

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by Phau-Lockhart 450, LLC, for new TPDES Permit No. WQ0016107001; TCEQ Docket No. 2022-1700-MWD.

On February 8, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing filed by Dana Garrett and Shalaina Walker concerning the application by Phau-Lockhart 450 LLC, for new TPDES Permit No. WQ0016107001 to authorize the discharge of treated domestic wastewater from the Clear Fork Ranch Wastewater Treatment facility to be located approximately 0.75 mile southeast of the intersection of Clark Loop and State Highway 142, in Caldwell County, Texas.

The requests for hearing 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, Office of Public Interest Counsel, and Applicant; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that Dana Garrett and Shalaina Walker are affected persons and granted their requests for hearing.

The Commission next determined whether the granted requests for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by the affected person during the comment period, and which are relevant and material to the 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 contested case hearing:

- A) Whether the draft permit is protective of groundwater and surface water quality, including the protection of the requesters' and their families' health, existing uses of the receiving waters, aquatic life, flora, and fauna, in accordance with applicable regulations, including the Texas Surface Water Quality Standards; and
- B) Whether the draft permit adequately protects against nuisance odors in accordance with 30 TAC § 309.13.

The Commission also determined to refer the matter to TCEQ's Alternative Dispute Resolution Program, to run concurrently with SOAH preliminary hearing scheduling efforts. Finally, the Commission set the maximum duration of the contested case hearing at 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 of Dana Garrett and Shalaina Walker are hereby GRANTED;
- 2) The application is referred to SOAH for a contested case hearing on the following issues, with a concurrent referral to the TCEQ's Alternative Dispute Resolution Program:
 - A. Whether the draft permit is protective of groundwater and surface water quality, including the protection of the requesters' and their families' health, existing uses of the

receiving waters, aquatic life, flora, and fauna, in accordance with applicable regulations, including the Texas Surface Water Quality Standards; and

- B. Whether the draft permit adequately protects against nuisance odors in accordance with 30 TAC § 309.13;
- 3) All issues not identified as being referred to SOAH in Ordering Provision No. 2 are hereby 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; and
 - 5) 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.

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ENVIRONMENTAL QUALITY



Jon Niermann, Chairman

2/13/23

Date Signed