

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

December 29, 2025

Maricela Zertuche-Executive Director  
Jessica Anderson-Office of Public Counsel  
Natasha Martin & Bobby Salehi-Rainbows End Park, Inc.  
Larry Redden-Protestant

VIA EFILE TEXAS

**RE: SOAH Docket No. 582-25-24687;  
TCEQ Docket No. 2025-0698-MWD;  
*Application for Rainbow's End Park, Inc. for New TPDES Permit  
No. WQ0016513001***

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 Administrative Law Judge shall be filed with the Chief Clerk of the Texas Commission on Environmental Quality (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 RAINBOW'S END PARK, INC. FOR  
NEW TPDES PERMIT NO. WQ0016513001**

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**PROPOSAL FOR DECISION ON SUMMARY DISPOSITION**

Rainbow's End Park, Inc. (Applicant) filed an application (Application) with the Texas Commission on Environmental Quality (Commission or TCEQ) for a new Texas Pollutant Discharge Elimination System Permit No. WQ0016513001 to authorize the discharge of treated domestic wastewater from a proposed wastewater treatment facility in Polk County, Texas. The Administrative Law Judge (ALJ) granted Applicant's motion for summary disposition and recommends that the Draft Permit be issued.

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

No party has challenged notice or jurisdiction. Those matters are addressed in the proposed order and are not discussed further here.

Applicant filed the Application on March 29, 2024. TCEQ's Executive Director (ED) determined that the Application was administratively and technically complete, after which the ED issued the Draft Permit.<sup>1</sup> The public comment period closed on November 5, 2024, and the ED subsequently issued and mailed responses to public comments.

The matter was docketed at the State Office of Administrative Hearings (SOAH) on July 28, 2025. A preliminary hearing was held on September 22, 2025, at which the ALJ admitted the administrative record into evidence.<sup>2</sup> Applicant, the ED, the Office of Public Interest Counsel, and Larry Redden (Protestant) were named as parties.

On October 3, 2025, the ALJ issued an Order Adopting Procedural Schedule and Setting Hearing on the Merits, which included deadlines for the parties to designate their fact and expert witnesses and to prefile their testimony and exhibits. Protestant did not file testimony or exhibits by the November 15, 2025, deadline. On November 18, 2025, Applicant filed a motion for summary disposition. No party filed a response. On December 11, 2025, after considering the pleadings, evidence, and applicable law, the ALJ granted the motion based on the absence of evidence rebutting the prima facie demonstration.

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<sup>1</sup> Applicant Ex. 1 at AR-0098-134.

<sup>2</sup> The administrative record, consisting of Tabs A-E, was admitted as Applicant's Exhibit 1.

## II. APPLICABLE LAW, BURDEN OF PROOF, AND PRIMA FACIE CASE

TCEQ referred this matter to SOAH under Texas Water Code section 5.556, which governs referral of environmental permitting cases to SOAH.<sup>3</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 [SOAH] of the application, the draft permit prepared by the [ED], the preliminary decision issued by the [ED], 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
  - (2) demonstrates that one or more provisions in the draft permit violate a specifically applicable state or federal requirement.

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<sup>3</sup> Tex. Water Code §§ 5.551(a), .556.

(i-3) If in accordance with Subsection (i-2) a party rebuts a presumption established under Subsection (i-1), the applicant and the [ED] may present additional evidence to support the draft permit.<sup>4</sup>

Although section 2003.047 establishes a prima facie presumption and allocates the burden of production for rebuttal, it does not alter the ultimate burden of proof. Applicant retains the burden to establish, by a preponderance of the evidence, that the Application complies with applicable requirements and that a permit issued consistent with the Draft Permit would protect human health and safety, the environment, and physical property.<sup>5</sup>

Summary disposition is appropriate when the pleadings and evidence on file show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law on all or part of the issues expressly raised in the motion.<sup>6</sup>

### **III. ANALYSIS**

At the preliminary hearing, the Application, the Draft Permit, and the supporting materials identified in Texas Government Code section 2003.047(i-1) were offered and admitted into the record, thereby establishing Applicant's prima facie demonstration. No party presented evidence to rebut the statutory presumption that the Draft Permit satisfies all applicable legal and technical

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<sup>4</sup> Tex. Gov't Code § 2003.047(i-1)-(i-3).

