

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Wednesday, April 29, 2015 3:51 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015201001
Attachments: 2015.04.29 Reiteration of HR.pdf

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From: sam@lf-lawfirm.com [mailto:sam@lf-lawfirm.com]
Sent: Wednesday, April 29, 2015 2:42 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0015201001

mwd
90957

REGULATED ENTY NAME JPHD WWTP

RN NUMBER: RN107010209

PERMIT NUMBER: WQ0015201001

DOCKET NUMBER:

COUNTY: TRAVIS

PRINCIPAL NAME: JPHD INC

CN NUMBER: CN604489724

FROM

NAME: Samuel Day-Woodruff (Eric Allmon)

E-MAIL: sam@lf-lawfirm.com

COMPANY:

ADDRESS: 707 RIO GRANDE ST 200
AUSTIN TX 78701-2719

PHONE: 5124696000

FAX:

COMMENTS: Please see attached reiteration of hearing requests filed on behalf of Hamilton Pool Road Matters, Inc.

FREDERICK, PERALES, ALLMON & ROCKWELL, P.C.

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Of Counsel:
Richard Lowerre

April 29, 2015

Ms. Bridget Bohac
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

via e-file

Re: Reiteration of Hearing Request regarding Draft Permit No. WQ0015201001,
Proposed for Issuance to JPHD, Inc.

Dear Ms. Bohac:

On behalf of Hamilton Pool Road Matters, Inc., ("HPR Matters"), I requested on August 29, 2014, a contested case hearing on the above-referenced draft permit. HPR Matters previously submitted comments and a hearing request regarding this permit application on May 30, 2014. These comments and hearing requests appropriately raised issues related to impacts to surface water, groundwater, human health, the environment and private properties. In particular, HPR Matters pointed out that: the characteristics of the site render it unsuitable for subsurface drip irrigation of wastewater effluent; the designs of the wastewater treatment system and dispersal system are inadequate; the proposed operations and maintenance measures are inadequate; the proposed activities are not adequately protective of impacted fauna and flora; there is no need for the facility; it has not been shown that feasible alternatives exist; and, the draft permit is unusually permissive with regards to effluent limitations for nutrients and 5-day biochemical oxygen demand. Our particular concerns on these issues were fully elaborated in prior comments.

We are in receipt of the Executive Director's Response to Comments in this matter. That Response did not resolve any issue previously raised by HPR Matters. Moreover, HPR Matters is unsatisfied with the responses provided by the Executive Director with regard the following issues: self-certification/third-party review of the application; compliance history; notice; need for permit; term limits; surface water; groundwater; recharge feature plan; engineering reports; buffer zone requirements; soil quality; soil testing and measurements; mowing and manicuring; site characteristics; design criteria; system failures; design flaws; effluent limits; effluent limits for 5-day

BOD; effluent application rate; monitoring requirements; operations and maintenance; impacts to human health and livestock; storage of hazardous chemicals on-site; nuisances; use and enjoyment of property; property values; odor; and regionalization. Thus, HPR Matters hereby reiterates its request for a contested case hearing with respect to the application and draft permit. HPR Matters incorporates by reference for all purposes the past hearing requests and comments submitted on its behalf.

Thank you, kindly, for your assistance in this matter.

Best regards,



Eric Allmon
ATTORNEY FOR
HAMILTON POOL ROAD MATTERS,
INC.

FREDERICK, PERALES, ALLMON & ROCKWELL, P.C.

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Of Counsel:

Rick Lowerre

August 29, 2014

MWD
909/37

Bridge Bohac
Chief Clerk
Texas Commission on Environmental Quality
MC 105
P.O. Box 13087, Austin, Texas 78711-3087

REVIEWED

SEP 02 2014

By *[Signature]*

H
CHIEF CLERKS OFFICE

2014 AUG 29 PM 4:36

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Comments and Hearing Request Regarding Draft Permit No. WQ0015201001, Proposed for Issuance to JPHD, Inc.

Ms Bohac:

On behalf of Hamilton Pool Road Matters, Inc. ("HPR Matters"), I am submitting these comments and requesting a contested case hearing in the above-referenced matter. HPR Matters previously submitted comments, dated 4/30/2014 and 5/30/2014, regarding this permit application. These comments are attached and incorporated by reference. The draft permit issued by the Executive Director does not resolve any of the concerns expressed in those comments.

In fact, the draft permit raises additional issues. JPHD's application proposed an effluent limit of 5 mg/l BOD₅. The Executive Director drafted a permit containing a more lax effluent limitation of 10 mg/l as a daily average concentration of BOD₅, along with a maximum BOD₅ 7-Day average of 15 mg/l. The Executive Director should not have relaxed the BOD₅ limitation in this manner considering the sensitive nature of the receiving waters.

The BOD₅ concentration in the effluent under the draft permit also highlights a problem in JPHD's wastewater treatment plant design calculations. In those calculations, JPHD assumed a concentration of BOD₅ in the effluent of 20 mg/l. Given the higher BOD₅ value assumed in its design calculations than that either allowed in the draft permit

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or proposed by JPHD, no showing has been made that the design of the facility is adequate to achieve the BOD₅ concentrations contained in the draft permit. Furthermore, JPHD has underestimated the quantity of sludge to be produced at the facility by assuming an unjustifiably low influent BOD₅ concentration.

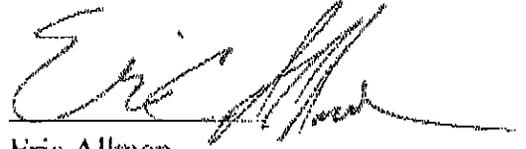
The permit does not address these deficiencies in the application in a manner that will ensure that water quality is protected, that nuisance odor will be prevented, and that the facility will have adequate operational and design protections to address emergency situations when sludge removal and effluent application will be unavailable for an extended period of time.

For example, access to the facility from Hamilton Pool Road is planned through a single roadway that would cross Little Barton Creek, including what is currently the 100-year floodplain of Little Barton Creek. During and after flood events, this roadway is likely to be flooded preventing access to the facility for the removal of sludge. At the same time, the drip fields will be inundated preventing the application of effluent. JPHD's inadequate design of the facility only heightens concerns regarding the preparedness of the facility for such emergency situations. Considering these limitations, the proposed site is simply unsuitable for the location of a wastewater treatment plant. To the degree JPHD is allowed to place the wastewater treatment plant at the currently proposed site, significant additional effluent and sludge storage should be required in light of the potential limitations on the ability to discharge and remove these materials from the plant.

