

TCEQ PERMIT NO. WQ0013878001
TCEQ DOCKET NO. 2025-1629-MWD

MOTION TO OVERTURN THE
EXECUTIVE DIRECTOR'S ISSUANCE
OF TEXAS LAND APPLICATION
PERMIT NO. WQ0013878001

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BEFORE THE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S MOTION TO OVERTURN

TO THE HONORABLE COMMISSIONERS:

COMES NOW, the Executive Director ("ED") of the Texas Commission on Environmental Quality ("TCEQ") and files her Motion to Overturn (MTO) her decision to approve the application for Texas Land Application Permit (TLAP) No. WQ0013878001 (draft permit), which resulted in issuance of the draft permit on September 30, 2025.

REQUIREMENTS FOR MOTIONS TO OVERTURN ED DECISIONS

1. TCEQ'S rules¹ state that a Motion To Overturn the ED's decision (MTO) must be filed no later than 23 days after the TCEQ's Office of Chief Clerk (OCC) mails notice of the ED's decision under 30 TAC § 50.119.
2. TCEQ's rules² require that an MTO must identify with particularity the subject of the complaint and must state the erroneous decision, any erroneous evidentiary or legal rulings, and the legal and factual basis for the claimed error.

For purposes of determining timeliness, notice of the ED's decision was mailed on September 30, 2025, and the deadline to file an MTO is October 23, 2025. Therefore, the ED's MTO is timely filed.

INFORMATION PROVIDED BY THE ED

1. DECISION OF ED

The ED's decision on this matter is in respect to her approval of the application for a major amendment with renewal, submitted by Travis County Water Control and Improvement District No. 17 (Applicant). Specifically, during the processing of the application a required step related to public participation was inadvertently omitted.

¹ 30 TAC § 50.139(b).

² 30 TAC § 50.119(d).

2. PROCEDURAL HISTORY AND PUBLIC NOTICE OF APPLICATION

The permit application was received on September 9, 2024, and declared administratively complete on September 30, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on October 6, 2024, in English in the *Austin American-Statesman* and in Spanish on October 10, 2025, in *El Mundo*. After conclusion of the ED's technical review, the Notice of Application and Preliminary Decision (NAPD) was published on July 27, 2025, in English in the *Austin American-Statesman* and in Spanish on August 7, 2025. TCEQ's Office of the Chief Clerk (OCC) received a comment on the application from the City of Austin on August 27, 2025.

3. ERROR IN THE ED'S DECISION ON APPLICATION

The conclusion of the period for the public to submit comments on the application is established by TCEQ rule,³ which provides the comment period ends 30 days after the last publication of public notice or the public meeting, whichever is later. Therefore, the comment period end date for this application was September 8 based on the publication of the Spanish NAPD on August 7, 2025.

However, due to a data entry error, the Commissioner's Integrated Database indicated that the conclusion of the comment period was August 5, 2025, resulting in the ED's staff incorrectly determining that the comment from the City of Austin on August 27, 2025, was untimely. Because the ED's staff determination that no timely comments were filed on the application, the processing of the application continued without the ED filing a Response to Comments on the application with OCC, the draft permit, as publicized by both NAPDs, was signed and mailed with a Motion To Overturn letter by OCC, on September 30, 2025.

Upon discovery by OCC staff on October 21, 2025, the correct data was entered into CID, resulting in an update to CID that reflects that the comment period for this application ended on September 8, 2025.

CONCLUSION

The ED has determined that her decision to approve the application and to issue the draft permit was an error based on inaccurate information. Therefore, the draft permit's issuance does not comply with TCEQ rules, and the decision to approve the application

³ 30 TAC § 39.551(c)(3).

and issue the draft permit should be overturned so that the ED may continue processing the application according to TCEQ rules.

The ED respectfully recommends that the Commission find that the ED's arguments for overturning her decision are with merit.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
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CERTIFICATE OF SERVICE

I certify that on October 23, 2025, a true and correct copy of the Executive Director's Motion to Overturn, related to TCEQ/TLAP Permit No. WQ0013878001, was filed with the Texas Commission on Environmental Quality's Office of the Chief.



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