

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 OCT 26 AM 11:04  
CHIEF CLERKS OFFICE

PLEASE PRINT:

Name: Robert Abernethy

Address: 310 Oakridge

City/State: Boerne

Zip: 78009

Phone: (210) 273-2436

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.  
(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

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AT PUBLIC MEETING

What are whole Effluent Toxic requirements.

If none, why not? The effluent will comprise the total flow in the creek most of the time & will completely replace the downstream

effluent most volume. In addition, discharge flows <sup>possible</sup> alter recharge features in critical groundwater.

CHIEF CLERKS OFFICE

OCT 26 AM 11:04

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Robert Abernethy  
310 Oakridge  
Boerne TX 78006

CM

1244

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

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AT PUBLIC MEETING

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:03

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PLEASE PRINT:

Name: Brian Lee Adams

Address: 121 Chinkapin Pass

City/State: Boerne Tx Zip: 78005

Phone: (210) 275-0075

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Indian Springs HOA

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

2/10

CLAIRE L. ALEXANDER

OCT 23 11 10:29 AM BY DM

October 19, 2006

Chief Clerk of The Texas Commission of Environmental Quality  
MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

CHIEF CLERKS OFFICE

Handwritten: 53346

Re: Lerin Hills Development/ Permit #WQ0014712001

Dear Commission:

My husband and I have been land owners just 'over the hill' from the proposed Lerin Hills development for over 12 years and feel very strongly about maintaining the balance of development and natural habitat in the area. While we believe that development in this area of the Hill Country is both healthy and to be expected, it must be done in a responsible fashion to maintain the unique characteristics of the area with thoughtful stewardship of the resources Mother Nature has given to us.

Strong leadership in our community will certainly see the error in allowing this permit to pass and to let the tail shake an entire dog – our community will be degraded in no time if this is the case. I am confident you will address this issue in a logical and thoughtful manner and have the one who wants the improvements be responsible for the burden that it brings to our community, not push it over to a well respected, community-minded neighbor.

Because there is a solution that exists keeping all the effluent water on the Lerin Hills property, I am surprised that you would consider moving the water onto some one else's property. I would think that the liability that everyone involved faces would not be worth it.

Many thanks for the work you do and I hope you will not move the water to Mr. Webster's recreational water location but keep it within the Lerin Hills development, especially given his choice of water treatment.

Sincerely,

*Claire Alexander*

Claire Alexander  
Dodge Ranch  
149 Dodge Road  
Boerne, TX 78006

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Tuesday, October 24, 2006

324

Lerin Hills, Ltd.

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COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 OCT 26 AM 11:02  
CHIEF CLERKS OFFICE

PLEASE PRINT:

AT PUBLIC MEETING

Name: TERRY ANDERSON

Address: 204 ANTLERS WAY

City/State: BOERNE, TX

Zip: 78006

Phone: (836) 249-9343 x300

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one? KENDALL COUNTY COMMISSIONERS COURT

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

Handwritten initials/signature

J Dale Bransford  
4603 Shavano Court  
San Antonio, Texas 78230

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

CHIEF CLERKS OFFICE

2006 JUN 21 AM 10:03

OPA PM

JUN 22 2006

BY JN

mwd  
53346

June 19, 2006

Office of the Chief Clerk  
MC 105, TCEQ  
P O Box 13087  
Austin, TX 78711-3087

RE: Proposed Permit # WQ0014712001

To Whom It May Concern:

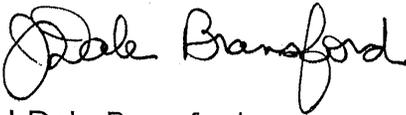
My wife and I have received your Notice regarding referenced permit application. We own 3.997 acres immediately adjacent to the proposed development, more specifically, Lot 20 in the Indian Springs Subdivision.

We have concerns about the Lerin Hills Development and the potential negative impact it could have on the natural resources of the area. These concerns include: density of development, concentrated destruction of habitat, impervious cover issues, water source, and most importantly – the impact the discharged effluent would have on the creeks and environment of the area. From the news articles we have read and discussions with our neighbors, we are not alone in our concerns.

We also feel it is important to state that our knowledge of the proposed development is not based on first-hand information. Therefore, we believe a public meeting would be beneficial for all parties concerned, and request that TCEQ seriously consider holding such meeting.

Thank you for the notice and the opportunity to comment.

Sincerely,



J Dale Bransford



Pamela A Bransford



11th

53346

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CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:05

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

PLEASE PRINT:

Name: DR. CRAIG CARLSON

Address: 19208 BEATA TRAIL

City/State: SAN ANTONIO Zip: 78258

Phone: (210) 494-3511

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one? BOB WEBSTER

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Submitted  
petition

Please give this to the person at the information table. Thank you.

CM

We, the undersigned, have enjoyed personally, or observed others in our community, fishing, swimming, snorkeling, or simply gathering around the water for many years in the lake owned and maintained by the Hahnfeld and Wood Families. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. Issuance of such a discharge permit would drastically affect our ability and those in our community to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

Michelle Roberts  
Colton Roberts  
Jessica Gilbert  
Kayla Gilbert  
JOHN RUSH  
L. A. DRONET  
Codie Roberts

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:04

TEXAS  
COMMISSION  
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AT PUBLIC MEETING

*Handwritten initials*

We, the undersigned, have enjoyed personally, or observed others in our community, fishing, swimming, snorkeling, or simply gathering around the water for many years in the lake owned and maintained by the Hahnfeld and Wood Families. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. Issuance of such a discharge permit would drastically affect our ability and those in our community to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

*[Handwritten signatures: Andrew Wood, James Wood, Tiffany Wood, Andy Froge, Missy Frogg, Dede Pilcher, Kim Pilcher]*

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:04

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AT PUBLIC MEETING

We, the undersigned, have enjoyed personally, or observed others in our community, fishing, swimming, snorkeling, or simply gathering around the water for many years in the lake owned and maintained by the Mahnfeld and Wood Families. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. Issuance of such a discharge permit would drastically affect our ability and those in our community to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

Connie D. Wood

Chad Wood

Jack Wood

Betty Wood

Handi Suck

Steve L. S.

David Schumack

Stephen Turek JR

Darlene Gilbert

Mark Gilbert

CHIEF CLERK'S OFFICE

2006 OCT 26 AM 11:04

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PUBLIC MEETING

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*Charlene Wood*

*Bonnie Wood*

*Bill Hays Wood*

*David Wood*

*Jennifer Wood*

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:04

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Shawn Lewis

Juan Del Greco

Melina Helly

Alfred Hill

Carrie Lynner

Francis Couch

Kevin Lewis

Troy Lewis

Harrison Couch

Jack Kern Couch

2006 OCT 26 AM 11:04  
CHIEF CLERKS OFFICE

TEXAS  
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We, the undersigned, have enjoyed fishing, swimming, and snorkeling for many years in the lake jointly owned by Bob Webster and the Double Diamond Ranch. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. It would drastically affect our ability to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICE OF THE GENERAL COUNSEL  
OCT 24 2006 11:06 AM

Signature

Printed Name

Address

*Craig Carlson* CRAG CARLSON 19208 REACT TRAIL SAT 78201

Christen C. Paquin christen paquin Dallas

Lin Weems Lin Weems San Antonio, TX 78209

Dianne Carlson Dianne Carlson 19208 React Trail, SAT 78258

Robert R. Roten Robert R Roten 17342 Fountain Mist SAT 78244

Jack Roten JACK. ROTEN 226 PALO GRANDE, SA, TX 78232

Not a complete address

Claree Leavelle Claree Leavelle 7 TROPIC CIRCLE

Clark Powell CLARK POWELL DENVER CO

78260-44

C. Ross Carlson Jr. C. Ross Carlson Jr. 810 Fawnway SA TX 78201

Lynn Carlson Lynn Carlson 810 Fawnway SATX 7825

Drew Paquin Drew Paquin Dallas

We, the undersigned, have enjoyed fishing, swimming, and snorkeling for many years in the lake jointly owned by Bob Webster and the Double Diamond Ranch. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. It would drastically affect our ability to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

MARIO ZERLOTTI

*Mario Zerloti*

KATHY DUBE

*Kathy Dube*

BRENO FIGUEIREDO

*Breno Figueiredo*

Lisa Brieger

*Lisa Brieger*

Sherrie Jolin

*Sherrie Jolin*

E.L. Millhollon

*E.L. Millhollon*

TED BLANCH

*Ted Blanch*

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OCT 24 2006

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CHIEF CLERKS OFFICE

2007 OCT 26 AM 11:06

TEXAS  
COMMISSION  
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We, the undersigned, have enjoyed fishing, swimming, and snorkeling for many years in the lake jointly owned by Bob Webster and the Double Diamond Ranch. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. It would drastically affect our ability to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

<u>William A. Clamp</u>	<u>William A. Clamp III</u>
<u>Mary-Margaret Clamp</u>	<u>Mary-Margaret Clamp</u>
<u>Terry E. Owens</u>	<u>Terry E. Owens</u>
<u>Ron Owens</u>	<u>Ron Owens</u>
<u>Charles E. Butcher</u>	<u>Charles E. Butcher</u>
<u>Cody Engel</u>	<u>Cody Engel</u>
<u>Sheri Smith</u>	<u>Sheri Smith</u>

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OCT 24 2006

CHIEF CLERKS OFFICE

AT PUBLIC MEETING

2006 OCT 26 AM 11:06

TEXAS  
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QUALITY

# Baptist - Oklahoma Home For Abused & Battered Girls

We, the undersigned, have enjoyed fishing, swimming, and snorkeling for many years in the lake jointly owned by Bob Webster and the Double Diamond Ranch. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. It would drastically affect our ability to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

<u>Dennis Todd</u>	<u>Dennis Todd</u>
<u>Benjamin Todd</u>	<u>Benjamin Todd</u>
<u>Stephanie Todd</u>	<u>Stephanie Todd</u>
<u>Robin Durkin</u>	<u>Robin Durkin</u>
<u>Britney Battles</u>	<u>Britney Battles</u>
<u>Shantell Burrus</u>	<u>Shantell Burrus</u>
<u>Ada Vaughn</u>	<u>Ada Vaughn</u>
<u>Shana White</u>	<u>Shana White</u>
<u>Kaylyn Brown</u>	<u>Kaylyn Brown</u>
<u>Dawn Brown</u>	<u>Dawn Brown</u>
<u>Robert Broberg</u>	<u>Robert Broberg</u>

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OCT 24 2006

2006 OCT 26 AM 11:06

AT PUBLIC MEETING

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10/1/06 Karen Zitzloff Karen Zitzloff  
10/1/06 Evan Andreoff Evan Andreoff  
10/1/06 Wayne Becken Wayne Becken  
10/1/06 Marion Muckenhirn Marion Muckenhirn  
10-1-06 Rosie Muckenhirn Rosie Muckenhirn  
10-1-06 Elaine Cartwright Elaine Cartwright  
10-1-06 Travis Salonek Travis Salonek  
10/1/06 Lori Salonek Lori Salonek  
10/2/06 John Salonek John Salonek  
10/2/06 Bernard Otten Bernard Otten  
10/2/06 Marian Westehn Marian Westehn

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CHIEF CLERKS OFFICE

AT PUBLIC MEETING

2006 OCT 26 AM 11:09

TEXAS  
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We, the undersigned, have enjoyed fishing, swimming, and snorkeling for many years in the lake jointly owned by Bob Webster and the Double Diamond Ranch. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. It would drastically affect our ability to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

9/30/06 Heather Olson Heather Olson  
9/30/06 Robert R Klatt Robert KLATT  
9/30/06 Carl Olson Carl Olson  
9/30/06 Donald Klatt Donald KLATT  
9/30/06 Chad R Klatt Chad KLATT  
10/1/06 Greg Snodgrass Greg Snodgrass  
10/1/06 Heidi Klatt Heidi Klatt  
10/1/06 Fred Topel Fred Topel  
10/1/06 Sue Topel Sue Topel  
10/1/06 Jenny Otten Jenny Otten  
10/1/06 Jessica Otten Jessica Otten

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AT PUBLIC MEETING

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206 OCT 26 AM 11:06

TEXAS  
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10/1/06 ~~Bill Teitrek~~ Bill Teitrek  
10/1/06 ~~Nate Teitrek~~ Nate Teitrek  
10/1/06 ~~Jill Teitrek~~ Jill Teitrek  
10/1/06 ~~Matt Teitrek~~ Matt Teitrek  
10/1/06 ~~Grace Dykstra~~ Grace Dykstra  
10/1/06 ~~Brad Dykstra~~ Brad Dykstra  
10/1/06 ~~Sandy Hughes~~ Sandy Hughes  
10/1/06 ~~Triska Dykstra~~ Triska Dykstra  
10/1/06 ~~Tracy Otten~~ Tracy Otten  
10-1-06 ~~Lonnie Rux~~ Lonnie Rux  
10/1/06 ~~Betty Otten~~ Betty Otten

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9-28-06 Michael R. Endreson Michael R. Endreson  
9-28-06 Carol J. Anderson Carol J. Anderson  
9-28-06 Jordan R. Pahl Jordan R. Pahl  
9-28-06 Lois A. Pahl Lois A. Pahl  
9-28-06 Alex N. Pahl Alex N. Pahl  
9-28-06 Ryan T. Pahl Ryan T. Pahl  
9/28/06 Robert H. Pahl Robert H. Pahl  
9/29/06 Jeanette Otten Jeanette Otten  
9/29/06 Clarence Buehl Clarence Buehl  
9/29/06 Lorraine Buehl Lorraine Buehl  
9/30/06 Mary Ellen Klatt Mary Ellen Klatt

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CHIEF CLERKS OFFICE

2005 OCT 26 AM 11:06

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Molly Ott, Molly Otten, 9/29/06

Shel Ott 9-29-06 Gene Otten

Dennis Otten 9-29-06 Linda Otten

Shannon Olson 9-29-06 Shannon Olson

Michael Anderson 9-29-06 Michael Anderson

Lacey Otten 9/29/06 Lacey Otten

Jenna Olson 9/29/06 JENNA OLSON

Tyler Olson 9/29/06 Tyler Olson

Jocelyn Galt 9/29/06 Jocelyn Galt

Rick Otten, Rick Otten 9-29-06

Kari Otten, Kari Otten 9-29-06

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Art Otten      Arthur Otten      9-28-06  
Roger Zimmel      Roger Zimmel      9-28-06  
Shane Solberg      Shane Solberg      9/28/06  
Sama Otten      Tamra Otten      9/28/06  
Megana ~~AAA~~      Megan Otten      9/29/06  
SAMI BEILKE      Sami Beilke      10-1-06  
Amelia Carlson      Amelia Carlson      10.1.06  
Brandi Dufour      Brandi Dufour      10/1/06  
Amanda Bethke      Amanda Bethke      10/1/06  
Patricia Hopkins      Patricia Hopkins      10/1/06  
Dale Otte      Dale Otten      10-1-06

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10-2-06 Dale Western Dale Western  
10-2-06 Blanche Ryan Blanche Ryan  
10-2-06 Curt Rislund Curt Rislund  
10-2-06 Mary Rislund Mary Rislund  
10-2-06 Lexi Salonek Lexi Salonek  
10-2-06 Lindsay Salonek Lindsay Salonek  
10-2-06 Brittany Salonek Brittany Salonek  
10-3-06 Kitty Rancour Kitty Rancour  
10-3-06 Bill Rancour Bill Rancour  
10-3-06 Austin Solberg Austin Solberg  
10-3-06 Jessica Solberg Jessica Solberg

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Signature	Printed Name	Address
	JOHN E. BAKKE III	305 HWY 46 WEST
	PATRICIA S. BAKKE	305 Hwy 46 West San Antonio, TX 78259
	Ruth A. Swain	18123 Apache Springs 18123 Apache Springs Dr.
	George W. Swain	San Antonio, TX 78259 3638 Alpine Aster
	William Swain	San Antonio, TX 78259 3638 Alpine Aster
	Christine Swain	San Antonio TX 78259 78259
	Lawrence F. Lamy	157 N Tower Dr SAT

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Shanna Bergman Kohler Shanna Bergmann Kohler

Christina Bergmann Reese Christina Bergmann Reese

Michael Reese Michael Reese

Don Bergmann Don Bergmann

Jim Kohler Jim Kohler

Don L. Evans Don L. Evans

Kari Evans Kari Evans

Mat Pendleton Mat Pendleton

Christian Hinkley Christian Hinkley

Norman K. Hurt Norman K. Hurt

2006 OCT 26 AM 11:07

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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---

Jessica Otten      Jessica Otten

Jennifer Otten

Jennifer Otten

Lonnie Rux

Lonnie Rux

Tracy Otten

TRACY OTTEN

Evan Andreoff

Evan Andreoff

Gerald Rux

Gerald Rux

Kari Louisiana

Kari Louisiana

Patti Davenport

Patti Davenport

Mark Smith

Mark Smith

CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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- 1.) Katie Sump Katie A. Sump
- 2.) Sally Cooper Sally Cooper
- 3.) Hasey Chenault Kassandra Chenault
- 4.) Wes Balala Wes Balala
- 5.) Ame Zyavny Ame Zyavny
- 6.) Amanda Nelson Amanda Nelson
- 7.) JAKE BRUDY Jake Brudy
- 8.) Lisa Tate Lisa Tate
- 9.) Lindsey Shaw Lindsey Shaw
- 10.) [Signature] Evia Cebedo
- 11.) J J DECTORO [Signature]
- 12.) SIDNEY PEEL  
(Sidney Peel)

TEXAS  
COMMISSION  
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2006 OCT 26 AM 11:07  
CHIEF DEPT'S OFFICE

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- 1.) Lupe Carter Ruse Carter
- 2.) Janelle Hollingsworth Janelle Hollingsworth
- 3.) Ryan Nation Ryan Nation
- 4.) Rachel Davis Rachel Davis
- 5.) Sandra Nation Sandra Nation
- 6.) Joel Ballard Joel Ballard
- 7.) DOROTHY PEEK Dorothy Peek
- 8.) Haider Haas Haider Haas
- 9.) Benjamin Garcia BEN GARCIA
- 10.) Julia Polzie Polzie
- 11.) Shanon Collins Shanon Collins
- 12.) LINDY DAVIES LINDY DAVIES

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OCT 24 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 CHIEF CLERKS OFFICE  
 206 OCT 26 AM 11:07

AT PUBLIC MEETING

We, the undersigned, have enjoyed fishing, swimming, and snorkeling for many years in the lake jointly owned by Bob Webster and the Double Diamond Ranch. We are opposed to the issuance of a wastewater discharge permit for Lerin Hills. It would drastically affect our ability to use the lake for recreational purposes and would likely result in the death of all fish in the lake.

- |      |                          |                          |
|------|--------------------------|--------------------------|
| 1.)  | <u>Claudia Hernandez</u> | <u>Claudia Hernandez</u> |
| 2.)  | <u>Lucia Hernandez</u>   | <u>Lucia Hernandez</u>   |
| 3.)  | <u>Amanda Rojas</u>      | <u>Amanda Rojas</u>      |
| 4.)  | <u>WALTER CAMPBELL</u>   | <u>WALTER CAMPBELL</u>   |
| 5.)  | <u>TARYN BOWEN</u>       | <u>Taryn Bowen</u>       |
| 6.)  | <u>Josmin Garcia</u>     | <u>Josmin Garcia</u>     |
| 7.)  | <u>Linsley Brunel</u>    | <u>Linsley Brunel</u>    |
| 8.)  | <u>Michael Fernandez</u> | <u>Michael Fernandez</u> |
| 9.)  | <u>Steven R. Garcia</u>  | <u>Steven R. Garcia</u>  |
| 10.) | <u>Herman H. Haas SR</u> | <u>Herman H. Haas SR</u> |
| 11.) | <u>Jessica Brown</u>     | <u>Jessica Brown</u>     |
| 12.) | <u>Josh Golden</u>       | <u>Josh Golden</u>       |

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Jacob Boynton

Jacob Boynton

Forrest Smith

Forrest Smith

Rogue Soltero

Rogue Soltero

Penny Peel

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Penny Peel

Kristi Dal

OCT 24 2006

Kristi Dal

Kristi Dal

AT PUBLIC MEETING

Kristi Dal

Kelly O'Neal

Kelly O'Neal

Brittany Trickett

Brittany Trickett

Patricia Namini

P. Namini

Pamela Hansen

CHIEF CLERKS OFFICE

Pamela Hansen

Rich Namini

2006 OCT 26 AM 11:07

R. Namini

TEXAS  
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QUALITY

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Greg Hernandez

Greg Hernandez

Matt Lungehenig

Matt Lungehenig

Shane Beckham

Shane Beckham

Cynthia Beckham

Cynthia Beckham

Cheryl Capps

Cheryl Capps

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Jason Capps

OCT 24 2006

Jared Capps

Sherry Wiatrek

AT PUBLIC MEETING

Sherry Wiatrek

Elvin Wiatrek

Elvin Wiatrek

Amy Vrana

Amy Vrana

Craig Davies

CHIEF CLERKS OFFICE

Craig Davies

Jason Childers

2006 OCT 26 AM 11:07

J. Childers

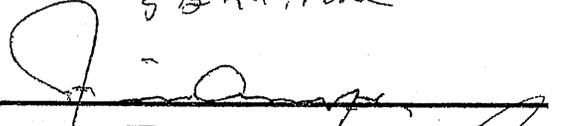
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PRINT

SIGNATURE

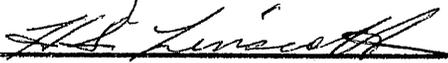
Jamie Amaya



Roxanne Linscott



HS Linscott



~~\_\_\_\_\_~~ Fidel Cuellar



Bronson Lerma



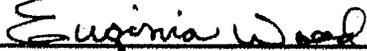
Henry Newman



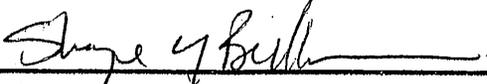
Becky Welch



Eugenia Wood



SHAYNE BECKHAM



Cindy Beckham



Roy Beckham



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

OCT 26 AM 11:09

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Robert Macdonald Jr.

ROBERT MACDONALD JR.