Furthermore, the draft permit includes no effluent limitation for nutrients, even though the application proposed an effluent quality of 3 mg/l NH₃-N. Given the sensitive nature of the downstream waters, such a limit should be included.

As described in HPR Matters' prior comments, HPR Matters has several members who will be adversely impacted by this permit. Therefore, being an affected person, HPR Matters requests a contested case hearing.

Respectfully submitted,



Eric Allmon

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Of Counsel:
Rick Lowette

May 30, 2014

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

Handwritten: MWD / 20957

REVIEWED

JUN 02 2014

By *[Signature]*

Re: Application of JPHD, Inc. for TPDES Permit No. WQ0015201001.

Ms. Bobac:

On behalf of the Hamilton Pool Road Matters, Inc. ("HPR Matters"), I am submitting these comments and requesting a contested case hearing on the above referenced application. Among other problems, JPHD, Inc. has not demonstrated that its application meets the requirements of 30 Tex. Admin. Code Chapters 213, 217, 222, 307, 309 and 331. In short, JPHD has not demonstrated that the draft permit will be protective of surface water quality and ground water quality. For these reasons, and the reasons set forth below, HPR Matters requests a contested case hearing with regard to the above-referenced application on all issues raised in this letter, including Attachment A to this letter.

I. HPR Matters is an affected person.

HPR Matters is a Texas nonprofit corporation whose purposes include protection of the natural environment along and near Hamilton Pool Road. HPR Matters particularly seeks to protect surface water and groundwater sustainability, as well as minimize the adverse impact of the contamination or use of such waters on residents in southwest Travis County.

Several members of HPR matters would be significantly impacted by the activities for which JPHD is seeking authorization, including three owners of property adjacent to Little Barton Creek immediately downstream of the application fields.

Judy Hendricks is a member of HPR Matters who will be impacted by the proposed facility. She owns property located at 16618 Destiny Cove (Lot 13, Block A, Destiny Hills Section 1). This property is adjacent to Little Barton Creek approximately 610 feet downstream of the JPIO property, and within approximately 1200 feet of the proposed wastewater treatment plant. Her property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. A portion of Ms. Hendricks' property is located within the FEMA floodplain of Little Barton Creek. Ms. Hendricks resides on this property, and has a guest house on the property that is approximately 150 feet from Little Barton Creek. Ms. Hendricks enjoys the aesthetic beauty of Little Barton Creek, enjoys wildlife associated with the Creek, and takes walks along the creek. She also engages in recreational activities outside of her home on this property. Contaminants in Little Barton Creek from the upstream drip fields could adversely impact Ms. Hendricks' use and enjoyment of her property, and could adversely impact her use and enjoyment of Little Barton Creek. Furthermore, odors from the wastewater treatment plant could adversely impact her ability to engage in outdoor recreational activities on her property.

Additionally, Mehrad Morabbi is a member of HPR Matters. Mr. Morabbi is the owner of Property No. 3 as indicated in the adjacent landowners map accompanying the application. Mr. Morabbi's property is adjacent to Little Barton Creek. Similar to the property owned by Ms. Hendricks', a portion of Mr. Morabbi's property is located in the FEMA floodplain of Little Barton Creek, and his property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. His property is approximately 650 feet from the proposed wastewater treatment plant. Contamination from the upstream irrigation fields and odors from the nearby wastewater treatment plant units could adversely impact Mr. Morabbi's property, and could adversely impact Mr. Morabbi's use and enjoyment of his property.

Likewise, Jessica Tennant is a member of HPR Matters. Ms. Tennant owns property at 16706 Destiny Cove (Lot 12 Block A, Destiny Hills Sec 1), and she also resides on this property. This property is adjacent to Little Barton Creek approximately 320 feet downstream of the Masonwood Development, and approximately 900 feet downstream of the wastewater treatment plant and Drip Field 1. A portion of Ms. Tennant's property is located in the FEMA floodplain of Little Barton Creek, and her property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. Contamination from the upstream irrigation fields and odors from the nearby wastewater treatment plant units could adversely impact Ms. Tennant's property, and could adversely impact Ms. Tennant's use and enjoyment of her property.

Dick and Kathie Hanson are members of HPR Matters. They own property adjacent to the proposed facility, designated as Property No. 11 in JPHD's application. The Hansons reside on this property and engage in recreational activities on this property. In addition, the Hansons own a groundwater well on this property. The Hansons' property is approximately 1600 feet from Drip Field No. 5, and approximately 3,300 feet from the proposed wastewater treatment plant. Odors from the proposed wastewater treatment plant, and drip irrigation fields, could potentially adversely impact the Hansons' use and enjoyment of their property. Groundwater contamination resulting from the application of wastewater on the proposed drip fields could adversely impact the quality of groundwater in the Hansons' well.

Robert Ayres (Shield Ranch) is also a member of HPR Matters. Mr. Ayres (Shield Ranch) owns Property Number 22 as indicated on the adjacent landowners map submitted with the application. Runoff from Application Field No. 6 will travel beneath Hamilton Pool Road into Rocky Creek and thence over the Shield Ranch Property No. 22. Mr. Ayres and his family enjoy recreational activities on the Shield Ranch property, including camping and swimming and wading in Rocky Creek. Rocky Creek is a source of water, and a food source, for domestic and wild animals that inhabit Shield Ranch. Odors from the operation of the wastewater treatment plant and application fields, as well as the runoff of contaminants from the drip fields, have the potential to impair these uses of the Shield Ranch property by Mr. Ayres and his family.

II. Overview of Deficiencies

JPHD's application is deficient in a number of respects. The permit sought through the application is not adequately protective of surface water, groundwater, human health, the environment and impacted properties. Attachment A to these comments sets forth several of the areas in which the application fails to meet TCEQ's regulatory requirements. That attachment is incorporated into these comments for all purposes, and expresses concerns cumulative to other deficiencies identified in these comments.

III. The characteristics of the site render it unsuitable for subsurface drip irrigation of wastewater effluent.

An application for a subsurface drip irrigation permit is required to demonstrate compliance with the siting requirements of 30 TAC § 309.12, which requires that a proposed site minimizes possible contamination of surface water and ground water. The irrigation areas proposed by JPHD do not meet these criteria.

a. The proposed irrigation system creates an unacceptable risk of harm to ground water.

Irrigation of wastewater effluent as proposed will be harmful to groundwater. Given if groundwater is at the depth beneath the surface claimed by JPHD, the numerous existing wells on site will provide pathways for contamination to move into this groundwater. JPHD has not proposed adequate buffer zones for all of these existing wells. In most areas of the site, the irrigation fields are characterized by a shallow depth to bedrock and high rates of seepage due to porous bedrock. Notably, upon installation the proposed piping system will provide flow paths from the wastewater application areas to both groundwater recharge features and on-site surface waters.

b. The proposed irrigation system creates an unacceptable risk of harm to surface waters.

