

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by The Vantage Austin, LLC for new Texas Pollutant Discharge Elimination System Permit No. WQ0016132001; TCEQ Docket No. 2023-0386-MWD.

On April 26, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting two requests for hearing filed by Lt. Col. Mark Shipman and Jonah Water Special Utility District (SUD) concerning the application by The Vantage Austin, LLC (Applicant) for new Texas Pollutant Discharge Elimination System Permit No. WQ0016132001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 450,000 gallons per day in the Final phase at a site located approximately one mile north of the intersection of County Road 140 and County Road 194, in Williamson County, Texas 78626. The requests for hearing were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code (TAC) Chapter 55. The Commission also considered the responses to the requests for hearing filed by the Executive Director, the Office of Public Interest Counsel, and the Applicant; the reply filed by Jonah Water SUD; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that Lt. Col. Mark Shipman is an affected person under applicable law and granted his hearing request. The Commission also determined to refer the hearing request filed by Jonah Water SUD to the State Office of Administrative Hearings (SOAH) to determine affectedness by determining whether

Jonah Water SUD draws drinking water from surface water or wells on or near the discharge route that will be impacted by the proposed discharge.

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 the affected person(s) during the comment period, and that are relevant and material to its decision on the application. The Commission determined that the following issue met those requirements and directed that it be referred to SOAH: A) Whether the Draft Permit will be protective of the health of the requester and his family and contains sufficient provisions to prevent nuisance odors in accordance with 30 TAC § 309.13(e). The Commission then determined that if SOAH finds that Jonah Water SUD qualifies as an affected person in this matter, then refer to SOAH the following additional issues for adjudication: B) Whether the Draft Permit will be protective of water quality, including the prevention of excessive algal growth, under the applicable Texas Surface Water Quality Standards; and C) Whether the Commission should deny or alter the terms and conditions of the Draft Permit based on consideration of regionalization under TWC §§ 26.0282 and 26.081.

Finally, pursuant to 30 TAC § 50.115(d)(2), the Commission specified that the maximum duration of the contested case hearing shall be 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 hearing request filed by Lt. Col. Mark Shipman is hereby GRANTED;
- 2) The following issue is REFERRED to SOAH for a contested case hearing on the application:
 - A) Whether the Draft Permit will be protective of the health of the requester and his family and contains sufficient provisions to prevent nuisance odors in accordance with 30 TAC § 309.13(e);

- 3) The hearing request filed by Jonah Water SUD is REFERRED to SOAH to determine affectedness by determining whether it draws drinking water from surface water or wells on or near the discharge route that will be impacted by the proposed discharge. If SOAH finds that Jonah Water SUD qualifies in this manner, then REFER to SOAH the following additional issues for adjudication:
- B) Whether the Draft Permit will be protective of water quality, including the prevention of excessive algal growth, under the applicable Texas Surface Water Quality Standards; and
 - C) Whether the Commission should deny or alter the terms and conditions of the Draft Permit based on consideration of regionalization under TWC §§ 26.0282 and 26.081;
- 4) 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 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.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Jon Niermann, Chairman

5/2/23

Date Signed