~~Paul Scott~~

Paul Scott

Silvio (Morales)

SILVIO OMORALE

Troy Jewell

Troy Jewell

Robert Macdonald III

Robert Macdonald III

MAZIA DEMPSEY

MAZIA DEMPSEY

Monica Dempsey

monica Dempsey

Elmo J. Rodriguez

Elmo J. Rodriguez

David Rodriguez

David Rodriguez

Wendy Ervin

Wendy Ervin

Charles Watten

CHARLES

RECEIVED

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Dylan Blanch Dylan Blanch

James Reek

Jame Reek

Dennis J

Dennis J

Vera Smith

VERA Smith

Patti McCrelless

Patti McCrelless

Dwayne Smith

Dwayne Smith

Kaiten McCrelless

Kaiten McCrelless

Kendall McCrelless

Kendall McCrelless

Claude Smith

Kendall ~~Claude Smith~~

Jet Smith

Jet Smith

WALTON Smith

WALTON Smith

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David May

David May

Jenny Dominici

J. Dominici

Kevin Evans

Kevin Evans

Charlotte Evans

Charlotte Evans

Dana Evans

Dana Evans

Denise Conzelmann

Denise Conzelmann

Bob Conzelmann

Bob Conzelmann

Mazie Hess

Mazie Hess

Mick Hess

Mick Hess

Cynthia Vanhorn

C. Vanhorn

David Vanhorn

David Vanhorn

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:09

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PRINT

SIGNATURE

Marilyn Otten

Marilyn Otten

DALE BARFKNECHT

Dale Barfknecht

Rickey G. Smith

Rickey G. Smith

Kirk Schneider

Kirk Schneider

ROBERT PERZINS

Robert Perzins

ADRIAN ORIZDO

Adrian Orizdo

Matt Peters

Matt Peters

William S. Saunders

William S. Saunders

Trevor Stokes

Trevor Stokes

Samuel A. Sanchez

Samuel A. Sanchez

Cheryl Lester

Cheryl Lester

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PRINT

SIGNATURE

Jamie Amaya

Jamie Amaya

Erin Barfknecht

Erin Barfknecht

Linda BARFKNECHT

Linda Barfknecht

Justine Barfknecht

Justine Barfknecht

Garrett Barfknecht

Garrett Barfknecht

Tyler Smith

Tyler Smith

Seth Coupas

Seth Coupas

Mike Coupas

Mike Coupas

Rocky Chace

Rocky Chace

Elise Chace

Elise Chace

DUANE OTTEN

Duane Otten

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*Alan Davis*

Alan Davis

*Rob W. Davis*

Rob Davis

*Sandra Wundt*

SANDRA WUNDT

*Michael Wundt*

Michael WUNDT

*B.L. Chamberlain*

B. L. Chamberlain

*Cliff RAINES*

CLIFFORD RAINES

*Carlos A. Urbegasl*

CARLOS A. URBEGAS L

*Nadine R Geisler*

Nadine R Geisler

*Gil Joseph*

GIL JOSEPH

*Donald S Sandy*

OFFICE CLERKS OFFICE

Donald S Sandy

*Christie Sandy*

OCT 26 AM 11:10

Christie Sandy

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*A. Wain*

*Smya Rogers*

*Ed Rogers*

*Mickey Land*

Mickey LAVENDER

*Michael Underwood*

*M. Underwood*

*Wilma Underwood*

*Wilma Underwood*

*Jinkie Underwood*

*Jinkie Underwood*

*Randall Underwood*

*Randall Underwood*

*Michael P. Kenson*

*Michael P. Kenson*

*Ronnie W. Ellis*

*RONNIE W. ELLIS*

*Nichol Otten*

*Nichol Otten*

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Tara Peel

Tara Peel

P.O. Box 604 Boerne TX 78006

Angelica Cervantes

Angelica Cervantes

205 Singing Wind Dr. Kerwill 78008

~~Austin Smith~~

Austin Smith

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
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2006 OCT 26 AM 11:10  
CHIEF CLERK'S OFFICE

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Michelle Berry D.O.

Michelle Berry D.O. 214 W. Bandera Boerne TX 78006

Shannon Rojas  
Shannon Rojas - 524 Thuisen Boerne TX 78006

Brandon Nation 4698 Wetz San Antonio, TX 78217

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2006 OCT 26 AM 11:10  
CHIEF CLERKS OFFICE

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OCT 24 2006

AT PUBLIC MEETING

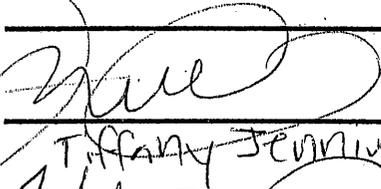
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Alfred Garza

Alfred Garza # 15 Cazneau LA Boerne TX 78006

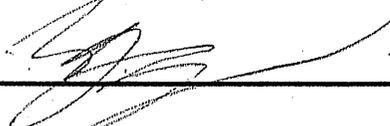
Tina Gonzales Amer Gonzales

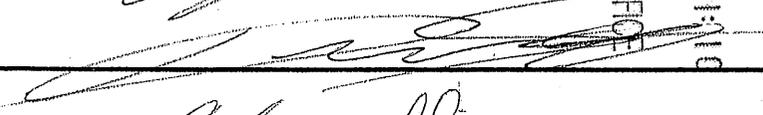
cc

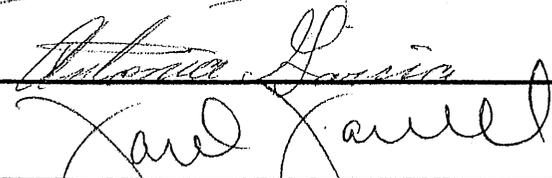
 10310 Someday Dr. Boerne TX

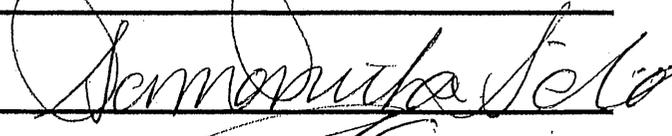
Tiffany Jennings  
 8727 Huebner Rd #316 SA TX 78240

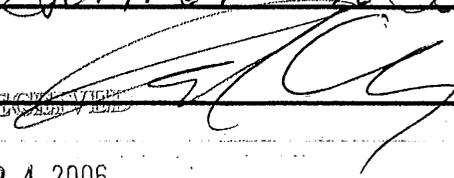
Maria Fabila  
MFabila 305 S. Plant Boerne TX

Brad Farley 

Donovan Soto 

Antonia Garcia   
JANE | JANNELL 

Samantha Sichter 

Jared Chambers 

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OCT 24 2006

AT PUBLIC MEETING

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2006 OCT 26 11:11:10  
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amy Hernandez

Amy Hernandez 125 Timber Trail Boerne 78

Jonathan Garcia Jonathan Garcia

ALLEN THOMSON Allen Thomson Boerne

Carol Tower Boerne

Dawn L. Askey Dawn L. Askey Boerne

Tommy Staton Thomas A. Staton

Eileen M Stephens Eileen M Stephens

Terri Billy Terri Billy

Kim Galbreath Kim Galbreath

Chapen Christina Lopez

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2006 OCT 26 AM 11:10  
CHIEF CLERKS OFFICE

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

10+h

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OCT 26 AM 11:05  
CHIEF CLERKS OFFICE

PLEASE PRINT:

Name: CAL CHAPMAN

Address: 301 LAKE VIEW DR & LOT 14, INDIAN SPRINGS

City/State: BIRMINGHAM TX Zip: 35206

Phone: (832) 816-3311

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

OPA RECEIVED

I wish to provide formal oral comments.

OCT 24 2006

I wish to provide formal written comments at tonight's public meeting.

AT PUBLIC MEETING

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

14  
M67

**Lerin Hills Evaluation of MUD, discharge permit app info, GBRA commitment**

**Wastewater flows**

20 hrs/day at normal flow  
 4 hrs/day at 4x normal, peak flows  
 500000 gpd  
 36 flow units per day  
 13888.89 gph average flow, 24-hr day  
 315 gpd, single home, per TCEQ rules  
 8.75 gallons per hr, average (gph), 24-hr day  
 1587.302 gph, single home, per unit

*Per 30 TAC 317.1 (b)(4)(B)*

*[Handwritten signature]*  
 10/24/06

**Wastewater plant can sustain 1587 LUE's.**

**MUD Application Information**

**OPA RECEIVED**

**2248** LUE's in MUD application  
 Metrostudy cited for rate of absorption of lots into homes -- where's the data?

**OCT 24 2006**

1475 of those LUE's from single-family residences

723 from commercial or retail or office

**AT PUBLIC MEETING**

**45 from school -- that's 45 x 315 = 14175**

**472.5 people in school/day**

**Schools with cafeterias, with gymnasiums or showers**

**30 gal/day/pers**

**from 30 TAC Chapter 290D, pg 58**

5 Lake, open space (parks implied)

**Fabra and Curington average 700 kids plus staff!**

**Fabra 658 students**

**Curington 730 students**

**Water supply is 750 acre-feet. TCEQ requires budget of 0.6 gpm per resid connection, with sufficient storage.**

750 ac-ft  
 325828.8 gal/ac-ft  
 669053 gpd 464.6201 gpm

**774.3669** single-fam residences at 0.6 gpm per connect  
**in accordance with 290.45(b)(2) -- water system capacity, surface water**

2.903017

**MUD LUE count is 290 percent higher than water supply commitment from GBRA will sustain.**

Discharge permit application with peaking (according to regs) allows for 1,587 LUE's.

**That is 205 percent greater than the water supply available.**

MUD application calls for 2,248 LUE's -- 42% higher than discharge permit, and 290% higher than water committed. If MUD app scaled back to 1912 LUE's, it's 20.5% higher than discharge permit, 247% higher than water committed.

MUD Plan -- pg 14 -- "controlling harmful excesses of water"

This is not currently true and may not become true. Drainage and storm-water control are not being done properly at present, and drainage off extreme slopes will be of great concern to residents and downstream off-property parties. MUD budget includes \$100,000 for storm-water plan work. Probably inadequate.

*[Handwritten mark]*

7+4

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

PLEASE PRINT:

Name: Mountain View at Tapatio LP, Tapatio Springs Real Estate Holdings, LLC

Address: PO-Box 5501

City/State: Boerne

Tx

Zip: 78006

Phone: (836) 537-5542

OPA RECEIVED

OCT 24 2006

Please add me to the mailing list.

AT PUBLIC MEETING

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:05

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Please give this to the person at the information table. Thank you.

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

1st

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:04

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PLEASE PRINT:

Name: Brend Evans

Address: 25 Spring Creek Rd.

City/State: Boerne TX Zip: 78006

Phone: 210 601-4559

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Cibola Conservancy

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

Handwritten initials and marks at the bottom right corner.

# Cibolo Conservancy

Protecting and Preserving Hill Country Land and Heritage

25 Spring Creek Road, Boerne, TX 78006

Phone: (830) 537-4141 Email: [brentevans@cibolo.org](mailto:brentevans@cibolo.org)

Chief Clerk TCEQ  
MC-105  
P.O. Box 13087  
Austin, TX 78711-3087

October 21, 2006

To Who It May Concern:

The Cibolo Conservancy holds conservation easements on properties, downstream from the proposed Lerin Hills development, including a large lake, immediately below from the proposed site of wastewater discharge for the development.

We at the Cibolo Conservancy are concerned about the outcome of permitting this large development which can have such significant adverse consequences as a result of its effluent discharge. Both surface and ground water may be affected. The phosphate levels and total suspended solids may be ultimately destructive to the aquatic life in the Cibolo Creek. Texas Parks and Wildlife has recently discovered a genetically pure population of the Guadalupe River Bass, Texas' state fish, in the Cibolo Creek. This is one of only a few streams that are still home to a pure strain of this species.

We would recommend that TCEQ do a more extensive study on the receiving lake to determine background nutrient levels, existing aquatic life, etc. Since much of our work has involved preserving land along creeks, rivers, and flood plains, we are very concerned that the dangers of contamination, pollution, and accidents may result in a development that is not in the public interest.

We are concerned that the phosphate levels and total suspended solids will be ultimately destructive to the aquatic life in the Cibolo Creek. Chlorine is also a real concern, being a carcinogen and fish killer if any accident happens. Recharge points into our aquifer exist just below the dam. Since this is an unmanned plant, any problem, if detected will take significant time

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:04

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

MW

to correct.

We understand that no study has been done to determine the nutrient loading that may already be taking place. The development may also dump massive amounts of potentially contaminated storm water into the lake, due to the large amount of impervious cover to be created. This will also likely be loaded with phosphates and other potential contaminants.

The most logical solution may be land application of Lerin Hills effluent, with the second best option to put it in its own lake, where the dilution potential is so much greater.

As the holder of conservation easements likely to be adversely affected by the proposed development, particularly the property of Mr. Bob Webster, the Cibolo Conservancy has a responsibility to preserve the conservation values of the easements, which we fear are in great jeopardy. We request that you rigorously investigate this proposal, and take appropriate actions prevent damage to our sensitive local environment.

Thank you,



Brent Evans, Executive Director  
Co-founder, Cibolo Nature Center  
Winner, 2006 TCEQ Environmental Excellence Award

Board of Directors

Carolyn Chipman-Evans, Anne Lambert, Jerry McFarlen, David Pipes,  
Art Wilson, Jan Wrede, Mike Morton, Bill Kennon,  
Ann Kercheville, Wade and Melinda Kilpatrick, and Bob Webster

~~2006-09-11-DJS~~

OPA

NOV 09 2006

# Cibolo Conservancy

BY Jul

Protecting and Preserving Hill Country Land and Heritage

25 Spring Creek Road, Boerne, TX 78006  
Phone: (830) 537-4141 Email: [brentevans@cibolo.org](mailto:brentevans@cibolo.org)

14712-001

Chief Clerk TCEQ  
MC-105  
P.O. Box 13087  
Austin, TX 78711-3087

*Handwritten:* 53344

October 21, 2006

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2006 OCT 21 PM 2:56  
CHIEF CLERK TCEQ

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Carolyn Chipman-Evans, Anne Lambert, Jerry McFarlen, David Pipes,  
Art Wilson, Jan Wrede, Mike Morton, Bill Kennon,  
Ann Kercheville, Wade and Melinda Kilpatrick, and Bob Webster

2nd

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. W000147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

CHIEF CLERKS OFFICE

OCT 26 AM 11:02

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PLEASE PRINT:

Name: ROD FOWLER

Address: 131 RANCH DR

City/State: BOERNE TX Zip: 78015

Phone: (210) 833-5144

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

114

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

97h

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
CHIEF CLERKS OFFICE  
2006 OCT 26 AM 11:03

PLEASE PRINT:

AT PUBLIC MEETING

Name: LEE RAY HAHNFELD <sup>Hahnfeld</sup>

Address: 306 Hwy 46 W

City/State: BECKVILLE Zip: 78006

Phone: (817) 377 1404

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

Handwritten initials and marks at the bottom right of the page.

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:03

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

PLEASE PRINT:

Name: AL AND SANDRA HAMILTON AT PUBLIC MEETING  
Address: 301 EAGLE DR  
City/State: BOERNE TX Zip: 78006  
Phone: (830) 537 6001

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments. *did not commit*  
 I wish to provide formal written comments at tonight's public meeting. *Verbally submitted*  
(Written comments may be submitted at any time during the meeting) *2 Submitted written*

Please give this to the person at the information table. Thank you.

Date  
10-24-06  
8:30 PM

Consent of Wastewater Permit  
of Lavin Hills Subdivision

As a property owner next to the Lavin Hills project  
I protest the issuance of a wastewater permit to the  
Developer for a number of reasons. These are

(1) The wastewater discharge will be directly  
upon the property of other property owners without their consent

(2) The volume of waste water is excessive.

(3) The discharge of waste water will adversely  
affect our environment

(4) The developer has the opportunity to use an  
existing public utility which is adjacent to  
the developer's property. This waste water flow  
is already approved and in operation

Therefore, it is respectfully requested that the TCEQ  
deny this developer application for a waste water  
permit -

Al Hamelto  
Property Owner  
301 Eagle Tr  
Zapata Spring  
Boerne, Texas 78006

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:03

27

6th

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:03

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PLEASE PRINT:

Name: MERVIN G. HAYNES

Address: 202 Viewpoint DR W

City/State: Boerne TX Zip: 78006

Phone: (830) 249 9752

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Ranger Creek HOA

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*[Handwritten initials]*

MWD  
53346

**RICHARD KAMMERMAN, P.C.**

7200 North Mopac, Suite 150, Austin, Texas 78731  
Tel 512-343-2424 \*\*\* Fax 512-343-6767  
Email: rkpc@austin.rr.com

November 28, 2006

VIA HAND DELIVERY  
AND FACSIMILE 239-3311

OPA  
NOV 29 2006

BY RL

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
NOV 29 PM 1:14  
CHIEF CLERKS OFFICE

Ms. LaDonna Castanuela  
Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Room 1101, Bldg. F  
Austin, TX 78753

Re: Application of Lerin Hills, Ltd. for Water Discharge Permit No. WQ0014712001

Initial Response of Lerin Hills, Ltd.

Dear Ms. Castanuela:

I represent Lerin Hills, Ltd. ("Lerin Hills"), the Applicant for Water Quality Permit No. WQ0014712001.

This is an initial response of my Client to a protest letter of Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five of which are jointly referred to herein as "Tapatio"). These companies protested the application of Lerin Hills for a discharge permit ("Application") and requested a contested hearing. Tapatio claims to be an affected person.

1. Timeliness. The protest letter of Tapatio was received by the TCEQ at 11:05 a.m. on October 26, 2006. A true and correct copy of that letter is attached as Exhibit 1. The protest letter from Tapatio was not timely. However, assuming that Tapatio timely filed a protest letter and request for a contested hearing, the following is presented.
2. No CCN for Sewer. Tapatio Springs Service Company is an investor owned utility ("IOU") that holds a CCN for sewer service (CCN No. 20698). No part of IOU's CCN for sewer includes any property owned by Lerin Hills which will be served by the treatment plant that is the subject of the Application.

MC

Office of the Chief Clerk  
 Attn: Ms. Castanuela  
 Re: Application of Lerin Hills, Ltd.  
 November 28, 2006  
 Page 2

3. IOU Permit. IOU was issued a Discharge Permit (No. 12404-001) as a renewal on April 18, 2005 which permitted a maximum 150,000 gallons per day on a 30 day average. Disposal is on a golf course owned by an affiliate of IOU. The water quality parameters are BOD and TSS at 20-20.
4. Draft Permit. The draft permit proposed by the TCEQ staff allows 500,000 gallons per day with parameters of 5 CBOD, 5 TSS, 1 ammonia nitrogen, 0.5 total phosphorus with a dissolved oxygen minimum requirement of 6 milligrams per liter and a chlorination requirement of a minimum of 1 mg/l but not greater than 4 mg/l chlorine residual after 20 minutes contact time.

These are some of the most stringent, if not the most stringent, standards of any discharge permit issued in Texas. This is tertiary treatment "plus"!

The requirements in the draft permit were developed by the TCEQ staff after modeling, analysis and review of applicable stream standards and other requirements recognizing the obligation of the TCEQ staff to preserve, maintain and protect the waters of the State of Texas. There is no scientific evidence presented to contradict the TCEQ staff recommendation in the draft permit.

The bases of the other protesting parties are fear, "not in my backyard", and/or some other extraneous reason(s) such as "we don't want any more development". The draft permit has been designed by the TCEQ staff to protect and preserve the receiving waters.

5. Regionalization. Tapatio in its protest rambles from one so-called "issue" to another using a "shotgun" approach hoping that something will hit a target. All issues which have been listed by Tapatio on page 5 of its letter miss the mark for a number of reasons including but not limited to the following:
  - a. Many of these items have been reviewed by the TCEQ staff and addressed in the draft permit;
  - b. Texas Water Code Ann. Sec. 26.0282 is not applicable in that there is no available "...existing and proposed area wide or regional waste collection, treatment and disposal systems". Clearly, Tapatio is not an area wide or regional waste collection, treatment and disposal system. It's permit is merely for 150,000 gallons per day. Section 26.0282 is not applicable in this case.

Office of the Chief Clerk  
Attn: Ms. Castanuela  
Re: Application of Lerin Hills, Ltd.  
November 28, 2006  
Page 3

- c. The "regionalization" issue raised by Tapatio is nothing more than a facade to hide the true reason for the objection by IOU and its affiliates, namely, the affiliates are in the business of selling land. Lerin Hills is adjacent to the development of the affiliates and will compete with those affiliates for customers. **Tapatio hopes to cause Lerin Hills to fail by protesting and thereafter, controlling the ability of Lerin Hills to provide wastewater service to its land. Tapatio wants to prevent competition from Lerin Hills!**

Attached as Exhibit 2 is a copy of a letter dated October 20, 2006 signed by Lynne B. Humphries, counsel for Lerin Hills MUD, addressed to the TCEQ regarding the creation of Lerin Hills MUD. Pages 8 through 14 are adopted in this letter and as part of the response of Lerin Hills.

6. Standing. The affiliates of IOU have no standing. The affiliates own land adjacent to land owned by Lerin Hills, not downstream but a far distance from the proposed plant site and discharge route.

Tapatio has no standing because it has not shown it will be adversely affected by this Application any differently from the public except in the sale of land.

There is insufficient cause to refer this Application to SOAH.

Respectfully submitted,



Richard E. Kammerman

REK/ccm

Enclosures

cc: Kathy Brown  
Blas Coy  
Patrick W. Lindner  
Trey Lary  
Lynne Humphries  
Teague Harris  
Sam Jones  
Jay Harpole  
Abel Godines

JOHN W. DAVIDSON  
 ARTHUR TROILO  
 TERRY TOPHAM  
 CHEREE TULL KINZIE  
 R. GAINES GRIFFIN  
 RICHARD E. HEITINGER  
 PATRICK W. LINDNER  
 IRWIN D. ZUCKER  
 RICHARD D. O'NEIL  
 J. MARK CRAUN

LAW OFFICES OF  
**DAVIDSON & TROILO**  
 A PROFESSIONAL CORPORATION

SAN ANTONIO  
 7550 W IH-10, SUITE 800, 78229-5815  
 210/349-6484 • FAX: 210/349-0041

LEA A. REAM  
 FRANK J. GARZA  
 JAMES C. WDD  
 RICHARD L. GROZIER  
 R. JO RESER  
 MARIA S. SANCHEZ  
 DALBY FLEMING  
 LISA M. GONZALES

AUSTIN OFFICE  
 919 CONGRESS, SUITE 810, 78701  
 512/469-6006 • FAX 512/473-2159

October 23, 2006

**Via Fax (512) 475-4994**  
 Office of the Chief Clerk MC-105  
 Texas Commission on Environmental Quality  
 P.O. Box 13087  
 Austin, TX 78711-3087

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:05

TEXAS  
 COMMISSION  
 ON ENVIRONMENTAL  
 QUALITY

RE: Lenin Hills Ltd., Application for Water Quality Permit No. WQ0014712001; Comments and Request for Contested Case Hearing submitted at public meeting on October 24, 2006

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead. Tapatio previously submitted comments and request for contested case hearing in response to the notice of application.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. However, the envelope from Applicant to these companies, sent by certified mail, contained only blank paper, not the notice of application. Tapatio asserts that Applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the Applicant certifies that mailed notice was properly given to these entities, this certification is in error.

TCEQ Chief Clerk  
Protest of Linn Hills STP  
October 23, 2006  
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Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies developed property for residential purposes within the area and, to the extent that Applicant's activities adversely affect the environment in this area, such as the quality of the surface water and groundwater, and the people, plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Some of the principals of these companies have been actively involved in developing and selling developed real estate in the area adjoining the proposed project. Based upon their experience, the Applicant's proposed build-out schedule stated in the Technical Report 1.1 (1)(b) is over zealous and in their opinion, the Applicant will not be able to meet its projected build-out schedule. The amount authorized to be discharged under the permit during the next five years is well beyond the reasonableness of the probable build-out schedule. In addition, the Applicant recently threatened to increase the density of the proposed development in retaliation for the local residents opposing the permit. Obviously, the Applicant does not know what his development plans are and further processing of the permit should be abated until the Applicant makes the necessary decisions regarding development density.

The Applicant's proposed treatment plant is intended to serve a single tract allegedly owned by the Applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant with excess capacity and located within three miles of the proposed treatment facility. The Applicant's statement in the Technical Report that Tapatio's plant is at capacity is wrong and the statement regarding a 200 foot ridge ignores the fact that the Applicant plans to use many lift stations to transport raw sewage to Applicant's proposed plant. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The Applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. Tapatio Springs Service Company has agreed to provide wastewater service to an adjoining tract of land and a SOAH administrative law judge recently issued the recommendation that Tapatio Springs Service Company's application amend its sewer CCN to

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
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include the adjoining area be approved. For this reason, among others, the Applicant has failed to use reasonable means to encourage and promote regionalization or to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the Applicant with the TCEQ relating to a petition for creation of a MUD, the Applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the Applicant has made contradictory representations, under oath, to the TCEQ. To the extent the Applicant now plans to move the location of the treatment plant, the representations made by the Applicant in the MUD creation petition are inconsistent.

The Applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the Applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by Applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the Applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The Applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-Applicant.

The Applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
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all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The Applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control. The application did not contain a geologic assessment of the receiving stream to determine whether geologic features forming conduits into the area groundwater supply.

The proposed project is located within a priority groundwater management area designated by the TCEQ. Designation was due, in part, to the potential for groundwater contamination. The proposed permit does not adequately protect the groundwater supply from contamination.

The preliminary layout for the sanitary sewer system as filed by Applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
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The Applicant refers to Centerpoint Energy's reliability of service to explain the lack of needing back-up power. Centerpoint Energy does not serve the area, so back-up generator and alarms should be required. In addition, the Applicant refers to an "auto dialer" that monitors critical plant functions. This plant is located in a rural area, many miles away from any other plant that any certified operator hired by Applicant may operate and at least one hour from San Antonio. An "auto dialer" is not sufficient safeguard against the harm that will occur from any plant upset.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

Tapatio submits that the following issues have been raised and not sufficiently addressed:

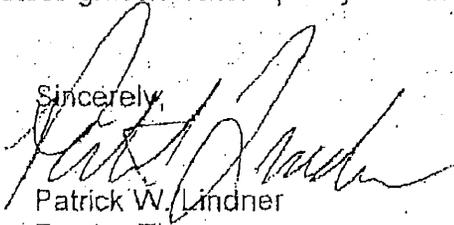
1. Whether the Applicant submitted a sufficiently complete application.
2. Whether the Applicant and the Chief Clerk complied with applicable notice requirements.
3. Whether the proposed facility and the proposed discharge will adversely impact surface water or groundwater, including drinking water and runoff issues.
4. Whether the proposed facility and discharge comply with the siting requirements in 20 TAC §309.12.
5. Whether the proposed facility will have controls and operators to prevent the discharge of improperly treated waste.
6. Whether the Applicant has used reasonable efforts to promote the policy of regionalization of wastewater service.
7. Whether the application should be denied under Texas Water Code Ann. §26.0282 based on need, including the availability of existing and proposed area wide or regional waste collection, treatment, and disposal systems.
8. Whether the proposed facility will produce nuisance odors, including whether an adequate buffer zone is proposed.

TCEQ Chief Clerk  
Protest of Lerin Hillis STP  
October 23, 2006  
Page 6 of 7

9. Whether the proposed permit is protective of the health and safety of nearby residents.
10. Whether the proposed permit will protect the use and enjoyment of property by nearby residents.
11. Whether a bond is necessary to ensure the safe operation and possible closure of the facility.
12. The Applicant's lack of experience in the operation of wastewater treatment facilities.
13. The Applicant's inconsistent answers in the application for the discharge permit and the petition to create a district.
14. The lack of the proposed facility operator being an Applicant.
15. The probable amount of wastewater that the Applicant will need to discharge from the facility during the initial five-year term of the permit.
16. Whether the discharge consistent with the proposed permit will cause a violation of the general criteria of the stream standards as set forth in 30 TAC Section 307.4, including but not limited to the aesthetic parameters, nutrients, salinity, and aquatic life uses and dissolved oxygen.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied. The information provided by the Applicant and the proposed permit is not sufficient to protect groundwater quality within this priority groundwater management area.

Sincerely,



Patrick W. Lindner  
For the Firm

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 7 of 7

PWL/re

cc: Richard Kammerman (Via U.S. Mail)  
Attorney for Lerin Hills, Ltd.  
7200 North Mopac, Ste. 150  
Austin, Texas 78731  
Jay Parker (Via U.S. Mail)  
Michael Shalit (Via U.S. Mail)

**ALLEN BOONE HUMPHRIES ROBINSON LLP**

ATTORNEYS AT LAW

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3200 SOUTHWEST FREEWAY  
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Direct Line: (713) 860-6406

Direct Fax: (713) 860-6606

lhumphries@abhllp.com

Lynne B. Humphries  
Partner

October 20, 2006

Ms. LaDonna Castanuela  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087Re: **Docket No. 2006-0969-DIS, Lerin Hills Municipal Utility District**

Dear Ladies and Gentlemen:

My firm represents Lerin Development Company, LLC, the general partner of Lerin Hills, Ltd., ("Lerin") in the creation of the proposed Lerin Hills Municipal Utility District (the "District"). On February 16, 2006, Lerin filed a petition and application for creation of the District with the Texas Commission on Environmental Quality (the "Commission"). On August 28, 2006, the Districts Review Team of the Commission's Water Supply Division issued an Interoffice Memorandum (the "Staff Memo") concluding that the District is "feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers." The Staff Memo recommends that the Commission grant the petition for creation of the District.

The Chief Clerk of the Commission has received several requests for hearing regarding Lerin's application for creation of the District. This letter constitutes Lerin's response to those requests. **Given the facts and circumstances outlined herein, the Commission should deny all requests for hearing and grant the application to create the District.**

The District is proposed to contain approximately 866.53 acres of land in Kendall County, Texas. None of the proposed District lies within the corporate limits or extraterritorial jurisdiction of any municipality. The District will provide water, wastewater and drainage facilities to serve the property within the District. None of the

October 20, 2006

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property is currently within the area of any certificate of public convenience and necessity ("CCN") for water or sewer or any other utility or district.

The creation report and other documents submitted with the application to create the District demonstrate that the project is feasible and practicable and is necessary and would be a benefit to all of the land proposed to be included in the District. The application is consistent with and meets the requirements of applicable law. The Staff Memo issued by Commission staff supports and agrees with these conclusions.

Representatives of Lerin have worked diligently to resolve all issues relating to the creation of the District. Representatives of Lerin have contacted and worked with the protesting parties. Unfortunately, Lerin has been told directly by these parties that their goal is to slow or completely stop development of Lerin's property and that few requests for hearing, other than those of Kendall County and the Cow Creek Groundwater Conservation District, will be withdrawn.

#### Kendall County -- Request Withdrawn

By letter dated May 15, 2006, the Kendall County Judge submitted a request for hearing on behalf of Kendall County (the "County"). The letter recites the following motion, passed by the County's Commissioners Court on May 8, 2006:

"It is ordered that the Commissioners Court of Kendall County, Texas to authorize the County Judge to respond to the letter from TCEQ, Texas Commission on Environmental Quality, indicating that the County does not have enough information to recommend approval or denial of the application for the creation of Lerin Hills Municipal Utility District and request a contested case hearing before TCEQ."

By letter dated September 11, 2006, the County withdrew its request for a contested hearing. A copy of this letter is attached hereto as Exhibit "A."

The County has expressed interest in a meeting to give Lerin an opportunity to explain the project and provide residents of the County an opportunity to express their concerns. Representatives of Lerin intend to work with the County to schedule an informational meeting in Kendall County to be held prior to the consideration by the Commissioners of the Commission on November 15, 2006.

October 20, 2006

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Cow Creek Groundwater Conservation District

The Operations Manager of the Cow Creek Groundwater Conservation District ("CCGCD") submitted a letter to the Commission dated May 25, 2006 (the "CCGCD Letter"). The CCGCD Letter does not constitute a request for hearing and should be considered deficient as such for a number of reasons:

1. Based upon the limited information provided in the CCGCD Letter, the CCGCD does not establish that it is an "affected party," under 30 Tex. Admin. Code Sec. 55.256(c)(1). Lerin has executed contracts to purchase wholesale surface water from the Guadalupe Blanco River Authority (the "GBRA"). If in the future the District determined to develop a groundwater supply, then the District would be required to comply with CCGCD rules and regulations just like everyone else.
2. The CCGCD Letter does not request a contested case hearing, it merely supports Kendall County's position to gather more information. Kendall County has withdrawn its request for hearing after engaging an outside engineering firm that determined there was no basis for the County to oppose the District's creation.
3. The CCGCD Letter does not identify a personal justiciable interest affected by the application and does not explain how and why the CCGCD believes it will be affected by the application in a manner not common to members of the general public. The CCGCD Letter merely recites Kendall County's reason for requesting a contested case hearing: "to receive more information in order to make a final decision concerning the proposed Lerin Hills MUD application." The CCGCD's desire to receive more information is not a justiciable interest. Wanting to receive more information is not a justiciable interest upon which to base a request for a contested case hearing. Clearly, it would be poor public policy and poor use of Commission and State Office of Administrative Hearing ("SOAH") resources to allow contested case hearings for the sole purpose of obtaining more information.

Lerin understands that the CCGCD has called a special meeting of its Board of Directors for the afternoon of Monday, October 23, 2006. Lerin understands that the purpose of the meeting will be to consider withdrawing the District's purported protest of the District.

Edgar W. Blanch, Jr.

By letter dated May 26, 2006, Edgar W. Blanch, Jr. ("Blanch") submitted a request for hearing (the "Blanch Request") through his attorney, Grady B. Jolley of Nunley Davis Jolley Cluck Aelvoet LLP.

October 20, 2006

Page 4 of 13

The Blanch Request says that the District is proposed to be located immediately adjacent to Blanch's property. The Blanch Request further says that Blanch's property has been developed into a residential subdivision. In actuality, Blanch's property is across State Highway 46 from the District and the portion of Blanch's property immediately adjacent to the highway (and therefore closest to the District) is being used for a commercial horse operation. A portion of Blanch's property has been marketed as "Diamond Ridge," a subdivision, which according to its website consists of approximately 132 large acreage tracts. Lerin believes that approximately 18 homes have been constructed or are currently being constructed in Diamond Ridge. As with the Tapatio Request (discussed below), the Blanch Request ultimately boils down to a landowner/developer attempting to prevent or delay competing residential development.

The Blanch Request should be denied for the following reasons:

1. Blanch does not establish itself as an "affected party." Merely owning land nearby to the proposed District does not afford party status. Blanch's property is across a state highway and not adjacent to the District.
2. The Blanch Request does not identify a personal justiciable interest affected by the application and does not explain how and why Blanch believes it will be affected by the application in a manner not common to members of the general public.
3. The Blanch Request asserts that the District lacks Blanch's consent to discharge wastewater onto Blanch's property. The District's discharge is planned to flow through an existing creek that crosses under State Highway 46 and then enters Blanch's property. This issue cannot form the basis of a valid protest to the creation of the District. This issue is irrelevant.
4. The Blanch Request complains that Lerin made misrepresentations about agreements between Lerin and Blanch to serve Blanch's property. These are issues (along with No. 3, above) to be determined after the District has been created. Representatives of Lerin have not offered nor agreed to serve the Blanch property. The reason is that no part of Blanch's property is proposed to be included in the District. Therefore, the creation application makes no reference to providing service to Blanch's property. Service to Blanch's property is simply not an issue with regards to the creation application. Once created, the District has the power and may enter into an agreement with Blanch for service; however, this is not foreseeable because the lots in the Double Diamond project have been marketed and sold as using septic systems and water wells.

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5. The Blanch Request raises two issues concerning the completeness of the application, both of which lack merit. In their Staff Memo, Commission staff determined that the application was complete. First, Blanch criticizes the choice of newspaper in which notice of the District creation was published. There are several newspapers in Kendall County in which such notice could legally be published. Section 49.011(b), Texas Water Code, and Section 293.12(b)(1), 30 Texas Administrative Code, require an applicant to "publish the notice issued by the Commission... in a newspaper regularly published or circulated in the county where the district is proposed to be located." Notice for the creation was published in accordance with all the requirements of the TCEQ and applicable law. Merely because Blanch does not like the newspaper in which the notice was published does not mean that the notice was not legally published. Regardless, Blanch and others obviously did receive notice of the District creation. Second, Blanch characterizes as "sham or illegal" the conveyance of land to the proposed initial directors of the District - a standard, and indeed required, practice in the creation of districts. These objections lack merit.

#### RLC Designs, Inc.

By letter dated May 26, 2006, RLC Designs, Inc. ("RLC") submitted a request for hearing (the "RLC Request") through its attorney, Grady B. Jolley of Nunley Davis Jolley Cluck Aelvoet LLP, the same attorney used by Blanch.

The RLC Request provides that RLC owns property adjacent to the property proposed to be included in the District. The RLC Request further provides that its property consists of lots in a residential subdivision held for resale and possible redevelopment. Lerin is unable to locate on the tax rolls for Kendall County any property owned by RLC in the area of the District. Nevertheless, Lerin understands that the tract of land RLC purports to own is not adjacent to the District at all; the approximately 180-acre tract owned by Blanch lies between the District and the tract purported to be owned by RLC.

What the RLC Request doesn't tell you is that RLC is owned by Robert R. and Lynn E. Broberg. Robert R. Broberg is a real estate and land development employee of Blanch. The RLC Request is merely more of the same sour grapes as the Blanch Request. Clearly, Blanch and Broberg, through RLC, are going to great lengths (at the time and expense of Lerin and the Commission) to prevent competition in residential development in Kendall County.

October 20, 2006

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The RLC Request should be denied for the following reasons:

1. RLC does not establish itself as an "affected party." As with the Blanch Request, merely purporting to own land nearby or adjacent to the proposed District does not afford party status. The land purported to be owned by RLC is not adjacent to the District.
2. The RLC Request does not identify a personal justiciable interest affected by the application and does not explain how and why RLC believes it will be affected by the application in a manner not common to members of the general public.
3. The RLC Request asserts that the District proposes to discharge wastewater through RLC's property. In verifying the list of downstream landowners, Lerin is unable to locate any property owned by RLC within one mile downstream of the proposed point of discharge. This allegation by RLC does not provide a basis, under applicable law, to deny this application.
4. The RLC Request complains that the District is not proposed to include or serve RLC's property. The District is not legally required to include or serve RLC's property. The fact that Lerin, at this time, does not want the District to include or serve RLC's property is irrelevant to this creation. As stated with reference to the Blanch Request, after the District is created, the District has the power to and may enter into an agreement to serve RLC's property.
5. The RLC Request makes the unsupported claim that other water and sewage systems are available in the area and would be efficient utility providers. Lerin thanks RLC for its unsolicited advice; however, this is simply not an issue upon which RLC can protest creation of the District. To the contrary, there are no water or sewer CCNs regarding this property. RLC's claims that other water and sewer systems are available in the area "and would be efficient utility providers" lack any substance but are merely unsupported allegations. (See discussion regarding Tapatio Springs Service Company.)
6. The RLC Request makes the claim that service to the property within the District by Tapatio Springs Utility Company would have less negative impact on RLC's property. This claim is not supported by any facts. There is no merit to this allegation. (See discussion regarding Tapatio Springs Service Company.)
7. The RLC Request raises the same two issues concerning the completeness of the application raised by the Blanch Request. In their Staff Memo, Commission staff determined that the application was complete. There is no merit to these objections. (See response to the Blanch Request.)

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Lee Roy and Joan Hahnfeld

By letter dated May 24, 2006, Lee Roy and Joan Hahnfeld (the "Hahnfelds") submitted a request for hearing (the "Hahnfeld Request"). The Hahnfeld Request provides that the Hahnfelds own property that is adjacent to and surrounded on three sides by the District.

As with the other requests, the Hahnfeld Request should be denied for the following reasons:

1. The Hahnfelds do not establish themselves as an "affected party." As with the Blanch Request and the RLC Request, merely owning or purporting to own land nearby or adjacent to the proposed District does not afford party status.
2. The Hahnfeld Request does not identify a personal justiciable interest affected by the application and does not explain how and why the Hahnfelds believe they will be affected by the application in a manner not common to members of the general public.
3. The Hahnfeld Request asserts that storm water runoff and sewer discharge from the project "will undoubtedly impact our property." This is not a legal basis on which to deny creation of a District.

William R. "Rick" Wood, P.E.

By letter dated May 25, 2006, William R. "Rick" Wood, P.E. ("Wood") submitted a request for hearing (the "Wood Request"). It is our understanding that Mr. Wood is the Hahnfelds' son-in-law. The Wood Request provides that Wood owns property that is adjacent to and downstream of the District.

As with the other requests, the Wood Request should be denied for the following reasons:

1. Wood does not establish himself as an "affected party." As with the Blanch Request, the RLC Request, and the Hahnfeld Request, merely owning or purporting to own land nearby or adjacent to the proposed District does not afford party status.
2. The Wood Request does not identify a personal justiciable interest affected by the application and does not explain how and why Wood believes he will be affected by the application in a manner not common to members of the general public.

October 20, 2006  
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3. The Wood Request asserts that the District is dependent on an unachievable land plan, impossible economics and poor stewardship of the region's natural resources. This assertion is unsupported by any facts. After careful review of Lerin's application and the detailed engineering, financial and market data included therein, Commission staff, through the Staff Memo, has concluded that the opposite is true.
4. The Wood Request further asserts, as the Hahnfelds erroneously assert, that storm water runoff and sewer discharge from the project will uniquely impact his property. This is not a legal basis on which to deny creation of a District.
5. The Wood Request claims that "massive topographic changes necessary to accommodate the proposed lot density" shown in Lerin's application will uniquely impact his property. Lerin has not proposed any topographic changes. Wood assumes that the District will fail, causing partially constructed development encumbered by liens from District bonds. These claims are not supported by any facts or reason. As previously mentioned, Commission Staff, through the Staff Memo, has concluded that the District is financially feasible. These are not legal bases on which to deny creation of a District. Mr. Wood's concerns about the impact of his property by adjacent development are not relevant in considering whether a District should provide that development with water and sewer utilities.

#### Tapatio Springs Service Company

By letter dated May 22, 2006, Tapatio Springs Service Company (the "Tapatio IOU") submitted a request for hearing (the "Tapatio Request") through its attorney, Patrick W. Lindner of the Law Offices of Davidson & Troilo, P.C. As will be shown, the Tapatio Request misstates the law and the facts and should be denied.

The Tapatio IOU is an investor owned utility ("IOU") that holds CCNs for water service (CCN No. 12122) and sewer service (CCN No. 20698). No part of the Tapatio IOU's CCNs for water or sewer include property proposed to be included in the District. The Tapatio IOU serves the residential community known as "Tapatio Springs Resort" (the "Tapatio Development"). Even though different corporate structures are used, the principal owners of the Tapatio IOU are the same as the principal owners of the Tapatio Development. Lerin's proposed development in the District will be the principal competition of the Tapatio Development. Ultimately, the Tapatio Request boils down to a landowner/developer using its status as an IOU and a CCN-holder to attempt to prevent or delay competing residential development.

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To further complicate matters, Abel Godines, the principal of Lerin has had past business dealings with the principal owners of the Tapatio IOU and the Tapatio Development. Mr. Godines paid several hundred thousand dollars to the owners of the Tapatio IOU and the Tapatio Development. Mr. Godines believed that these payments were made to acquire an ownership interest in the Tapatio Development. The principal owners of the Tapatio IOU and the Tapatio Development characterized these payments by Mr. Godines as a loan. These business dealings were so controversial that lawsuits were prepared, but eventually settled. Clearly the Tapatio Request must be viewed in light of this past relationship.

The records of the Commission will indicate that another IOU in the area, the Kendall County Utility Company, Inc. ("KCUC") is trying to amend its water CCN to include portions of the property to be included in the District. In complete disregard of the Commission requirement at the time to mail notice to all affected landowners, KCUC failed to mail notice of its CCN amendment to Lerin or the prior owner of Lerin's property. In response to Lerin's protests, the Commission instructed KCUC to mail notice to Lerin. In complete disregard of the Commission's direct request, KCUC again failed to mail notice to Lerin. In March or April, 2006, the Commission referred KCUC's application to SOAH. There was a SOAH hearing on September 12, 2006. Lerin's attorneys filed an Objection to Jurisdiction stating that KCUC never sent required notice to Lerin and the administrative law judge abated the hearing on this point and also on the issue of whether there were others who did not receive notice. The administrative law judge requested that the parties advise on this subject by November 13, 2006.

What the Tapatio Request doesn't tell you is that, according to information available from the Texas Secretary of State (see Exhibit B), the President of both the Tapatio IOU and KCUC is John J. Parker, Sr. and the Vice-President of both the Tapatio IOU and KCUC is John J. "Jay" Parker, Jr. The Tapatio IOU and KCUC are controlled by the same people! The attached newspaper article from the *Boerne Star* (see Exhibit C) further explains the relationship between the Tapatio IOU and KCUC and the ownership of Jay Parker of Michael Shalit. The Tapatio IOU and KCUC are acting in a coordinated and cooperative manner to attack Lerin. The goal of the Tapatio IOU and KCUC are simple: stop or delay competing residential development and, in the process, continuing grinding personal axes from prior disputes.

KCUC began the process of filing frivolous and unmerited applications with the TCEQ aimed at stopping the District. Tapatio is continuing that process by filing its frivolous and unmerited request for hearing.

The prior owner of Lerin's property was Jay Harpole, who is also a partner in Lerin. Mr. Harpole sought water and wastewater service by the Tapatio IOU and was denied. According to Mr. Godines, prior to Lerin's acquisition of the property, it was

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under contract by Mr. Carlo DeSanti, who after being denied service by the Tapatio IOU, did not close on the sale of the property. Also according to Mr. Godines, prior to Mr. DeSanti's contract, Dick Rathgaber tried to acquire the property, but was denied service by the Tapatio IOU. During the feasibility of Lerin's contract to purchase the property, Lerin was twice denied service by the Tapatio IOU (see discussion in paragraph 4 below).

As recently as October 11, 2006, Mr. Godines and Mr. Harpole met with Jay Parker and Michael Shalit requesting that the Tapatio IOU withdraw its request for hearing. According to Mr. Godines and Mr. Harpole, Mr. Parker and Mr. Shalit explained that they are protesting the District simply because they desire to interfere with Lerin's development because it would compete with the Tapatio Development. Mr. Parker and Mr. Shalit offered that the Tapatio IOU would withdraw its protest if Lerin would agree to give the District's effluent, for free, to the Tapatio IOU and construct a pipeline, at Lerin's expense, and give it to the Tapatio IOU for use in irrigating the Tapatio Development's golf course.

