

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## **AN INTERIM ORDER**

concerning the application by Municipal Operations, LLC for new TPDES Permit No. WQ0016171001; TCEQ Docket No. 2024-0670-MWD.

On August 14, 2024, the Texas Commission on Environmental Quality (Commission) considered during its open meeting several requests for hearing and reconsideration concerning the application by Municipal Operations, LLC for new TPDES Permit No. WQ0016171001 to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,000,000 gallons per day in the final phase. The facility will be located approximately 1.75 miles west-southwest of the intersection of Babcock Road and Scenic Loop Road, in Bexar County, Texas 78023.

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 and Office of Public Interest Counsel; the response to the requests for hearing filed by Applicant; the timely replies by Justin McCord, the San Antonio Water System, the Greater Edwards Aquifer Alliance, and the City of Grey Forest; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that the Greater Edwards Aquifer Alliance, the San Antonio Metropolitan Health District, and Elizabeth Ann

Toepperwein are affected persons and granted their requests for hearing. The Commission denied all remaining hearing requests and requests for reconsideration.

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 the affected person during the comment period, and that 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 TCEQ's Alternative Dispute Resolution Program:

- A) Whether the draft permit is adequately protective of water quality, including surface water, groundwater, and drinking water wells;
- B) Whether the draft permit is protective of wildlife, including endangered species, in accordance with the Texas Surface Water Quality Standards in 30 TAC Chapter 307;
- C) Whether the draft permit adequately addresses nuisance odor, in accordance with 30 TAC § 309.13(e);
- D) Whether the draft permit complies with siting requirements regarding flood plains and wetlands, in accordance with 30 TAC Chapter 309;
- E) Whether Applicant substantially complied with applicable public notice requirements;
- F) Whether the Applicant adequately identified the operator in the application; and
- G) Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need, under Texas Water Code (TWC) § 26.0282 and the general policy to promote regional or area-wide systems, under TWC § 26.081.

Finally, the Commission set the duration of the contested case hearing of 180 days from the date of the preliminary hearing until the proposal for decision is issued.

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

1. The hearing requests of Greater Edwards Aquifer Alliance, the San Antonio Metropolitan Health District, and Elizabeth Ann Toepperwein are hereby GRANTED;
2. All remaining hearing requests and requests for reconsideration are hereby DENIED;
3. The application is referred to SOAH for a contested case hearing on the following issues:
  - A. Whether the draft permit is adequately protective of water quality, including surface water, groundwater, and drinking water wells;
  - B. Whether the draft permit is protective of wildlife, including endangered species, in accordance with the Texas Surface Water Quality Standards in 30 TAC Chapter 307;
  - C. Whether the draft permit adequately addresses nuisance odor, in accordance with 30 TAC § 309.13(e);
  - D. Whether the draft permit complies with siting requirements regarding flood plains and wetlands, in accordance with 30 TAC Chapter 309;
  - E. Whether Applicant substantially complied with applicable public notice requirements;
  - F. Whether the Applicant adequately identified the operator in the application; and
  - G. 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 the general policy to promote regional or area- wide systems, under TWC § 26.081;
4. All issues not identified as being referred to SOAH in Ordering Provision No. 3 are hereby DENIED;
5. The matter is referred to the TCEQ's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process;
6. The duration of the hearing is set at 180 days from the date of the preliminary hearing until the proposal for decision is issued; and

7. 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

  
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Jon Niermann, Chairman

August 20, 2024  
Date Signed