The proposed irrigation will also cause unacceptable harm to area surface waters. JPHD proposes to apply wastewater to an area within the drainage basin of Barton Creek. In TCEQ's 2012 Integrated Water Quality Report, these tributaries of Barton Creek were recognized as already of concern due to elevated nitrate levels. The proposed wastewater application will only aggravate this situation. The steep slopes of several of the proposed irrigation areas will increase the potential for surface water runoff. Drip Field 3 is of concern as it will receive runoff from upland areas, and this field drains to a low point where water will either accumulate or flow in a concentrated stream across downstream residential property. Drip Field 4 contains a drainage swale that will concentrate flow, thereby reducing any filtering of the runoff that would otherwise occur prior to contaminants reaching water in the state, while Drip Field 3 and Drip Field 5 also contain berms that will concentrate flow and direct this flow into water in the state. The movement of contaminants off of these fields in this concentrated manner renders the operation a point source discharge, which TCEQ may not properly authorize via the requested land application permit. HPR Matters is further concerned that JPHD has not adequately demonstrated that the proposed treatment facilities are not located in wetlands, nor has JPHD demonstrated that the drip irrigation system will not otherwise adversely impact wetlands.

IV. The designs of the wastewater treatment system and dispersal system are inadequate.

The design of the proposed treatment system is inadequate and premised on false assumptions. For example, JPHD has improperly assumed wastewater strength of 250 mg/l BOD₅. Applicant has not demonstrated that the strength of domestic wastewater will be this low, and the residential wastewater influent to

the treatment plant could well have strengths more in the range of 350 mg/l. Moreover, this value is based on an inaccurate characterization of the service area for the treatment plant. The Master Development Plan submitted to Travis County shows that the service area will include an amenity center for the neighborhood, as well as 40 acres of commercial development. These sources will produce wastewater of a much higher biological oxygen demand strength than the residential sources which JPHD's engineers have wrongly assumed constitute the only sources of wastewater in the treatment system's service area.

The design of the dispersal system is also inadequate. Intervening surface water bodies exist between the proposed wastewater treatment plant and several of the irrigation fields. The installation of pipes beneath these surface waters, and the potential leakage of wastewater from these pipes into the surface waters above, creates an unacceptable potential for the contamination of surface water quality that JPHD has not addressed. Furthermore, a water supply line owned by the West Travis County Public Utility Agency exists on the eastern portion of the service area. It would be necessary for JPHD to install its drip system distribution lines across this significant water service line in order to irrigate Drip Field 6. JPHD has not addressed how its distribution system would be adequately designed to address the risk posed by this proximity of its wastewater distribution lines to important drinking water facilities.

V. The proposed operations and maintenance are inadequate.

Furthermore, the proposed cropping system will not be adequate to remove contaminants prior to those contaminants reaching groundwater or surface water. Much of the area of the irrigation systems have significant canopy cover that will impair the growth of the proposed non-native grasses that JPHD asserts will utilize nutrients contained in the wastewater. Additionally, JPHD has not demonstrated that it has adequately accounted for the presence of wastewater treatment facilities within Drip Field 1, and the buffers needed for these facilities.

Also, JPHD has not proposed adequate design and operational measures to address potential odor issues associated with the facility.

VI. The proposed activities are not adequately protective of impacted fauna and flora.

By its application, JPHD seeks authorization to modify the landscape and apply wastewater in a manner that has the significant potential to adversely impact plant and animal life. For example, nutrients and oxygen-demanding substances contained in the wastewater will reduce the availability of oxygen to aquatic life

downstream of the application fields. The application does not seek a permit adequate to address this danger. Additionally, chlorine contained in the wastewater effluent could potentially have an adverse impact on both terrestrial and aquatic wildlife. These concerns are only heightened by the presence of sensitive species in the area of the application fields, and downstream of the application fields, such as the Barton Springs Salamander.

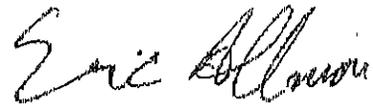
VII. Issuance of the requested permit is not in the public interest.

In deciding whether to issue a permit for the use or installation of a drip irrigation system, the Commission is to consider whether the use or installation of the proposed system is in the public interest. Tex. Water Code § 32.101. For several reasons, the use and installation of JPFD's requested drip irrigation system is not in the public interest. In addition to the reasons listed elsewhere in these comments, JPFD has not demonstrated that a need exists for the proposed wastewater treatment and dispersal system. JPFD's request is premised on nothing more than a speculative claim with regard to a subdivision that it hopes to build, and information on the nature of that hoped-for development. Furthermore, JPFD has not shown that practical, economic, and feasible alternatives to a subsurface area drip dispersal system are not reasonably available.

VIII. Conclusion

For these reasons, HPR Matters requests that the permit application be denied. If the Executive Director recommends issuance of the permit, HPR Matters requests a contested case hearing regarding the permit application and draft permit with respect to each issue raised in these comments.

Sincerely,


Eric Allmon

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ALLMON & ROCKWELL,
P.C.**
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Attachment A

Attachment A

Deficiencies In JPHD, Inc. application for TPDES Permit No. WQ0015201001

Regulatory Requirement	Concern with regard to JPHD Application for TPDES Permit No. WQ0015201001
30 TAC Chapter 217	Applicant has not proposed an adequate design for the wastewater treatment plant that is sufficiently protective of human health, surface water quality and groundwater quality. Deficiencies in the application include the manner in which the applicant has not demonstrated that the design includes adequate storage for emergency situations, has not demonstrated adequate backup power, and has not demonstrated adequate design characteristics to address the potential for wastewater to leak into surface waters as that wastewater is conveyed across the location of surface waters.
30 TAC § 221.1	Irrigation as proposed will not maintain the quality of freshwater in the state, and will result in injection activities that may pollute fresh water.
30 TAC § 222.37	Applicant has not shown that the compliance history of each person as listed at 30 TAC § 222.37(a) is sufficient to support issuance of the requested permit.
30 TAC § 222.39	Applicant has not shown that the permit should be issued for the requested term. If the permit should be issued, site specific conditions warrant a shorter term in order to evaluate the impact of the proposed irrigation prior to the occurrence of unacceptable adverse impacts.
30 TAC § 222.71, 30 TAC § 309.12	The site selected for the proposed subsurface area drip dispersal system is not suitable for this purpose in consideration of the factors set forth at 30 TAC § 309.12. The active geologic processes at the site, such as erosion, will prevent adequate protection of groundwater and surface water. The proposed design, construction and operational features of the proposed wastewater treatment facility, distribution system, and dispersal system will not minimize possible contamination of surface water and ground water in light of the groundwater conditions, soil conditions and climatological conditions of the site.
30 TAC § 309.13	The proposed wastewater treatment plant, distribution system and dispersal system site is not suitable in light of the criteria listed at 30 TAC § 309.13. Without limitation, the presence of water wells has not been adequately addressed, the necessary assurances for adequate buffer zones have not been provided, and odor control requirements have not been adequately met.
30 TAC § 222.73	Applicant has not provided an adequate soil evaluation, and the soils present at the site are not appropriate for subsurface drip irrigation of wastewater. In various areas, soils in the irrigation fields are characterized by steep slopes, shallow depths to bedrock, high rates of seepage due to porous bedrock, the presence of large stones on the

