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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

July 9, 2020

TO: Persons on the attached mailing list.

RE: Cherryville GP, Inc. and Cherryville #5, Ltd.
TCEQ Docket No. 2020-0308-MWD; TPDES Permit No. WQ0015738001

Enclosed is a copy of an interim order issued by the Commission regarding the above-referenced matter.

Should you have any questions, please contact Melissa Schmidt of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-3317.

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac
Chief Clerk

BCB/ms

Enclosure

MAILING LIST

for

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TCEQ Docket No. 2020-0308-MWD
TPDES Permit No. WQ0015738001

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TELLO , MANUEL
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FENTRESS TX 78622-0013

VORDENBAUM , MIKE & SUZI
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FENTRESS TX 78622-0013

WAGGONER , DARRELL
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PRAIRIE LEA TX 78661-0123

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FENTRESS TX 78622-0323

WARD , RICHARD D
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SAN ANTONIO TX 78215-1901

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WEEKS , ELIZABETH & JOSEPH
113 ELM AVE
LULING TX 78648-2003

WEEKS , ELIZABETH & JOSEPH A
7574 SAN MARCOS HWY
PRAIRIE LEA TX 78661

WILLIAMS , ANNIE
10511 SAN MARCOS HWY
LOCKHART TX 78644-4353

WILSON , FRED
125 HORSESHOE BND
LULING TX 78648-1861

WILSON , MINERVA G
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SENATOR
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PO BOX 12068
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by Cherryville GP, Inc. and Cherryville #5, Ltd., for new TPDES Permit No. WQ0015738001; TCEQ Docket No. 2020-0308-MWD.

On July 1, 2020, the Texas Commission on Environmental Quality (Commission) considered during its open meeting numerous requests for hearing or reconsideration filed concerning the application by Cherryville GP, Inc., and Cherryville #5, Ltd., (Applicant) for new TPDES Permit No. WQ0015738001. The application seeks authorization to discharge treated domestic wastewater at a daily average flow not to exceed 0.038 million gallons per day (MGD) in the Interim Phase, a daily average flow not to exceed 0.072 MGD in the Interim II Phase, and a daily average flow not to exceed 0.16 MGD in the Final Phase. The proposed wastewater treatment facility will serve the proposed Cherryville Municipal Utility District service area and will be located just south of the intersection of Dickerson Road and State Highway 80, east of State Highway 80, in Caldwell 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 or reconsideration filed by the Executive Director, and the Office of Public Interest Counsel; the requesters' timely replies; all timely public comment; and the Executive Director's Response to Public Comment.

After evaluation of all relevant filings, the Commission determined that by Ben O Corp, Michael and Nancy Ohlendorf, the San Marcos River Foundation, and the Texas Rivers Protection Association 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 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 met those requirements and directed that they be referred to the State Office of Administrative Hearings (SOAH) for contested case hearing:

- A) Whether the draft permit is protective of water quality and the existing uses of the receiving waters in accordance with applicable Texas Surface Water Quality Standards, including protection of the requesters' use and enjoyment of their property;
- B) Whether the draft permit adequately addresses nuisance odor in accordance with 30 TAC § 309.13;
- C) Whether the proposed discharge complies with applicable antidegradation requirements;
- D) Whether the draft permit is protective of existing uses of Dickerson Creek and the San Marcos River, including: a) use as a source of groundwater recharge for public water supply and private wells; b) aquatic life use; and c) primary contact recreation use;
- E) Whether the application properly describes the discharge route;
- F) Whether the Applicant sufficiently demonstrated need for the volume requested in its application for a new discharge permit under TWC § 26.0282;
- G) Whether the Applicant substantially complied with applicable notice requirements; and
- H) Whether the draft permit contains sufficient provisions to ensure protection of water quality, including necessary operational requirements.

The Commission specified that this matter shall be referred to the TCEQ's Alternative Dispute Resolution Program to run concurrently with SOAH preliminary hearing scheduling efforts. Finally, 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 Ben O Corp, Michael and Nancy Ohlendorf, the San Marcos River Foundation, and the Texas Rivers Protection Association are hereby GRANTED:

- 2) The remaining requests for hearing 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 and the existing uses of the receiving waters in accordance with applicable Texas Surface Water Quality Standards, including protection of the requesters' use and enjoyment of their property;
 - B) Whether the draft permit adequately addresses nuisance odor in accordance with 30 TAC § 309.13;
 - C) Whether the proposed discharge complies with applicable antidegradation requirements;
 - D) Whether the draft permit is protective of existing uses of Dickerson Creek and the San Marcos River, including: a) use as a source of groundwater recharge for public water supply and private wells; b) aquatic life use; and c) primary contact recreation use;
 - E) Whether the application properly describes the discharge route;
 - F) Whether the Applicant sufficiently demonstrated need for the volume requested in its application for a new discharge permit under TWC § 26.0282;
 - G) Whether the Applicant substantially complied with applicable notice requirements; and
 - H) Whether the draft permit contains sufficient provisions to ensure protection of water quality, including necessary operational requirements.
- 4) All issues not identified as being referred to SOAH in Ordering Provision No. 3 are hereby DENIED;
- 5) This matter is REFERRED to the TCEQ's Alternative Dispute Resolution Program concurrent with the SOAH preliminary hearing scheduling process;
- 6) 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
- 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



Jon Niermann, Chairman

7/6/2020

Date Signed

