

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by HK Real Estate Development LLC for new TPDES Permit No. WQ0016150001; TCEQ Docket No. 2023-0385-MWD.

On April 26, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting several requests for hearing and reconsideration concerning the application by HK Real Estate Development LLC, for new TPDES Permit No. WQ0016150001 to authorize an increase in the discharge of treated domestic wastewater from the proposed Richter Ranch Facility, located approximately 2,800 feet southeast of the intersection of County Road 320 and State Highway 181 North in Wilson 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; replies; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that Freasier LLC is an affected person and granted its requests for hearing. The Commission denied the requests for reconsideration.

The Commission next determined whether the granted request 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 water quality, including the protection of surface water, groundwater, and animals in accordance with applicable regulations including the Texas Surface Water Quality Standards;
- B. Whether the discharge route is adequately characterized in accordance with 30 TAC § 309.12;
- C. Whether the draft permit is protective of the requester's use and enjoyment of its property in accordance with the Texas Surface Water Quality Standards;
- D. Whether the proposed facility, if it is located within a flood plain, is adequately protected from inundation as required by 30 TAC Chapter 309;
- E. Whether the draft permit adequately addresses nuisance odor in accordance with 30 TAC § 309.13; and
- F. Whether the Applicant complied with the requirement to make a copy of the administratively complete application available for public viewing in the county in which the facility is located in accordance with 30 TAC § 39.405(g).

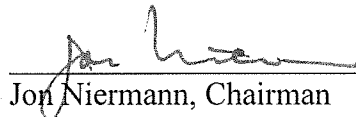
Finally, the Commission set the maximum duration of the contested case hearing at 180 days from the date of the preliminary hearing until the proposal for decision is issued by SOAH.

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

- 1. The hearing request of Freasier LLC is hereby GRANTED;
- 2. The application is referred to SOAH for a contested case hearing on the following issues:
 - A. Whether the draft permit is adequately protective of water quality, including the protection of surface water, groundwater, and animals in accordance with applicable regulations including the Texas Surface Water Quality Standards;

- B. Whether the discharge route is adequately characterized in accordance with 30 TAC § 309.12;
 - C. Whether the draft permit is protective of the requester's use and enjoyment of its property in accordance with the Texas Surface Water Quality Standards;
 - D. Whether the proposed facility, if it is located within a flood plain, is adequately protected from inundation as required by 30 TAC Chapter 309;
 - E. Whether the draft permit adequately addresses nuisance odor in accordance with 30 TAC § 309.13; and
 - F. Whether the Applicant complied with the requirement to make a copy of the administratively complete application available for public viewing in the county in which the facility is located in accordance with 30 TAC § 39.405(g); 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.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Jon Niermann, Chairman

5/2/23

Date Signed