The Tapatio Request should be denied for the following reasons:

1. The Tapatio IOU does not establish itself as an "affected party."
2. The Tapatio Request does not identify a personal justiciable interest affected by the application and does not explain how and why the Tapatio IOU believes it will be affected by the application in a manner not common to members of the general public.
3. The Tapatio IOU claims to be ready, willing, and able to serve the property proposed to be included in the District. The Tapatio Request acknowledges that TCEQ approval of a CCN amendment would be required. Given the relationship between the Tapatio IOU and KCUC, the fact that the Tapatio IOU would be offering to amend its CCN to include some of the same property proposed to be included in KCUC's CCN in a pending application shows the utter disrespect that both the Tapatio IOU and KCUC have for the Commission and its processes.
4. Abel Godines approached the Tapatio IOU at least twice requesting service. The Tapatio IOU denied such requests. The Tapatio IOU tried to condition service to Lerin's property upon Lerin's constructing and giving to the Tapatio Development a major road to serve the Tapatio Development. There is no legal basis for the Tapatio IOU demanding a gift to the Tapatio Development. Lerin had no alternative but to proceed with alternate plans. Now, the Tapatio IOU makes an offer to serve at the eleventh hour. The purpose of this offer to serve is merely to create confusion and delay Lerin's development. Page 2, first full paragraph, of

October 20, 2006

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- the Tapatio Request provides that "the petitioners failed to seek service from Tapatio." This is absolutely false. On several occasions, Mr. Godines had phone conversations with Jay Parker and Michael Shalit to discuss water and wastewater service. Mr. Godines met with Messer's Parker and Shalit in the fourth quarter of 2004 and was told in no uncertain terms that they could not and would not provide either water or wastewater service to Lerin's property.
5. Regardless, such service by the Tapatio IOU is not feasible or practical. Sewage cannot gravity flow from the property proposed to be included in the District to the Tapatio IOU's wastewater treatment facilities. In order to obtain sewer service from the Tapatio IOU, sewage would need to be conveyed for approximately 1.5 miles and lifted more than 200 feet - all at considerable expense to the customers. Such a massive engineering undertaking is not practicable or advisable. Pumping raw wastewater this distance under high pressure unnecessarily increases the environmental risk of a spill. Preliminary engineering estimates are that the expense to pump sewage from the District to the Tapatio IOU system would significantly increase the costs to install and maintain the collection system. The Tapatio IOU wastewater treatment plant is old and not adequately sized to treat the District's wastewater and would require expansion; therefore, there is no cost savings to the District to utilizing the Tapatio IOU plant.
  6. The Tapatio IOU wastewater treatment plant has a reported average daily flow of about 100 mgd and is permitted for only 15 mgd. The permit for the wastewater treatment plant is a no discharge permit. From time to time in the past, the wastewater treatment plant has experienced permit excursions, the latest being in the beginning of 2006 when 26,000 gallons of sewage spilled from the plant. The attached newspaper article from the *Boerne Star* (see Exhibit C) touches on the recent concerns of several ratepayers. This also is an indication of poor management by the owners of KCUC, who also are the owners and operators of the Tapatio IOU.
  7. The Tapatio IOU does not have an adequate water supply and water distribution system to serve Lerin. The attached newspaper article from the *Boerne Star* (see Exhibit C) discusses several issues with the Tapatio IOU's attempts to deliver GBRA water to its customers.
  8. The Tapatio Request claims that the Tapatio IOU will be affected because it may be required by the Commission to provide an interconnect to the District. Surely this is not a serious concern. The District does not propose or anticipate an interconnect with the Tapatio IOU. If the Commission requires such interconnect in the future, then the Tapatio IOU should accept its responsibilities as a utility. This so-called protest is

Nov 28 2006 2:04PM

Richard Kammerman, P.C.

(512) 343-6767

p.23

October 20, 2006

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- mere speculation and cannot serve as a legal basis for denial of the application to create the District.
9. The Tapatio Request further claims that the Tapatio IOU might be forced to assume operation of the District in the event the District's plans for providing water and wastewater service prove to be unfeasible and impracticable. There is no rational or legal basis for this claim or concern. This so-called protest is mere speculation and cannot serve as a legal basis for denial of the application to create the District.
  10. The Tapatio IOU complains that Mr. Godines falsely stated a prior ownership in the Tapatio IOU and that a contested case hearing is needed to correct the record. In their own community newsletter (a copy of which is attached as Exhibit D, see top of page 2), the Tapatio Development introduced Mr. Godines as its new Partner, Chief Operating Officer and Chief Financial Officer. Regardless, whatever Mr. Godines might or might not have said about the Tapatio IOU or the Tapatio Development and whether or not such statements were accurate is irrelevant to the application for the creation of the District.
  11. As with other requests, the Tapatio Request tries to make an issue out of which newspaper in Kendall County was used to publish notice of the District's creation. As already noted, the publication of the notice was proper and met all requirements of state law and the Commission rules. The Tapatio IOU and others clearly received adequate notice.
  12. The Tapatio Request complains of alleged misstatements made by Mr. Godines about potential services provided by the GBRA. It would be premature to now make any decision about who will operate District facilities and any statements to such affect are not relevant to the application for creation of the District.
  13. The Tapatio IOU is misinformed about the existence of executed contracts with GBRA. Lerin has provided to the Commission copies of its executed contracts with GBRA to supply wholesale water to the District.
  14. Nevertheless, the Tapatio IOU believes it knows enough about Lerin's deal with GBRA to determine that water supply from GBRA is not sufficient. Lerin has demonstrated otherwise to Commission staff. The GBRA water supply is sufficient to serve 1,912 living unit equivalents ("LUEs") and the District is only proposing to serve 1,667 LUEs.
  15. The Tapatio Request purportedly raises "issues" with the wastewater discharge. Those "issues" are not relevant in this proceeding and do not and cannot form the bases of a valid protest to the creation of the District.
  16. The Tapatio Request alludes to permitting and other issues with regards to the "SCS Lake." The use of the word "lake" is a misnomer; the lake is

October 20, 2006

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- merely an impoundment. This is not relevant to the creation of the District.
17. The Tapatio IOU complains that the land use plan shows the development of certain tracts that are not included within the District. Lerin is not required by any law or rule to include all of its property in the District and this is not a complaint relevant to the creation of the District.
  18. The Tapatio Request challenges the statements in the affidavits of the proposed temporary directors that such persons own taxable property within the District. This allegation in the Tapatio Request is unsubstantiated and without any factual basis. Such affidavits are correct and the proposed temporary directors do own taxable property within the District.

\*\*\*\*\*

As has been shown in this letter, the so-called "protests" of those named herein are without merit and do not and cannot form the bases for the denial of the application for the creation of the District.

Accordingly, Lerin requests that the District be created in accordance with applicable law.

Sincerely,

  
Lynne B. Humphries

cc: Persons on Attached Mailing List

**MAILING LIST**  
**LERIN HILLS MUNICIPAL UTILITY DISTRICT**  
**DOCKET NO. 2006-0969-DIS; PERMIT NO. 02162006-D01**

FOR THE APPLICANT:

Samuel W. Jones, P.E.  
 P.O. Box 427  
 Hutto, Texas 78634-0427

Trey Lary  
 3200 Southwest Fwy., Ste. 2600  
 Houston, Texas 77027-7537

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela  
 Texas Commission on Environmental Quality  
 Office of Chief Clerk, MC-105  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
 Tel: 512-239-3300  
 Fax: 512-239-3311

FOR THE EXECUTIVE DIRECTOR:

Robert Martinez, Senior Attorney  
 Texas Commission on Environmental Quality  
 Environmental Law Division, MC-173  
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Gregory Charles, Technical Staff  
 Texas Commission on Environmental Quality  
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FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Jody Henneke, Director  
 Texas Commission on Environmental Quality  
 Office of Public Assistance, MC-108  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
 Tel: 512-239-4000  
 Fax: 512-239-4007

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney  
 Texas Commission on Environmental Quality  
 Public Interest Counsel, MC-103  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
 Tel: 512-239-6363  
 Fax: 512-239-6377

FOR ALTERNATIVE DISPUTE  
 RESOLUTION:

Mr. Kyle Lucas  
 Texas Commission on Environmental Quality  
 Alternative Dispute Resolution, MC-222  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
 Tel: 512-239-4010  
 Fax: 512-239-4015

REQUESTERS:

Joan & Lee Roy Hahnfeld  
 306 State Highway 46 W.  
 Boerne, Texas 78006-8104

Grady B. Jolley  
 Nunley, Davis, Jolley, Cluck, Aelvoet, LLP  
 1580 S. Main St., Ste. 200  
 Boerne, Texas 78006-3311

Patrick W. Lindner  
 Davidson & Troilo, P.C.  
 7550 W. IH-10, Ste. 800  
 San Antonio, Texas 78229-5803

The Honorable Eddie J. Vogt  
 Kendall County Judge  
 201 E. San Antonio, Ste. 120  
 Boerne, Texas 78006-2013

Micah Voulgaris  
 Cow Creek Groundwater Conservation District  
 216 Market Ave., Ste. 105  
 Boerne, Texas 78006-3003

William R. Wood  
 306 State Highway 46 W.  
 Boerne, Texas 78006-8104

EXHIBIT A

COUNTY OF KENDALL



EDDIE JOHN VOGT  
County Judge

Ann Reissig  
Commissioner, Precinct 1

Gene Miertschin  
Commissioner, Precinct 2

Darrel Lux  
Commissioner, Precinct 3

Russell C. Busby  
Commissioner, Precinct 4

September 11, 2006

Texas Commission on Environmental Quality  
PO Box 13087  
Austin, Texas 78711-3087  
Attention: Robert Cummins, Districts Review Team

By USPS Certified Mail

RE: Petition for creation of Lern Hills Municipal Utility District  
TCEQ Internal Control No. 02162006-D01  
CN: 602989105 - RN: 104893938

Dear Mr. Cummins:

Kendall County previously requested a contested case hearing concerning the above petition. After making that request, the County employed an engineering firm to review the proposal and prepare a report to the County. That report has now been received and the County no longer believes a contested hearing is necessary.

However, in view of the public interest in the proposed MUD, Kendall County requests that TCEQ hold a public meeting to give the applicant an opportunity to explain the project and provide residents of the County an opportunity to express their concerns.

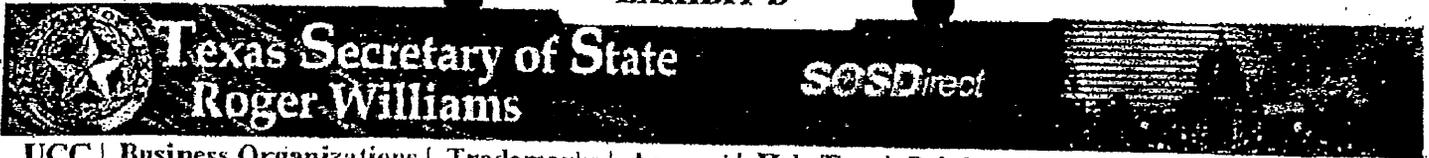
Sincerely,

*Eddie J. Vogt*  
Eddie J. Vogt  
Kendall County Judge

EJV/ceb

BUSINESS ORGANIZATIONS INQUIRY -

EXHIBIT B



[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

**Filing Number:** 62108500      **Entity Type:** Domestic For-Profit Corporation  
**Original Date of Filing:** September 3, 1982      **Entity Status:** In existence  
**Formation Date:** N/A  
**Tax ID:** 17422423867      **FEIN:**  
**Duration:** Perpetual  
**Name:** TAPATIO SPRINGS SERVICES COMPANY  
**Address:** PO BOX 550  
 BOERNE, TX 78006-0550 USA

		MANAGEMENT	
Last Update	Name	Title	Address
September 3, 1982	John J Parker Jr	VP	PO BOX 550 Boerne, TX 78006-0550 USA
September 3, 1982	John J Parker Sr	P	PO BOX 550 Boerne, TX 78006-0550 USA
September 3, 1982	John J Parker Sr	Director	PO BOX 550 Boerne, TX 78006-0550 USA

Instructions:

- To place an order for additional information about a filing press the 'Order' button.

# FAX TRANSMISSION

**RICHARD KAMMERMAN, P.C.**

7200 North Mopac, Suite 150, Austin, Texas 78731  
Tel 512-343-2424 \*\*\* Fax 512-343-6767  
Email: rkpc@austin.rr.com

**To:** LaDonna Castanuela  
Office of the Chief Clerk - MC-105  
**Fax No.:** (512) 239-3311

**Date:** November 28, 2006

**To:** Kathy Brown  
**Fax No.:** (512) 239-4007

**To:** Blas Coy  
**Fax No.:** (512) 239-6377

**To:** Patrick Lindner  
**Fax No.:** (512) 473-2159

**From:** Cyd McCool, Legal Assistant  
for Richard Kammerman

**Pages:** 28, including cover sheet.

**Subject:** Application of Lerin Hills, Ltd. for Water Discharge Permit No. WQ0014712001

Attached please find Initial Response of Lerin Hills, Ltd. to the protest letter of Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company

Should you have any questions, please do not hesitate to contact us.

Thank you.

CHIEF CLERKS OFFICE

NOV 28 PM 1:14

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

MWD  
53346

**RICHARD KAMMERMAN, P.C.**

7200 North Mopac, Suite 150, Austin, Texas 78731  
Tel 512-343-2424 \*\*\* Fax 512-343-6767  
Email: rkpc@austin.rr.com

November 28, 2006

**VIA HAND DELIVERY**  
**AND FACSIMILE 239-3311**

Ms. LaDonna Castanuela  
Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Room 1101, Bldg. F  
Austin, TX 78753

**OPA**  
**NOV 29 2006**  
BY     *ll*    

CHIEF CLERK'S OFFICE

29 NOV 29 PM 2:19

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Re: Application of Lerin Hills, Ltd. for Water Discharge Permit No. WQ0014712001

Initial Response of Lerin Hills, Ltd.

Dear Ms. Castanuela:

I represent Lerin Hills, Ltd. ("Lerin Hills"), the Applicant for Water Quality Permit No. WQ0014712001.

This is an initial response of my Client to a protest letter of Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five of which are jointly referred to herein as "Tapatio"). These companies protested the application of Lerin Hills for a discharge permit ("Application") and requested a contested hearing. Tapatio claims to be an affected person.

1. Timeliness. The protest letter of Tapatio was received by the TCEQ at 11:05 a.m. on October 26, 2006. A true and correct copy of that letter is attached as Exhibit 1. The protest letter from Tapatio was not timely. However, assuming that Tapatio timely filed a protest letter and request for a contested hearing, the following is presented.
2. No CCN for Sewer. Tapatio Springs Service Company is an investor owned utility ("IOU") that holds a CCN for sewer service (CCN No. 20698). No part of IOU's CCN for sewer includes any property owned by Lerin Hills which will be served by the treatment plant that is the subject of the Application.

*MWD*

Office of the Chief Clerk  
Attn: Ms. Castanuela  
Re: Application of Lerin Hills, Ltd.  
November 28, 2006  
Page 2

3. IOU Permit. IOU was issued a Discharge Permit (No. 12404-001) as a renewal on April 18, 2005 which permitted a maximum 150,000 gallons per day on a 30 day average. Disposal is on a golf course owned by an affiliate of IOU. The water quality parameters are BOD and TSS at 20-20.
4. Draft Permit. The draft permit proposed by the TCEQ staff allows 500,000 gallons per day with parameters of 5 CBOD, 5 TSS, 1 ammonia nitrogen, 0.5 total phosphorus with a dissolved oxygen minimum requirement of 6 milligrams per liter and a chlorination requirement of a minimum of 1 mg/l but not greater than 4 mg/l chlorine residual after 20 minutes contact time.

These are some of the most stringent, if not the most stringent, standards of any discharge permit issued in Texas. This is tertiary treatment "plus"!

The requirements in the draft permit were developed by the TCEQ staff after modeling, analysis and review of applicable stream standards and other requirements recognizing the obligation of the TCEQ staff to preserve, maintain and protect the waters of the State of Texas. There is no scientific evidence presented to contradict the TCEQ staff recommendation in the draft permit.

The bases of the other protesting parties are fear, "not in my backyard", and/or some other extraneous reason(s) such as "we don't want any more development". The draft permit has been designed by the TCEQ staff to protect and preserve the receiving waters.

5. Regionalization. Tapatio in its protest rambles from one so-called "issue" to another using a "shotgun" approach hoping that something will hit a target. All issues which have been listed by Tapatio on page 5 of its letter miss the mark for a number of reasons including but not limited to the following:
  - a. Many of these items have been reviewed by the TCEQ staff and addressed in the draft permit;
  - b. Texas Water Code Ann. Sec. 26.0282 is not applicable in that there is no available "...existing and proposed area wide or regional waste collection, treatment and disposal systems". Clearly, Tapatio is not an area wide or regional waste collection, treatment and disposal system. Its permit is merely for 150,000 gallons per day. Section 26.0282 is not applicable in this case.

Office of the Chief Clerk  
Attn: Ms. Castanuela  
Re: Application of Lerin Hills, Ltd.  
November 28, 2006  
Page 3

- c. The "regionalization" issue raised by Tapatio is nothing more than a facade to hide the true reason for the objection by IOU and its affiliates, namely, the affiliates are in the business of selling land. Lerin Hills is adjacent to the development of the affiliates and will compete with those affiliates for customers. **Tapatio hopes to cause Lerin Hills to fail by protesting and thereafter, controlling the ability of Lerin Hills to provide wastewater service to its land. Tapatio wants to prevent competition from Lerin Hills!**

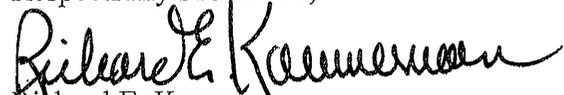
Attached as Exhibit 2 is a copy of a letter dated October 20, 2006 signed by Lynne B. Humphries, counsel for Lerin Hills MUD, addressed to the TCEQ regarding the creation of Lerin Hills MUD. Pages 8 through 14 are adopted in this letter and as part of the response of Lerin Hills.

6. Standing. The affiliates of IOU have no standing. The affiliates own land adjacent to land owned by Lerin Hills, not downstream but a far distance from the proposed plant site and discharge route.

Tapatio has no standing because it has not shown it will be adversely affected by this Application any differently from the public except in the sale of land.

There is insufficient cause to refer this Application to SOAH.

Respectfully submitted,

  
Richard E. Kammerman

REK/ccm  
Enclosures

cc: Kathy Brown  
Blas Coy  
Patrick W. Lindner  
Trey Lary  
Lynne Humphries  
Teague Harris  
Sam Jones  
Jay Harpole  
Abel Godines

JOHN W. DAVIDSON  
ARTHUR TROILO  
TERRY TOPHAM  
CHERE TULL KINZIE  
R. GAINES GRIFFIN  
RICHARD E. HETTINGER  
PATRICK W. LINDNER  
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October 23, 2006

Via Fax (512) 475-4994

Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:05

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

RE: Lerin Hills Ltd.; Application for Water Quality Permit No. WQ0014712001; Comments and Request for Contested Case Hearing submitted at public meeting on October 24, 2006

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead. Tapatio previously submitted comments and request for contested case hearing in response to the notice of application.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. However, the envelope from Applicant to these companies, sent by certified mail, contained only blank paper, not the notice of application. Tapatio asserts that Applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the Applicant certifies that mailed notice was properly given to these entities, this certification is in error.

**EXHIBIT 1**

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies developed property for residential purposes within the area and, to the extent that Applicant's activities adversely affect the environment in this area, such as the quality of the surface water and groundwater, and the people, plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Some of the principals of these companies have been actively involved in developing and selling developed real estate in the area adjoining the proposed project. Based upon their experience, the Applicant's proposed build-out schedule stated in the Technical Report 1.1 (1)(b) is over zealous and in their opinion, the Applicant will not be able to meet its projected build-out schedule. The amount authorized to be discharged under the permit during the next five years is well beyond the reasonableness of the probable build-out schedule. In addition, the Applicant recently threatened to increase the density of the proposed development in retaliation for the local residents opposing the permit. Obviously, the Applicant does not know what his development plans are and further processing of the permit should be abated until the Applicant makes the necessary decisions regarding development density.

The Applicant's proposed treatment plant is intended to serve a single tract allegedly owned by the Applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant with excess capacity and located within three miles of the proposed treatment facility. The Applicant's statement in the Technical Report that Tapatio's plant is at capacity is wrong and the statement regarding a 200 foot ridge ignores the fact that the Applicant plans to use many lift stations to transport raw sewage to Applicant's proposed plant. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The Applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. Tapatio Springs Service Company has agreed to provide wastewater service to an adjoining tract of land and a SOAH administrative law judge recently issued the recommendation that Tapatio Springs Service Company's application amend its sewer CCN to

include the adjoining area be approved. For this reason, among others, the Applicant has failed to use reasonable means to encourage and promote regionalization or to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the Applicant with the TCEQ relating to a petition for creation of a MUD, the Applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the Applicant has made contradictory representations, under oath, to the TCEQ. To the extent the Applicant now plans to move the location of the treatment plant, the representations made by the Applicant in the MUD creation petition are inconsistent.

The Applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the Applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by Applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the Applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The Applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-Applicant.

The Applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with

all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The Applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control. The application did not contain a geologic assessment of the receiving stream to determine whether geologic features forming conduits into the area groundwater supply.

The proposed project is located within a priority groundwater management area designated by the TCEQ. Designation was due, in part, to the potential for groundwater contamination. The proposed permit does not adequately protect the groundwater supply from contamination.

The preliminary layout for the sanitary sewer system as filed by Applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

The Applicant refers to Centerpoint Energy's reliability of service to explain the lack of needing back-up power. Centerpoint Energy does not serve the area, so back-up generator and alarms should be required. In addition, the Applicant refers to an "auto dialer" that monitors critical plant functions. This plant is located in a rural area, many miles away from any other plant that any certified operator hired by Applicant may operate and at least one hour from San Antonio. An "auto dialer" is not sufficient safeguard against the harm that will occur from any plant upset.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

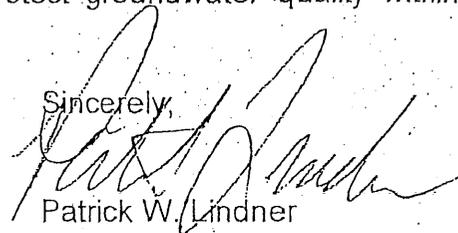
Tapatio submits that the following issues have been raised and not sufficiently addressed:

1. Whether the Applicant submitted a sufficiently complete application.
2. Whether the Applicant and the Chief Clerk complied with applicable notice requirements.
3. Whether the proposed facility and the proposed discharge will adversely impact surface water or groundwater, including drinking water and runoff issues.
4. Whether the proposed facility and discharge comply with the siting requirements in 20 TAC §309.12.
5. Whether the proposed facility will have controls and operators to prevent the discharge of improperly treated waste.
6. Whether the Applicant has used reasonable efforts to promote the policy of regionalization of wastewater service.
7. Whether the application should be denied under Texas Water Code Ann. §26.0282 based on need, including the availability of existing and proposed area wide or regional waste collection, treatment, and disposal systems.
8. Whether the proposed facility will produce nuisance odors, including whether an adequate buffer zone is proposed.

9. Whether the proposed permit is protective of the health and safety of nearby residents.
10. Whether the proposed permit will protect the use and enjoyment of property by nearby residents.
11. Whether a bond is necessary to ensure the safe operation and possible closure of the facility.
12. The Applicant's lack of experience in the operation of wastewater treatment facilities.
13. The Applicant's inconsistent answers in the application for the discharge permit and the petition to create a district.
14. The lack of the proposed facility operator being an Applicant.
15. The probable amount of wastewater that the Applicant will need to discharge from the facility during the initial five-year term of the permit.
16. Whether the discharge consistent with the proposed permit will cause a violation of the general criteria of the stream standards as set forth in 30 TAC Section 307.4, including but not limited to the aesthetic parameters, nutrients, salinity, and aquatic life uses and dissolved oxygen.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied. The information provided by the Applicant and the proposed permit is not sufficient to protect groundwater quality within this priority groundwater management area.

Sincerely,



Patrick W. Lindner  
For the Firm

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 7 of 7

PWL/re

cc: Richard Kammerman (Via U.S. Mail)  
Attorney for Lerin Hills, Ltd.  
7200 North Mopac, Ste. 150  
Austin, Texas 78731  
Jay Parker (Via U.S. Mail)  
Michael Shalit (Via U.S. Mail)

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Lynne B. Humphries  
Partner

October 20, 2006

Ms. LaDonna Castanuela  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: **Docket No. 2006-0969-DIS, Lerin Hills Municipal Utility District**

Dear Ladies and Gentlemen:

My firm represents Lerin Development Company, LLC, the general partner of Lerin Hills, Ltd., ("Lerin") in the creation of the proposed Lerin Hills Municipal Utility District (the "District"). On February 16, 2006, Lerin filed a petition and application for creation of the District with the Texas Commission on Environmental Quality (the "Commission"). On August 28, 2006, the Districts Review Team of the Commission's Water Supply Division issued an Interoffice Memorandum (the "Staff Memo") concluding that the District is "feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers." The Staff Memo recommends that the Commission grant the petition for creation of the District.

