

MWD
850369

December 06, 2013

Patricia Lux Graham, 361-443-9031
102 Alma Lane, Rockport, TX 78382

CHIEF OF STAFF
7:00 AM - 2:18 PM
OFFICE OF THE EXECUTIVE DIRECTOR
TCEQ

RE: Amendment to TCEQ Permit #WQ00149750001, Applicant DHJB Development, LLC
SUB: Reconsideration of your decision in regard to the above referenced permit communicated by letter dated November 21, 2013

To the Honorable Executive Director of the TCEQ:

I am requesting that you reconsider your decision and deny this permit. The TCEQ does not understand what is being proposed by the applicant or is biased. Following are some of the TECQ errors, and to the best of my ability what the applicant in proposing in their application. It should not be necessary for me to chalk up many thousands of dollars in legal bills to stop what is clearly an abuse of power by the TCEQ. If the Executive Director will not rescind his decision, I reiterate a Request for a Contested Case Hearing.

In the Executive Director's letter, broad ranging powers are assumed based on a single Appellate Court decision, Domel v City of Georgetown. The first sentence of this decision states, "This case presents the question of whether a governmental entity returning treated wastewater into a watercourse under permit from a State agency needs additional permission from downstream landowners." The applicant is a corporate entity. Had the justices intended their decision to be a broader reaching decision, they need only have left off the word governmental before the word entity in the first sentence of their decision. In Domel v City of Georgetown the creek in dispute was not running through the City of Georgetown's development. Nothing is mentioned about the City of Georgetown altering the creek as the applicant is currently planning as outlined below. The use of this case by the TCEQ in this matter is an abuse of the legal precedent system. I became familiar with this case when the applicant sent it to me while trying to resolve this matter with the applicant last spring. I indicated to the applicant that this case was irrelevant in this matter.

The other court decision mentioned by the TCEQ is Goldsmith & Powel v State. Surely the TCEQ isn't proposing that either Domel v City of Georgetown or Goldsmith & Powel v State were ever intended to be applied to highly altered dry creeks as in the applicant's current plans outlined below.

In the Executive Director's letter much is made of "perennial pools". It is interesting that perennial pools are mentioned in the Domel v Georgetown decision. The applicant never mentions perennial pools in their application. Figure 1 below is a piece of the Anhalt Quadrant from the USGS website. The entire quadrant is available for free from the USGS website. I have only included a piece of the quadrant for clarity. The forked dry creek approximately in the center of Figure 1 is the dry creek in question. I believe that the circles along the dry creek are what the TCEQ is referring to as perennial pools. To my best knowledge these are manmade ponds. The TCEQ has not allowed me to comment on this due to not including a similar detail in their letter dated November 21, 2013. The public has not been allowed to comment on the perennial pools because this was not brought up before the time for public comment had expired.

