

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by the City of Kyle for a major amendment to TPDES Permit No. WQ0011041002; TCEQ Docket No. 2023-1268-MWD.

On December 13, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing from the Greater Edwards Aquifer Alliance and the San Marcos River Foundation concerning the application by the City of Kyle for a major amendment to TPDES Permit No. WQ0011041002 to authorize an increase in the discharge of treated domestic wastewater from an existing facility located at 941 New Bridge Drive in Hays County, Texas.

The requests for hearing 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 Applicant, Executive Director, and Office of Public Interest Counsel; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that the San Marcos River Foundation is an affected person and granted its request for hearing. The Commission denied all remaining hearing requests.

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 with a concurrent referral to the Commission's Alternative Dispute Resolution Program:

- A) Whether the draft permit is protective of water quality, wildlife, and the requester's members and their families' health, in accordance with applicable regulations, including the Texas Surface Water Quality Standards;
- B) Whether the draft permit complies with applicable antidegradation requirements and adequately protects existing uses; and
- C) Whether the draft permit should be altered or denied based on the Applicant's compliance history.

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 the San Marcos River Foundation is hereby GRANTED;
- 2. The application is referred to SOAH for a contested case hearing on the following issues, with a concurrent referral to the Commission's Alternative Dispute Resolution Program:
  - A. Whether the draft permit is protective of water quality, wildlife, and the requester's members and their families' health, in accordance with applicable regulations, including the Texas Surface Water Quality Standards;
  - B. Whether the draft permit complies with applicable antidegradation requirements and adequately protects existing uses; and
  - C. Whether the draft permit should be altered or denied based on the Applicant's compliance history.

3. All issues not identified as being referred to SOAH in Ordering Provision No. 2 are hereby DENIED;
4. All remaining hearing requests 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

12/21/23  
\_\_\_\_\_  
Date Signed