	ground surface, and a high cobble content. For these reasons, the Natural Resources Conservation Service have given these soils the lowest possible rating for disposal of wastewater by irrigation, noting that their use is "very limited" for this purpose.
30 TAC § 222.75	Applicant has not provided a sufficient site preparation plan. In particular, Applicant has not demonstrated how the site will minimize rainfall run-on and compensate for restrictive horizons within the soil column. Furthermore, Applicant has not adequately addressed the chemical and physical characteristics of the soil and material proposed to be imported, nor has Applicant adequately addressed the planned removal of existing vegetation.
30 TAC § 222.77	Applicant has not demonstrated that the application of wastewater as proposed will be adequately protective of groundwater.
30 TAC § 222.79	Applicant has not provided an adequate recharge feature plan. Recharge features exist at the site that have not been adequately identified, and sufficient measures have not been proposed to address the presence of these recharge features.
30 TAC § 222.81	Applicant has not shown that adequate buffer zones will be implemented at the proposed facility.
30 TAC § 222.83	Applicant has not demonstrated that the hydraulic application rate will be adequately protective of surface water quality and ground water quality.
30 TAC § 222.85	Applicant has not shown that the effluent applied will be of sufficient quality to adequately protect surface water and groundwater.
30 TAC § 222.87	Applicant has not shown that the effluent limitations as proposed will be adequately protective of surface water and ground water.
30 TAC § 222.111	Applicant has not shown that the design of the proposed treatment system, distribution system and dispersal system are adequate.
30 TAC § 222.113	Applicant has not provided a sufficient engineering report.
30 TAC § 222.115, 30 TAC Chapter 217	Applicant has not proposed an adequate design for the wastewater treatment system that is sufficiently protective of human health, surface water quality and groundwater quality. In consideration of the various types of deficiencies in the application include the manner in which the applicant has not demonstrated that the design includes adequate storage for emergency situations, has not demonstrated adequate backup power, and has not demonstrated adequate design characteristics to address the potential for wastewater to leak into surface waters as that wastewater is conveyed across the location of surface waters.
30 TAC § 222.117	Applicant has not proposed an adequate subsurface area drip dispersal system design.
30 TAC § 222.119	Applicant has not proposed an adequate design for the effluent delivery system. Problems with the delivery system include Applicant's failure to show that the piping system at locations crossing surface water bodies are sufficient to prevent the leaking of contaminated water into those surface waters.
30 TAC § 222.121	Applicant has not proposed an adequate design for the dispersal zone

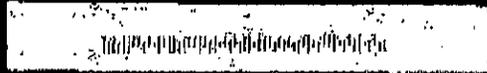
	facilities.
30 TAC § 222.123	Applicant has not proposed an adequately designed control system for the wastewater treatment and irrigation facilities.
30 TAC § 222.125	Applicant has not proposed adequate vertical separation beneath the subsurface drip disposal system and relevant underlying features.
30 TAC § 222.127	Applicant has not proposed adequate temporary storage.
30 TAC Chapter 222, Subchapter E,	Applicant has failed to show that the requested permit will ensure adequately protective operation and maintenance of the authorized facilities. For example, Applicant has failed to show that the proposed irrigation will result in the seepage or percolation of contaminants beyond the root zone, particularly given the shallow depth to bedrock in the area and the overapplication of nutrients proposed in the Application. Applicant has further failed to demonstrate that the proposed vegetative cover is suited for the site characteristics, and has not included adequate detail regarding the specific varieties of vegetation, harvest methods and harvest frequencies to be utilized in association with the subsurface drip dispersal system.
30 TAC Chapter 307	Applicant has failed to show that the proposed irrigation is protective of surface water, and is protective of Texas' Surface Water Standards. The tributaries of Barton Creek have been recognized as at risk of impairment for nitrate levels, and the irrigation as proposed will result in a violation of Texas' Tier 1 anti-degradation standards as well as Texas' Tier 2 anti-degradation standards.
30 TAC Chapter 60, Texas Water Code § 32.101	JPHD has not demonstrated that the compliance history of all relevant entities justifies issuance of the requested permit.



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Ms. Bridget Hobbs
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Texas Commission on Environmental Quality
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2014 AUG 29 PM 4: 36

TEXAS
COMMISSION
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FAX COVER SHEET

TO: Bridget Bohac
Office of the Chief Clerk,
Texas Commission on Environmental Quality

512-239-3311

FROM: Eric Allmon
DATE: August 29, 2014

DOCUMENTS	NUMBER OF PAGES (not including cover pg.)
Re: Comments and Hearing Request Regarding Draft Permit No. WQ0015201001, Proposed for Issuance to JPHD, Inc	14

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PLEASE CALL 512.469.6000 AS SOON AS POSSIBLE IF ALL PAGES ARE NOT RECEIVED OR IF THERE ARE ANY OTHER PROBLEMS WITH THE TRANSMITTAL OF THIS FAX.

FREDERICK, PERALES, ALLMON & ROCKWELL, P.C. AM 11:01

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Of Counsel:
Rick Lowerre

May 30, 2014

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

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90957*

REVIEWED

JUN 02 2014

By *[Signature]*

H

Re: Application of JPHD, Inc. for TPDES Permit No. WQ0015201001.

Ms. Bohac:

On behalf of the Hamilton Pool Road Matters, Inc. ("HPR Matters"), I am submitting these comments and requesting a contested case hearing on the above referenced application. Among other problems, JPHD, Inc. has not demonstrated that its application meets the requirements of 30 Tex. Admin. Code Chapters 213, 217, 222, 307, 309 and 331. In short, JPHD has not demonstrated that the draft permit will be protective of surface water quality and ground water quality. For these reasons, and the reasons set forth below, HPR Matters requests a contested case hearing with regard to the above-referenced application on all issues raised in this letter, including Attachment A to this letter.