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DEC 10 2013
By 



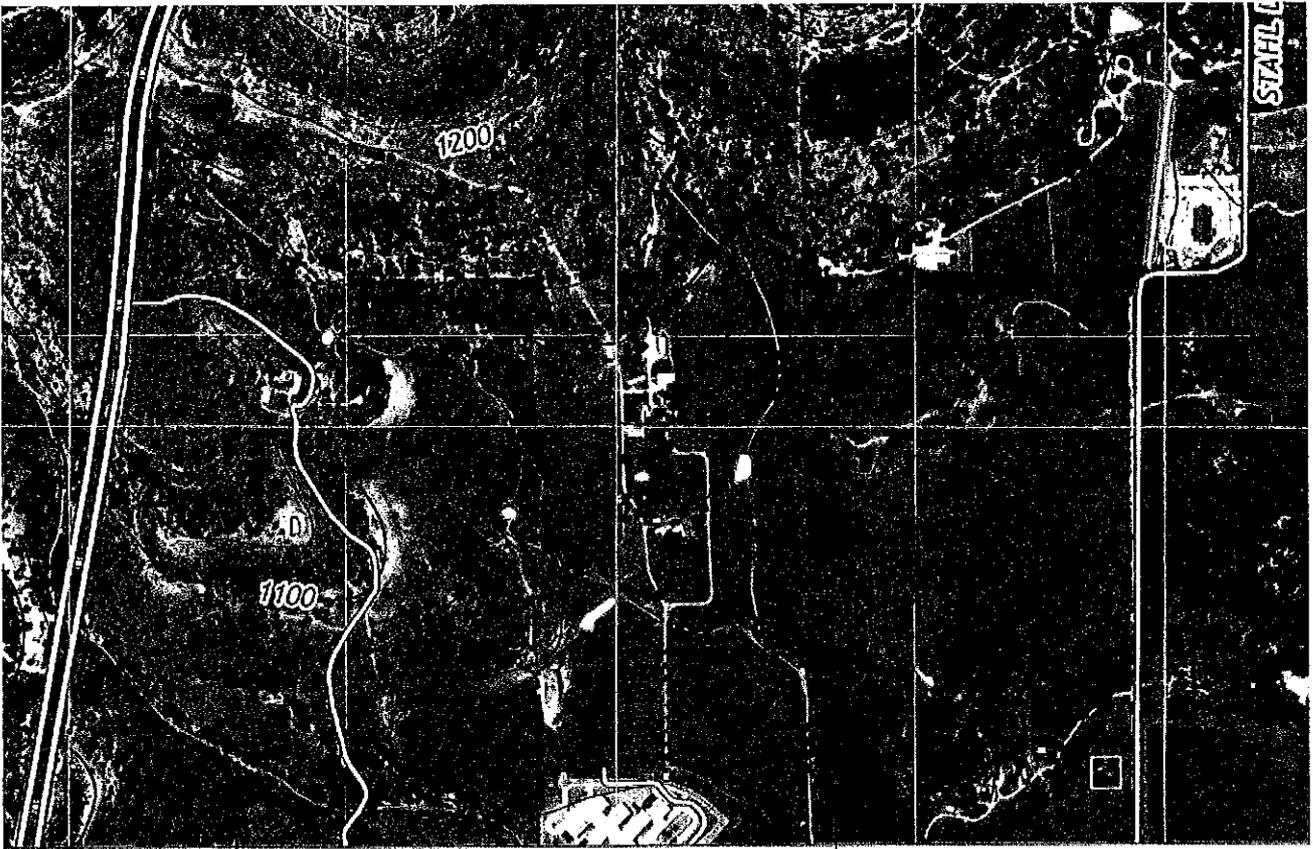
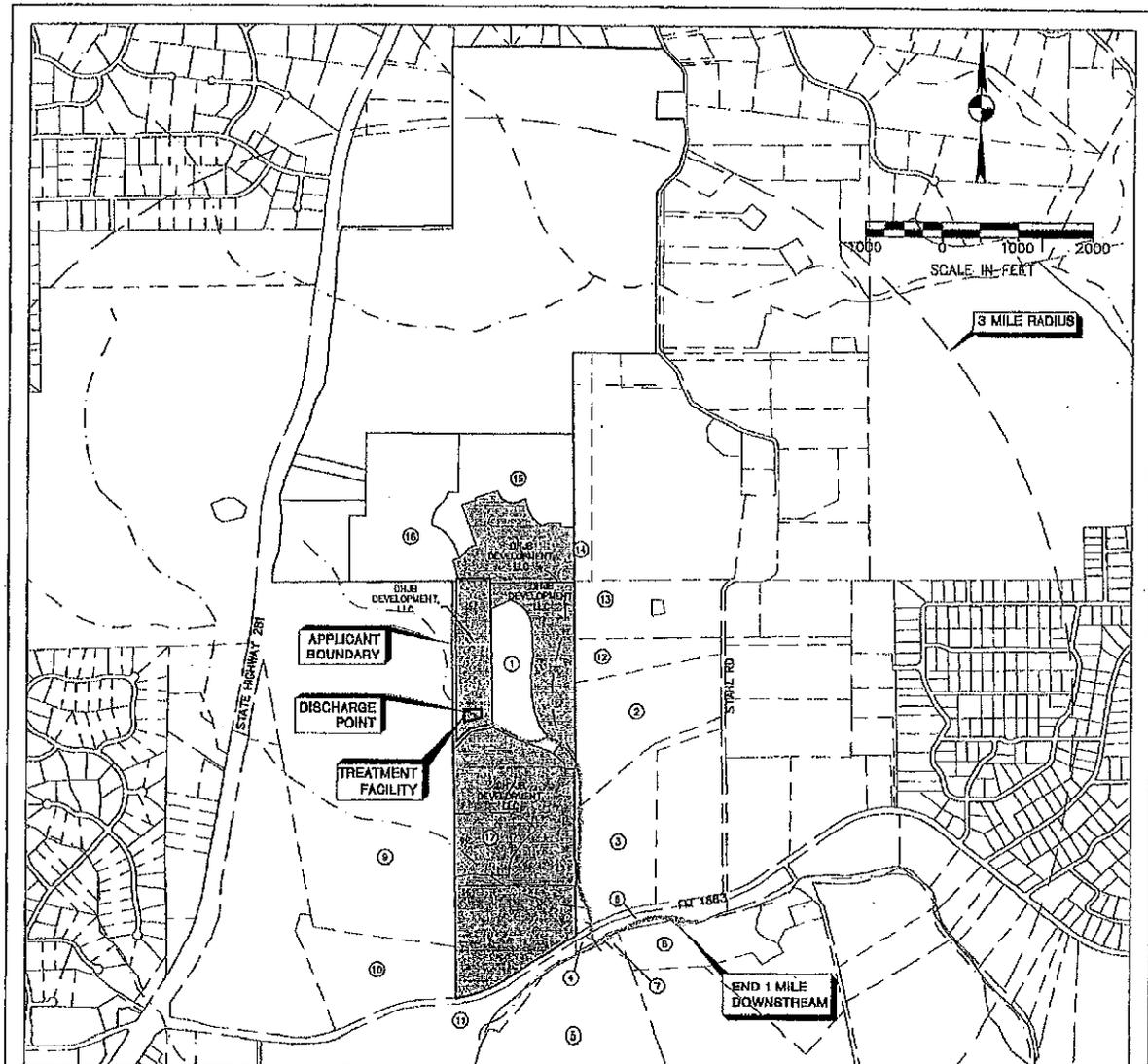