The Chief Clerk of the Commission has received several requests for hearing regarding Lerin's application for creation of the District. This letter constitutes Lerin's response to those requests. **Given the facts and circumstances outlined herein, the Commission should deny all requests for hearing and grant the application to create the District.**

The District is proposed to contain approximately 866.53 acres of land in Kendall County, Texas. None of the proposed District lies within the corporate limits or extraterritorial jurisdiction of any municipality. The District will provide water, wastewater and drainage facilities to serve the property within the District. None of the

property is currently within the area of any certificate of public convenience and necessity ("CCN") for water or sewer or any other utility or district.

The creation report and other documents submitted with the application to create the District demonstrate that the project is feasible and practicable and is necessary and would be a benefit to all of the land proposed to be included in the District. The application is consistent with and meets the requirements of applicable law. The Staff Memo issued by Commission staff supports and agrees with these conclusions.

Representatives of Lerin have worked diligently to resolve all issues relating to the creation of the District. Representatives of Lerin have contacted and worked with the protesting parties. Unfortunately, Lerin has been told directly by these parties that their goal is to slow or completely stop development of Lerin's property and that few requests for hearing, other than those of Kendall County and the Cow Creek Groundwater Conservation District, will be withdrawn.

#### Kendall County -- Request Withdrawn

By letter dated May 15, 2006, the Kendall County Judge submitted a request for hearing on behalf of Kendall County (the "County"). The letter recites the following motion, passed by the County's Commissioners Court on May 8, 2006:

"It is ordered that the Commissioners Court of Kendall County, Texas to authorize the County Judge to respond to the letter from TCEQ, Texas Commission on Environmental Quality, indicating that the County does not have enough information to recommend approval or denial of the application for the creation of Lerin Hills Municipal Utility District and request a contested case hearing before TCEQ."

By letter dated September 11, 2006, the County withdrew its request for a contested hearing. A copy of this letter is attached hereto as Exhibit "A."

The County has expressed interest in a meeting to give Lerin an opportunity to explain the project and provide residents of the County an opportunity to express their concerns. Representatives of Lerin intend to work with the County to schedule an informational meeting in Kendall County to be held prior to the consideration by the Commissioners of the Commission on November 15, 2006.

Cow Creek Groundwater Conservation District

The Operations Manager of the Cow Creek Groundwater Conservation District ("CCGCD") submitted a letter to the Commission dated May 25, 2006 (the "CCGCD Letter"). The CCGCD Letter does not constitute a request for hearing and should be considered deficient as such for a number of reasons:

1. Based upon the limited information provided in the CCGCD Letter, the CCGCD does not establish that it is an "affected party," under 30 Tex. Admin. Code Sec. 55.256(c)(1). Lerin has executed contracts to purchase wholesale surface water from the Guadalupe Blanco River Authority (the "GBRA"). If in the future the District determined to develop a groundwater supply, then the District would be required to comply with CCGCD rules and regulations just like everyone else.
2. The CCGCD Letter does not request a contested case hearing, it merely support's Kendall County's position to gather more information. Kendall County has withdrawn its request for hearing after engaging an outside engineering firm that determined there was no basis for the County to oppose the District's creation.
3. The CCGCD Letter does not identify a personal justiciable interest affected by the application and does not explain how and why the CCGCD believes it will be affected by the application in a manner not common to members of the general public. The CCGCD Letter merely recites Kendall County's reason for requesting a contested case hearing: "to receive more information in order to make a final decision concerning the proposed Lerin Hills MUD application." The CCGCD's desire to receive more information is not a justiciable interest. Wanting to receive more information is not a justiciable interest upon which to base a request for a contested case hearing. Clearly, it would be poor public policy and poor use of Commission and State Office of Administrative Hearing ("SOAH") resources to allow contested case hearings for the sole purpose of obtaining more information.

Lerin understands that the CCGCD has called a special meeting of its Board of Directors for the afternoon of Monday, October 23, 2006. Lerin understands that the purpose of the meeting will be to consider withdrawing the District's purported protest of the District.

Edgar W. Blanch, Jr.

By letter dated May 26, 2006, Edgar W. Blanch, Jr. ("Blanch") submitted a request for hearing (the "Blanch Request") through his attorney, Grady B. Jolley of Nunley Davis Jolley Cluck Aelvoet LLP.

The Blanch Request says that the District is proposed to be located immediately adjacent to Blanch's property. The Blanch Request further says that Blanch's property has been developed into a residential subdivision. In actuality, Blanch's property is across State Highway 46 from the District and the portion of Blanch's property immediately adjacent to the highway (and therefore closest to the District) is being used for a commercial horse operation. A portion of Blanch's property has been marketed as "Diamond Ridge," a subdivision, which according to its website consists of approximately 132 large acreage tracts. Lerin believes that approximately 18 homes have been constructed or are currently being constructed in Diamond Ridge. As with the Tapatio Request (discussed below), the Blanch Request ultimately boils down to a landowner/developer attempting to prevent or delay competing residential development.

The Blanch Request should be denied for the following reasons:

1. Blanch does not establish itself as an "affected party." Merely owning land nearby to the proposed District does not afford party status. Blanch's property is across a state highway and not adjacent to the District.
2. The Blanch Request does not identify a personal justiciable interest affected by the application and does not explain how and why Blanch believes it will be affected by the application in a manner not common to members of the general public.
3. The Blanch Request asserts that the District lacks Blanch's consent to discharge wastewater onto Blanch's property. The District's discharge is planned to flow through an existing creek that crosses under State Highway 46 and then enters Blanch's property. This issue cannot form the basis of a valid protest to the creation of the District. This issue is irrelevant.
4. The Blanch Request complains that Lerin made misrepresentations about agreements between Lerin and Blanch to serve Blanch's property. These are issues (along with No. 3 above) to be determined after the District has been created. Representatives of Lerin have not offered nor agreed to serve the Blanch property. The reason is that no part of Blanch's property is proposed to be included in the District. Therefore, the creation application makes no reference to providing service to Blanch's property. Service to Blanch's property is simply not an issue with regards to the creation application. Once created, the District has the power and may enter into an agreement with Blanch for service; however, this is not foreseeable because the lots in the Double Diamond project have been marketed and sold as using septic systems and water wells.



5. The Blanch Request raises two issues concerning the completeness of the application, both of which lack merit. In their Staff Memo, Commission staff determined that the application was complete. First, Blanch criticizes the choice of newspaper in which notice of the District creation was published. There are several newspapers in Kendall County in which such notice could legally be published. Section 49.011(b), Texas Water Code, and Section 293.12(b)(1), 30 Texas Administrative Code, require an applicant to "publish the notice issued by the Commission... in a newspaper regularly published or circulated in the county where the district is proposed to be located." Notice for the creation was published in accordance with all the requirements of the TCEQ and applicable law. Merely because Blanch does not like the newspaper in which the notice was published does not mean that the notice was not legally published. Regardless, Blanch and others obviously did receive notice of the District creation. Second, Blanch characterizes as "sham or illegal" the conveyance of land to the proposed initial directors of the District - a standard, and indeed required, practice in the creation of districts. These objections lack merit.

RLC Designs, Inc.

By letter dated May 26, 2006, RLC Designs, Inc. ("RLC") submitted a request for hearing (the "RLC Request") through its attorney, Grady B. Jolley of Nunley Davis Jolley Cluck Aelvoet LLP, the same attorney used by Blanch.

The RLC Request provides that RLC owns property adjacent to the property proposed to be included in the District. The RLC Request further provides that its property consists of lots in a residential subdivision held for resale and possible redevelopment. Lerin is unable to locate on the tax rolls for Kendall County any property owned by RLC in the area of the District. Nevertheless, Lerin understands that the tract of land RLC purports to own is not adjacent to the District at all; the approximately 180-acre tract owned by Blanch lies between the District and the tract purported to be owned by RLC.

What the RLC Request doesn't tell you is that RLC is owned by Robert R. and Lynn E. Broberg. Robert R. Broberg is a real estate and land development employee of Blanch. The RLC Request is merely more of the same sour grapes as the Blanch Request. Clearly, Blanch and Broberg, through RLC, are going to great lengths (at the time and expense of Lerin and the Commission) to prevent competition in residential development in Kendall County.

The RLC Request should be denied for the following reasons:

1. RLC does not establish itself as an "affected party." As with the Blanch Request, merely purporting to own land nearby or adjacent to the proposed District does not afford party status. The land purported to be owned by RLC is not adjacent to the District.
2. The RLC Request does not identify a personal justiciable interest affected by the application and does not explain how and why RLC believes it will be affected by the application in a manner not common to members of the general public.
3. The RLC Request asserts that the District proposes to discharge wastewater through RLC's property. In verifying the list of downstream landowners, Lerin is unable to locate any property owned by RLC within one mile downstream of the proposed point of discharge. This allegation by RLC does not provide a basis, under applicable law, to deny this application.
4. The RLC Request complains that the District is not proposed to include or serve RLC's property. The District is not legally required to include or serve RLC's property. The fact that Lerin, at this time, does not want the District to include or serve RLC's property is irrelevant to this creation. As stated with reference to the Blanch Request, after the District is created, the District has the power to and may enter into an agreement to serve RLC's property.
5. The RLC Request makes the unsupported claim that other water and sewage systems are available in the area and would be efficient utility providers. Lerin thanks RLC for its unsolicited advice; however, this is simply not an issue upon which RLC can protest creation of the District. To the contrary, there are no water or sewer CCNs regarding this property. RLC's claims that other water and sewer systems are available in the area "and would be efficient utility providers" lack any substance but are merely unsupported allegations. (See discussion regarding Tapatio Springs Service Company.)
6. The RLC Request makes the claim that service to the property within the District by Tapatio Springs Utility Company would have less negative impact on RLC's property. This claim is not supported by any facts. There is no merit to this allegation. (See discussion regarding Tapatio Springs Service Company.)
7. The RLC Request raises the same two issues concerning the completeness of the application raised by the Blanch Request. In their Staff Memo, Commission staff determined that the application was complete. There is no merit to these objections. (See response to the Blanch Request.)

Lee Roy and Joan Hahnfeld

By letter dated May 24, 2006, Lee Roy and Joan Hahnfeld (the "Hahnfelds") submitted a request for hearing (the "Hahnfeld Request"). The Hahnfeld Request provides that the Hahnfelds own property that is adjacent to and surrounded on three sides by the District.

As with the other requests, the Hahnfeld Request should be denied for the following reasons:

1. The Hahnfelds do not establish themselves as an "affected party." As with the Blanch Request and the RLC Request, merely owning or purporting to own land nearby or adjacent to the proposed District does not afford party status.
2. The Hahnfeld Request does not identify a personal justiciable interest affected by the application and does not explain how and why the Hahnfelds believe they will be affected by the application in a manner not common to members of the general public.
3. The Hahnfeld Request asserts that storm water runoff and sewer discharge from the project "will undoubtedly impact our property." This is not a legal basis on which to deny creation of a District.

William R. "Rick" Wood, P.E.

By letter dated May 25, 2006, William R. "Rick" Wood, P.E. ("Wood") submitted a request for hearing (the "Wood Request"). It is our understanding that Mr. Wood is the Hahnfelds' son-in-law. The Wood Request provides that Wood owns property that is adjacent to and downstream of the District.

As with the other requests, the Wood Request should be denied for the following reasons:

1. Wood does not establish himself as an "affected party." As with the Blanch Request, the RLC Request, and the Hahnfeld Request, merely owning or purporting to own land nearby or adjacent to the proposed District does not afford party status.
2. The Wood Request does not identify a personal justiciable interest affected by the application and does not explain how and why Wood believes he will be affected by the application in a manner not common to members of the general public.

3. The Wood Request asserts that the District is dependent on an unachievable land plan, impossible economics and poor stewardship of the region's natural resources. This assertion is unsupported by any facts. After careful review of Lerin's application and the detailed engineering, financial and market data included therein, Commission staff, through the Staff Memo, has concluded that the opposite is true.
4. The Wood Request further asserts, as the Hahnfelds erroneously assert, that storm water runoff and sewer discharge from the project will uniquely impact his property. This is not a legal basis on which to deny creation of a District.
5. The Wood Request claims that "massive topographic changes necessary to accommodate the proposed lot density" shown in Lerin's application will uniquely impact his property. Lerin has not proposed any topographic changes. Wood assumes that the District will fail, causing partially constructed development encumbered by liens from District bonds. These claims are not supported by any facts or reason. As previously mentioned, Commission Staff, through the Staff Memo, has concluded that the District is financially feasible. These are not legal bases on which to deny creation of a District. Mr. Wood's concerns about the impact of his property by adjacent development are not relevant in considering whether a District should provide that development with water and sewer utilities.

#### Tapatio Springs Service Company

By letter dated May 22, 2006, Tapatio Springs Service Company (the "Tapatio IOU") submitted a request for hearing (the "Tapatio Request") through its attorney, Patrick W. Lindner of the Law Offices of Davidson & Troilo, P.C. As will be shown, the Tapatio Request misstates the law and the facts and should be denied.

The Tapatio IOU is an investor owned utility ("IOU") that holds CCNs for water service (CCN No. 12122) and sewer service (CCN No. 20698). No part of the Tapatio IOU's CCNs for water or sewer include property proposed to be included in the District. The Tapatio IOU serves the residential community known as "Tapatio Springs Resort" (the "Tapatio Development"). Even though different corporate structures are used, the principal owners of the Tapatio IOU are the same as the principal owners of the Tapatio Development. Lerin's proposed development in the District will be the principal competition of the Tapatio Development. Ultimately, the Tapatio Request boils down to a landowner/developer using its status as an IOU and a CCN-holder to attempt to prevent or delay competing residential development.

To further complicate matters, Abel Godines, the principal of Lerin has had past business dealings with the principal owners of the Tapatio IOU and the Tapatio Development. Mr. Godines paid several hundred thousand dollars to the owners of the Tapatio IOU and the Tapatio Development. Mr. Godines believed that these payments were made to acquire an ownership interest in the Tapatio Development. The principal owners of the Tapatio IOU and the Tapatio Development characterized these payments by Mr. Godines as a loan. These business dealings were so controversial that lawsuits were prepared, but eventually settled. Clearly the Tapatio Request must be viewed in light of this past relationship.

The records of the Commission will indicate that another IOU in the area, the Kendall County Utility Company, Inc. ("KCUC") is trying to amend its water CCN to include portions of the property to be included in the District. In complete disregard of the Commission requirement at the time to mail notice to all affected landowners, KCUC failed to mail notice of its CCN amendment to Lerin or the prior owner of Lerin's property. In response to Lerin's protests, the Commission instructed KCUC to mail notice to Lerin. In complete disregard of the Commission's direct request, KCUC again failed to mail notice to Lerin. In March or April, 2006, the Commission referred KCUC's application to SOAH. There was a SOAH hearing on September 12, 2006. Lerin's attorneys filed an Objection to Jurisdiction stating that KCUC never sent required notice to Lerin and the administrative law judge abated the hearing on this point and also on the issue of whether there were others who did not receive notice. The administrative law judge requested that the parties advise on this subject by November 13, 2006.

What the Tapatio Request doesn't tell you is that, according to information available from the Texas Secretary of State (see **Exhibit B**), the President of both the Tapatio IOU and KCUC is John J. Parker, Sr. and the Vice-President of both the Tapatio IOU and KCUC is John J. "Jay" Parker, Jr. The Tapatio IOU and KCUC are controlled by the same people! The attached newspaper article from the *Boerne Star* (see **Exhibit C**) further explains the relationship between the Tapatio IOU and KCUC and the ownership of Jay Parker of Michael Shalit. The Tapatio IOU and KCUC are acting in a coordinated and cooperative manner to attack Lerin. **The goal of the Tapatio IOU and KCUC are simple: stop or delay competing residential development and, in the process, continuing grinding personal axes from prior disputes.**

KCUC began the process of filing frivolous and unmerited applications with the TCEQ aimed at stopping the District. Tapatio is continuing that process by filing its frivolous and unmerited request for hearing.

The prior owner of Lerin's property was Jay Harpole, who is also a partner in Lerin. Mr. Harpole sought water and wastewater service by the Tapatio IOU and was denied. According to Mr. Godines, prior to Lerin's acquisition of the property, it was

under contract by Mr. Carlo DeSanti, who after being denied service by the Tapatio IOU, did not close on the sale of the property. Also according to Mr. Godines, prior to Mr. DeSanti's contract, Dick Rathgaber tried to acquire the property, but was denied service by the Tapatio IOU. During the feasibility of Lerin's contract to purchase the property, Lerin was twice denied service by the Tapatio IOU (see discussion in paragraph 4 below).

As recently as October 11, 2006, Mr. Godines and Mr. Harpole met with Jay Parker and Michael Shalit requesting that the Tapatio IOU withdraw its request for hearing. According to Mr. Godines and Mr. Harpole, Mr. Parker and Mr. Shalit explained that they are protesting the District simply because they desire to interfere with Lerin's development because it would compete with the Tapatio Development. Mr. Parker and Mr. Shalit offered that the Tapatio IOU would withdraw its protest if Lerin would agree to give the District's effluent, for free, to the Tapatio IOU and construct a pipeline, at Lerin's expense, and give it to the Tapatio IOU for use in irrigating the Tapatio Development's golf course.

The Tapatio Request should be denied for the following reasons:

1. The Tapatio IOU does not establish itself as an "affected party."
2. The Tapatio Request does not identify a personal justiciable interest affected by the application and does not explain how and why the Tapatio IOU believes it will be affected by the application in a manner not common to members of the general public.
3. The Tapatio IOU claims to be ready, willing, and able to serve the property proposed to be included in the District. The Tapatio Request acknowledges that TCEQ approval of a CCN amendment would be required. Given the relationship between the Tapatio IOU and KCUC, the fact that the Tapatio IOU would be offering to amend its CCN to include some of the same property proposed to be included in KCUC's CCN in a pending application shows the utter disrespect that both the Tapatio IOU and KCUC have for the Commission and its processes.
4. Abel Godines approached the Tapatio IOU at least twice requesting service. The Tapatio IOU denied such requests. The Tapatio IOU tried to condition service to Lerin's property upon Lerin's constructing and giving to the Tapatio Development a major road to serve the Tapatio Development. There is no legal basis for the Tapatio IOU demanding a gift to the Tapatio Development. Lerin had no alternative but to proceed with alternate plans. Now, the Tapatio IOU makes an offer to serve at the eleventh hour. The purpose of this offer to serve is merely to create confusion and delay Lerin's development. Page 2, first full paragraph, of

the Tapatio Request provides that "the petitioners failed to seek service from Tapatio." This is absolutely false. On several occasions, Mr. Godines had phone conversations with Jay Parker and Michael Shalit to discuss water and wastewater service. Mr. Godines met with Messer's Parker and Shalit in the fourth quarter of 2004 and was told in no uncertain terms that they could not and would not provide either water or wastewater service to Lerin's property.

5. Regardless, such service by the Tapatio IOU is not feasible or practical. Sewage cannot gravity flow from the property proposed to be included in the District to the Tapatio IOU's wastewater treatment facilities. In order to obtain sewer service from the Tapatio IOU, sewage would need to be conveyed for approximately 1.5 miles and lifted more than 200 feet - all at considerable expense to the customers. Such a massive engineering undertaking is not practicable or advisable. Pumping raw wastewater this distance under high pressure unnecessarily increases the environmental risk of a spill. Preliminary engineering estimates are that the expense to pump sewage from the District to the Tapatio IOU system would significantly increase the costs to install and maintain the collection system. The Tapatio IOU wastewater treatment plant is old and not adequately sized to treat the District's wastewater and would require expansion; therefore, there is no cost savings to the District to utilizing the Tapatio IOU plant.
6. The Tapatio IOU wastewater treatment plant has a reported average daily flow of about .100 mgd and is permitted for only .15 mgd. The permit for the wastewater treatment plant is a no discharge permit. From time to time in the past, the wastewater treatment plant has experienced permit excursions, the latest being in the beginning of 2006 when 26,000 gallons of sewage spilled from the plant. The attached newspaper article from the *Boerne Star* (see Exhibit C) touches on the recent concerns of several ratepayers. This also is an indication of poor management by the owners of KCUC, who also are the owners and operators of the Tapatio IOU.
7. The Tapatio IOU does not have an adequate water supply and water distribution system to serve Lerin. The attached newspaper article from the *Boerne Star* (see Exhibit C) discusses several issues with the Tapatio IOU's attempts to deliver GBRA water to its customers.
8. The Tapatio Request claims that the Tapatio IOU will be affected because it may be required by the Commission to provide an interconnect to the District. Surely this is not a serious concern. The District does not propose or anticipate an interconnect with the Tapatio IOU. If the Commission requires such interconnect in the future, then the Tapatio IOU should accept its responsibilities as a utility. This so-called protest is

- mere speculation and cannot serve as a legal basis for denial of the application to create the District.
9. The Tapatio Request further claims that the Tapatio IOU might be forced to assume operation of the District in the event the District's plans for providing water and wastewater service prove to be unfeasible and impracticable. There is no rational or legal basis for this claim or concern. This so-called protest is mere speculation and cannot serve as a legal basis for denial of the application to create the District.
  10. The Tapatio IOU complains that Mr. Godines falsely stated a prior ownership in the Tapatio IOU and that a contested case hearing is needed to correct the record. In their own community newsletter (a copy of which is attached as Exhibit D, see top of page 2), the Tapatio Development introduced Mr. Godines as its new Partner, Chief Operating Officer and Chief Financial Officer. Regardless, whatever Mr. Godines might or might not have said about the Tapatio IOU or the Tapatio Development and whether or not such statements were accurate is irrelevant to the application for the creation of the District.
  11. As with other requests, the Tapatio Request tries to make an issue out of which newspaper in Kendall County was used to publish notice of the District's creation. As already noted, the publication of the notice was proper and met all requirements of state law and the Commission rules. The Tapatio IOU and others clearly received adequate notice.
  12. The Tapatio Request complains of alleged misstatements made by Mr. Godines about potential services provided by the GBRA. It would be premature to now make any decision about who will operate District facilities and any statements to such affect are not relevant to the application for creation of the District.
  13. The Tapatio IOU is misinformed about the existence of executed contracts with GBRA. Lerin has provided to the Commission copies of its executed contracts with GBRA to supply wholesale water to the District.
  14. Nevertheless, the Tapatio IOU believes it knows enough about Lerin's deal with GBRA to determine that water supply from GBRA is not sufficient. Lerin has demonstrated otherwise to Commission staff. The GBRA water supply is sufficient to serve 1,912 living unit equivalents ("LUEs") and the District is only proposing to serve 1,667 LUEs.
  15. The Tapatio Request purportedly raises "issues" with the wastewater discharge. Those "issues" are not relevant in this proceeding and do not and cannot form the bases of a valid protest to the creation of the District.
  16. The Tapatio Request alludes to permitting and other issues with regards to the "SCS Lake." The use of the word "lake" is a misnomer; the lake is

merely an impoundment. This is not relevant to the creation of the District.

