

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by Undine Texas Environmental, LLC for new Texas Pollutant Discharge Elimination System Permit No. WQ0016046001; TCEQ Docket No. 2023-0163-MWD.

On March 31, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting the requests for a contested case hearing and reconsideration concerning the application by Undine Texas Environmental, LLC (Applicant) for Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016046001. The Applicant seeks authorization to discharge treated domestic wastewater at an annual average flow not to exceed 0.0625 million gallons per day (MGD) in the Interim I Phase, 0.125 MGD in the Interim II Phase, and 0.250 MGD in the Final Phase. The proposed wastewater treatment facility will be located approximately 2,900 feet southwest of the intersection of County Road 220 and Old Angleton Road in Brazoria County, Texas.

The Commission received timely hearing requests that were not withdrawn from Brazoria County and numerous individuals. 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, the Office of Public Interest Counsel, and the Applicant; the reply filed by Brazoria County; all timely public comment; and the Executive Director's Response to Comments. After an evaluation of all relevant filings, the Commission determined that Brazoria County and Ronnie Gene Autry

qualify as affected persons, as provided by applicable law. The Commission determined that the requests for reconsideration 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 draft permit will be protective of surface water quality and preserve the designated uses of the discharge route in accordance with the Texas Surface Water Quality Standards and be protective of groundwater in the area; B) whether the draft permit is protective of human health of residents in the immediate vicinity of the proposed facility and the immediate discharge route; and C) Whether the draft permit is protective of aquatic life, wildlife, and livestock in the immediate vicinity of the proposed facility and discharge route.

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.

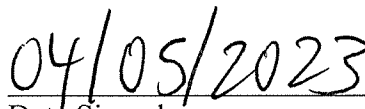
NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The requests for a contested case hearing filed by Brazoria County and Ronnie Gene Autry are hereby GRANTED;
2. All other hearing requests and all requests for reconsideration 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 draft permit will be protective of surface water quality and preserve the designated uses of the discharge route in accordance with the Texas Surface Water Quality Standards and be protective of groundwater in the area;
 - B) Whether the draft permit is protective of human health of residents in the immediate vicinity of the proposed facility and the immediate discharge route; and
 - C) Whether the draft permit is protective of aquatic life, wildlife, and livestock in the immediate vicinity of the proposed facility and discharge route.
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.

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ENVIRONMENTAL QUALITY


For the Commission


Date Signed