

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by The Psalm 25:10 Foundation for new TPDES Permit No. WQ0016202001; TCEQ Docket No. 2024-0596-MWD.

On May 22, 2024, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration filed by Glen Guthrie, Paul Hess, Trennon Massengale, Richard Moore, Ronald and Judy West, and the West Family Living Trust concerning the application by The Psalm 25:10 Foundation (Applicant) for new TPDES Permit No. WQ0016202001, which seeks to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.50 million gallons per day in the Final phase. The requests for hearing and reconsideration 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 and reconsideration filed by the Executive Director, Office of Public Interest Counsel, and the Applicant; replies; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that Richard Moore and Trennon Massengale are affected persons under applicable law and their hearing requests should be granted. The Commission denied all remaining hearing requests and the requests for reconsideration.

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 affected persons 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 surface and groundwater quality, including evaluation of antidegradation, nutrient screening, aesthetic parameters, and the use and enjoyment of property, in accordance with the Texas Surface Water Quality Standards; B) Whether the Applicant substantially complied with applicable notice requirements; C) Whether the Draft Permit is adequately protective of the requesters' health, wildlife, livestock, and aquatic life; 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 Draft Permit properly classifies the aquatic life uses in the discharge route in accordance with the Texas Surface Water Quality Standards. 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 requests filed by Richard Moore and Trennon Massengale are hereby GRANTED;
- (2) All remaining hearing requests and requests for reconsideration are hereby DENIED;
- (3) The following issues are REFERRED to SOAH for a contested case hearing on the application:

- (A) Whether the Draft Permit is adequately protective of surface and groundwater quality, including evaluation of antidegradation, nutrient screening, aesthetic parameters, and the use and enjoyment of property, in accordance with the Texas Surface Water Quality Standards;
 - (B) Whether the Applicant substantially complied with applicable notice requirements;
 - (C) Whether the Draft Permit is adequately protective of the requesters' health, wildlife, livestock, and aquatic life;
 - (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 Draft Permit properly classifies the aquatic life uses in the discharge route in accordance with the Texas Surface Water Quality Standards;
- (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;
- (5) This matter is REFERRED to the Commission's Alternative Dispute Resolution Program, to run concurrently with the SOAH preliminary hearing scheduling process; 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.

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Jon Niermann, Chairman

5/28/24
Date Signed