

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by Stephen Selinger for new Texas Pollutant Discharge Elimination System Permit No. WQ0015932001; TCEQ Docket No. 2021-1442-MWD.

On January 12, 2022, the Texas Commission on Environmental Quality (Commission) considered during its open meeting the requests for a contested case hearing concerning the application by the Stephen Selinger (Applicant) for Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015932001. The application seeks authorization to discharge treated domestic wastewater at an annual average flow not to exceed 0.135 million gallons per day (MGD) in the Interim Phase I, 0.270 MGD in the Interim Phase II, and 0.405 MGD in the Final Phase. The proposed wastewater treatment facility will be located approximately 3,907 feet northwest of the intersection of Getzenander Road and the railroad tracks, and approximately 2,045 feet southeast of the end of Jenkins Road, in Ellis County, Texas.

The Commission received timely hearing requests that were not withdrawn from Gregory Burdette, State Representative Jake Ellzey, City of Waxahachie, City of Ennis, and Ellis County. All of the requests were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the requests filed by the Executive Director and the Office of Public Interest Counsel; the replies filed by City of Waxahachie, City of Ennis, and Ellis County; all

timely public comment; and the Executive Director's Response to Comments. After an evaluation of all relevant filings, the Commission determined that City of Ennis and Ellis County qualify as affected persons, as provided by applicable law. The Commission determined that the remaining hearing requests be denied.

The Commission next determined whether the requests for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by an affected person during the comment period and are relevant and material to its decision on the application. The Commission determined that the following issues meet those requirements and directed that they be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing: a) whether the permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code section 26.0282 and the general policy to promote regional or area-wide systems under Texas Water Code section 26.081; b) whether the draft permit is protective of water quality and the existing uses of the receiving waters, in accordance with applicable Texas Surface Water Quality Standards; and c) whether the draft permit provides adequate licensing requirements for the operator of the facility in accordance with 30 Texas Administrative Code, Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

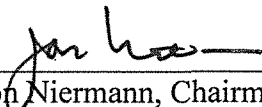
The Commission next referred this matter to the Commission's Alternative Dispute Resolution (ADR) Program, to run concurrently with SOAH preliminary hearing scheduling efforts. Finally, the Commission specified a maximum duration for the contested case hearing of 180 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The requests for a contested case hearing filed by City of Ennis and Ellis County are hereby GRANTED;
2. All other hearing requests are hereby DENIED;
3. This matter is hereby REFERRED to the Commission's Alternative Dispute Resolution Program, to run concurrently with the SOAH preliminary hearing scheduling process;
4. The following issues are referred to SOAH for a contested case hearing on the application:
  - A) Whether the permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code section 26.0282 and the general policy to promote regional or area-wide systems under Texas Water Code section 26.081;
  - B) Whether the draft permit is protective of water quality and the existing uses of the receiving waters, in accordance with applicable Texas Surface Water Quality Standards; and
  - C) Whether the draft permit provides adequate licensing requirements for the operator of the facility in accordance with 30 Texas Administrative Code, Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.
5. All issues not identified as being referred to SOAH in Ordering Provision No. 4 are hereby DENIED;
6. The maximum duration of the hearing is SET at 180 days from the first day of the preliminary hearing to the date the proposal for decision is issued by the SOAH; and

7. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
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Jon Niermann, Chairman

4/19/22  
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Date Signed