

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by Leprino Foods Company for new TPDES Permit No. WQ0005417000; TCEQ Docket No. 2024-1181-IWD.

On August 28, 2024, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration concerning the application by Leprino Foods Company (Applicant) for new TPDES Permit No. WQ0005417000 to authorize the discharge of process wastewater, utility wastewater, and water treatment wastes at a daily average flow not to exceed 2,000,000 gallons per day via Outfall 001 and the disposal of high total dissolved solids (TDS) water (such as brine, reverse osmosis reject, and other wastewaters high in TDS) at an annual average flow not to exceed 80,000 gallons per day via evaporation. The production facility will be located at 4301 East 19th Street, and the wastewater treatment facility will be located at 4502 East 4th Street, in the City of Lubbock, Lubbock County, Texas 79403.

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 Applicant; the timely reply by Stop the Oppression of Our People; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that Stop the Oppression of Our People is an affected person and granted its 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 Applicant substantially complied with applicable public notice requirements;
- B) Whether the Draft Permit is protective of water quality, including the protection of existing uses of the receiving waters, livestock, and wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards;
- C) Whether the Application is complete and accurate;
- D) Whether the Applicant's compliance history raises any issues regarding the Applicant's ability to comply with the material terms of the permit that warrant denying or altering the terms of the Draft Permit; and
- E) Whether the Draft Permit contains adequate monitoring and reporting requirements to demonstrate compliance with its material terms.


Finally, the Commission set the maximum 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 Stop the Oppression of Our People 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 Applicant substantially complied with applicable public notice requirements;
 - B. Whether the Draft Permit is protective of water quality, including the protection of existing uses of the receiving waters, livestock, and wildlife, in accordance with applicable regulations including the Texas Surface Water Quality Standards;
 - C. Whether the Application is complete and accurate;
 - D. Whether the Applicant's compliance history raises any issues regarding the Applicant's ability to comply with the material terms of the permit that warrant denying or altering the terms of the Draft Permit; and
 - E. Whether the Draft Permit contains adequate monitoring and reporting requirements to demonstrate compliance with its material terms;
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 maximum 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



For the Commission



Date Signed