

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by Exflor Research Corporation, for new Air Quality Permit No. 165848; TCEQ Docket No. 2022-1552-AIR

On December 14, 2022, the Texas Commission on Environmental Quality (Commission) considered during its open meeting several requests for hearing and reconsideration concerning the application by Exflor Research Corporation (Applicant), for new Air Quality Permit No. 165848 to authorize the construction of a new perfluorocarbons manufacturing plant. The site is located at 1100 County Road 236, Florence, Williamson County, Texas. The requests for hearing and 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 and reconsideration filed by the Executive Director, the Office of Public Interest Counsel, and the Applicant; the replies filed by North San Gabriel Alliance, Shannon White-Shubert, and Elizabeth Ann Friou; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that the North San Gabriel Alliance, Elizabeth Ann Friou, Suzanne Johnson, Patricia McCormick Mulvihill, Sandra Lee Thurman, Brittany Varner, Harold Wardlaw, Margaret Peggy McCormick Wardlaw, Shannon White-Shubert and Michael Shubert, and Haziel McCormick Williams are affected persons,

granted their requests for a hearing, and denied the remaining hearing requests and all requests for reconsideration. The Commission next determined whether the request for hearings raised disputed issues of fact or mixed questions of fact and law that were raised by the 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 draft permit, including the maximum allowable emissions rates and chemical flexibility provisions, are protective of air quality, in accordance with Texas Health and Safety Code § 382.002;
- B) Whether the draft permit, including the maximum allowable emissions rates and chemical flexibility provisions, will be protective of the health of the requesters and their families, including sensitive subgroups in accordance with Texas Health and Safety Code §§ 382.002 and 382.0518(b)(2);
- C) Whether the draft permit, including the maximum allowable emissions rates and chemical flexibility provisions, are protective of animals and vegetation in accordance Texas Health and Safety Code § 382.002;
- D) Whether the draft permit is protective of the use and enjoyment of requesters' property, in accordance with 30 Texas Administrative Code § 101.4;
- E) Whether the application contains sufficient and accurate information for TCEQ to develop a draft permit, in accordance with Texas Health and Safety Code § 382.0515 and 30 Texas Administrative Code § 116.114(b)(1);
- F) Whether the permit application contains accurate and complete emissions estimates and air dispersion modeling;

G) Whether the draft permit requires adequate emission control technology, including applicable best available control technology, in accordance with Texas Health and Safety Code § 382.0518(b)(1);

H) Whether the draft permit contains adequate monitoring and recordkeeping requirements to demonstrate compliance with its terms;

I) Whether the draft permit's hours of operation are protective of human health; and

J) Whether the Applicant's compliance history warrants additional terms or conditions in the draft permit or denial of the permit in accordance with Texas Health and Safety Code § 382.0518(c) and Chapter 60 of the Commission's Rules.

Finally, 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.

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

- 1) The hearing requests by the North San Gabriel Alliance, Elizabeth Ann Friou, Suzanne Johnson, Patricia McCormick Mulvihill, Sandra Lee Thurman, Brittany Varner, Harold Wardlaw, Margaret Peggy McCormick Wardlaw, Shannon White-Shubert and Michael Shubert, and Haziel McCormick Williams are hereby GRANTED;
- 2) All other hearing requests and all requests for reconsideration are hereby DENIED;
- 3) The following issues are referred to SOAH for a contested case hearing on the application:
  - A) Whether the draft permit, including the maximum allowable emissions rates and chemical flexibility provisions, are protective of air quality, in accordance with Texas Health and Safety Code § 382.002;

- B) Whether the draft permit, including the maximum allowable emissions rates and chemical flexibility provisions, will be protective of the health of the requesters and their families, including sensitive subgroups in accordance with Texas Health and Safety Code §§ 382.002 and 382.0518(b)(2);
- C) Whether the draft permit, including the maximum allowable emissions rates and chemical flexibility provisions, are protective of animals and vegetation in accordance Texas Health and Safety Code § 382.002;
- D) Whether the draft permit is protective of the use and enjoyment of requesters' property, in accordance with 30 Texas Administrative Code § 101.4;
- E) Whether the application contains sufficient and accurate information for TCEQ to develop a draft permit, in accordance with Texas Health and Safety Code § 382.0515 and 30 Texas Administrative Code § 116.114(b)(1);
- F) Whether the permit application contains accurate and complete emissions estimates and air dispersion modeling;
- G) Whether the draft permit requires adequate emission control technology, including applicable best available control technology, in accordance with Texas Health and Safety Code § 382.0518(b)(1);
- H) Whether the draft permit contains adequate monitoring and recordkeeping requirements to demonstrate compliance with its terms;
- I) Whether the draft permit's hours of operation are protective of human health; and
- J) Whether the Applicant's compliance history warrants additional terms or conditions in the draft permit or denial of the permit in accordance with Texas Health and Safety Code § 382.0518(c) and Chapter 60 of the Commission's Rules.

- 4) All issues not identified as being referred to SOAH in Ordering Provision No. 3 are hereby DENIED;
- 5) 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; 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

  
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Jon Njermann, Chairman

  
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Date Signed