Figure 1

Most of features currently observed in the area in question are largely due to man. Beginning with settlement more than 100 years ago this area was cleared. This area has been either farmed or used to graze livestock. Gravel has been mined for roads. Rocks have been hauled out of the fields and creek bottoms to build fences. Manmade ponds have been built. The area in question was altered long ago, and it certainly should not be considered a naturally occurring body of water. Certainly once the applicant is done with development this will not be a naturally occurring body of water.

Next I have questions of whether the applicant and TCEQ, in good faith, believe this is a State controlled watercourse. Figure 2 below is taken from the application package for this permit. The leader for the treatment facility depicts the treatment facility located directly over the dry creek in question. The dry creek in question is the dashed line that runs across the treatment facility diagonally from the upper left to the lower right. Figure 2 is not definitive. Figure 3 below is also taken from the application package for this permit. Near the top center of the drawing is a note "FUTURE CREEK REROUTING" and a depiction of the rerouting. The dashed line running from the upper left of the treatment facility to the lower right is the existing dry creek. Clearly, the applicant's and TCEQ's intentions are to reroute what they assert is a State controlled body of water.



Property ID	Contact Name	Mailing Address	Geo-ID	Acres
1 76776	Clyde Johnson and Bone Herford Ranch LTD.	420 Baltimore Ave, San Antonio, TX 78216-1044	742174002609	85.11
2 25118	Patricia Lutz Graham	102 Alva Ln, Rockport, TX 78382-6004	740174005907	52.45
3 75111	Margie Hastings	P.O. BOX 34691, San Antonio, TX 78265-4901	740174005329	49.45
4 206328	Beverly Hayward	3751 FM 1883 #1, Bulverde, TX 78163-4302	04974-000-0013	236.33
5 75416	Beverly Hayward	3750 FM 1883 #1, Bulverde, TX 78163-4302	740174005325	1.17
6 73115	Thomson Inc.	23708 Bulverde Ln, Bulverde, TX 78163-2915	740174005304	5.25
7 265306	Boonstra Inc.	20769 Bulverde Ln, Bulverde, TX 78163-2015	04874-000-0014	1.17
8 265397	Depository Inc.	20769 Bulverde Ln, Bulverde, TX 78163-2015	04874-000-0189	28.03
9 75099	Juan Joaquin Klotzer Mahua	31310 US Highway 281 N, Bulverde, TX 78163-2100	740174001400	238.05
10 25165	Rittcher Juan J LTD Partnership	31311 US Highway 281 N, Bulverde, TX 78163-2100	740174004203	39.40
11 75156	M20 FM 1883 LTD	6501 McAllister Fwy Ste. 1160, San Antonio, TX, 78216	740174009101	116.20
12 75112	Joyce Lutz	P.O. BOX 229, Bulverde, TX 78163-0229	740174005301	14.45
13 80402	Joyce Lutz	P.O. BOX 229, Bulverde, TX 78163-0229	760600000100	37.40
14 81680	HUHI TX Mahwah LLC	18518 Tunney Stone Sta 210, San Antonio, TX 78258-3487	760767006500	0.73
15 81085	Clyde Johnson and Bone Herford Ranch LTD.	420 Baltimore Ave, San Antonio, TX 78216-1044	740174000408	181.66
16 76785	Clyde Johnson and Bone Herford Ranch LTD.	420 Baltimore Ave, San Antonio, TX 78216-1044	740285000000	118.81
17 152187	Conrail ISD	1484 N IH 35, New Braunfels, TX 78130-2817	250305000000	19.05

**EXHIBIT 2
AFFECTED LANDOWNER MAP**

JOHNSON RANCH WWTP

DHJB DEVELOPMENT, LLC.

b Bury+Partners

221 West Sixth Street, Suite 600
Austin, Texas 78701
Tel. (512) 328-0011 Fax (512) 328-0325
EPA Registration Number P-1048
Bury+Partners, Inc. © Copyright 2012

U.S. Audited by Bury+Partners, Inc. © Copyright 2012. All rights reserved. Modified by nkhz on Oct 17, 12 12:25 PM