I. HPR Matters is an affected person.

HPR Matters is a Texas nonprofit corporation whose purposes include protection of the natural environment along and near Hamilton Pool Road. HPR Matters particularly seeks to protect surface water and groundwater sustainability, as well as minimize the adverse impact of the contamination or use of such waters on residents in southwest Travis County.

Several members of HPR matters would be significantly impacted by the activities for which JPHD is seeking authorization, including three owners of property adjacent to Little Barton Creek immediately downstream of the application fields.

[Handwritten signature]

Judy Hendricks is a member of HPR Matters who will be impacted by the proposed facility. She owns property located at 16618 Destiny Cove (Lot 13, Block A Destiny Hills Section 1). This property is adjacent to Little Barton Creek approximately 610 feet downstream of the JPHD property, and within approximately 1200 feet of the proposed wastewater treatment plant. Her property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. A portion of Ms. Hendricks' property is located within the FEMA floodplain of Little Barton Creek. Ms. Hendricks resides on this property, and has a guest house on the property that is approximately 150 feet from Little Barton Creek. Ms. Hendricks enjoys the aesthetic beauty of Little Barton Creek, enjoys wildlife associated with the Creek, and takes walks along the creek. She also engages in recreational activities outside of her home on this property. Contaminants in Little Barton Creek from the upstream drip fields could adversely impact Ms. Hendrick's use and enjoyment of her property, and could adversely impact her use and enjoyment of Little Barton Creek. Furthermore, odors from the wastewater treatment plant could adversely impact her ability to engage in outdoor recreational activities on her property.

Additionally, Mehrad Morabbi is a member of HPR Matters. Mr. Morabbi is the owner of Property No. 3 as indicated in the adjacent landowners map accompanying the application. Mr. Morabbi's property is adjacent to Little Barton Creek. Similar to the property owned by Ms. Hendricks', a portion of Mr. Morabbi's property is located in the FEMA floodplain of Little Barton Creek, and his property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. His property is approximately 650 feet from the proposed wastewater treatment plant. Contamination from the upstream irrigation fields and odors from the nearby wastewater treatment plant units could adversely impact Mr. Morabbi's property, and could adversely impact Mr. Morabbi's use and enjoyment of his property.

Likewise, Jessica Tennant is a member of HPR Matters. Ms. Tennant owns property at 16706 Destiny Cove (Lot 12 Block A Destiny Hills Sec 1), and she also resides on this property. This property is adjacent to Little Barton Creek approximately 320 feet downstream of the Masonwood Development, and approximately 900 feet downstream of the wastewater treatment plant and Drip Field 1. A portion of Ms. Tennant's property is located in the FEMA floodplain of Little Barton Creek, and her property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. Contamination from the upstream irrigation fields and odors from the nearby wastewater treatment plant units could adversely impact Ms. Tennant's property, and could adversely impact Ms. Tennant's use and enjoyment of her property.

Dick and Kathie Hanson are members of HPR Matters. They own property adjacent to the proposed facility, designated as Property No. 11 in JPHD's application. The Hansons reside on this property and engage in recreational activities on this property. In addition, the Hansons own a groundwater well on this property. The Hansons' property is approximately 1600 feet from Drip Field No. 5, and approximately 3,300 feet from the proposed wastewater treatment plant. Odors from the proposed wastewater treatment plant, and drip irrigation fields, could potentially adversely impact the Hansons' use and enjoyment of their property. Groundwater contamination resulting from the application of wastewater on the proposed drip fields could adversely impact the quality of groundwater in the Hansons' well.

Robert Ayres (Shield Ranch) is also a member of HPR Matters. Mr. Ayres (Shield Ranch) owns Property Number 22 as indicated on the adjacent landowners map submitted with the application. Runoff from Application Field No. 6 will travel beneath Hamilton Pool Road into Rocky Creek and thence over the Shield Ranch Property No. 22. Mr. Ayres and his family enjoy recreational activities on the Shield Ranch property, including camping and swimming and wading in Rocky Creek. Rocky Creek is a source of water, and a food source, for domestic and wild animals that inhabit Shield Ranch. Odors from the operation of the wastewater treatment plant and application fields, as well as the runoff of contaminants from the drip fields, have the potential to impair these uses of the Shield Ranch property by Mr. Ayres and his family.

II. Overview of Deficiencies

JPHD's application is deficient in a number of respects. The permit sought through the application is not adequately protective of surface water, groundwater, human health, the environment and impacted properties. Attachment A to these comments sets forth several of the areas in which the application fails to meet TCEQ's regulatory requirements. That attachment is incorporated into these comments for all purposes, and expresses concerns cumulative to other deficiencies identified in these comments.

III. The characteristics of the site render it unsuitable for subsurface drip irrigation of wastewater effluent.

An application for a subsurface drip irrigation permit is required to demonstrate compliance with the siting requirements of 30 TAC § 309.12, which requires that a proposed site minimizes possible contamination of surface water and ground water. The irrigation areas proposed by JPHD do not meet these criteria.

a. The proposed irrigation system creates an unacceptable risk of harm to ground water.

Irrigation of wastewater effluent as proposed will be harmful to groundwater. Even if groundwater is at the depth beneath the surface claimed by JPHD, the numerous existing wells on site will provide pathways for contamination to move into this groundwater. JPHD has not proposed adequate buffer zones for all of these existing wells. In most areas of the site, the irrigation fields are characterized by a shallow depth to bedrock and high rates of seepage due to porous bedrock. Notably, upon installation the proposed piping system will provide flow paths from the wastewater application areas to both groundwater recharge features and on-site surface waters.

b. The proposed irrigation system creates an unacceptable risk of harm to surface waters.

The proposed irrigation will also cause unacceptable harm to area surface waters. JPHD proposes to apply wastewater to an area within the drainage basin of Barton Creek. In TCEQ's 2012 Integrated Water Quality Report, these tributaries of Barton Creek were recognized as already of concern due to elevated nitrate levels. The proposed wastewater application will only aggravate this situation. The steep slopes of several of the proposed irrigation areas will increase the potential for surface water runoff. Drip Field 3 is of concern as it will receive runoff from upland areas, and this field drains to a low point where water will either accumulate or flow in a concentrated stream across downstream residential property. Drip Field 4 contains a drainage swale that will concentrate flow, thereby reducing any filtering of the runoff that would otherwise occur prior to contaminants reaching water in the state, while Drip Field 3 and Drip Field 5 also contain berms that will concentrate flow and direct this flow into water in the state. The movement of contaminants off of these fields in this concentrated manner renders the operation a point source discharge, which TCEQ may not properly authorize via the requested land application permit. HPR Matters is further concerned that JPHD has not adequately demonstrated that the proposed treatment facilities are not located in wetlands, nor has JPHD demonstrated that the drip irrigation system will not otherwise adversely impact wetlands.

