

<sup>32</sup> 30 Tex. Admin. Code § 80.137(c).

## **IV. SUMMARY DISPOSITION EVIDENCE**

Applicant presented uncontested summary disposition evidence establishing the following relevant facts.

### **A. OVERVIEW OF THE DRAFT PERMIT AND FACILITY**

The Draft Permit authorizes a discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 GPD in the Interim Phase and 100,000 GPD in the Final Phase.<sup>33</sup>

The Facility will be located approximately 0.5 miles southwest of the intersection of Mueschke Road and Schiel Road in Harris County, Texas.<sup>34</sup> The treated effluent will be discharged via pipe to a detention pond, thence to a series of pipes to a detention pond, thence to Schiel Road storm sewer, thence to a dry-bottom pond, thence to a ditch, thence to Little Cypress Creek, thence to Cypress Creek in Segment No. 1009 of the San Jacinto River Basin.<sup>35</sup> The designated uses for Segment No. 1009 are primary contact recreation, public water supply, and high aquatic life use.<sup>36</sup>

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<sup>33</sup> App. Ex. C, Tab C at 0001.

<sup>34</sup> App. Ex. C, Tab C at 0001.

<sup>35</sup> App. Ex. C, Tab C at 0001-2.

<sup>36</sup> App. Ex. C., Tab C at 0002.

The Facility will be an activated sludge process plant operated in the complete mix mode.<sup>37</sup> Treatment units in the Interim Phase will include a bar screen, an aeration basin, a final clarifier, two sludge digesters, and a chlorine contact chamber.<sup>38</sup> Treatment units in the Final Phase will include a bar screen, two aeration basins, a final clarifier, two sludge digesters, and a chlorine contact chamber.<sup>39</sup> The Facility has not been constructed.<sup>40</sup>

Pursuant to the Draft Permit, the discharged effluent shall contain a minimum dissolved oxygen (DO) of 4.0 milligrams per liter (mg/l).<sup>41</sup> The Draft Permit further includes bacteria limits and monitoring requirements to verify proper disinfection of the effluent. Applicant selected chemical disinfection using chlorination in all phases of the Draft Permit.<sup>42</sup> Chlorination can kill disease-causing bacteria and nuisance organisms, and can eliminate certain noxious odors during disinfection.<sup>43</sup>

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<sup>37</sup> App. Ex. C, Tab C at 0001.

<sup>38</sup> App. Ex. C, Tab C at 0001.

<sup>39</sup> App. Ex. C, Tab C at 0001.

<sup>40</sup> App. Ex. C, Tab C at 0001.

<sup>41</sup> App. Ex. C, Tab C at 0007.

<sup>42</sup> App. Ex. C, Tab C at 0070.

<sup>43</sup> App. Ex. C, Tab C at 0070.

## **B. WHETHER THE DRAFT PERMIT IS PROTECTIVE OF WILDLIFE**

The proposed discharge is consistent with the requirements of the TSWQS and, accordingly, the Draft Permit is protective of wildlife.<sup>44</sup> Pursuant to 30 Texas Administrative Code section 307.5 and the TSWQS, an antidegradation review was performed and determined that the existing water quality will be maintained and will not be impaired by the permit action.<sup>45</sup> Numerical and narrative criteria to protect existing uses will also be maintained.<sup>46</sup> The Tier 1 review determined the Draft Permit has limitations and conditions designed to maintain numerical and narrative criteria and, accordingly, there is no expectation of impairment of the existing uses of the discharge route.<sup>47</sup> A Tier 2 review preliminarily determined that no significant degradation of water quality is expected in Little Cypress Creek, which has been identified as having high aquatic life use.<sup>48</sup>

The discharge from this permit action is not expected to have an effect on federally endangered or threatened aquatic or aquatic-dependent species or proposed species, or their critical habitat.<sup>49</sup> In addition, the Draft Permit contains additional

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<sup>44</sup> App. Ex. C, Tab C at 0071.

<sup>45</sup> App. Ex. C, Tab C at 0002.

<sup>46</sup> App. Ex. C, Tab C at 0002.

<sup>47</sup> App. Ex. C, Tab C at 0063.

<sup>48</sup> App. Ex. C, Tab C at 0002.