Figure 2

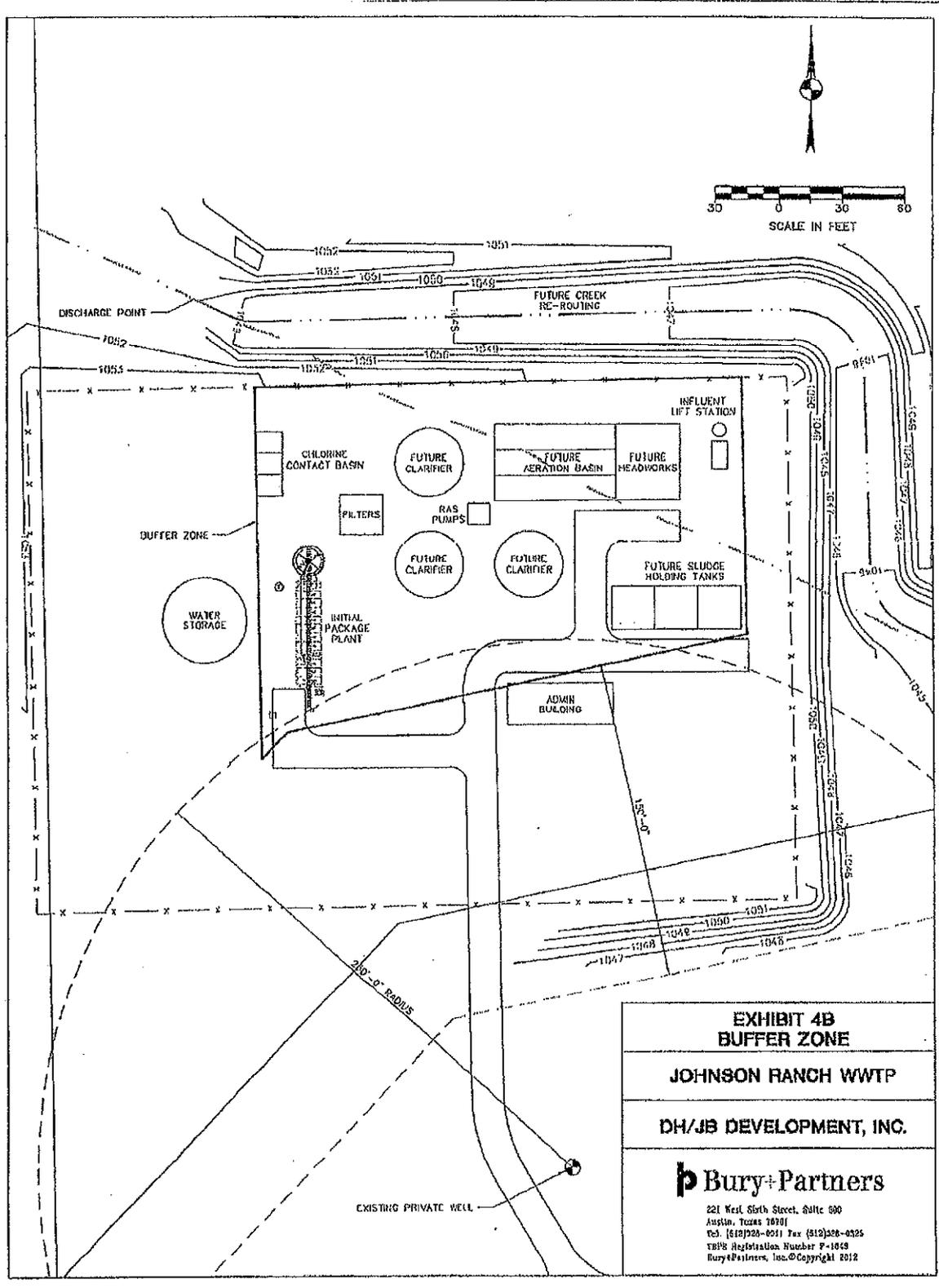


Figure 3

Figure 4 below is a piece of the conceptual lot plan from the applicant's webpage. The dry creek in question has been roughly drawn in for the purpose of discussion. The treatment plant is marked WWTP. The westerly fork of the dry creek leaves the area of the treatment plant near the southeast corner of the plant. It heads in a southeast direction towards the lots. Then it continues in a more or less southeast direction along the northern end of lots in this area before joining the northerly fork of the dry creek. During site work the bed and banks of this State controlled westerly fork of this dry creek will not be damaged? In recent conversations a legislative aid has stated that a representative of the TCEQ indicated that the dry creek would not be built up, and this would take a different application. I am skeptical.

The westerly fork of the dry creek then jogs slightly to the east and meets the northerly fork of the dry creek. The path of the northerly fork goes through what will be lots, streets, utilities, etc. With all of the site work, utilities, road work, etc. almost nothing or nothing of this northerly fork of the dry creek will be left. I am left wondering if I should just fill a portion of this dry creek on my property and put an end to this. I ask does the applicant and the TCEQ, in good faith, believe this a State controlled body of water?