IV. The designs of the wastewater treatment system and dispersal system are inadequate.

The design of the proposed treatment system is inadequate and premised on false assumptions. For example, JPHD has improperly assumed wastewater strength of 250 mg/l BOD₅. Applicant has not demonstrated that the strength of domestic wastewater will be this low, and the residential wastewater influent to

the treatment plant could well have strengths more in the range of 350 mg/l. Moreover, this value is based on an inaccurate characterization of the service area for the treatment plant. The Master Development Plan submitted to Travis County shows that the service area will include an amenity center for the neighborhood, as well as 40 acres of commercial development. These sources will produce wastewater of a much higher biological oxygen demand strength than the residential sources which JPHD's engineers have wrongly assumed constitute the only sources of wastewater in the treatment system's service area.

The design of the dispersal system is also inadequate. Intervening surface water bodies exist between the proposed wastewater treatment plant and several of the irrigation fields. The installation of pipes beneath these surface waters, and the potential leakage of wastewater from these pipes into the surface waters above, creates an unacceptable potential for the contamination of surface water quality that JPHD has not addressed. Furthermore, a water supply line owned by the West Travis County Public Utility Agency exists on the eastern portion of the service area. It would be necessary for JPHD to install its drip system distribution lines across this significant water service line in order to irrigate Drip Field 6. JPHD has not addressed how its distribution system would be adequately designed to address the risk posed by this proximity of its wastewater distribution lines to important drinking water facilities.

V. The proposed operations and maintenance are inadequate.

Furthermore, the proposed cropping system will not be adequate to remove contaminants prior to those contaminants reaching groundwater or surface water. Much of the area of the irrigation systems have significant canopy cover that will impair the growth of the proposed non-native grasses that JPHD asserts will utilize nutrients contained in the wastewater. Additionally, JPHD has not demonstrated that it has adequately accounted for the presence of wastewater treatment facilities within Drip Field 1, and the buffers needed for these facilities.

Also, JPHD has not proposed adequate design and operational measures to address potential odor issues associated with the facility.

VI. The proposed activities are not adequately protective of impacted fauna and flora.

By its application, JPHD seeks authorization to modify the landscape and apply wastewater in a manner that has the significant potential to adversely impact plant and animal life. For example, nutrients and oxygen-demanding substances contained in the wastewater will reduce the availability of oxygen to aquatic life

downstream of the application fields. The application does not seek a permit adequate to address this danger. Additionally, chlorine contained in the wastewater effluent could potentially have an adverse impact on both terrestrial and aquatic wildlife. These concerns are only heightened by the presence of sensitive species in the area of the application fields, and downstream of the application fields, such as the Barton Springs Salamander.

VII. Issuance of the requested permit is not in the public interest.

In deciding whether to issue a permit for the use or installation of a drip irrigation system, the Commission is to consider whether the use or installation of the proposed system is in the public interest. Tex. Water Code § 32.101. For several reasons, the use and installation of JPHD's requested drip irrigation system is not in the public interest. In addition to the reasons listed elsewhere in these comments, JPHD has not demonstrated that a need exists for the proposed wastewater treatment and dispersal system. JPHD's request is premised on nothing more than a speculative claim with regard to a subdivision that it hopes to build, and information on the nature of that hoped-for development. Furthermore, JPHD has not shown that practical, economic, and feasible alternatives to a subsurface area drip dispersal system are not reasonably available.

VIII. Conclusion

For these reasons, HPR Matters requests that the permit application be denied. If the Executive Director recommends issuance of the permit, HPR Matters requests a contested case hearing regarding the permit application and draft permit with respect to each issue raised in these comments.

Sincerely,



Eric Allmon

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P.C.**

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Attachment A

Attachment A

Deficiencies in JPHD, Inc. application for TPDES Permit No. WQ0015201001

Regulatory Requirement	Concern with regard to JPHD Application for TPDES Permit No. WQ0015201001
30 TAC Chapter 217	Applicant has not proposed an adequate design for the wastewater treatment plant that is sufficiently protective of human health, surface water quality and groundwater quality. Deficiencies in the application include the manner in which the applicant has not demonstrated that the design includes adequate storage for emergency situations, has not demonstrated adequate backup power, and has not demonstrated adequate design characteristics to address the potential for wastewater to leak into surface waters as that wastewater is conveyed across the location of surface waters.
30 TAC § 221.1	Irrigation as proposed will not maintain the quality of freshwater in the state, and will result in injection activities that may pollute fresh water.
30 TAC § 222.37	Applicant has not shown that the compliance history of each person as listed at 30 TAC § 222.37(a) is sufficient to support issuance of the requested permit.
30 TAC § 222.39	Applicant has not shown that the permit should be issued for the requested term. If the permit should be issued, site specific conditions warrant a shorter term in order to evaluate the impact of the proposed irrigation prior to the occurrence of unacceptable adverse impacts.
30 TAC § 222.71, 30 TAC § 309.12	The site selected for the proposed subsurface area drip dispersal system is not suitable for this purpose in consideration of the factors set forth at 30 TAC § 309.12. The active geologic processes at the site, such as erosion, will prevent adequate protection of groundwater and surface water. The proposed design, construction and operational features of the proposed wastewater treatment facility, distribution system, and dispersal system will not minimize possible contamination of surface water and ground water in light of the groundwater conditions, soil conditions and climatological conditions of the site.
30 TAC § 309.13	The proposed wastewater treatment plant, distribution system and dispersal system site is not suitable in light of the criteria listed at 30 TAC § 309.13. Without limitation, the presence of water wells has not been adequately addressed, the necessary assurances for adequate buffer zones have not been provided, and odor control requirements have not been adequately met.
30 TAC § 222.73	Applicant has not provided an adequate soil evaluation, and the soils present at the site are not appropriate for subsurface drip irrigation of wastewater. In various areas, soils in the irrigation fields are characterized by steep slopes, shallow depths to bedrock, high rates of seepage due to porous bedrock, the presence of large stones on the

