

SOAH DOCKET NO. 582-24-22552
TCEQ DOCKET NO. 2023-1591-MWD

APPLICATION OF CORIX § BEFORE THE STATE OFFICE
UTILITIES (TEXAS) INC. §
FOR TPDES PERMIT NO. § OF
WQ0013977001 § ADMINISTRATIVE HEARINGS

**PROTESTANT ENVIRONMENTAL STEWARDSHIP'S FIRST REQUESTS FOR
PRODUCTION AND INTERROGATORIES TO THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

TO: The Executive Director of the Texas Commission on Environmental Quality, by and through her lead attorney of record, Aubrey Pawelka, TCEQ Environmental Law Division, P.O. Box 13087, MC 173, Austin, Texas 78711, Aubrey.Pawelka@tceq.texas.gov.

Protestant Environmental Stewardship ("ES") serves these First Requests for Production and Interrogatories to the Executive Director ("ED"), pursuant to the Texas Rules of Civil Procedure and the scheduling order in this matter.

ES requests that production of documents be made by providing electronic copies to Eric Allmon at: eallmon@txenvirolaw.com. If you are unable to provide electronic copies of suitable quality, please produce hard copies to Mr. Allmon at the address listed below.

Sincerely,

/s/ Eric Allmon

Eric Allmon

State Bar No. 24031819

eallmon@txenvirolaw.com

PERALES, ALLMON & ICE, P.C.

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Counsel for Environmental Stewardship

INSTRUCTIONS

Pursuant to the Texas Rules of Civil Procedure, Protestant serves these Requests for Production, Requests for Admissions, and Interrogatories on the Executive Director. **Protestant specifies that the responses to these requests shall be served within thirty (30) days from the date of service of these requests.**

The requests that follow are to be considered as continuing. In other words, you must provide a supplemental response if you or any person acting on your behalf obtains any additional information that indicates the previous response was incorrect or incomplete when made or, although correct and complete when made, is no longer true and complete, and the circumstances are such that failure to supplement or amend the response is, in substance, misleading.

Pursuant to TRCP 193.1, you must make a complete response, based on all information reasonably available to you or your attorney at the time the response is made. Pursuant to TRCP 193.2(b), you must comply with as much of the request to which you have made no objection, unless it is unreasonable to do so before obtaining a ruling on your objection(s).

In accordance with TRCP 196.3(c), you should either produce the requested documents as they are kept in the usual course of business, or you should organize and label them to correspond with the categories of the request.

With respect to any request to which you do not respond, please state the grounds for your refusal or inability to respond. When you believe that a complete answer to a discovery request or part thereof is not possible, please answer each discovery request to the extent possible and furnish a statement explaining: (1) the reason for your inability to respond further, and (2) whatever information or knowledge you have concerning the non-responsive portion.

If any document identified as responsive to a request for production was, but is no longer in your possession, custody, or control, or was known to you, but is no longer in existence, state what disposition was made of it or what became of it.

If any requested documents cannot be produced, identify the document, the location (such as inside a computer memory bank), produce the document to the extent possible, specifying each reason for the inability to produce the document or the part not produced, and state whatever information, knowledge, or belief you have concerning the unproduced portion.

If any document is withheld from production hereunder on the basis of a claim of privilege or otherwise, please identify each such document, the location of the document, and the grounds upon which its production is being withheld.

In responding to these requests, please furnish all information and documents known or reasonably available to you, regardless of whether such information or documents are possessed directly by you or by your partners, officers, directors, contractors, consultants, agents, employees, representatives, investigators, attorneys or any other persons acting or purporting to act on your behalf or otherwise subject to your direction regarding the requested information or documents.

A document or communication “relating to,” “related to,” or “concerning” a given subject means any documents or communications that constitute or contain matters relevant to the subject.

If the answer to an interrogatory may be derived or ascertained from public records, from your business records, or from a compilation, abstract or summary of your business records, and the burden of deriving or ascertaining the answer is substantially the same for Protestant as for you, you may answer the interrogatory by specifying and producing the records or compilation, abstract, or summary of the records.

In those instances where you choose to answer an interrogatory by referring to a specific document or record, please provide sufficient detail to permit Protestant to locate and identify the record(s) and/or document(s) from which the answer is to be ascertained.

If asked to “state the basis” for a particular claim, assertion, allegation or contention, please, to the fullest extent possible, (a) identify the documents (and, where pertinent, the section, article, or subparagraph thereof) which form any part of the source of the information regarding the alleged facts or legal conclusions referenced in the interrogatory; (b) identify communications which form any part of the source of the information regarding the alleged facts or legal conclusions referenced in the interrogatory; (c) state the acts, omissions, or failures to act on the part of any person which form any part of the information regarding the alleged facts or legal conclusions referenced in the interrogatory; and (d) state any other fact which forms the basis of the information regarding the alleged facts or conclusions referenced in the interrogatory.

DEFINITIONS

As used in these discovery requests, the terms listed below are defined as follows:

This “proceeding” or this “case” means the Application of Corix Utilities (Texas) Inc. for TPDES Permit No. WQ0013977001.

“Person” means any natural person, firm, corporation, partnership, proprietorship, joint venture, federal, state, or local governmental agency, organization, group of natural persons, or other associations separately identifiable, whether or not such association has a separate existence in its own right.

“TCEQ” means the Texas Commission on Environmental Quality and its predecessor agencies and each person, who, with respect to the subject matter of the request, was or is acting or purporting to act on behalf of the Texas Commission on Environmental Quality, including any attorneys, consultants, experts, agents, representatives, employees, or other persons acting on their behalf.