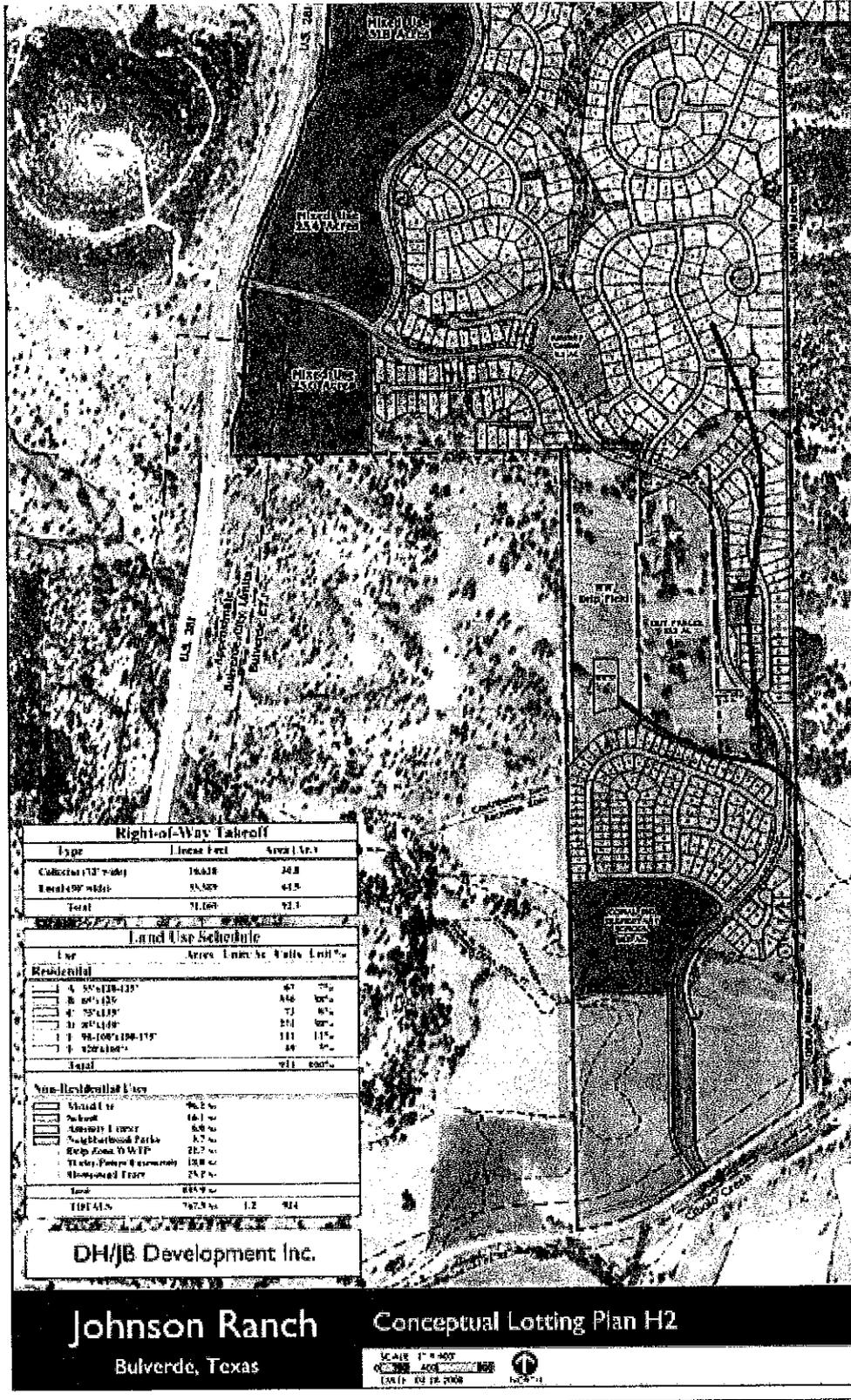
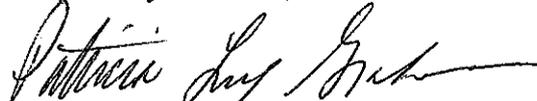


Figure 4

I thank you in advance for reconsidering your decision. Any single one of the issues raised above should be sufficient for the TCEQ to deny this application. These are not all the issues and concerns that I have about this permit, but this is a good place to stop.

