

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by City of Houston for a major amendment to TPDES Permit No. WQ0010495030; TCEQ Docket No. 2023-0556-MWD.

On August 2, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting a request for hearing filed by Will Hickman concerning the application by the City of Houston (Applicant) for a major amendment to TPDES Permit No. WQ0010495030, which seeks to authorize the removal of the existing Sublethal Whole Effluent Toxicity limits and monitoring requirements from the permit. The request for hearing was 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 request for hearing filed by the Executive Director and the Office of Public Interest Counsel; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that Will Hickman is an affected person under applicable law and his hearing request should be granted.

The Commission next determined whether the 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 that are relevant and material to its 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): (A) Whether the Draft Permit is adequately protective of water quality and uses of the receiving waters under the applicable Texas Surface Water Quality Standards; (B) Whether the Draft Permit contains sufficient provisions to prevent nuisance odors; and (C) Whether the Facility, if it is located within a flood plain, is adequately protected from inundation as required by 30 TAC Chapter 309, taking into consideration the applicability requirements established in 30 TAC § 309.13(h) and (i). 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.

Finally, the Commission referred this matter to the Commission's Alternative Dispute Resolution Program, to run concurrently with the SOAH preliminary hearing scheduling efforts.

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

- (1) The hearing request filed by Will Hickman is hereby GRANTED;
- (2) The following issues are REFERRED to SOAH for a contested case hearing on the application:
 - (A) Whether the Draft Permit is adequately protective of water quality and uses of the receiving waters under the applicable Texas Surface Water Quality Standards;
 - (B) Whether the Draft Permit contains sufficient provisions to prevent nuisance odors; and
 - (C) Whether the Facility, if it is located within a flood plain, is adequately protected from inundation as required by 30 TAC Chapter 309, taking into consideration the applicability requirements established in 30 TAC § 309.13(h) and (i);

- (3) 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;
- (4) This matter is REFERRED to the Commission's Alternative Dispute Resolution Program, to run concurrently with the SOAH preliminary hearing scheduling process; 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.

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ENVIRONMENTAL QUALITY



Jon Niermann, Chairman

8/7/23

Date Signed