	ground surface, and a high cobble content. For these reasons, the Natural Resources Conservation Service have given these soils the lowest possible rating for disposal of wastewater by irrigation, noting that their use is "very limited" for this purpose.
30 TAC § 222.75	Applicant has not provided a sufficient site preparation plan. In particular, Applicant has not demonstrated how the site will minimize rainfall run-on and compensate for restrictive horizons within the soil column. Furthermore, Applicant has not adequately addressed the chemical and physical characteristics of the soil and material proposed to be imported, nor has Applicant adequately addressed the planned removal of existing vegetation.
30 TAC § 222.77	Applicant has not demonstrated that the application of wastewater as proposed will be adequately protective of groundwater.
30 TAC § 222.79	Applicant has not provided an adequate recharge feature plan. Recharge features exist at the site that have not been adequately identified, and sufficient measures have not been proposed to address the presence of these recharge features.
30 TAC § 222.81	Applicant has not shown that adequate buffer zones will be implemented at the proposed facility.
30 TAC § 222.83	Applicant has not demonstrated that the hydraulic application rate will be adequately protective of surface water quality and ground water quality.
30 TAC § 222.85	Applicant has not shown that the effluent applied will be of sufficient quality to adequately protect surface water and groundwater.
30 TAC § 222.87	Applicant has not shown that the effluent limitations as proposed will be adequately protective of surface water and ground water.
30 TAC § 222.111	Applicant has not shown that the design of the proposed treatment system, distribution system and dispersal system are adequate.
30 TAC § 222.113	Applicant has not provided a sufficient engineering report.
30 TAC § 222.115, 30 TAC Chapter 217	Applicant has not proposed an adequate design for the wastewater treatment system that is sufficiently protective of human health, surface water quality and groundwater quality. In consideration of the various types of Deficiencies in the application include the manner in which the applicant has not demonstrated that the design includes adequate storage for emergency situations, has not demonstrated adequate backup power, and has not demonstrated adequate design characteristics to address the potential for wastewater to leak into surface waters as that wastewater is conveyed across the location of surface waters.
30 TAC § 222.117	Applicant has not proposed an adequate subsurface area drip dispersal system design.
30 TAC § 222.119	Applicant has not proposed an adequate design for the effluent delivery system. Problems with the delivery system include Applicant's failure to show that the piping system at locations crossing surface water bodies are sufficient to prevent the leaking of contaminated water into those surface waters.
30 TAC § 222.121	Applicant has not proposed an adequate design for the dispersal zone

	facilities.
30 TAC § 222.123	Applicant has not proposed an adequately designed control system for the wastewater treatment and irrigation facilities.
30 TAC § 222.125	Applicant has not proposed adequate vertical separation beneath the subsurface drip disposal system and relevant underlying features.
30 TAC § 222.127	Applicant has not proposed adequate temporary storage.
30 TAC Chapter 222, Subchapter E.	Applicant has failed to show that the requested permit will ensure adequately protective operation and maintenance of the authorized facilities. For example, Applicant has failed to show that the proposed irrigation will result in the seepage or percolation of contaminants beyond the root zone, particularly given the shallow depth to bedrock in the area and the overapplication of nutrients proposed in the Application. Applicant has further failed to demonstrate that the proposed vegetative cover is suited for the site characteristics, and has not included adequate detail regarding the specific varieties of vegetation, harvest methods and harvest frequencies to be utilized in association with the subsurface drip dispersal system.
30 TAC Chapter 307	Applicant has failed to show that the proposed irrigation is protective of surface water, and is protective of Texas' Surface Water Standards. The tributaries of Barton Creek have been recognized as at risk of impairment for nitrate levels, and the irrigation as proposed will result in a violation of Texas' Tier 1 anti-degradation standards as well as Texas' Tier 2 anti-degradation standards.
30 TAC Chapter 60, Texas Water Code § 32.101	JPHD has not demonstrated that the compliance history of all relevant entities justifies issuance of the requested permit.



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Ms. Bridget Bohac
Office of the Chief Clerk MC-105
Texas Commission on Environmental Quality
P. O. Box 13087
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Of Counsel:
Rick Lowerre

May 30, 2014

Ms. Bridget Bohac, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
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Austin, Texas 78711-3087

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CHIEF CLERKS OFFICE

2014 MAY 30 PM 12:10

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Re: Application of JPHD, Inc. for TPDES Permit No. WQ0015201001.

Ms. Bohac:

On behalf of the Hamilton Pool Road Matters, Inc. ("HPR Matters"), I am submitting these comments and requesting a contested case hearing on the above referenced application. Among other problems, JPHD, Inc. has not demonstrated that its application meets the requirements of 30 Tex. Admin. Code Chapters 213, 217, 222, 307, 309 and 331. In short, JPHD has not demonstrated that the draft permit will be protective of surface water quality and ground water quality. For these reasons, and the reasons set forth below, HPR Matters requests a contested case hearing with regard to the above-referenced application on all issues raised in this letter, including Attachment A to this letter.

I. HPR Matters is an affected person.

HPR Matters is a Texas nonprofit corporation whose purposes include protection of the natural environment along and near Hamilton Pool Road. HPR Matters particularly seeks to protect surface water and groundwater sustainability, as well as minimize the adverse impact of the contamination or use of such waters on residents in southwest Travis County.

Several members of HPR matters would be significantly impacted by the activities for which JPHD is seeking authorization, including three owners of property adjacent to Little Barton Creek immediately downstream of the application fields.

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Judy Hendricks is a member of HPR Matters who will be impacted by the proposed facility. She owns property located at 16618 Destiny Cove (Lot 13, Block A Destiny Hills Section 1). This property is adjacent to Little Barton Creek approximately 610 feet downstream of the JPHD property, and within approximately 1200 feet of the proposed wastewater treatment plant. Her property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. A portion of Ms. Hendricks' property is located within the FEMA floodplain of Little Barton Creek. Ms. Hendricks resides on this property, and has a guest house on the property that is approximately 150 feet from Little Barton Creek. Ms. Hendricks enjoys the aesthetic beauty of Little Barton Creek, enjoys wildlife associated with the Creek, and takes walks along the creek. She also engages in recreational activities outside of her home on this property. Contaminants in Little Barton Creek from the upstream drip fields could adversely impact Ms. Hendricks' use and enjoyment of her property, and could adversely impact her use and enjoyment of Little Barton Creek. Furthermore, odors from the wastewater treatment plant could adversely impact her ability to engage in outdoor recreational activities on her property.