<sup>49</sup> App. Ex. C, Tab C at 0002.



protection for wildlife through conditions related to the Commission rules regarding disinfection.<sup>50</sup>

### **C. WHETHER THE DRAFT PERMIT ADEQUATELY ADDRESSES NUISANCE ODOR**

Sulfide generation is the most common cause of odor in the early stages of wastewater treatment.<sup>51</sup> The treatment process proposed by the Application supplies oxygen in the air, aeration into the effluent for biodegradation of organic contaminants, and oxygen conversion of the sulfide compounds into odorless sulfates.<sup>52</sup> The Draft Permit's minimum DO level of 4.0 mg/l and other limitations significantly reduce the odors in the discharged effluent.<sup>53</sup> As noted above, the Facility will be an activated sludge process plant operated in the complete mix mode, which has been known to produce highly treated effluent with low biosolid production; the effluent is not expected to have offensive odors.<sup>54</sup>

Further, nuisance-odor controls have been incorporated into the Draft Permit in accordance with Commission rule.<sup>55</sup> On June 6, 2023, Applicant submitted sufficient evidence of legal restrictions prohibiting residential structures within the

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<sup>50</sup> App. Ex. C, Tab C at 0071; 30 Tex. Admin. Code § 309.3(g)(1).

<sup>51</sup> App. Ex. C, Tab C at 0077.

<sup>52</sup> App. Ex. C, Tab C at 0077.

<sup>53</sup> App. Ex. C, Tab C at 0007, 0077.

<sup>54</sup> App. Ex. C, Tab C at 0001, 0078.

<sup>55</sup> App. Ex. C, Tab C at 0077; 30 Tex. Admin. Code § 309.13(e).

part of the buffer zone not owned by Applicant.<sup>56</sup> Applicant has acquired the necessary property interests to support this buffer zone through land title, two easements, and a right-of-way.<sup>57</sup>

## **V. ANALYSIS AND RECOMMENDATION**

After the administrative record was admitted and established the prima facie demonstration, Protestants had the burden to demonstrate that one or more provisions in the Draft Permit violate a specifically applicable state or federal requirement.<sup>58</sup>

Here, neither Protestants nor OPIC presented evidence to rebut the prima facie demonstration. Protestants' MSD response references wastewater treatment facilities' potential economic, health, and nuisance harms on neighbors. Yet, Protestants did not attach or file any testimonial or other evidence in support of their positions.<sup>59</sup>

The ALJ finds no genuine issue as to any material fact, including the two issues referred to SOAH, because no party presented any evidence to controvert or rebut the prima facie presumption that the Draft Permit meets all applicable legal and technical requirements and, if issued, would be protective of public and

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<sup>56</sup> App. Ex. C, Tab C at 0040, 0078.

<sup>57</sup> App. Ex. C, Tab C at 0040; Tab D at 000085; App. MSD Exs. A-C.

<sup>58</sup> Tex. Gov't Code § 2003.047(i-2)(2).

<sup>59</sup> See Tex. Gov't. Code § 2003.047(i-1)-(i-2); 30 Tex. Admin. Code §§ 80.17(c)(1)-(2), .137(c)-(d).

environmental health and safety and physical property. The uncontroverted evidence demonstrates the Draft Permit would be protective of wildlife in accordance with the applicable regulations, including the TSWQS, and contains sufficient provisions to prevent nuisance odors as required by 30 Texas Administrative Code section 309.13(e).

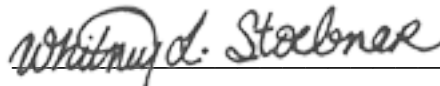
For these reasons, the ALJ recommends the Commission adopt the attached proposed order containing Findings of Fact and Conclusions of Law, and issue the Draft Permit to Applicant.

## **VI. CONCLUSION**

Based on the foregoing analysis, the ALJ finds Applicant met its burden of proof on the two issues referred by the Commission and recommends the Application should be granted. In further support of this recommendation, the ALJ has prepared the Findings of Fact and Conclusions of Law incorporated with the accompanying proposed Order of the Commission.

**Signed October 6, 2025**

ALJ Signature:

A handwritten signature in cursive script, reading "Whitney L. Stuebner", written over a horizontal line.