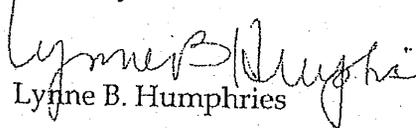
17. The Tapatio IOU complains that the land use plan shows the development of certain tracts that are not included within the District. Lerin is not required by any law or rule to include all of its property in the District and this is not a complaint relevant to the creation of the District.
18. The Tapatio Request challenges the statements in the affidavits of the proposed temporary directors that such persons own taxable property within the District. This allegation in the Tapatio Request is unsubstantiated and without any factual basis. Such affidavits are correct and the proposed temporary directors do own taxable property within the District.

\*\*\*\*\*

As has been shown in this letter, the so-called "protests" of those named herein are without merit and do not and cannot form the bases for the denial of the application for the creation of the District.

Accordingly, Lerin requests that the District be created in accordance with applicable law.

Sincerely,

  
Lynne B. Humphries

cc: Persons on Attached Mailing List

**MAILING LIST**  
**LERIN HILLS MUNICIPAL UTILITY DISTRICT**  
**DOCKET NO. 2006-0969-DIS; PERMIT NO. 02162006-D01**

FOR THE APPLICANT:

Samuel W. Jones, P.E.  
P.O. Box 427  
Hutto, Texas 78634-0427

Trey Lary  
3200 Southwest Fwy., Ste. 2600  
Houston, Texas 77027-7537

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela  
Texas Commission on Environmental Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512-239-3300  
Fax: 512-239-3311

FOR THE EXECUTIVE DIRECTOR:

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Texas Commission on Environmental Quality  
Environmental Law Division, MC-173  
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Texas Commission on Environmental Quality  
Water Supply Division, MC-152  
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FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Jody Henneke, Director  
Texas Commission on Environmental Quality  
Office of Public Assistance, MC-108  
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FOR PUBLIC INTEREST COUNSEL:

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Austin, Texas 78711-3087  
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Fax: 512-239-6377

FOR ALTERNATIVE DISPUTE  
RESOLUTION:

Mr. Kyle Lucas  
Texas Commission on Environmental Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711-3087  
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Fax: 512-239-4015

REQUESTERS:

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306 State Highway 46 W.  
Boerne, Texas 78006-8104

Grady B. Jolley  
Nunley, Davis, Jolley, Cluck, Aelvoet, LLP  
1580 S. Main St., Ste. 200  
Boerne, Texas 78006-3311

Patrick W. Lindner  
Davidson & Troilo, P.C.  
7550 W. IH-10, Ste. 800  
San Antonio, Texas 78229-5803

The Honorable Eddie J. Vogt  
Kendall County Judge  
201 E. San Antonio, Ste. 120  
Boerne, Texas 78006-2013

Micah Voulgaris  
Cow Creek Groundwater Conservation District  
216 Market Ave., Ste. 105  
Boerne, Texas 78006-3003

William R. Wood  
306 State Highway 46 W.  
Boerne, Texas 78006-8104

EXHIBIT A

# COUNTY OF KENDALL



**EDDIE JOHN VOGT**

*County Judge*

**Ann Reissig**  
*Commissioner, Precinct 1*

**Gene Miertschin**  
*Commissioner, Precinct 2*

**Darrel Lux**  
*Commissioner, Precinct 3*

**Russell C. Busby**  
*Commissioner, Precinct 4*

September 11, 2006

Texas Commission on Environmental Quality

PO Box 13087

Austin, Texas 78711-3087

Attention: Robert Cummins, Districts Review Team

RE: Petition for creation of Lerin Hills Municipal Utility District

TCEQ Internal Control No. 02162006-D01

CN: 602989105 - RN: 104893938

*By USPS certified mail*

Dear Mr. Cummins:

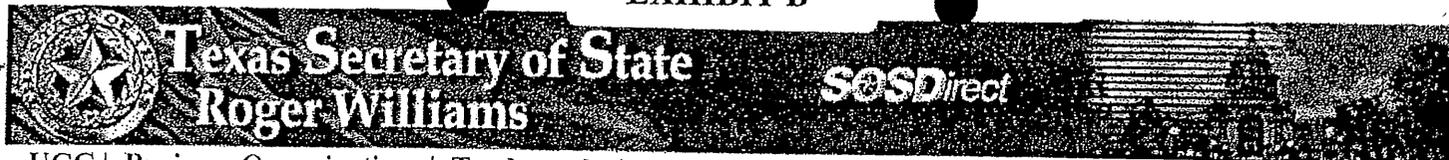
Kendall County previously requested a contested case hearing concerning the above petition. After making that request, the County employed an engineering firm to review the proposal and prepare a report to the County. That report has now been received and the County no longer believes a contested hearing is necessary.

However, in view of the public interest in the proposed MUD, Kendall County requests that TCEQ hold a public meeting to give the applicant an opportunity to explain the project and provide residents of the County an opportunity to express their concerns.

Sincerely,

Eddie J. Vogt  
Kendall County Judge

EJV/ceb



[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

**BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY**

**Filing Number:** 62108500      **Entity Type:** Domestic For-Profit Corporation

**Original Date of Filing:** September 3, 1982      **Entity Status:** In existence

**Formation Date:** N/A

**Tax ID:** 17422423867      **FEIN:**

**Duration:** Perpetual

**Name:** TAPATIO SPRINGS SERVICES COMPANY

**Address:** PO BOX 550  
BOERNE, TX 78006-0550 USA

REGISTERED AGENT	CHANGING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
<b>Last Update</b>	<b>Name</b>	<b>Title</b>	<b>Address</b>		
September 3, 1982	John J Parker Jr	VP	PO BOX 550 Boerne, TX 78006-0550 USA		
September 3, 1982	John J Parker Sr	P	PO BOX 550 Boerne, TX 78006-0550 USA		
September 3, 1982	John J Parker Sr	Director	PO BOX 550 Boerne, TX 78006-0550 USA		

**Instructions:**

- To place an order for additional information about a filing press the 'Order' button.

MWD  
53346

**RICHARD KAMMERMAN, P.C.**

7200 North Mopac, Suite 150, Austin, Texas 78731  
Tel 512-343-2424 \*\*\* Fax 512-343-6767  
Email: rkpc@austin.rr.com

November 28, 2006

**VIA HAND DELIVERY  
AND FACSIMILE 239-3311**

OPA  
NOV 29 2006  
BY *[Signature]*

CHIEF CLERK'S OFFICE  
NOV 29 11 25 AM '06  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Ms. LaDonna Castanuela  
Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Room 1101, Bldg. F  
Austin, TX 78753

Re: Application of Lerin Hills, Ltd. for Water Discharge Permit No. WQ0014712001

Initial Response of Lerin Hills, Ltd.

Dear Ms. Castanuela:

I represent Lerin Hills, Ltd. ("Lerin Hills"), the Applicant for Water Quality Permit No. WQ0014712001.

This is an initial response of my Client to a protest letter of Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five of which are jointly referred to herein as "Tapatio"). These companies protested the application of Lerin Hills for a discharge permit ("Application") and requested a contested hearing. Tapatio claims to be an affected person.

1. Timeliness. The protest letter of Tapatio was received by the TCEQ at 11:05 a.m. on October 26, 2006. A true and correct copy of that letter is attached as Exhibit 1. The protest letter from Tapatio was not timely. However, assuming that Tapatio timely filed a protest letter and request for a contested hearing, the following is presented.
2. No CCN for Sewer. Tapatio Springs Service Company is an investor owned utility ("IOU") that holds a CCN for sewer service (CCN No. 20698). No part of IOU's CCN for sewer includes any property owned by Lerin Hills which will be served by the treatment plant that is the subject of the Application.

*MWD*

Office of the Chief Clerk  
Attn: Ms. Castanuela  
Re: Application of Lerin Hills, Ltd.  
November 28, 2006  
Page 2

3. IOU Permit. IOU was issued a Discharge Permit (No. 12404-001) as a renewal on April 18, 2005 which permitted a maximum 150,000 gallons per day on a 30 day average. Disposal is on a golf course owned by an affiliate of IOU. The water quality parameters are BOD and TSS at 20-20.
4. Draft Permit. The draft permit proposed by the TCEQ staff allows 500,000 gallons per day with parameters of 5 CBOD, 5 TSS, 1 ammonia nitrogen, 0.5 total phosphorus with a dissolved oxygen minimum requirement of 6 milligrams per liter and a chlorination requirement of a minimum of 1 mg/l but not greater than 4 mg/l chlorine residual after 20 minutes contact time.

These are some of the most stringent, if not the most stringent, standards of any discharge permit issued in Texas. This is tertiary treatment "plus"!

The requirements in the draft permit were developed by the TCEQ staff after modeling, analysis and review of applicable stream standards and other requirements recognizing the obligation of the TCEQ staff to preserve, maintain and protect the waters of the State of Texas. There is no scientific evidence presented to contradict the TCEQ staff recommendation in the draft permit.

The bases of the other protesting parties are fear, "not in my backyard", and/or some other extraneous reason(s) such as "we don't want any more development". The draft permit has been designed by the TCEQ staff to protect and preserve the receiving waters.

5. Regionalization. Tapatio in its protest rambles from one so-called "issue" to another using a "shotgun" approach hoping that something will hit a target. All issues which have been listed by Tapatio on page 5 of its letter miss the mark for a number of reasons including but not limited to the following:
  - a. Many of these items have been reviewed by the TCEQ staff and addressed in the draft permit;
  - b. Texas Water Code Ann. Sec. 26.0282 is not applicable in that there is no available "...existing and proposed area wide or regional waste collection, treatment and disposal systems". Clearly, Tapatio is not an area wide or regional waste collection, treatment and disposal system. It's permit is merely for 150,000 gallons per day. Section 26.0282 is not applicable in this case.

Office of the Chief Clerk  
Attn: Ms. Castanuela  
Re: Application of Lerin Hills, Ltd.  
November 28, 2006  
Page 3

- c. The "regionalization" issue raised by Tapatio is nothing more than a facade to hide the true reason for the objection by IOU and its affiliates, namely, the affiliates are in the business of selling land. Lerin Hills is adjacent to the development of the affiliates and will compete with those affiliates for customers. **Tapatio hopes to cause Lerin Hills to fail by protesting and thereafter, controlling the ability of Lerin Hills to provide wastewater service to its land. Tapatio wants to prevent competition from Lerin Hills!**

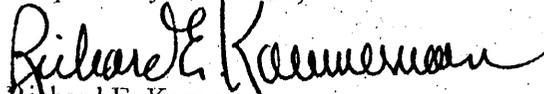
Attached as Exhibit 2 is a copy of a letter dated October 20, 2006 signed by Lynne B. Humphries, counsel for Lerin Hills MUD, addressed to the TCEQ regarding the creation of Lerin Hills MUD. Pages 8 through 14 are adopted in this letter and as part of the response of Lerin Hills.

6. Standing. The affiliates of IOU have no standing. The affiliates own land adjacent to land owned by Lerin Hills, not downstream but a far distance from the proposed plant site and discharge route.

Tapatio has no standing because it has not shown it will be adversely affected by this Application any differently from the public except in the sale of land.

There is insufficient cause to refer this Application to SOAH.

Respectfully submitted,

  
Richard E. Kammerman

REK/ccm

Enclosures

cc: Kathy Brown  
Blas Coy  
Patrick W. Lindner  
Trey Lary  
Lynne Humphries  
Teague Harris  
Sam Jones  
Jay Harpole  
Abel Godines

JOHN W. DAVIDSON  
ARTHUR TROILO  
TERRY TO PHAM  
CHEREE TULL KINZIE  
R. GAINES GRIFFIN  
RICHARD E. HETTINGER  
PATRICK W. LINDNER  
IRWIN D. ZUCKER  
RICHARD D. O'NEIL  
J. MARK CRAUN

LAW OFFICES OF  
**DAVIDSON & TROILO**  
A PROFESSIONAL CORPORATION  
  
SAN ANTONIO  
7550 W IH-10, SUITE 800, 78229-5815  
210/349-6484 • FAX: 210/349-0041

LEA A. REAM  
FRANK J. GARZA  
JAMES C. WOO  
RICHARD L. CROZIER  
R. JO RESER  
MARIA S. SANCHEZ  
DALBY FLEMING  
LISA M. GONZALES

AUSTIN OFFICE  
919 CONGRESS, SUITE 910, 78701  
512/469-6006 • FAX 512/473-2159

October 23, 2006

Via Fax (512) 475-4994  
Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:05

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

RE: Lerin Hills Ltd.; Application for Water Quality Permit No. WQ0014712001; Comments and Request for Contested Case Hearing submitted at public meeting on October 24, 2006

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead. Tapatio previously submitted comments and request for contested case hearing in response to the notice of application.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. However, the envelope from Applicant to these companies, sent by certified mail, contained only blank paper, not the notice of application. Tapatio asserts that Applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the Applicant certifies that mailed notice was properly given to these entities, this certification is in error.

EXHIBIT 1

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies developed property for residential purposes within the area and, to the extent that Applicant's activities adversely affect the environment in this area, such as the quality of the surface water and groundwater, and the people, plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Some of the principals of these companies have been actively involved in developing and selling developed real estate in the area adjoining the proposed project. Based upon their experience, the Applicant's proposed build-out schedule stated in the Technical Report 1.1 (1)(b) is over zealous and in their opinion, the Applicant will not be able to meet its projected build-out schedule. The amount authorized to be discharged under the permit during the next five years is well beyond the reasonableness of the probable build-out schedule. In addition, the Applicant recently threatened to increase the density of the proposed development in retaliation for the local residents opposing the permit. Obviously, the Applicant does not know what his development plans are and further processing of the permit should be abated until the Applicant makes the necessary decisions regarding development density.

The Applicant's proposed treatment plant is intended to serve a single tract allegedly owned by the Applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant with excess capacity and located within three miles of the proposed treatment facility. The Applicant's statement in the Technical Report that Tapatio's plant is at capacity is wrong and the statement regarding a 200 foot ridge ignores the fact that the Applicant plans to use many lift stations to transport raw sewage to Applicant's proposed plant. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The Applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. Tapatio Springs Service Company has agreed to provide wastewater service to an adjoining tract of land and a SOAH administrative law judge recently issued the recommendation that Tapatio Springs Service Company's application amend its sewer CCN to

include the adjoining area be approved. For this reason, among others, the Applicant has failed to use reasonable means to encourage and promote regionalization or to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the Applicant with the TCEQ relating to a petition for creation of a MUD, the Applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the Applicant has made contradictory representations, under oath, to the TCEQ. To the extent the Applicant now plans to move the location of the treatment plant, the representations made by the Applicant in the MUD creation petition are inconsistent.

The Applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the Applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by Applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the Applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The Applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-Applicant.

The Applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with

all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The Applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control. The application did not contain a geologic assessment of the receiving stream to determine whether geologic features forming conduits into the area groundwater supply.

The proposed project is located within a priority groundwater management area designated by the TCEQ. Designation was due, in part, to the potential for groundwater contamination. The proposed permit does not adequately protect the groundwater supply from contamination.

The preliminary layout for the sanitary sewer system as filed by Applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

The Applicant refers to Centerpoint Energy's reliability of service to explain the lack of needing back-up power. Centerpoint Energy does not serve the area, so back-up generator and alarms should be required. In addition, the Applicant refers to an "auto dialer" that monitors critical plant functions. This plant is located in a rural area, many miles away from any other plant that any certified operator hired by Applicant may operate and at least one hour from San Antonio. An "auto dialer" is not sufficient safeguard against the harm that will occur from any plant upset.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

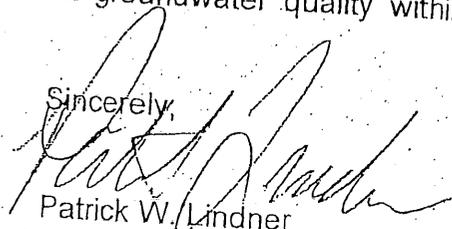
Tapatio submits that the following issues have been raised and not sufficiently addressed:

1. Whether the Applicant submitted a sufficiently complete application.
2. Whether the Applicant and the Chief Clerk complied with applicable notice requirements.
3. Whether the proposed facility and the proposed discharge will adversely impact surface water or groundwater, including drinking water and runoff issues.
4. Whether the proposed facility and discharge comply with the siting requirements in 20 TAC §309.12.
5. Whether the proposed facility will have controls and operators to prevent the discharge of improperly treated waste.
6. Whether the Applicant has used reasonable efforts to promote the policy of regionalization of wastewater service.
7. Whether the application should be denied under Texas Water Code Ann. §26.0282 based on need, including the availability of existing and proposed area wide or regional waste collection, treatment, and disposal systems.
8. Whether the proposed facility will produce nuisance odors, including whether an adequate buffer zone is proposed.

9. Whether the proposed permit is protective of the health and safety of nearby residents.
10. Whether the proposed permit will protect the use and enjoyment of property by nearby residents.
11. Whether a bond is necessary to ensure the safe operation and possible closure of the facility.
12. The Applicant's lack of experience in the operation of wastewater treatment facilities.
13. The Applicant's inconsistent answers in the application for the discharge permit and the petition to create a district.
14. The lack of the proposed facility operator being an Applicant.
15. The probable amount of wastewater that the Applicant will need to discharge from the facility during the initial five-year term of the permit.
16. Whether the discharge consistent with the proposed permit will cause a violation of the general criteria of the stream standards as set forth in 30 TAC Section 307.4, including but not limited to the aesthetic parameters, nutrients, salinity, and aquatic life uses and dissolved oxygen.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied. The information provided by the Applicant and the proposed permit is not sufficient to protect groundwater quality within this priority groundwater management area.

Sincerely,



Patrick W. Lindner  
For the Firm

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 7 of 7

PWL/re

cc: Richard Kammerman (Via U.S. Mail)  
Attorney for Lerin Hills, Ltd.  
7200 North Mopac, Ste. 150  
Austin, Texas 78731  
Jay Parker (Via U.S. Mail)  
Michael Shalit (Via U.S. Mail)

ALLEN BOONE HUMPHRIES ROBINSON LLP

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lhumphries@abhllp.com

Lynne B. Humphries  
Partner

October 20, 2006

Ms. LaDonna Castanuela  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Docket No. 2006-0969-DIS, Lerin Hills Municipal Utility District

Dear Ladies and Gentlemen:

My firm represents Lerin Development Company, LLC, the general partner of Lerin Hills, Ltd., ("Lerin") in the creation of the proposed Lerin Hills Municipal Utility District (the "District"). On February 16, 2006, Lerin filed a petition and application for creation of the District with the Texas Commission on Environmental Quality (the "Commission"). On August 28, 2006, the Districts Review Team of the Commission's Water Supply Division issued an Interoffice Memorandum (the "Staff Memo") concluding that the District is "feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers." The Staff Memo recommends that the Commission grant the petition for creation of the District.

The Chief Clerk of the Commission has received several requests for hearing regarding Lerin's application for creation of the District. This letter constitutes Lerin's response to those requests. **Given the facts and circumstances outlined herein, the Commission should deny all requests for hearing and grant the application to create the District.**

The District is proposed to contain approximately 866.53 acres of land in Kendall County, Texas. None of the proposed District lies within the corporate limits or extraterritorial jurisdiction of any municipality. The District will provide water, wastewater and drainage facilities to serve the property within the District. None of the

October 20, 2006

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property is currently within the area of any certificate of public convenience and necessity ("CCN") for water or sewer or any other utility or district.

The creation report and other documents submitted with the application to create the District demonstrate that the project is feasible and practicable and is necessary and would be a benefit to all of the land proposed to be included in the District. The application is consistent with and meets the requirements of applicable law. The Staff Memo issued by Commission staff supports and agrees with these conclusions.

Representatives of Lerin have worked diligently to resolve all issues relating to the creation of the District. Representatives of Lerin have contacted and worked with the protesting parties. Unfortunately, Lerin has been told directly by these parties that their goal is to slow or completely stop development of Lerin's property and that few requests for hearing, other than those of Kendall County and the Cow Creek Groundwater Conservation District, will be withdrawn.

#### Kendall County -- Request Withdrawn

By letter dated May 15, 2006, the Kendall County Judge submitted a request for hearing on behalf of Kendall County (the "County"). The letter recites the following motion, passed by the County's Commissioners Court on May 8, 2006:

"It is ordered that the Commissioners Court of Kendall County, Texas to authorize the County Judge to respond to the letter from TCEQ, Texas Commission on Environmental Quality, indicating that the County does not have enough information to recommend approval or denial of the application for the creation of Lerin Hills Municipal Utility District and request a contested case hearing before TCEQ."

By letter dated September 11, 2006, the County withdrew its request for a contested hearing. A copy of this letter is attached hereto as Exhibit "A."

The County has expressed interest in a meeting to give Lerin an opportunity to explain the project and provide residents of the County an opportunity to express their concerns. Representatives of Lerin intend to work with the County to schedule an informational meeting in Kendall County to be held prior to the consideration by the Commissioners of the Commission on November 15, 2006.

Cow Creek Groundwater Conservation District

The Operations Manager of the Cow Creek Groundwater Conservation District ("CCGCD") submitted a letter to the Commission dated May 25, 2006 (the "CCGCD Letter"). The CCGCD Letter does not constitute a request for hearing and should be considered deficient as such for a number of reasons:

1. Based upon the limited information provided in the CCGCD Letter, the CCGCD does not establish that it is an "affected party," under 30 Tex. Admin. Code Sec. 55.256(c)(1). Lerin has executed contracts to purchase wholesale surface water from the Guadalupe Blanco River Authority (the "GBRA"). If in the future the District determined to develop a groundwater supply, then the District would be required to comply with CCGCD rules and regulations just like everyone else.
2. The CCGCD Letter does not request a contested case hearing, it merely support's Kendall County's position to gather more information. Kendall County has withdrawn its request for hearing after engaging an outside engineering firm that determined there was no basis for the County to oppose the District's creation.
3. The CCGCD Letter does not identify a personal justiciable interest affected by the application and does not explain how and why the CCGCD believes it will be affected by the application in a manner not common to members of the general public. The CCGCD Letter merely recites Kendall County's reason for requesting a contested case hearing: "to receive more information in order to make a final decision concerning the proposed Lerin Hills MUD application." The CCGCD's desire to receive more information is not a justiciable interest. Wanting to receive more information is not a justiciable interest upon which to base a request for a contested case hearing. Clearly, it would be poor public policy and poor use of Commission and State Office of Administrative Hearing ("SOAH") resources to allow contested case hearings for the sole purpose of obtaining more information.

Lerin understands that the CCGCD has called a special meeting of its Board of Directors for the afternoon of Monday, October 23, 2006. Lerin understands that the purpose of the meeting will be to consider withdrawing the District's purported protest of the District.

Edgar W. Blanch, Jr.

By letter dated May 26, 2006, Edgar W. Blanch, Jr. ("Blanch") submitted a request for hearing (the "Blanch Request") through his attorney, Grady B. Jolley of Nunley Davis Jolley Cluck Aelvoet LLP.

The Blanch Request says that the District is proposed to be located immediately adjacent to Blanch's property. The Blanch Request further says that Blanch's property has been developed into a residential subdivision. In actuality, Blanch's property is across State Highway 46 from the District and the portion of Blanch's property immediately adjacent to the highway (and therefore closest to the District) is being used for a commercial horse operation. A portion of Blanch's property has been marketed as "Diamond Ridge," a subdivision, which according to its website consists of approximately 132 large acreage tracts. Lerin believes that approximately 18 homes have been constructed or are currently being constructed in Diamond Ridge. As with the Tapatio Request (discussed below), the Blanch Request ultimately boils down to a landowner/developer attempting to prevent or delay competing residential development.