Respectfully submitted,



Patricia Lux Graham

Patricia Graham
102 Alma Ln
Rockport Tx 78382



RECEIVED

DEC 09 2008

TECUMAL CENTER

Office of the Chief Clerk, MC 105

TCEQ

P.O. box 13087

Austin TX 78711-3087

RETURNED TO
REQUESTOR



May 13, 2013

Patricia Lux Graham
102 Alma Lane
Rockport, TX 78382
361-443-9031

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

REVIEWED

MAY 15 2013

By bl

mwd
85036

CHIEF CLERKS OFFICE

2013 MAY 15 PM 3:08

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Dear Texas Commission on Environmental Quality:

Amendment to Permit No. WQ0014975001, Applicant DHJB Development, LLC

I request a contested case hearing in regards to the above permit.

I am a landowner adjacent to the water treatment plant property. The TCEQ has made a preliminary decision to allow a private company, DHJB Development, to dump effluent from a sewage plant onto my property without my permission.

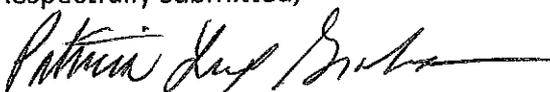
DHJB Development will be dumping their effluent onto a relatively level area and channeling it about 1000 feet onto my property.

My property contains a drainage area for rainfall run-off and it is not a tributary of the Cibolo Creek. There is no public access to my property or usage as public recreational area. There is no aquatic life because this is not a natural source of water supply. Therefore, this portion of my property does not fall under the discretion of the TCEQ. This is private property on which I pay property taxes. In addition, this adversely impacts the current use of this area of my property which has been primarily the grazing of cattle. For many years cattle have grazed this runoff area. It may also adversely impact future possible uses of my property.

Furthermore, the DHJB Development land is next to the Cibolo Creek and there is no need for them to channel their effluent onto my property except to save money and lower their costs. They could easily pipe or channel the effluent across their own property directly to the Cibolo Creek.

Allowing this permit does not benefit the tax payers of the State of Texas and solely benefits the applicant. Again this area of my property is not a navigable waterway and does not come under of the purview of the TCEQ or the State of Texas.

Respectfully submitted,



Patricia Lux Graham, landowner

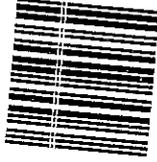
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Patticia Graham
102 Alma Lane
Rockport, TX 78382

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Austin, TX 78711-3087

CHIEF CLERK'S OFFICE

MAY 15 2013

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TEXAS
COMMISSION
ENVIRONMENTAL
QUALITY

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MAY 15 2013

TCEQ MAIL CENTER
JR

Faint, mostly illegible text on the right side of the envelope, possibly a return address or recipient information.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

March 14, 2013

2013 MAR 18 PM 2: 54

Patricia Lux Graham
102 Alma Lane
Rockport, TX 78382
361-443-9031

CHIEF CLERKS OFFICE

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

MWD
85036

VIEWED

MAR 19 2013

PM

BP

Dear Texas Commission on Environmental Quality:

Amendment to Permit No. WQ0014975001, Applicant DHJB Development, LLC

I am requesting a public meeting in regards to the above permit and applicant.

I am a landowner adjacent to the water treatment plant property. My property and my sister's property, Margie Hastings, contains a portion of unnamed tributary (flood runoff area) in which the effluent would be flowing.

As stated in an early letter, I am opposed to the amended permit application because it will damage my property, cattle, and fences.

Respectfully submitted,


Patricia Lux Graham, landowner

mu



Pat & Terrell Graham
102 Alma Lane
Rockport, TX 78382-8004



7011 2970 0002 5183 5832



U.S. POSTAGE
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QUALITY
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CHIEF CLERK'S OFFICE