Whitney L. Stuebner

Presiding Administrative Law Judge



**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**AN ORDER GRANTING APPLICATION  
BY HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 531  
FOR TPDES PERMIT NO. WQ0016334001  
SOAH DOCKET NO. 582-25-18697  
TCEQ DOCKET NO. 2025-0116-MWD**

On \_\_\_\_\_, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the application of Harris County Municipal Utility District (MUD) No. 531 (Applicant) for new Texas Pollutant Discharge Elimination System Permit (TPDES) No. WQ0016334001 in Harris County, Texas. A Proposal for Decision on Summary Disposition (PFD) was presented by Administrative Law Judge (ALJ) Whitney L. Stoeber with the State Office of Administrative Hearings (SOAH), after Applicant's Motion for Summary Disposition was granted on September 29, 2025.

After considering the PFD, the Commission adopts the following Findings of Fact and Conclusions of Law.

## **I. FINDINGS OF FACT**

### **Application**

1. Applicant filed its application (Application) for a new TPDES permit with TCEQ on April 28, 2023.
2. The Application requested authorization to discharge treated domestic wastewater from the proposed new Harris County MUD 531 Wastewater Treatment Facility (Facility), which will be located approximately 0.5 miles southwest of the intersection of Mueschke Road and Schiel Road in Harris County, Texas 77433.
3. On April 21, 2023, the TCEQ Executive Director (ED) determined the Application was administratively complete.
4. On January 3, 2024, the ED determined the Application was technically complete and prepared a draft permit (Draft Permit).

### **The Facility**

5. The Facility has not been constructed.
6. The treated effluent would be discharged from the Facility via pipe to a detention pond, thence to a series of pipes to a detention pond, thence to Schiel Road storm sewer, thence to a dry-bottom pond, thence to a ditch, thence to Little Cypress Creek, thence to Cypress Creek in Segment No. 1009 of the San Jacinto River Basin.
7. The Facility will be an activated sludge process plant operated in the complete mix mode.
8. Treatment units in the Interim Phase will include a bar screen, an aeration basin, a final clarifier, two sludge digesters, and a chlorine contact chamber. Treatment units in the Final Phase will include a bar screen, two aeration basins, a final clarifier, two sludge digesters, and a chlorine contact chamber.

### **The Draft Permit**

9. The Draft Permit would authorize a discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day (GPD) in the Interim Phase and 100,000 GPD in the Final Phase.
10. The discharged effluent shall contain a minimum dissolved oxygen (DO) of 4.0 milligrams per liter (mg/l).
11. The Draft Permit includes bacteria limits and monitoring requirements to verify proper disinfection of the effluent.
12. Chemical disinfection through chlorination will be used in all phases of the Draft Permit.
13. Chlorination can eliminate certain noxious odors during disinfection.
14. The designated uses for Segment No. 1009 are primary contact recreation, public water supply, and high aquatic life use.

### **Notice and Jurisdiction**

15. A Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Houston Chronicle* on July 6, 2023.
16. A NORI was published in Spanish in *El Perico* on July 6, 2023.
17. A combined Notice of Application and Preliminary Decision (NAPD), and public meeting notification were published in English in the *Houston Chronicle* on May 1, 2024. This notice also included another NORI to acknowledge minor changes to the proposed discharge route.
18. A combined NAPD and notice of public meeting were published in Spanish in *El Perico* on May 2, 2024. This notice also included another NORI to acknowledge minor changes to the proposed discharge route.
19. A copy of the complete Application was placed at the Northwest Branch Library in Cypress, Texas.

20. The public meeting was held on June 3, 2024, which was the end of the public comment period.
21. On April 3, 2025, the Commission considered several hearing requests regarding the Application during an open meeting, determined Darrin Whatley was an affected person, and granted his request for a hearing.
22. On April 8, 2025, the Commission issued an Interim Order directing the following issues be referred to SOAH and setting the maximum duration date of the hearing at 180 days from the date of the preliminary hearing until the PFD is issued by SOAH:
  - A. Whether the Draft Permit is protective of wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards (TSWQS); and
  - B. Whether the Draft Permit adequately addresses nuisance odor, in accordance with 30 Texas Administrative Code section 309.13(e).

### **Proceedings at SOAH**

23. This matter was docketed with SOAH on May 5, 2025.
24. A preliminary hearing was convened by ALJ Stoebner on July 7, 2025, via Zoom videoconference. Attorneys Danny Worrell and Cole Lempke appeared on behalf of Applicant. Staff attorney Michael Parr appeared on behalf of the ED for the Commission. Staff attorney Jessica Anderson appeared on behalf of the TCEQ Office of Public Interest Counsel (OPIC). Applicant, the ED, and OPIC were named as parties. Additionally, Mr. Whatley and Jay Gusler were admitted as parties (jointly, Protestants).
25. Jurisdiction was noted by the ALJ, and the Administrative Record was admitted.
26. The Protestants were aligned and were represented by attorney Madhu Sekharan.
27. Protestants own property near the proposed Facility.

