

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER

concerning the application by Gilden Blair Blackburn and Timothy Edward Carter for new Texas Pollutant Discharge Elimination System Permit No. WQ0016124001; TCEQ Docket No. 2023-0862-MWD.

On September 27, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration filed by J. Andrew Scott on behalf of FM 1189 LLC, Bartlett Ranch Brock LLC, Series A EGHB Investments LLC, and Series A 1189 Storage LLC concerning the application by Gilden Blair Blackburn and Timothy Edward Carter for new Texas Pollutant Discharge Elimination System Permit No. WQ0016124001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 75,000 gallons per day in the Final phase, to be located approximately 1,265 feet southeast from the intersection of Brock Spur Road and Quanah Hill Road 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 filed by the Executive Director and the Office of Public Interest Counsel, a reply to responses, all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that FM 1189 LLC, Bartlett Ranch Brock LLC, Series A EGHB Investments LLC, and Series A 1189 Storage LLC are affected persons and granted their requests for hearing. The requests for reconsideration were 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 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, aquatic life, livestock, and wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards;
- B) Whether the draft permit is protective of the health of the requesters, their families, and other individuals who reside in the immediate vicinity of the proposed Facility and discharge route;
- C) Whether the draft permit adequately protects against nuisance odors in accordance with 30 TAC § 309.13(e);
- D) Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need under TWC § 26.0282; and
- E) Whether the antidegradation review complies with applicable regulations and the draft permit includes adequate nutrient limits.

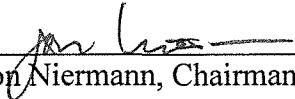
The Commission also determined to refer the matter to TCEQ's Alternative Dispute Resolution Program, to run concurrently with SOAH preliminary hearing scheduling efforts. Finally, the Commission set the maximum duration of the contested case hearing at 180 days from the date of the preliminary hearing 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 FM 1189 LLC, Bartlett Ranch Brock LLC, Series A EGHB Investments LLC, and Series A 1189 Storage LLC are hereby GRANTED;
- 2) All requests for reconsideration are hereby DENIED;
- 3) 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 water quality, including the protection of surface water, groundwater, aquatic life, livestock, and wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards;
 - B. Whether the draft permit is protective of the health of the requesters, their families, and other individuals who reside in the immediate vicinity of the proposed Facility and discharge route;
 - C. Whether the draft permit adequately protects against nuisance odors in accordance with 30 TAC § 309.13(e);
 - D. Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need under TWC § 26.0282; and
 - E. Whether the antidegradation review complies with applicable regulations and the draft permit includes adequate nutrient limits.
- 4) All issues not identified as being referred to SOAH in Ordering Provision No. 3 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

10/2/23

Date Signed