“You,” or “your,” “Executive Director,” or “ED” means the Executive Director of the TCEQ and includes any officer, attorney, employee, agent, or contractor acting for or on behalf of and each person, who, with respect to the subject matter of the request, was or is acting or purporting to act on behalf of the Executive Director of the TCEQ, including any attorneys, consultants, experts, agents, representatives, employees or other persons acting on their behalf.

The terms “document” or “documentation” as used herein means the original where available, and otherwise a photocopy or other copy, in addition to each non-identical copy (whether different from the original because of marginal notes, or other materials inserted therein or attached thereto, or otherwise) of each item of correspondence, letters, memoranda, messages, notes, reports, cables, telegrams, photographs, films, tapes, and all other written communications of every kind and character, notes, recording tape, recording disc or other records of oral communications, microfilm, graphs, worksheets, schedules, exhibits, demonstrative aids, letters, contracts, agreements, leases and other instruments or documents of title, maps, logs, summaries, printouts, charts, tables, publications, compilations, minutes books, diaries, tax returns, work papers, lists, tapes, video tapes, x-rays, any other data compilations from which information can be obtained and translated, if necessary, by the TCEQ, into reasonable useable form, and all other papers, writings or tangible things in the actual or constructive possession, custody or control of the TCEQ.

“Correspondence” means the transmittal, disclosure, publication, transfer, or exchange of information, in any form (in the form of facts, ideas, inquiries or otherwise).

“Records” include electronic and paper documents, photographs, videos, audio recordings, text messages, and emails.

“Including” or “includes” means including, but not limited to.

“Relates to,” “related to,” or “relating to” means, in its broadest sense, supports, evidences, describes, discusses, mentions, concerns, refers to, pertains to, contradicts, or comprises.

The singular includes the plural number, and vice versa. The masculine includes the feminine and neutral genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense. The word “and” means “and/or” and the word “or” means “and/or.” The word “any” means “any and all,” and the word “each” means “each and every.”

INTERROGATORIES

INTERROGATORY NO. 1: Do you contend that the discharge of wastewater, consistent with the effluent limits set forth in the Draft Permit, will result in conditions that support exceptional aquatic life uses in the receiving waters of the Colorado River? Please provide the legal and factual basis for your contention.

ANSWER:

INTERROGATORY NO. 2: For the segments AU1428_01, AU1428_02, AU1428_03, AU1434_01, AU1434_02, and AU1434_03, please identify the following:

- a. the method (*e.g.* equation) for calculating the exceedances considered in the 2020, 2022 and 2024 Texas Integrated Reports for water quality (whether draft or final);
- b. the location or station number of each surface water quality monitoring station considered within each subsegment in evaluating whether the surface water quality standards are being attained within that subsegment.

ANSWER:

INTERROGATORY NO. 3: Identify the maximum level of change in water quality in the receiving waters of the Colorado River for each of the following parameters that would constitute a de minimis lowering of water quality:

- a. Dissolved Oxygen;
- b. Bacteria;
- c. Nitrogen; and,
- d. Phosphate.

ANSWER:

INTERROGATORY NO. 4: Please identify the baseline water quality determined for the Tier 2 anti-degradation review for each of the following parameters:

- a. Dissolved Oxygen;
- b. Bacteria;
- c. Nitrogen; and,
- d. Phosphate

ANSWER:

INTERROGATORY NO. 5: Please describe how baseline water quality, for purposes of the Tier 2 anti-degradation analysis, was determined for each of the following parameters:

- a. Dissolved Oxygen;
- b. Bacteria;
- c. Nitrogen; and,
- d. Phosphate

ANSWER:

INTERROGATORY NO. 6: Please identify all analysis (if any) performed to determine the potential concentration or amount of per- and polyfluoroalkyl substances (PFASs) with the discharged effluent.

ANSWER:

INTERROGATORY NO. 7: Please identify all analysis (if any) the Executive Director performed to determine the potential impacts of the discharge of per- and polyfluoroalkyl substances (PFASs) within the discharged effluent.

ANSWER:

INTERROGATORY NO. 8: Please identify all analyses (if any) the Executive Director performed to determine the potential impacts of the discharge upon the Houston Toad, Texas Fawnsfoot, Texas Pimpleback, Texas Fatmucket, and blue sucker populations.

ANSWER:

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please provide all documents and data that relate to the assessment of the water quality and level of support for uses (including, without limitation, exceptional aquatic life, recreation, and drinking water use) for Colorado River Segment 1428 from the lower end of the segment to Gilleland Creek Confluence. This includes data gathered on or after November 28, 1975, which was considered in the assessment of uses for that segment used

to support those assessments, and the adopted guidelines for these assessments for the fish community, macrobenthic community, nitrate, orthophosphorus, total phosphorus, and bacteria. This includes, without limitation, sampling data gathered at the following monitoring stations on or after November 28, 1975:

- A. 12466,
- B. 12469,
- C. 21411, and
- D. 12474.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: Please produce all documents considered in any evaluation of the impact of the discharge of PFASs within the effluent proposed for discharge.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Please produce all documents considered in any evaluation of the impact of the discharge of the impact of the discharge upon the Houston Toad, Texas Fawnsfoot, Texas Pimpleback, Texas Fatmucket, and blue sucker.

RESPONSE:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record, this 31st day of October, 2024.

/s/ Eric Allmon
Eric Allmon

**For the Applicant Corix Utilities (Texas)
Inc.**

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For the Executive Director

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