The Blanch Request should be denied for the following reasons:

1. Blanch does not establish itself as an "affected party." Merely owning land nearby to the proposed District does not afford party status. Blanch's property is across a state highway and not adjacent to the District.
2. The Blanch Request does not identify a personal justiciable interest affected by the application and does not explain how and why Blanch believes it will be affected by the application in a manner not common to members of the general public.
3. The Blanch Request asserts that the District lacks Blanch's consent to discharge wastewater onto Blanch's property. The District's discharge is planned to flow through an existing creek that crosses under State Highway 46 and then enters Blanch's property. This issue cannot form the basis of a valid protest to the creation of the District. This issue is irrelevant.
4. The Blanch Request complains that Lerin made misrepresentations about agreements between Lerin and Blanch to serve Blanch's property. These are issues (along with No. 3 above) to be determined after the District has been created. Representatives of Lerin have not offered nor agreed to serve the Blanch property. The reason is that no part of Blanch's property is proposed to be included in the District. Therefore, the creation application makes no reference to providing service to Blanch's property. Service to Blanch's property is simply not an issue with regards to the creation application. Once created, the District has the power and may enter into an agreement with Blanch for service; however, this is not foreseeable because the lots in the Double Diamond project have been marketed and sold as using septic systems and water wells.

EXHIBIT A

COUNTY OF KENDALL



EDDIE JOHN VOGT

County Judge

Ann Reissig  
Commissioner, Precinct 1

Gene Miertschin  
Commissioner, Precinct 2

Darrel Lux  
Commissioner, Precinct 3

Russell C. Busby  
Commissioner, Precinct 4

September 11, 2006

Texas Commission on Environmental Quality  
PO Box 13087

Austin, Texas 78711-3087

Attention: Robert Cummins, Districts Review Team

RE: Petition for creation of Lerin Hills Municipal Utility District  
TCEQ Internal Control No. 02162006-D01  
CN: 602989105 - RN: 104893938

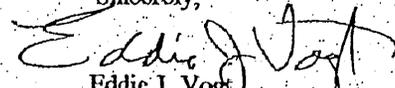
By USPS Certified Mail

Dear Mr. Cummins:

Kendall County previously requested a contested case hearing concerning the above petition. After making that request, the County employed an engineering firm to review the proposal and prepare a report to the County. That report has now been received and the County no longer believes a contested hearing is necessary.

However, in view of the public interest in the proposed MUD, Kendall County requests that TCEQ hold a public meeting to give the applicant an opportunity to explain the project and provide residents of the County an opportunity to express their concerns.

Sincerely,

  
Eddie J. Vogt  
Kendall County Judge

EJV/ceb



Texas Secretary of State  
Roger Williams

SOSDirect



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BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number: 62108500 Entity Type: Domestic For-Profit Corporation  
Original Date of Filing: September 3, 1982 Entity Status: In existence  
Formation Date: N/A  
Tax ID: 17422423867 FEIN:  
Duration: Perpetual

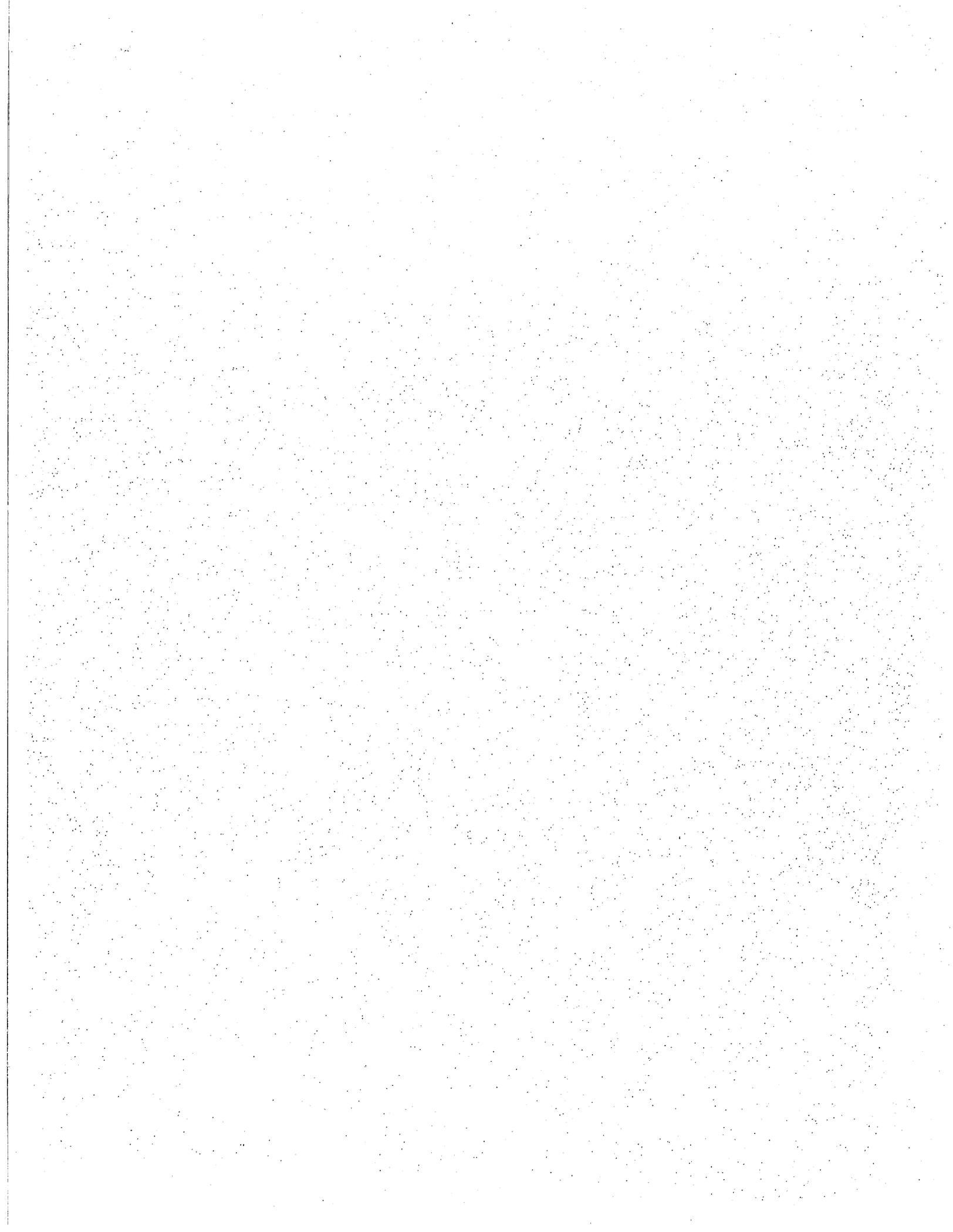
Name: TAPATIO SPRINGS SERVICES COMPANY  
Address: PO BOX 550  
BOERNE, TX 78006-0550 USA

RECORDS	AGENCY	FILED	HISTORY	FINANCIALS	MANAGEMENT	ASSOCIATES	CONTACT
---------	--------	-------	---------	------------	------------	------------	---------

Last Update	Name	Title	Address
September 3, 1982	John J Parker Jr	VP	PO BOX 550 Boerne, TX 78006-0550 USA
September 3, 1982	John J Parker Sr	P	PO BOX 550 Boerne, TX 78006-0550 USA
September 3, 1982	John J Parker Sr	Director	PO BOX 550 Boerne, TX 78006-0550 USA

Instructions:

- To place an order for additional information about a filing press the 'Order' button.



5. The Blanch Request raises two issues concerning the completeness of the application, both of which lack merit. In their Staff Memo, Commission staff determined that the application was complete. First, Blanch criticizes the choice of newspaper in which notice of the District creation was published. There are several newspapers in Kendall County in which such notice could legally be published. Section 49.011(b), Texas Water Code, and Section 293.12(b)(1), 30 Texas Administrative Code, require an applicant to "publish the notice issued by the Commission... in a newspaper regularly published or circulated in the county where the district is proposed to be located." Notice for the creation was published in accordance with all the requirements of the TCEQ and applicable law. Merely because Blanch does not like the newspaper in which the notice was published does not mean that the notice was not legally published. Regardless, Blanch and others obviously did receive notice of the District creation. Second, Blanch characterizes as "sham or illegal" the conveyance of land to the proposed initial directors of the District - a standard, and indeed required, practice in the creation of districts. These objections lack merit.

RLC Designs, Inc.

By letter dated May 26, 2006, RLC Designs, Inc. ("RLC") submitted a request for hearing (the "RLC Request") through its attorney, Grady B. Jolley of Nunley Davis Jolley Cluck Aelvoet LLP, the same attorney used by Blanch.

The RLC Request provides that RLC owns property adjacent to the property proposed to be included in the District. The RLC Request further provides that its property consists of lots in a residential subdivision held for resale and possible redevelopment. Lerin is unable to locate on the tax rolls for Kendall County any property owned by RLC in the area of the District. Nevertheless, Lerin understands that the tract of land RLC purports to own is not adjacent to the District at all; the approximately 180-acre tract owned by Blanch lies between the District and the tract purported to be owned by RLC.

What the RLC Request doesn't tell you is that RLC is owned by Robert R. and Lynn E. Broberg. Robert R. Broberg is a real estate and land development employee of Blanch. The RLC Request is merely more of the same sour grapes as the Blanch Request. Clearly, Blanch and Broberg, through RLC, are going to great lengths (at the time and expense of Lerin and the Commission) to prevent competition in residential development in Kendall County.

The RLC Request should be denied for the following reasons:

1. RLC does not establish itself as an "affected party." As with the Blanch Request, merely purporting to own land nearby or adjacent to the proposed District does not afford party status. The land purported to be owned by RLC is not adjacent to the District.
2. The RLC Request does not identify a personal justiciable interest affected by the application and does not explain how and why RLC believes it will be affected by the application in a manner not common to members of the general public.
3. The RLC Request asserts that the District proposes to discharge wastewater through RLC's property. In verifying the list of downstream landowners, Lerin is unable to locate any property owned by RLC within one mile downstream of the proposed point of discharge. This allegation by RLC does not provide a basis, under applicable law, to deny this application.
4. The RLC Request complains that the District is not proposed to include or serve RLC's property. The District is not legally required to include or serve RLC's property. The fact that Lerin, at this time, does not want the District to include or serve RLC's property is irrelevant to this creation. As stated with reference to the Blanch Request, after the District is created, the District has the power to and may enter into an agreement to serve RLC's property.
5. The RLC Request makes the unsupported claim that other water and sewage systems are available in the area and would be efficient utility providers. Lerin thanks RLC for its unsolicited advice; however, this is simply not an issue upon which RLC can protest creation of the District. To the contrary, there are no water or sewer CCNs regarding this property. RLC's claims that other water and sewer systems are available in the area "and would be efficient utility providers" lack any substance but are merely unsupported allegations. (See discussion regarding Tapatio Springs Service Company.)
6. The RLC Request makes the claim that service to the property within the District by Tapatio Springs Utility Company would have less negative impact on RLC's property. This claim is not supported by any facts. There is no merit to this allegation. (See discussion regarding Tapatio Springs Service Company.)
7. The RLC Request raises the same two issues concerning the completeness of the application raised by the Blanch Request. In their Staff Memo, Commission staff determined that the application was complete. There is no merit to these objections. (See response to the Blanch Request.)

October 20, 2006

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Lee Roy and Joan Hahnfeld

By letter dated May 24, 2006, Lee Roy and Joan Hahnfeld (the "Hahnfelds") submitted a request for hearing (the "Hahnfeld Request"). The Hahnfeld Request provides that the Hahnfelds own property that is adjacent to and surrounded on three sides by the District.

As with the other requests, the Hahnfeld Request should be denied for the following reasons:

1. The Hahnfelds do not establish themselves as an "affected party." As with the Blanch Request and the RLC Request, merely owning or purporting to own land nearby or adjacent to the proposed District does not afford party status.
2. The Hahnfeld Request does not identify a personal justiciable interest affected by the application and does not explain how and why the Hahnfelds believe they will be affected by the application in a manner not common to members of the general public.
3. The Hahnfeld Request asserts that storm water runoff and sewer discharge from the project "will undoubtedly impact our property." This is not a legal basis on which to deny creation of a District.

William R. "Rick" Wood, P.E.

By letter dated May 25, 2006, William R. "Rick" Wood, P.E. ("Wood") submitted a request for hearing (the "Wood Request"). It is our understanding that Mr. Wood is the Hahnfelds' son-in-law. The Wood Request provides that Wood owns property that is adjacent to and downstream of the District.

As with the other requests, the Wood Request should be denied for the following reasons:

1. Wood does not establish himself as an "affected party." As with the Blanch Request, the RLC Request, and the Hahnfeld Request, merely owning or purporting to own land nearby or adjacent to the proposed District does not afford party status.
2. The Wood Request does not identify a personal justiciable interest affected by the application and does not explain how and why Wood believes he will be affected by the application in a manner not common to members of the general public.

3. The Wood Request asserts that the District is dependent on an unachievable land plan, impossible economics and poor stewardship of the region's natural resources. This assertion is unsupported by any facts. After careful review of Lerin's application and the detailed engineering, financial and market data included therein, Commission staff, through the Staff Memo, has concluded that the opposite is true.
4. The Wood Request further asserts, as the Hahnfelds erroneously assert, that storm water runoff and sewer discharge from the project will uniquely impact his property. This is not a legal basis on which to deny creation of a District.
5. The Wood Request claims that "massive topographic changes necessary to accommodate the proposed lot density" shown in Lerin's application will uniquely impact his property. Lerin has not proposed any topographic changes. Wood assumes that the District will fail, causing partially constructed development encumbered by liens from District bonds. These claims are not supported by any facts or reason. As previously mentioned, Commission Staff, through the Staff Memo, has concluded that the District is financially feasible. These are not legal bases on which to deny creation of a District. Mr. Wood's concerns about the impact of his property by adjacent development are not relevant in considering whether a District should provide that development with water and sewer utilities.

#### Tapatio Springs Service Company

By letter dated May 22, 2006, Tapatio Springs Service Company (the "Tapatio IOU") submitted a request for hearing (the "Tapatio Request") through its attorney, Patrick W. Lindner of the Law Offices of Davidson & Troilo, P.C. As will be shown, the Tapatio Request misstates the law and the facts and should be denied.

The Tapatio IOU is an investor owned utility ("IOU") that holds CCNs for water service (CCN No. 12122) and sewer service (CCN No. 20698). No part of the Tapatio IOU's CCNs for water or sewer include property proposed to be included in the District. The Tapatio IOU serves the residential community known as "Tapatio Springs Resort" (the "Tapatio Development"). Even though different corporate structures are used, the principal owners of the Tapatio IOU are the same as the principal owners of the Tapatio Development. Lerin's proposed development in the District will be the principal competition of the Tapatio Development. Ultimately, the Tapatio Request boils down to a landowner/developer using its status as an IOU and a CCN-holder to attempt to prevent or delay competing residential development.

To further complicate matters, Abel Godines, the principal of Lerin has had past business dealings with the principal owners of the Tapatio IOU and the Tapatio Development. Mr. Godines paid several hundred thousand dollars to the owners of the Tapatio IOU and the Tapatio Development. Mr. Godines believed that these payments were made to acquire an ownership interest in the Tapatio Development. The principal owners of the Tapatio IOU and the Tapatio Development characterized these payments by Mr. Godines as a loan. These business dealings were so controversial that lawsuits were prepared, but eventually settled. Clearly the Tapatio Request must be viewed in light of this past relationship.

The records of the Commission will indicate that another IOU in the area, the Kendall County Utility Company, Inc. ("KCUC") is trying to amend its water CCN to include portions of the property to be included in the District. In complete disregard of the Commission requirement at the time to mail notice to all affected landowners, KCUC failed to mail notice of its CCN amendment to Lerin or the prior owner of Lerin's property. In response to Lerin's protests, the Commission instructed KCUC to mail notice to Lerin. In complete disregard of the Commission's direct request, KCUC again failed to mail notice to Lerin. In March or April, 2006, the Commission referred KCUC's application to SOAH. There was a SOAH hearing on September 12, 2006. Lerin's attorneys filed an Objection to Jurisdiction stating that KCUC never sent required notice to Lerin and the administrative law judge abated the hearing on this point and also on the issue of whether there were others who did not receive notice. The administrative law judge requested that the parties advise on this subject by November 13, 2006.

What the Tapatio Request doesn't tell you is that, according to information available from the Texas Secretary of State (see Exhibit B), the President of both the Tapatio IOU and KCUC is John J. Parker, Sr. and the Vice-President of both the Tapatio IOU and KCUC is John J. "Jay" Parker, Jr. The Tapatio IOU and KCUC are controlled by the same people! The attached newspaper article from the *Boerne Star* (see Exhibit C) further explains the relationship between the Tapatio IOU and KCUC and the ownership of Jay Parker of Michael Shalit. The Tapatio IOU and KCUC are acting in a coordinated and cooperative manner to attack Lerin. The goal of the Tapatio IOU and KCUC are simple: stop or delay competing residential development and, in the process, continuing grinding personal axes from prior disputes.

KCUC began the process of filing frivolous and unmerited applications with the TCEQ aimed at stopping the District. Tapatio is continuing that process by filing its frivolous and unmerited request for hearing.

The prior owner of Lerin's property was Jay Harpole, who is also a partner in Lerin. Mr. Harpole sought water and wastewater service by the Tapatio IOU and was denied. According to Mr. Godines, prior to Lerin's acquisition of the property, it was

under contract by Mr. Carlo DeSanti, who after being denied service by the Tapatio IOU, did not close on the sale of the property. Also according to Mr. Godines, prior to Mr. DeSanti's contract, Dick Rathgaber tried to acquire the property, but was denied service by the Tapatio IOU. During the feasibility of Lerin's contract to purchase the property, Lerin was twice denied service by the Tapatio IOU (see discussion in paragraph 4 below).

As recently as October 11, 2006, Mr. Godines and Mr. Harpole met with Jay Parker and Michael Shalit requesting that the Tapatio IOU withdraw its request for hearing. According to Mr. Godines and Mr. Harpole, Mr. Parker and Mr. Shalit explained that they are protesting the District simply because they desire to interfere with Lerin's development because it would compete with the Tapatio Development. Mr. Parker and Mr. Shalit offered that the Tapatio IOU would withdraw its protest if Lerin would agree to give the District's effluent, for free, to the Tapatio IOU and construct a pipeline, at Lerin's expense, and give it to the Tapatio IOU for use in irrigating the Tapatio Development's golf course.

The Tapatio Request should be denied for the following reasons:

1. The Tapatio IOU does not establish itself as an "affected party."
2. The Tapatio Request does not identify a personal justiciable interest affected by the application and does not explain how and why the Tapatio IOU believes it will be affected by the application in a manner not common to members of the general public.
3. The Tapatio IOU claims to be ready, willing, and able to serve the property proposed to be included in the District. The Tapatio Request acknowledges that TCEQ approval of a CCN amendment would be required. Given the relationship between the Tapatio IOU and KCUC, the fact that the Tapatio IOU would be offering to amend its CCN to include some of the same property proposed to be included in KCUC's CCN in a pending application shows the utter disrespect that both the Tapatio IOU and KCUC have for the Commission and its processes.
4. Abel Godines approached the Tapatio IOU at least twice requesting service. The Tapatio IOU denied such requests. The Tapatio IOU tried to condition service to Lerin's property upon Lerin's constructing and giving to the Tapatio Development a major road to serve the Tapatio Development. There is no legal basis for the Tapatio IOU demanding a gift to the Tapatio Development. Lerin had no alternative but to proceed with alternate plans. Now, the Tapatio IOU makes an offer to serve at the eleventh hour. The purpose of this offer to serve is merely to create confusion and delay Lerin's development. Page 2, first full paragraph, of

the Tapatio Request provides that "the petitioners failed to seek service from Tapatio." This is absolutely false. On several occasions, Mr. Godines had phone conversations with Jay Parker and Michael Shalit to discuss water and wastewater service. Mr. Godines met with Messer's Parker and Shalit in the fourth quarter of 2004 and was told in no uncertain terms that they could not and would not provide either water or wastewater service to Lerin's property.

5. Regardless, such service by the Tapatio IOU is not feasible or practical. Sewage cannot gravity flow from the property proposed to be included in the District to the Tapatio IOU's wastewater treatment facilities. In order to obtain sewer service from the Tapatio IOU, sewage would need to be conveyed for approximately 1.5 miles and lifted more than 200 feet - all at considerable expense to the customers. Such a massive engineering undertaking is not practicable or advisable. Pumping raw wastewater this distance under high pressure unnecessarily increases the environmental risk of a spill. Preliminary engineering estimates are that the expense to pump sewage from the District to the Tapatio IOU system would significantly increase the costs to install and maintain the collection system. The Tapatio IOU wastewater treatment plant is old and not adequately sized to treat the District's wastewater and would require expansion; therefore, there is no cost savings to the District to utilizing the Tapatio IOU plant.
6. The Tapatio IOU wastewater treatment plant has a reported average daily flow of about .100 mgd and is permitted for only .15 mgd. The permit for the wastewater treatment plant is a no discharge permit. From time to time in the past, the wastewater treatment plant has experienced permit excursions, the latest being in the beginning of 2006 when 26,000 gallons of sewage spilled from the plant. The attached newspaper article from the *Boerne Star* (see Exhibit C) touches on the recent concerns of several ratepayers. This also is an indication of poor management by the owners of KCUC, who also are the owners and operators of the Tapatio IOU.
7. The Tapatio IOU does not have an adequate water supply and water distribution system to serve Lerin. The attached newspaper article from the *Boerne Star* (see Exhibit C) discusses several issues with the Tapatio IOU's attempts to deliver GBRA water to its customers.
8. The Tapatio Request claims that the Tapatio IOU will be affected because it may be required by the Commission to provide an interconnect to the District. Surely this is not a serious concern. The District does not propose or anticipate an interconnect with the Tapatio IOU. If the Commission requires such interconnect in the future, then the Tapatio IOU should accept its responsibilities as a utility. This so-called protest is

- mere speculation and cannot serve as a legal basis for denial of the application to create the District.
9. The Tapatio Request further claims that the Tapatio IOU might be forced to assume operation of the District in the event the District's plans for providing water and wastewater service prove to be unfeasible and impracticable. There is no rational or legal basis for this claim or concern. This so-called protest is mere speculation and cannot serve as a legal basis for denial of the application to create the District.
  10. The Tapatio IOU complains that Mr. Godines falsely stated a prior ownership in the Tapatio IOU and that a contested case hearing is needed to correct the record. In their own community newsletter (a copy of which is attached as Exhibit D, see top of page 2), the Tapatio Development introduced Mr. Godines as its new Partner, Chief Operating Officer and Chief Financial Officer. Regardless, whatever Mr. Godines might or might not have said about the Tapatio IOU or the Tapatio Development and whether or not such statements were accurate is irrelevant to the application for the creation of the District.
  11. As with other requests, the Tapatio Request tries to make an issue out of which newspaper in Kendall County was used to publish notice of the District's creation. As already noted, the publication of the notice was proper and met all requirements of state law and the Commission rules. The Tapatio IOU and others clearly received adequate notice.
  12. The Tapatio Request complains of alleged misstatements made by Mr. Godines about potential services provided by the GBRA. It would be premature to now make any decision about who will operate District facilities and any statements to such affect are not relevant to the application for creation of the District.
  13. The Tapatio IOU is misinformed about the existence of executed contracts with GBRA. Lerin has provided to the Commission copies of its executed contracts with GBRA to supply wholesale water to the District.
  14. Nevertheless, the Tapatio IOU believes it knows enough about Lerin's deal with GBRA to determine that water supply from GBRA is not sufficient. Lerin has demonstrated otherwise to Commission staff. The GBRA water supply is sufficient to serve 1,912 living unit equivalents ("LUEs") and the District is only proposing to serve 1,667 LUEs.
  15. The Tapatio Request purportedly raises "issues" with the wastewater discharge. Those "issues" are not relevant in this proceeding and do not discharge. Those "issues" are not relevant in this proceeding and do not discharge. Those "issues" are not relevant in this proceeding and do not discharge. Those "issues" are not relevant in this proceeding and do not discharge.
  16. The Tapatio Request alludes to permitting and other issues with regards to the "SCS Lake." The use of the word "lake" is a misnomer; the lake is

October 20, 2006

Page 13 of 13

merely an impoundment. This is not relevant to the creation of the District.

