

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER

concerning the application by Gilden Blair Blackburn for new TPDES Permit No. WQ0016104001; TCEQ Docket No. 2023-0546-MWD.

On June 14, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration concerning the application by Gilden Blair Blackburn (Applicant) for new TPDES Permit No. WQ0016104001. The application seeks authorization to discharge treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day (gpd). The proposed wastewater treatment facility will be located approximately 1,273 feet northwest of the intersection of Fairview Road and Interstate Highway 20, in Parker 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 and reconsideration filed by the Executive Director, the Office of Public Interest Counsel, and the requesters' timely reply; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that Bartlett Ranch Brock LLC and FM 1189 LLC are affected persons and granted their requests for hearing. The Commission determined that the request for reconsideration be denied.

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 an 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 met 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 complies with the Texas Surface Water Quality Standards and is protective of surface and groundwater quality and uses of the receiving waters, including protection of requesters' livestock, aquatic life, and wildlife;
- B) Whether the antidegradation review complies with applicable regulations;
- C) Whether the draft permit contains appropriate effluent limits, including an adequate nutrient limit, in accordance with applicable regulations;
- D) Whether the Commission should deny or alter the terms and conditions of the draft permit based on the general policy to promote regional or area-wide systems under Texas Water Code § 26.081; and
- E) Whether the Application substantially complied with applicable notice requirements.

The Commission also determined to refer the matter to the Commission's Alternative Dispute Resolution Program, to run concurrently with SOAH preliminary scheduling efforts. Finally, the Commission specified that the maximum duration of the contested case hearing shall be 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 Bartlett Ranch Brock LLC and FM 1189 LLC are hereby GRANTED;
- 2) The request for reconsideration is hereby DENIED;
- 3) The following issues are referred to SOAH for a contested case hearing on the application:
 - A) Whether the draft permit complies with the Texas Surface Water Quality Standards and is protective of surface and groundwater quality and uses of the receiving waters, including protection of requesters' livestock, aquatic life, and wildlife;
 - B) Whether the antidegradation review complies with applicable regulations;
 - C) Whether the draft permit contains appropriate effluent limits, including an adequate nutrient limit, in accordance with applicable regulations;

- D) Whether the Commission should deny or alter the terms and conditions of the draft permit based on the general policy to promote regional or area-wide systems under Texas Water Code § 26.081; and
- E) Whether the Application substantially complied with applicable notice requirements.
- 4) The matter is REFERRED to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process;
- 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

6/19/23

Date Signed