

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by Harris County Municipal Utility District No. 171 a major amendment with renewal of TPDES Permit No. WQ0015264001; TCEQ Docket No. 2023-0325-MWD.

On April 12, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting several requests for hearing and reconsideration concerning the application by Harris County Municipal Utility District No. 171, for a major amendment with renewal of TPDES Permit No. WQ0015264001 to authorize an increase in the discharge of treated domestic wastewater from the Nash 529 Facility located approximately 3,000 feet southwest of the intersection of Beckendorf Road and Peek Road in Harris 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 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 James Donnelly, Christopher and Donnisha Spicer, and Gregory Johnston are affected persons and granted their requests for hearing. The Commission also denied the requests for reconsideration.

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 adequately protective of the requesters' and their families' health in accordance with applicable regulations including the Texas Surface Water Quality Standards;
- B) Whether the draft permit is adequately protective of water quality and the receiving waters, including the protection of surface water, groundwater, aquatic life, livestock, and wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards; and
- C) Whether the draft permit adequately addresses nuisance odor in accordance with 30 TAC § 309.13; and

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 James Donnelly, Christopher and Donnisha Spicer, and Gregory Johnston 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 adequately protective of the requesters' and their families' health in accordance with applicable regulations including the Texas Surface Water Quality Standards;
 - B) Whether the draft permit is adequately protective of water quality and the receiving waters, including the protection of surface water, groundwater, aquatic life, livestock, and wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards; and
 - C) Whether the draft permit adequately addresses nuisance odor in accordance with 30 TAC § 309.13; and
3. All issues not identified as being referred to SOAH in Ordering Provision No. 2 are hereby DENIED;
4. All requests for reconsideration 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.

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ENVIRONMENTAL QUALITY



Jon Niermann, Chairman

4/17/23

Date Signed