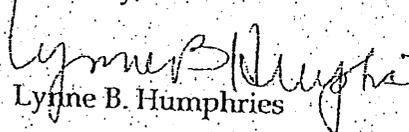
17. The Tapatio IOU complains that the land use plan shows the development of certain tracts that are not included within the District. Lerin is not required by any law or rule to include all of its property in the District and this is not a complaint relevant to the creation of the District.
18. The Tapatio Request challenges the statements in the affidavits of the proposed temporary directors that such persons own taxable property within the District. This allegation in the Tapatio Request is unsubstantiated and without any factual basis. Such affidavits are correct and the proposed temporary directors do own taxable property within the District.

\*\*\*\*\*

As has been shown in this letter, the so-called "protests" of those named herein are without merit and do not and cannot form the bases for the denial of the application for the creation of the District.

Accordingly, Lerin requests that the District be created in accordance with applicable law.

Sincerely,

  
Lynne B. Humphries

cc: Persons on Attached Mailing List

MAILING LIST  
LERIN HILLS MUNICIPAL UTILITY DISTRICT  
DOCKET NO. 2006-0969-DIS; PERMIT NO. 02162006-D01

FOR THE APPLICANT:

Samuel W. Jones, P.E.  
P.O. Box 427  
Hutto, Texas 78634-0427

Trey Lary  
3200 Southwest Fwy., Ste. 2600  
Houston, Texas 77027-7537

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela  
Texas Commission on Environmental Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512-239-3300  
Fax: 512-239-3311

FOR THE EXECUTIVE DIRECTOR:

Robert Martinez, Senior Attorney  
Texas Commission on Environmental Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512-239-0600  
Fax: 512-239-0606

Gregory Charles, Technical Staff  
Texas Commission on Environmental Quality  
Water Supply Division, MC-152  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512-239-3708  
Fax: 512-239-2214

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Jody Henneke, Director  
Texas Commission on Environmental Quality  
Office of Public Assistance, MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512-239-4000  
Fax: 512-239-4007

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512-239-6363  
Fax: 512-239-6377

FOR ALTERNATIVE DISPUTE  
RESOLUTION:

Mr. Kyle Lucas  
Texas Commission on Environmental Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: 512-239-4010  
Fax: 512-239-4015

REQUESTERS:

Joan & Lee Roy Hahnfeld  
306 State Highway 46 W.  
Boerne, Texas 78006-8104

Grady B. Jolley  
Nunley, Davis, Jolley, Cluck, Aelvoet, LLP  
1580 S. Main St., Ste. 200  
Boerne, Texas 78006-3311

Patrick W. Lindner  
Davidson & Troilo, P.C.  
7550 W. IH-10, Ste. 800  
San Antonio, Texas 78229-5803

The Honorable Eddie J. Vogt  
Kendall County Judge  
201 E. San Antonio, Ste. 120  
Boerne, Texas 78006-2013

Micah Voulgaris  
Cow Creek Groundwater Conservation District  
216 Market Ave., Ste. 105  
Boerne, Texas 78006-3003

William R. Wood  
306 State Highway 46 W.  
Boerne, Texas 78006-8104

5th

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

PLEASE PRINT:

Name: John C. Kight

Address: 33 Tower Road

City/State: Boerne, Texas Zip: 78006-7921

Phone: (830) 230-5373

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OCT 26 AM 11:04  
CHIEF CLERKS OFFICE

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Cow Creek Groundwater Conservation District

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.  
(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

Handwritten marks and initials at the bottom right corner.

# Indian Springs Home Owners Association

*MWD  
DOW  
53346*

TCEQ Executive Director:

In reference to; NOTICE OF RECEIPT OF APPLICATION AND INTENT TO OBTAIN WATER QUALITY PERMIT, Proposed Permit No. WQ0014712001, by Lerin Hills, Ltd.

I would like to request a public meeting in Kendall County on this application. Indian Springs subdivision borders Lerin Hills to the west. The home, and lot owners in our subdivision have many questions and concerns about this project, and would like the opportunity to ask them in person.

Thank You.



*6-19-06*

Richard Lines  
Vice President, Indian Springs HOA.

108 Chinkapin Pass  
Boerne, TX 78006  
rlines@yahoo.com

*OPA PM*

*JUN 21 2006*

BY *g*

CHIEF CLERKS OFFICE

2006 JUN 20 AM 10:29

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY



**Cow Creek Groundwater Conservation District**  
**216 Market Ave., Ste. 105**  
**Boerne, Texas 78006**  
**Phone: 830-816-2504**

October 17, 2006

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

CHIEF CLERK'S OFFICE

2006 OCT 26 AM 11:04

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Texas Commission on Environmental Quality  
Chief Clerk, Attn: Agenda Docket Clerk  
Mail Code 105  
P. O. Box 13087  
Austin, Texas 78711-3087

Re: Lerin Hills, Ltd./Water Quality TPDES Permit #WQ00147120001

The Cow Creek Groundwater Conservation District was created for the purpose of conserving, preserving, recharging, protecting and preventing waste of groundwater from the aquifers within Kendall County. The proposed Lerin Hills TPDES project raises concerns over compromising the integrity of the localized groundwater related specifically to the pending treated wastewater discharge permit.

To date, very limited and conflicting data is available as to the water quality standards required for the treated wastewater effluent to be discharged into the dry Deep Hollow Creek and into a flood control pool.

To date data has not been presented to determine existing water quality nor estimated future water quality in the flood control pool downstream of the proposed discharge point into Deep Hollow Creek. During periods when there is a base flow in Deep Hollow Creek it is reported that the base flow ceases to exist, thereby indicating possible recharge. Without an on-site investigation of existing conditions, the potential impacts of polluting the Trinity Aquifer remain unquantified.

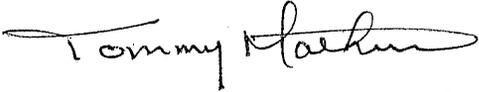
Section 36.0018-D of the water code defines waste as "pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground". These are serious local concerns to land owners with shallow wells in the immediate area that have not been addressed. ( See Reference 1)

The above issues, as well as others, to include alternates have not been addressed. Alternates such as zero discharge utilizing land application or drip irrigation systems would reduce impact to groundwater recharge.

467

It is respectfully requested that TCEQ not make any final decisions nor issue approvals for the TPDES wastewater discharge permit until such time that non-conflicting substantive factual data is provided by the developer addressing these expressed concerns. If factual data is not forthcoming concerning the treated wastewater permit issues then a Contested Case Hearing should be scheduled to receive testimony prior to any final decisions by TCEQ.

Sincerely,



Tommy Mathews, President *on behalf of*  
Cow Creek Groundwater Conservation District

Reference 1

At issue also is the fact that Lerin Hills MUD is proposing to discharge its waste water effluent into an off-site flood control pool that has a conservation pool capacity of 68 acre-feet while Lerin Hills MUD has an on-site flood control pool with a conservation pool capacity of 322 acre-feet that could receive the wastewater discharge. The on-site pool would yield over four and one half times the dilution rate of the smaller pool and lesson contamination potentials. No definitive studies have been undertaken that would indicate what impact the wastewater discharge would have on water quality of either of these pools and what threat it would have on contamination to the aquifer

# Cow Creek Groundwater Conservation District

216 Market Ave., Ste. 105  
Boerne, Texas 78006  
(830) 816-2504 Fax (830) 816-2607  
[www.ccgcd.org](http://www.ccgcd.org)

OPA <sup>PM</sup>

June 21, 2006

JUN 23 2006

Office of the Chief Clerk, MC 105  
T.C.E.Q.  
P.O. Box 13087  
Austin, Texas 78711-3087

*Handwritten:* 10/10/06  
53346

BY *[Signature]*

Re: Proposed permit number WQ 0014712001

The purpose of this letter is to formally request a public meeting regarding the above-referenced permit application, in order that local residents may receive additional information on the proposed Lerin Hills, Ltd. Development. Such a meeting would enable residents to ask questions and provide comments to T.C.E.Q. concerning the discharge of treated wastewater from the Lerin Hills Development.

Your consideration in this matter is most appreciated.

Sincerely,  
Cow Creek Groundwater Conservation District

*Tommy Mathews*  
Tommy Mathews, President  
Board of Directors

CHIEF CLERKS OFFICE

2006 JUN 23 AM 9:55

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*[Handwritten mark]*

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:03

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

PLEASE PRINT:

Name: MILAN MICHALEC

Address: 12 BRANDT ROAD

City/State: BOERNE TX

Zip: 78006

Phone: (830) 336-3114

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

*Attached*

Please give this to the person at the information table. Thank you.

OPA RECEIVED

23 October 2006

OCT 24 2006

TO: TCEQ

AT PUBLIC MEETING

FROM: Milan J. Michalec

SUBJECT: Lerin Hills Municipal Utility District (MUD) and the Cibolo Creek Watershed

PUBLIC HEARING COMMENTS

The availability of surface water from Canyon Reservoir is driving high density development. In turn, this will ultimately affect the quantity and quality of existing ground and surface water.

This paper attempts to capture all known issues related to cause and effect of high density development within the Cibolo Creek Watershed.

The prospect of creating a MUD, with the accompanying water and wastewater requirements and impacts, in this watershed, poses significant concern for the current residents of Kendall County.

Identifying these issues can lead to objective discussion and deliberate planning aimed at preventing degradation of the Cibolo Creek and its tributaries. Furthermore, it will serve to maintain sustainable growth within this watershed.

BACKGROUND

In 2002, the State Water Plan notes that Texas is one the nation's fastest growing states. From 1950 to 2000, population in the state grew from about 8 million to nearly 21 million. By the year 2050, the total number of people living in Texas is expected to reach 40 million.

In a 2003 Press Release, Guadalupe – Blanco River Authority (GBRA) announced the Western Canyon Water Supply Project. Water from Canyon Lake would provide a firm supply of treated surface water at an economical cost to people and communities in portions of Comal and Kendall counties.

It noted many people in these areas currently use wells drilled into the limited groundwater supplies of the Trinity Aquifer and experience water quality and quantity problems during times of low rainfall or drought.

This project was also advertised to help reduce pumping from wells in the Edwards Aquifer. Though this may have been the plan, in reality, pumping from the Trinity Aquifer has significantly increased.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
706 OCT 26 AM 11:08  
CHIEF CLERK'S OFFICE

In turn this affects water supply of Boerne, San Antonio, as well as over 6,500 wells in Kendall County.

"We always prefer to be proactive rather than reactive. It's much easier to keep water clean, than to clean it up after the damage is done," Bill West, GBRA General Manager.

As the propose Lerin Hills MUD is debated, this should be the watchword.

## SPECIFIC ISSUES

1. Lerin Hills proposes to use GBRA water to serve a MUD. One of GBRA's primary responsibilities is to help protect the water quality of the rivers and streams within the Guadalupe River watershed. GBRA General Manager Bill West recently said "We are very sensitive to" the continued growth, but "we've got an obligation to spread the water out just as far as we can spread it out."

The consequence of this policy is affecting growth well beyond the Guadalupe River Watershed. Specifically, this water is being transferred to the Cibolo Creek watershed, a tributary to San Antonio River watershed. This constitutes an Interbasin Transfer.

Recommendation: Request a TCEQ review of this policy and the impact of an Interbasin Transfer on the Cibolo Creek Watershed.

2. TCEQ regulates discharges to surface waters through the discharge permitting process. The basic premise that drives the discharge permitting process is one of non-degradation, TCEQ must not issue any permit or allow any activity that degrades tile water quality or designated use of the receiving stream. The majority of the waters of the state are divided into stream segments, the Cibolo is no exception.

The TCEQ has developed stream standards, uses, and aquatic life use sub-categories for each segment. They evaluate the impact a discharge permit has or may have on these criteria before issuing the permit. The process includes an evaluation of the loading the discharge would have on the receiving stream.

Recommendation: Request an evaluation by TCEQ of the projected effects of loading from the waste water treatment plant proposed for Lerin Hills on segment 1908 of Cibolo Creek. This includes its tributaries and the surface water impoundments.

3. TCEQ regulates discharges to surface waters through the discharge permitting process. The basic premise that drives the discharge permitting process is one of non-degradation, TCEQ must not issue any permit or allow any activity that degrades the water quality or designated use of the receiving stream.

Chapter 213 of the Texas Water Code regulates activities in the Edwards Aquifer region. Canyon Reservoir and the surrounding area lie over the Edwards Aquifer contributing zone. The activities that are regulated include construction, clearing and excavation, and

Cibolo Creek is a major recharge feature of the Trinity Group of Aquifers in North Bexar County and eventually confluences with the San Antonio River.

One recharge feature is below the Cibolo Nature Center, the perennial portion of the creek that ends with a disappearance of water into the limestone structure of the streambed.

It has been reported other recharge features are located in a contributing stream immediately below a proposed surface impoundment for the proposed Lerin Hills waste water treatment plant.

Recommendation: These recharge features are highly susceptible to upstream contamination. Conduct land surveys and identify these as critical recharge features.

Moreover, this also has an impact to the Edwards Aquifer contributing zone. For these reasons, a study should be initiated to measure the effects of the proposed MUD upstream that feeds these recharge features.

7. One project being studied in the area is the Cibolo Creek Enhancement Project under the direction of the U. S. Army Corps of Engineers in conjunction with SARA, GBRA and SAWS.

Studies are currently on going with Phase I, data collection completed and Phase II underway. These studies are to determine if flood damage reduction, ecosystem restoration, aquifer recharge and brush clearing activities may be useful and beneficial in the North Bexar County area.

Recommendation: Complete the study.

8. Exploding growth over the Trinity and dwindling supplies have stirred concern about regulation of this resource. In 1990, the Texas Natural Resource Conservation Commission designated the Trinity region to be a Priority Groundwater Management Area (PGMA), defined as an area where a critical water shortage is occurring or can be expected to occur in the next 25 years.

Inclusion in a PGMA gives county officials some authority to regulate development over the Aquifer by requiring that developers prove there is water available before platting new construction.

It can also aid in the formation of a groundwater conservation district, which would have taxing and regulatory power and could regulate well spacing and production.

The proposed Lerin Hills MUD clearly illustrates the value and need for a Groundwater Conservation District, the States' preferred method of groundwater management.

Therefore, GBRA water is in reality, a mixture of ground and surface water.

The authority for all matters related to groundwater in Kendall County is the Groundwater Conservation District.

In addition to using a conjunctive water source, high density development will affect groundwater quality and quantity. In this scenario, it would seem no groundwater is involved, so the District would have no authority.

However, high density and the accompanying increased impervious cover from new roads and slabs as well new yards, increases runoff of petroleum products, pesticides, herbicides, etc. This affects groundwater quality. Under the definition of waste, pollution of groundwater is waste and therefore, subject to the rules of the District.

Furthermore, increased stream flow and increased stream bank erosion further degrades water quality as it passes into the groundwater. This affects surface water, and ultimately groundwater quality.

As the District does have a responsibility to prevent waste, and pollution of groundwater is waste, and future use of groundwater has not been eliminated there will be reason for involvement in the future.

Recommendation: TCEQ should review the statutory ramifications of mixing ground and surface water and distributing it as "surface water".

11. Proposed Lerin Hills Municipal Utility District (MUD) feasibility. As a MUD, the development provides water, sanitary sewer, drainage and storm water systems to its residents. It is scheduled to receive 750 acre-feet of surface water from GBRA annually. The 867-acre development would include 1,475 home sites on 255 acres with another 134 acres set aside for commercial development.

The developer claims no groundwater will be used for this project. However, a cursory evaluation of water requested, compared to water required to the meet peak demand standards set by TCEQ, indicates another water source, such as new well(s) will be needed.

This will permit action by the Cow Creek Groundwater Conservation District.

Recommendation: In reviewing the proposed Lerin Hills MUD, TCEQ must recognize the critical shortage of groundwater in Kendall County. It is likely groundwater will not be available to serve this MUD as subsequent plats are submitted.

## CONCLUSION

Plans for five major developments have recently been shown for Kendall County. Surface water from Guadalupe-Blanco River Authority's Western Canyon Regional

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:03

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

PLEASE PRINT:

Name: Ed Rogers  
Address: 4410 Hwy 46 W  
City/State: Boerne TX Zip: 78006  
Phone: (830) 249-3494

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one?

Ranch

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*See Over*

IN the PAST 10-11 years we HAVE had  
2 100 yr. storms - the Resouore has BACKED  
up to other LAKES on DOUBLE DIAMOND RANCH  
where 2 DRINKING WATER WELLS ARE LOCATED  
WHAT ARE YOU going to do ABOUT that  
El Raje

EW

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 OCT 26 AM 11:03  
CHIEF CLERKS OFFICE

PLEASE PRINT:

Name: W. C. "Dub" SMOTHERS  
Address: 136 SPRING HILL DRIVE  
City/State: BOERNE, TEXAS Zip: 78006-8615  
Phone: (~~817~~) (830) 981-4333

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

OPA RECEIVED

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

OCT 24 2006

I wish to provide formal oral comments.

AT PUBLIC MEETING

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

844

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 OCT 26 AM 11:03  
CHIEF CLERKS OFFICE

PLEASE PRINT:

Name: Michael Valentine

Address: 217 Dog Skin DR

City/State: Boerne, TX Zip: 78006

Phone: (830) 249-1410

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

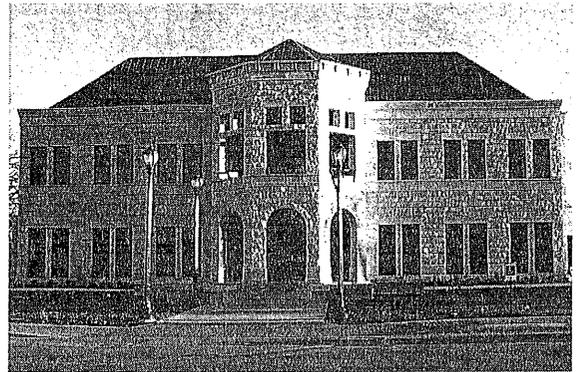
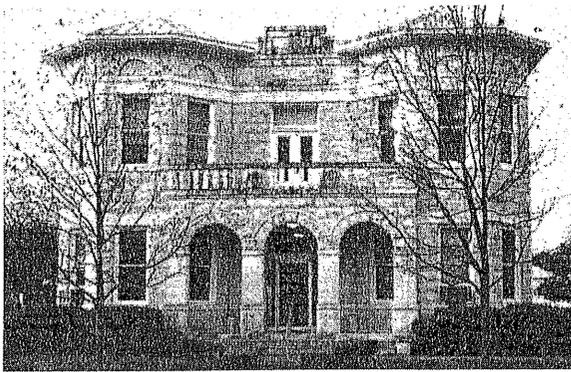
I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.  
(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

~~844~~  
MCD

# COUNTY OF KENDALL



**EDDIE JOHN VOGT**

*County Judge*

**Ann Reissig**

*Commissioner; Precinct 1*

**Gene Miertschin**

*Commissioner; Precinct 2*

**Darrel Lux**

*Commissioner; Precinct 3*

**Russell C. Busby**

*Commissioner; Precinct 4*

October 12, 2006

*MWD  
53344*

**OPA**

**OCT 16 2006**

BY *jr*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICE OF CHIEF CLERK,  
MC 105, TCEQ  
P.O. BOX 13087, AUSTIN, TEXAS 78711-3087

Re: PROPOSED PERMIT NO. WQ0014712001

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OCT 16 AM 10:49  
CHIEF CLERKS OFFICE

Dear Sirs,

At the regularly scheduled Kendall County Commissioners Court Meeting on the 10<sup>th</sup> of October, 2006 it was ordered that the Court expressed its' concerns to the Commission in regards to the above proposed permit.

The current concerns of the Court are as follows:

1. The location of effluent discharge as relates to proximity of neighboring properties. We feel that discharge into the lake in Lerin Hills would be more appropriate.
2. The type of discharge, such as run-off versus land-spray application, with land spray being preferred.
3. The amount of phosphates in the effluent, especially as they relate to a run-off into small lake situation.
4. The amount of suspended solids in parts per million in the effluent.
5. Chlorine treatment versus ultra-violet treatment of wastes, with UV preferred.

*jr*

If the Commission requires further information from the Court, please feel free to contact either County Engineer, Terry Anderson or myself.

Thank you for your time and attention.

Yours in Public Health,

  
Eddie J. Vogt  
Kendall County Judge

# Cow Creek Groundwater Conservation District

216 Market Ave., Ste. 105  
Boerne, Texas 78006  
(830) 816-2504 Fax (830) 816-2607  
[www.ccgcd.org](http://www.ccgcd.org)

October 25, 2006

Office of the Chief Clerk  
MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

*David  
S 3346*

OPA

OCT 27 2006

BY *ge*

Re: Clarification of a statement made at the Public Meeting held on TPDES #WQ0014712001

Dear Chief Clerk,

This letter serves to clarify a statement reportedly made by Bob Webster at the TCEQ's public meeting regarding TPDES #WQ0014712001 in Boerne, Texas on October 24<sup>th</sup>, 2006.

It has been alleged by Abel Godines and Troy Crane of Lerin Hills, Ltd. that a false statement was made at that public meeting.

Bob Webster, a nearby landowner and protester to the discharge permit, purportedly represented to the TCEQ that the Cow Creek Groundwater Conservation District had identified recharge features on his property. To date, this is not the case.

I met with Mr. Webster on October 24<sup>th</sup>, 2006 for the sole purpose of inventorying his two (2) wells and checking the static water level of these wells.

The District's Board President, Tommy Mathews (PG, REM) and I plan to visit Mr. Webster's property on Monday, October 30<sup>th</sup>, 2006 to determine if there are any sensitive recharge features.

Any questions or comments regarding this issue may be directed to the CCGCD Operations Manager Micah Voulgaris at (830) 816-2504.

Sincerely,  
Cow Creek Groundwater Conservation District

*Micah Voulgaris*

Micah Voulgaris  
Operations Manger

Cc: Tommy Mathews, CCGCD President  
Abel Godines, Lerin Hills, Ltd.

CHIEF CLERKS OFFICE

2006 OCT 27 AM 9:55

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

14th

Patrick Wood  
306 Highway 46 West  
Boerne, TX 78006

Made oral comment

OPA RECEIVED  
OCT 24 2006  
AT PUBLIC MEETING

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 OCT 26 AM 11:03  
CHIEF CLERKS OFFICE

147

4th

# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WO00147121001

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

PLEASE PRINT:

Name: William R. "Rick" Wood

Address: 306 Hwy 46W

City/State: Boerne, TX Zip: 78006

Phone: (830) 816-1786

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2006 OCT 26 AM 11:02  
CHIEF CLERKS OFFICE

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

 MCD