

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER

concerning the application by Clear Utilities, LLC for new TPDES Permit No. WQ0016273001; TCEQ Docket No. 2024-1582-MWD.

On November 6, 2024, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration concerning the application by Clear Utilities, LLC (Applicant) for new TPDES Permit No. WQ0016273001. The application seeks authorization to discharge treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day (gpd). The proposed wastewater treatment facility will be located approximately 0.95 of a mile southwest of the intersection of Risinger Road and Interstate Highway 45 in Ellis 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 and reconsideration filed by the Executive Director, the Office of Public Interest Counsel, and the Applicant; Ellis County's timely reply; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that Ellis County, Bettye Burns, Kenneth Burns, Gregory Crow, Michael Jones, David Miller, Geneva Risinger, Glenda Williams, and John Williams are affected persons and granted their requests for hearing. The Commission determined that the remaining hearing requests and requests for reconsideration be 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

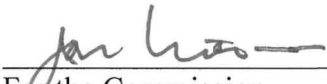
period, and that are relevant and material to the decision on the application. The Commission determined that the following issues met those requirements and directed that they be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing: 1) Whether the draft permit is protective of water quality, including the protection of existing uses of the receiving waters, aquatic life, animal life, and the requester's and their families' health, in accordance with applicable regulations including the Texas Surface Water Quality Standards; 2) Whether the draft permit complies with applicable antidegradation requirements; 3) Whether the draft permit adequately addresses nuisance odor in accordance with 30 Texas Administrative Code § 309.13; and 4) Whether Applicant substantially complied with applicable notice requirements. Finally, the Commission specified that the maximum duration of the contested case hearing shall be 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 Ellis County, Bettye Burns, Kenneth Burns, Gregory Crow, Michael Jones, David Miller, Geneva Risinger, Glenda Williams, and John Williams are hereby GRANTED;
- 2) The 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 protective of water quality, including the protection of existing uses in the receiving waters, aquatic life, animal life, and the requester's 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;
 - C) Whether the draft permit adequately addresses nuisance odor in accordance with 30 Texas Administrative Code § 309.13; and
 - D) Whether Applicant substantially complied with applicable notice requirements.
- 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



For the Commission

11/12/24

Date Signed