

SOAH DOCKET NO. 582-26-02158
TCEQ DOCKET NO. 2025-1341-AIR

APPLICATION BY § BEFORE THE
ELBY'S FUTURE LLC § STATE OFFICE OF
FOR RENEWAL OF AIR § ADMINISTRATIVE HEARINGS
QUALITY PERMIT NO. 71793 §

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

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 (ALJ's) conclusion that the application to renew Air Quality Permit No. 71793, filed by Elby's Future, LLC, be dismissed with prejudice, and Air Quality Permit No. 71793 expire immediately. The Executive Director is providing suggested changes below for accuracy.

EXECUTIVE DIRECTOR'S EXCEPTIONS

A. Executive Director's Recommended Change to the Order Dismissing the Renewal Application of Elby's Future, LLC and Ordering the Expiration of Air Quality Permit No. 71793, SOAH Docket No. 582-26-02158, TCEQ Docket No. 2025-1341-AIR

The Executive Director recommends the following change to the ALJ's proposed order:

1. Introduction of the Order (Correction/Clarification)

In the ALJ's introduction to their proposed order it mistakenly states that "after granting Applicant's motion for summary disposition." This should be changed to state, "after granting the Executive Director's (ED) motion for summary disposition" to accurately reflect the party which filed the Motion for Summary Disposition.

2. Conclusions of Law #15 (Correction/Clarification)

Conclusions of Law #15 mistakenly states that, "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).” A correction should be made to change “Applicant” to “ED” to accurately reflect the party which filed the Motion for Summary Disposition.

Conclusion

The Executive Director maintains her position that the permit renewal does not meet all applicable statutory and regulatory requirements and therefore the Applicant’s current permit and permit renewal should be voided. The ED respectfully recommends the Commission adopt the ED’s suggested corrections to the ALJ’s Proposed Introduction and Order as noted above.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
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ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following by electronic mail to all parties listed on the mailing list attached on this 9th day of April 2026.

A handwritten signature in black ink, appearing to read "Katelyn Ding". The signature is written in a cursive style with a large, stylized "D" at the end.

Katelyn Ding, Staff Attorney
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