28. Pursuant to SOAH Order No. 1, the deadline for Protestants and OPIC to prefile direct testimony, exhibits, and proposed order of witnesses was August 15, 2025.
29. On August 18, 2025, Applicant filed a Motion for Summary Disposition (MSD) as to all issues.
30. Neither OPIC nor Protestants timely filed direct testimony or exhibits.
31. On August 19, 2025, Protestants filed an untimely discovery response (interrogatories) that did not provide evidence related to the issues referred to SOAH by the Commission.
32. On September 26, 2025, Protestants filed a response to Applicant's MSD that did not attach any evidence.
33. On September 29, 2025, the ALJ granted Applicant's MSD.
34. No party submitted any evidence to rebut the prima facie demonstration that the Draft Permit meets all state and federal legal and technical requirements.

**Issue A: Whether the Draft Permit is protective of wildlife, in accordance with applicable regulations including the TSWQS**

35. Tier 1 and Tier 2 antidegradation reviews were performed pursuant to the TSWQS and determined the existing water quality will be maintained and will not be impaired by the permit action.
36. The Tier 1 review determined the Draft Permit has limitations and conditions designed to maintain numerical and narrative criteria and, accordingly, there is no expectation of impairment of existing uses of the discharge route.
37. A Tier 2 review preliminarily determined that no significant degradation of water quality is expected in Little Cypress Creek, which has been identified as having high aquatic life use.
38. The discharge from this permit action is not expected to have an effect on federally endangered or threatened aquatic or aquatic-dependent species, or proposed species, or their critical habitat.



39. The Draft Permit contains additional protection for wildlife through disinfection protocols.
40. No party presented evidence to rebut the prima facie demonstration that the Draft Permit is protective of wildlife in accordance with applicable regulations including the TSWQS.
41. The Draft Permit is protective of wildlife.

**Issue B: Whether the Draft Permit adequately addresses nuisance odor, in accordance with 30 Texas Administrative Code section 309.13(e)**

42. Sulfide generation is the most common cause of odor in the early stages of wastewater treatment.
43. The treatment process proposed by the Application converts sulfide compounds into odorless sulfates.
44. The Draft Permit's minimum DO level of 4.0 mg/l and other limitations would significantly reduce the odors in the discharged effluent.
45. The effluent is not expected to have offensive odors.
46. Nuisance-odor controls have been incorporated into the Draft Permit.
47. Applicant has acquired the necessary property interests to support a buffer zone through land title, two easements, and a right-of-way.
48. Residential structures will not be constructed in the part of the buffer zone not owned by Applicant.
49. No party presented evidence to rebut the prima facie demonstration that the Draft Permit adequately addresses nuisance odor in accordance with 30 Texas Administrative Code section 309.13(e).
50. The Draft Permit adequately addresses nuisance odor.

## 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 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 5.115 and 26.028, Texas Government Code sections 2001.051 and .052, and 30 Texas Administrative Code sections 39.405 and .551.
4. The Application is subject to the requirements in Texas Government Code section 2003.047(i-1)-(i-3).
5. Applicant's filing of 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); 30 Tex. Admin. Code §§ 80.17(c)(1), .127(h).
6. To rebut the prima facie demonstration established by the administrative record, a party must present evidence that: (1) relates to one of the referred issues; and (2) demonstrates that one or more provisions in the draft permit violates a specifically applicable state or federal requirement. Tex. Gov't Code § 2003.047(i-2); 30 Tex. Admin. Code § 80.17(c)(2).
7. If a party rebuts the prima facie demonstration, the Applicant and the ED may present additional evidence to support the draft permit. Tex. Gov't Code § 2003.047(i-3); 30 Tex. Admin. Code § 80.17(c)(3).
8. 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).
9. The burden of proof is by a preponderance of the evidence. 30 Tex. Admin. Code § 80.17(a).