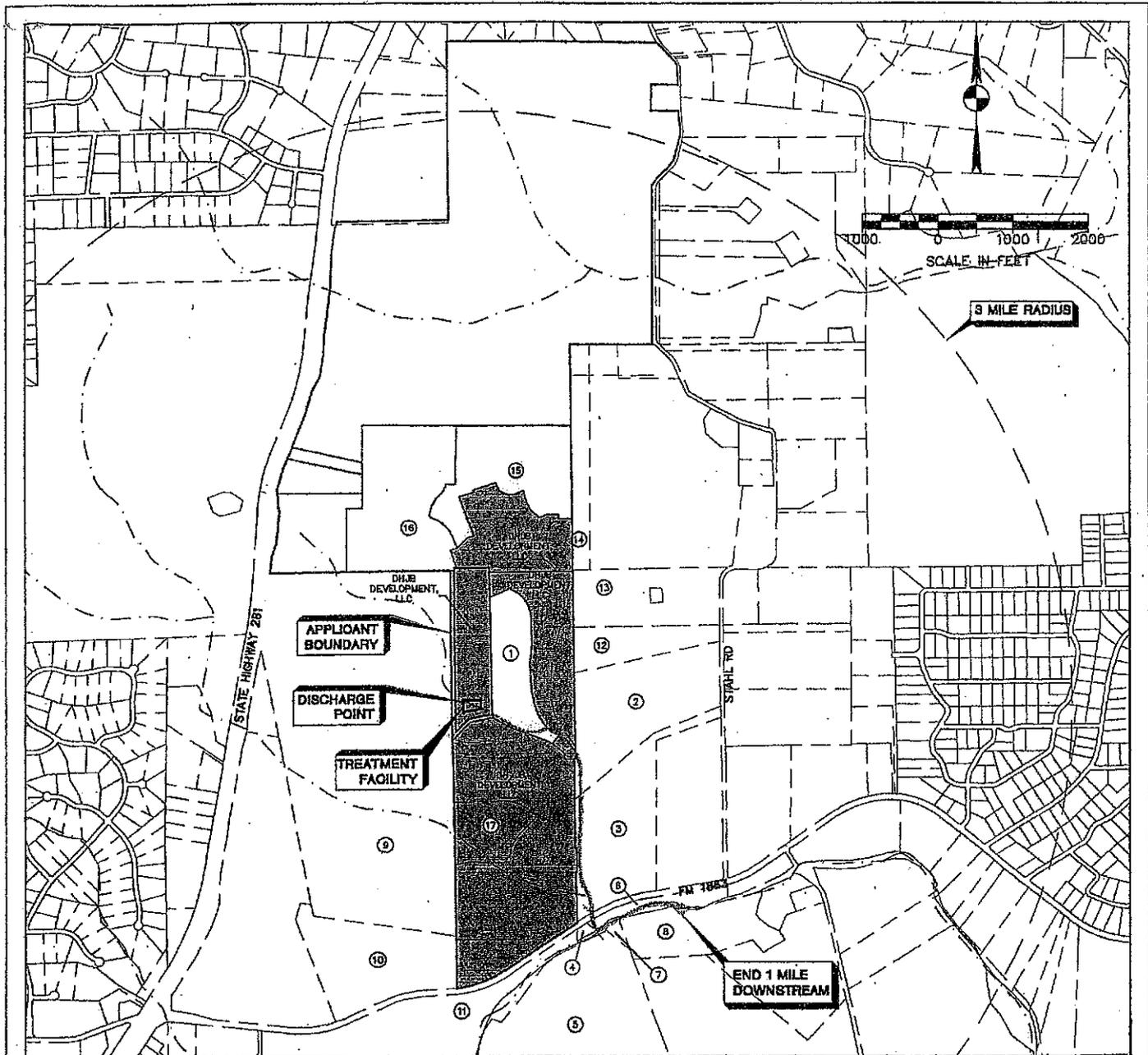
RECEIVED

MAR 18 2013

TCEQ MAIL CENTER
JR

Office of The Chief Clerk, MAR 18 10:55
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

Respectfully
damaged by
as stated in
the enclosed
subpart
of the



Property ID	Owner Name	Mailing Address	Geo-ID	Acres
1 75676	Clyde Johnson and Sons Harford Ranch LTD.	420 Baltimore Ave, San Antonio, TX 78216-1944	740174002900	85.11
2 75118	Patricia Luz Graham	102 Alma Ln, Rockport, TX 78382-6004	740174005307	52.45
3 75111	Margie Haefliger	PO BOX 34501, San Antonio, TX 78265-4501	740174005300	49.46
4 282305	Beverly Maynard	3781 FM 1863 #1, Bulverde, TX 78163-4302	04874-000-0013	216.93
5 75118	Beverly Maynard	3780 FM 1863 #1, Bulverde, TX 78163-4302	740174005305	1.17
6 75115	Geosource Inc.	29758 Bulverde Ln, Bulverde, TX 78163-2915	740174005304	5.25
7 282306	Geosource Inc.	29768 Bulverde Ln, Bulverde, TX 78163-2915	04874-000-0014	1.17
8 282307	Geosource Inc.	29769 Bulverde Ln, Bulverde, TX 78163-2915	04874-000-0180	28.03
9 75059	Jim Joseph Foltzler Hafne	31318 US Highway 281 N, Bulverde, TX 78163-3100	740174001400	238.03
10 75185	Kritzer Juan J LTD Partnership	31311 US Highway 281 N, Bulverde, TX 78163-3100	740174003203	39.40
11 75156	M29 FM 1863 LTD	6601 McAllister FWY Ste. 1160, San Antonio, TX 78215	740174001011	115.20
12 75112	Joyce Lee	PO BOX 228, Bulverde, TX 78163-0228	740174005301	14.45
13 60902	Joyce Lee	PO BOX 228, Bulverde, TX 78163-0228	780650000100	37.48
14 81858	NSHS TX Meisack LLC	18818 Tuscany Stone Ste 210, San Antonio, TX 78258-3487	780767000600	8.73
15 81855	Clyde Johnson and Sons Harford Ranch LTD.	420 Baltimore Ave, San Antonio, TX 78216-1944	780767000400	151.58
16 75759	Clyde Johnson and Sons Harford Ranch LTD.	420 Baltimore Ave, San Antonio, TX 78216-1944	740289000600	115.61
17 152187	Comal ISD	1404 N IH 35, New Braunfels, TX 78130-2817	250305000000	16.05

**EXHIBIT 2
AFFECTED LANDOWNER MAP**

JOHNSON RANCH WWTP

DHJB DEVELOPMENT, LLC.

