

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER

concerning the application by Rattler Ridge, LLC for new TPDES Permit No. WQ0016049001; TCEQ Docket No. 2022-1046-MWD.

On October 5, 2022, the Texas Commission on Environmental Quality (Commission) considered during its open meeting the requests for hearing and requests for reconsideration filed by the City of San Marcos (City) concerning the application Rattler Ridge, LLC (Applicant) for new TPDES Permit No. WQ0016049001 in Guadalupe County, Texas. The requests for hearing and requests for reconsideration 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 for hearing filed by the Executive Director, the Office of Public Interest Counsel, and the Applicant; the reply filed by the City; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that the City was an affected person and granted the City's requests for hearing. The Commission determined to deny the City's requests for reconsideration. The Commission next determined whether the City's requests for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by the City during the comment period, and which are relevant and material to the decision on the application. The Commission determined that the following issues met those requirements

and directed that they be referred to the State Office of Administrative Hearings (SOAH) for contested case hearing:

Issue 1: Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need under TWC § 26.0282 and the general policy to promote regional or area-wide systems under TWC § 26.081;

Issue 2: Whether the proposed discharge will violate TCEQ's antidegradation policy and procedures;

Issue 3: Whether the draft permit is protective of livestock and wildlife, including endangered species and aquatic vegetation, in the City's ETJ in immediate vicinity of the proposed Facility and discharge route;

Issue 4: Whether the draft permit is protective of the health of the City's citizens in the immediate vicinity of the proposed Facility and discharge route;

Issue 5: Whether the draft permit is protective of water quality and the existing uses in the receiving waters under the applicable surface water quality standards in 30 TAC Chapter 307;

Issue 6: Whether the draft permit is protective of groundwater in the area;

Issue 7: Whether the Applicant's compliance history for the previous five years raises issues regarding the Applicant's ability to comply with the material terms of the permit that warrant altering the terms of the draft permit;

Issue 8: Whether the draft permit complies with applicable requirements to abate and control nuisance odors, as set forth in 30 TAC § 309.13; and

Issue 9: Whether the Applicant submitted adequate information to support the issuance of the draft permit.

The Commission specified that the maximum duration of the contested case hearing shall be 180 days from the date of the preliminary hearing until the proposal for decision is issued by SOAH. Finally, the Commission referred the matter to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process.

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

- 1) The hearing requests of the City of San Marcos are GRANTED;
- 2) The following issues are REFERRED to SOAH for a contested case hearing on the application:

Issue 1: Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need under TWC § 26.0282 and the general policy to promote regional or area-wide systems under TWC § 26.081;

Issue 2: Whether the proposed discharge will violate TCEQ's antidegradation policy and procedures;

Issue 3: Whether the draft permit is protective of livestock and wildlife, including endangered species and aquatic vegetation, in the City's ETJ in immediate vicinity of the proposed Facility and discharge route;

Issue 4: Whether the draft permit is protective of the health of the City's citizens in the immediate vicinity of the proposed Facility and discharge route;

Issue 5: Whether the draft permit is protective of water quality and the existing uses in the receiving waters under the applicable surface water quality standards in 30 TAC Chapter 307;

Issue 6: Whether the draft permit is protective of groundwater in the area;

Issue 7: Whether the Applicant's compliance history for the previous five years raises issues regarding the Applicant's ability to comply with the material terms of the permit that warrant altering the terms of the draft permit;

Issue 8: Whether the draft permit complies with applicable requirements to abate and control nuisance odors, as set forth in 30 TAC § 309.13; and

Issue 9: Whether the Applicant submitted adequate information to support the issuance of the draft permit;

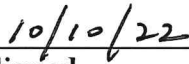
- 3) All requests for reconsideration are DENIED;
- 4) The maximum duration of the hearing is SET at 180 days from the date of the preliminary hearing until the date the proposal for decision is issued by SOAH;
- 5) The matter is REFERRED to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process and

- 6) 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**



Jon Niermann, Chairman



Date Signed