10. A person seeking to discharge wastewater into “water in the state” must file an application with TCEQ. Tex. Water Code § 26.027(b).
11. Water in the state includes groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state. Tex. Water Code § 26.001(5).
12. TCEQ reviews the application in accordance with 30 Texas Administrative Code chapter 281. Based on a technical review, TCEQ prepares a draft permit and technical summary that discusses the application’s facts and significant factual, legal, methodological, and policy questions considered while preparing the draft permit. 30 Tex. Admin. Code §§ 281.19, .21(b)-(c).
13. TCEQ has adopted the TSWQS, which are applicable to wastewater discharges in accordance with section 303 of the federal Clean Water Act and section 26.023 of the Texas Water Code. These standards are found in 30 Texas Administrative Code chapter 307.
14. The purpose of the TSWQS is to maintain the quality of water in the state in a manner that is consistent with public health and enjoyment, propagation and protections of terrestrial and aquatic life, operation of existing industries, and taking into consideration economic development of the state; to encourage and promote development and use of regional and area-wide wastewater collection, treatment, and disposal systems to serve the wastewater and disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy. 30 Tex. Admin. Code § 307.1.
15. The TSWQS identify specific uses for the state’s surface water, including recreation, domestic water supply, and aquatic life, and establish numerical and narrative criteria to protect those uses. 30 Tex. Admin. Code §§ 307.7, .10.
16. Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, resulting from

contact, consumption of aquatic organisms, consumption of water, or any combination thereof. 30 Tex. Admin. Code § 307.6(b)(1)-(2), (4).

17. The Commission's antidegradation rule, in accordance with Texas Water Code section 26.003, seeks to maintain Texas water quality. 30 Texas Admin. Code § 307.5.
18. Under Tier 1 of the antidegradation rule, existing uses and water quality sufficient to protect those uses must be maintained. 30 Tex. Admin. Code § 307.5(b)(1).
19. Under Tier 2 of the antidegradation rule, no activities subject to regulatory action that would cause degradation of waters that exceed fishable or swimmable quality are allowed unless it can be demonstrated to the Commission's satisfaction that lowering the water quality is necessary for important economic or social development. Water quality sufficient to protect existing uses must be maintained. 30 Tex. Admin. Code § 307.5(b)(2).
20. With certain exceptions, disinfection in a manner conducive to the protection of public health and aquatic life shall be achieved on all domestic wastewater that discharges into water in the state. 30 Tex. Admin. Code § 309.3(g)(1).
21. Nuisance odor prevention is the reduction, treatment, and dispersal of potential odor conditions that: (1) interfere with another's use and enjoyment of property, (2) are caused by or generated from a wastewater treatment plant unit, and (3) cannot be prevented by normal operation and maintenance of the wastewater treatment unit. 30 Tex. Admin. Code § 309.11(6).
22. The Commission has established three alternative methods to meet the requirement to abate and control nuisance odors prior to construction of a new wastewater treatment plant. These methods include: (1) buffer zones from the nearest property line, of 500 feet for lagoons with anaerobic activity and 150 feet for all other wastewater treatment plant units; (2) a nuisance odor prevention request in the form of an engineering report containing specific elements; or (3) evidence of legal restrictions prohibiting residential structures within the portion of the buffer zone not owned by the applicant. 30 Tex. Admin. Code § 309.13(e).

23. No party presented evidence relating to a matter referred by the Commission demonstrating that one or more provisions in the Draft Permit violates a specifically applicable state or federal legal or technical requirement. Tex. Gov't Code § 2003.047(i-2); 30 Tex. Admin. Code §§ 80.17(c)(2), .117(c)(3).
24. No party rebutted the prima facie demonstration. Tex. Gov't Code § 2003.047(i-2); 30 Tex. Admin. Code § 80.117(c).
25. The Draft Permit is protective of wildlife in accordance with applicable regulations including the TSWQS in 30 Texas Administrative Code chapter 307.
26. The Draft Permit contains sufficient provisions to prevent nuisance odors in accordance with 30 Texas Administrative Code section 309.13(e).
27. 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).
28. There is no genuine issue of any material fact and Applicant is entitled to summary disposition as a matter of law on all issues. 30 Tex. Admin. Code § 80.137(c).

**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. Harris County Municipal Utility District No. 531's Application for new TPDES Permit No. WQ0016334001 is granted as set forth in the Draft Permit.
2. 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.

3. 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.
4. TCEQ's Chief Clerk shall forward a copy of this Order to all parties.
5. 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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**Brooke Paup, Chair, For the Commission**