<sup>5</sup> 30 Tex. Admin. Code § 80.17(a), (c).

<sup>6</sup> 30 Tex. Admin. Code § 80.137(c); *see also* 1 Tex. Admin. Code § 155.505(a).

requirements or that issuance of the permit would be protective of human health and safety, the environment, and physical property. As a result, there is no genuine issue of material fact. The uncontroverted evidence establishes that the Draft Permit complies with all applicable requirements and is protective of public and environmental interests.

#### **IV. CONCLUSION**

For the reasons stated above, the ALJ recommends that the Draft Permit be issued. The ALJ has prepared Findings of Fact and Conclusions of Law, which are incorporated into the accompanying proposed Order of the Commission.

**Signed December 29, 2025.**

ALJ Signature:



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Katerina DeAngelo

Presiding Administrative Law Judge

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## AN ORDER GRANTING THE APPLICATION OF RAINBOW'S END PARK, INC. FOR NEW TPDES PERMIT NO. WQ0016513001 SOAH DOCKET NO. 582-25-24687, TCEQ DOCKET NO. 2025-0698-MWD

On \_\_\_\_\_, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the application of Rainbow's End Park, Inc. (Applicant) for a new Texas Pollutant Discharge Elimination System Permit (TPDES) No. WQ0016513001. A Proposal for Decision on Summary Disposition (PFD) was presented by Administrative Law Judge (ALJ) Katerina DeAngelo with the State Office of Administrative Hearings (SOAH), after granting Applicant's motion for summary disposition.

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

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

#### **Application**

1. Applicant filed with the Commission the application (Application) for a new TPDES Permit No. WQ0016513001 on March 29, 2024.
2. The Application requested authorization to discharge treated domestic wastewater from a proposed wastewater treatment facility (Facility).

3. The Facility will be located at approximately 0.33 miles southwest of the intersection of Care Center Drive and Highway 146 in the City of Livingston, Polk County, Texas, and will serve Escapees RV Club/RV Park.
4. The Facility will be a submerged fixed bed biofilm reactor packaged plant.
5. The treated effluent will be discharged to a roadside ditch, then to an unnamed tributary, then to Copeland Creek, then to Trinity River below Lake Livingston in Segment No. 0802 of the Trinity River Basin.
6. The unclassified receiving water uses are minimal aquatic life for the roadside ditch, the unnamed tributary and Copeland Creek. The designated uses for Segment No. 0802 are primary contact recreation, public water supply, and high aquatic life use.
7. The Executive Director (ED) of the Commission determined that the Application was administratively and technically complete, prepared a draft permit (Draft Permit), and made it available for public review and comment.

### **Draft Permit**

8. The Draft Permit authorizes a discharge of treated domestic wastewater at an Interim volume not to exceed a daily average flow of 0.03 million gallons per day (MGD) and a Final volume not to exceed a daily average flow of 0.06 MGD.
9. Treatment units in the Interim phase will include an influent fine screen, an influent pump, an aeration tank, a tube settler final settling tank, a sludge holding tank, and a chlorine contact tank. Treatment units in the Final phase will include two influent fine screens, two influent pumps, two aeration tanks, two tube settler final settling tanks, two sludge holding tanks, and two chlorine contact tanks.
10. The effluent limitations in both the Interim and Final phases of the Draft Permit, based on a 30-day average, are 10 milligrams per liter (mg/l) five-day carbonaceous biochemical oxygen demand, 15 mg/l total suspended solids, 3.0 mg/l ammonia-nitrogen, 126 colony forming units or most probable number of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen.

11. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.
12. The Draft Permit includes a requirement to provide nuisance odor prevention for hydrogen sulfide and volatile organic compounds gases.
13. The Draft Permit authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

### **Notice and Jurisdiction**

14. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published on May 16, 2024, in the *Polk County Enterprise*.
15. The Notice of Application and Preliminary Decision was published on October 6, 2024, in the *Polk County Enterprise*.
16. The public comment period ended November 5, 2024.
17. The Chief Clerk mailed the ED's Preliminary Decision and Response to Comments on February 4, 2025.
18. On June 18, 2025, TCEQ considered, during its open meeting, requests for hearing concerning the Application.
19. By Interim Order, dated June 24, 2025, TCEQ granted Larry Redden's hearing request and referred the Application to SOAH to consider the following two issues:
  - a. Whether the Draft Permit is protective of the requester's and his family's health and use of property, wildlife, and livestock, in accordance with the applicable regulations, including the 30 Texas Administrative Code chapter 307, Texas Surface Water Quality Standards; and
  - b. Whether the Draft Permit is protective of water quality, including the protection of surface and groundwater, in accordance with

applicable regulations, including the 30 Texas Administrative Code chapter 307, Texas Surface Water Quality Standards.

20. TCEQ's Chief Clerk certified that the Notice of Hearing was published in the *Polk County Enterprise*. 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**

21. A preliminary hearing was held on September 22, 2025. Applicant, the ED, the Office of Public Interest Counsel (OPIC), and Larry Redden (Protestant) were named as parties.
22. The ALJ found that notice was proper and took jurisdiction over the Application. The administrative record was admitted into evidence.
23. The scheduling order provided a November 15, 2025 deadline for Protestant and OPIC to prefile their direct testimony and exhibits.
24. Neither Protestant nor OPIC filed any direct testimony or exhibits.
25. On November 18, 2025, Applicant filed a motion for summary disposition. No party filed a response.
26. On December 11, 2025, the ALJ granted Applicant's motion for summary disposition, finding that there was no genuine issue as to any material fact and that Applicant was entitled to summary disposition as a matter of law. The record closed that day.
27. No party rebutted the prima facie demonstration that the Draft Permit meets all legal and technical requirements.
28. The Draft Permit, if issued, would protect human health and safety, the environment, and physical property.

## **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 5.115 and 26.028; Texas Government Code sections 2001.051-.052; and 30 Texas Administrative Code sections 39.405 and .551.
4. The Application is subject to the requirements in Texas Government Code sections 2003.047(i-1)-(i-3).
5. The 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), .117(c)(1).
6. A party may rebut the prima facie demonstration by presenting evidence that: (1) relates to an issue directly referred; 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), .117(c)(3).
7. Applicant retains the burden of proof on the issues regarding 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. Tex. Gov't Code § 2003.047(i-2); 30 Tex. Admin. Code §§ 80.17(c), .117(c)(3).
9. Summary disposition is appropriate when the pleadings and evidence on file show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law on all or part of the issues expressly raised in the motion. 30 Tex. Admin. Code § 80.137(c); *see also* 1 Tex. Admin. Code § 155.505(a).
10. There is no genuine issue of any material fact and Applicant is entitled to summary disposition as a matter of law. 30 Tex. Admin. Code § 80.137(c).

11. The Draft Permit is protective of the requester's and his family's health and use of property, wildlife, and livestock, in accordance with the applicable regulations, including the 30 Texas Administrative Code chapter 307, Texas Surface Water Quality Standards.
12. The Draft Permit is protective of water quality, including the protection of surface and groundwater, in accordance with applicable regulations, including the 30 Texas Administrative Code chapter 307, Texas Surface Water Quality Standards.

**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. The application of Rainbow's End Park, Inc. for a new TPDES Permit No. WQ0016513001 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. If there is any conflict between the Commission's Order and the ED's Responses to Public Comment, the Commission's Order prevails.
3. 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.
4. 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.
5. TCEQ's Chief Clerk shall forward a copy of this Order to all parties.
6. 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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**Brook Paup, Chairwoman, For the Commission**