Bury+Partners

221 West Sixth Street, Suite 600
Austin, Texas 78701
Tel. (512)328-0011 Fax (512)328-0325
TSP Registration Number F-1048
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REVIEWED

JAN 09 2013

January 7, 2013

MWD
0503Le

By 

Patricia Lux Graham
102 Alma Lane
Rockport, TX 78382
361-443-9031

Dear Texas Commission on Environmental Quality:

Written Objection to Amendment: Permit No. WQ0014975001, Applicant DHJB Development, LLC

I am a landowner adjacent to the water treatment plant property. My property contains a portion of unnamed tributary in which the effluent will be discharged.

I am objecting to the permit amendment for the following reasons:

1. The Application is providing erroneous information in the Permit Application –Administrative Report on page 11, item L, by marking it "n/a". The effluent will be traveling off the facility owners property and entering my property as depicted on Exhibit 2, Affected Landowner Map, and then traveling downstream to my sister's, Margie Hastings, property. The applicant has never made contact with me or my sister. The applicant has never presented a lease agreement or made lease arrangements.

2. The Application is providing erroneous information on page 13, item n, by marking it NO. The effluent will indeed enter the highway right-of-way along both sides of FM 1863 before entering the Cibolo Creek.

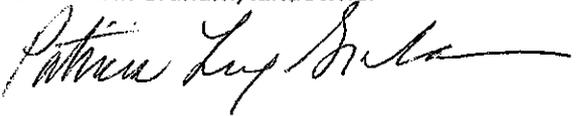
3. The applicant is unaware of the path the storm water runoff follows on my property and my sister's property. They are providing erroneous information in the Permit Application Technical Report on page 15, items d and e, by answering NO. The effluent will flow through the unnamed tributary which is located in the State of Texas Flood Zone A. The unnamed tributary is not fed by a spring but rather is the result of the occasional flooding which occurs with a greater than 3 inch rainfall. The waters rage down the tributary, overflows, and floods our adjacent field which contains two drinking water wells.

4. The applicant is unaware of the livestock grazing along the unnamed tributary on my property and my sister's property. The cattle will drink the water if in the tributary. The applicant noted on page 16 that the area is a natural area with vegetation and no usage.

5. The applicant is unaware of the amount of runoff entering the tributary on my property during a heavy rain. The small tributary intended for the effluent and rain water on the applicant's property flows into the tributary on my property. The applicant's tributary is not the only tributary that enters the tributary on my property.

6. The applicant is inappropriately marking "Stream" as the receiving waters on page 14, item 4a. The unnamed tributary on my property is a dry creek most of the time which carries runoff from the hills after rains. The unnamed tributary along parts of the west side of the field is an eroded ditch. Erosion of farming soil occurs with each flow of water. Soil conservation is of great concern.

Respectfully submitted,
Patricia Lux Graham, landowner



CHIEF OF OFFICE

2013 JAN 10 AM 10:19

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



Marisa Weber

From: Tara Drissell
Sent: Monday, December 30, 2013 9:27 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0014975001

RFR

From: jeff6210@sbcglobal.net [mailto:jeff6210@sbcglobal.net]
Sent: Sunday, December 29, 2013 10:21 AM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0014975001

*MWD
885036*

REGULATED ENTY NAME JOHNSON RANCH WWTP

RN NUMBER: RN104912704

PERMIT NUMBER: WQ0014975001

DOCKET NUMBER:

COUNTY: COMAL

PRINCIPAL NAME: DHJB DEVELOPMENT LLC

CN NUMBER: CN604156356

FROM

NAME: Jeff Jones

E-MAIL: jeff6210@sbcglobal.net

COMPANY:

ADDRESS: PO BOX 1659
BLANCO TX 78606-1659

PHONE: 8303880889

FAX:

COMMENTS: I am writing to request that the Executive Director of the TCEQ deny the proposed amendment to the DHJB Johnson Ranch Wastewater Treatment Plant permit. This decision would greatly threaten the private property rights of all Texans. The taking of private property, without compensation, for the for-profit use of another private enterprise constitutes an outrageous abuse of governmental power, especially when that property will be used to dump sewage into groundwater near a public school and other private residences.

MWD

Deeming a dry creekbed that only runs when flooding occurs a "navigable waterway" is ludicrous on it's face. Please reconsider this ill-advised action; for the benefit of the property owners, neighboring residents and students, and all Texans' private property rights, which we hold so dear to our fundamental nature as free people. Regards, Jeff and Maria Jones, Blanco TX