Additionally, Mehrad Morabbi is a member of HPR Matters. Mr. Morabbi is the owner of Property No. 3 as indicated in the adjacent landowners map accompanying the application. Mr. Morabbi's property is adjacent to Little Barton Creek. Similar to the property owned by Ms. Hendricks', a portion of Mr. Morabbi's property is located in the FEMA floodplain of Little Barton Creek, and his property is downstream of proposed Drip Fields 1, 2, 3, 4 and 5. His property is approximately 650 feet from the proposed wastewater treatment plant. Contamination from the upstream irrigation fields and odors from the nearby wastewater treatment plant units could adversely impact Mr. Morabbi's property, and could adversely impact Mr. Morabbi's use and enjoyment of his property.

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II. Overview of Deficiencies

JPHD's application is deficient in a number of respects. The permit sought through the application is not adequately protective of surface water, groundwater, human health, the environment and impacted properties. Attachment A to these comments sets forth several of the areas in which the application fails to meet TCEQ's regulatory requirements. That attachment is incorporated into these comments for all purposes, and expresses concerns cumulative to other deficiencies identified in these comments.

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IV. The designs of the wastewater treatment system and dispersal system are inadequate.

The design of the proposed treatment system is inadequate and premised on false assumptions. For example, JPHD has improperly assumed wastewater strength of 250 mg/l BOD₅. Applicant has not demonstrated that the strength of domestic wastewater will be this low, and the residential wastewater influent to

the treatment plant could well have strengths more in the range of 350 mg/l. Moreover, this value is based on an inaccurate characterization of the service area for the treatment plant. The Master Development Plan submitted to Travis County shows that the service area will include an amenity center for the neighborhood, as well as 40 acres of commercial development. These sources will produce wastewater of a much higher biological oxygen demand strength than the residential sources which JPHD's engineers have wrongly assumed constitute the only sources of wastewater in the treatment system's service area.

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V. The proposed operations and maintenance are inadequate.

Furthermore, the proposed cropping system will not be adequate to remove contaminants prior to those contaminants reaching groundwater or surface water. Much of the area of the irrigation systems have significant canopy cover that will impair the growth of the proposed non-native grasses that JPHD asserts will utilize nutrients contained in the wastewater. Additionally, JPHD has not demonstrated that it has adequately accounted for the presence of wastewater treatment facilities within Drip Field 1, and the buffers needed for these facilities.

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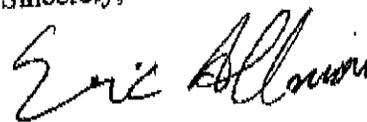
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Sincerely,


Eric Allmon

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Attachment A

Attachment A

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30 TAC § 222.75	Applicant has not provided a sufficient site preparation plan. In particular, Applicant has not demonstrated how the site will minimize rainfall run-on and compensate for restrictive horizons within the soil column. Furthermore, Applicant has not adequately addressed the chemical and physical characteristics of the soil and material proposed to be imported, nor has Applicant adequately addressed the planned removal of existing vegetation.
30 TAC § 222.77	Applicant has not demonstrated that the application of wastewater as proposed will be adequately protective of groundwater.
30 TAC § 222.79	Applicant has not provided an adequate recharge feature plan. Recharge features exist at the site that have not been adequately identified, and sufficient measures have not been proposed to address the presence of these recharge features.
30 TAC § 222.81	Applicant has not shown that adequate buffer zones will be implemented at the proposed facility.
30 TAC § 222.83	Applicant has not demonstrated that the hydraulic application rate will be adequately protective of surface water quality and ground water quality.
30 TAC § 222.85	Applicant has not shown that the effluent applied will be of sufficient quality to adequately protect surface water and groundwater.
30 TAC § 222.87	Applicant has not shown that the effluent limitations as proposed will be adequately protective of surface water and ground water.
30 TAC § 222.111	Applicant has not shown that the design of the proposed treatment system, distribution system and dispersal system are adequate.
30 TAC § 222.113	Applicant has not provided a sufficient engineering report.
30 TAC § 222.115, 30 TAC Chapter 217	Applicant has not proposed an adequate design for the wastewater treatment system that is sufficiently protective of human health, surface water quality and groundwater quality. In consideration of the various types of Deficiencies in the application include the manner in which the applicant has not demonstrated that the design includes adequate storage for emergency situations, has not demonstrated adequate backup power, and has not demonstrated adequate design characteristics to address the potential for wastewater to leak into surface waters as that wastewater is conveyed across the location of surface waters.
30 TAC § 222.117	Applicant has not proposed an adequate subsurface area drip dispersal system design.
30 TAC § 222.119	Applicant has not proposed an adequate design for the effluent delivery system. Problems with the delivery system include Applicant's failure to show that the piping system at locations crossing surface water bodies are sufficient to prevent the leaking of contaminated water into those surface waters.
30 TAC § 222.121	Applicant has not proposed an adequate design for the dispersal zone

	facilities.
30 TAC § 222.123	Applicant has not proposed an adequately designed control system for the wastewater treatment and irrigation facilities.
30 TAC § 222.125	Applicant has not proposed adequate vertical separation beneath the subsurface drip disposal system and relevant underlying features.
30 TAC § 222.127	Applicant has not proposed adequate temporary storage.
30 TAC Chapter 222, Subchapter E.	Applicant has failed to show that the requested permit will ensure adequately protective operation and maintenance of the authorized facilities. For example, Applicant has failed to show that the proposed irrigation will result in the seepage or percolation of contaminants beyond the root zone, particularly given the shallow depth to bedrock in the area and the overapplication of nutrients proposed in the Application. Applicant has further failed to demonstrate that the proposed vegetative cover is suited for the site characteristics, and has not included adequate detail regarding the specific varieties of vegetation, harvest methods and harvest frequencies to be utilized in association with the subsurface drip dispersal system.
30 TAC Chapter 307	Applicant has failed to show that the proposed irrigation is protective of surface water, and is protective of Texas' Surface Water Standards. The tributaries of Barton Creek have been recognized as at risk of impairment for nitrate levels, and the irrigation as proposed will result in a violation of Texas' Tier 1 anti-degradation standards as well as Texas' Tier 2 anti-degradation standards.
30 TAC Chapter 60, Texas Water Code § 32.101	JPHD has not demonstrated that the compliance history of all relevant entities justifies issuance of the requested permit.

FREDERICK, PERALES, ALLMON & ROCKWELL

707 Rio Grande, Suite 200

Austin, TX 78701

(512) 469-6000 Phone

(512) 482-9346 FAX

FAX COVER SHEET

TO: Bridget Bohac
Office of the Chief Clerk,
Texas Commission on Environmental Quality

512-239-3311

FROM: Eric Allmon

DATE: May 30, 2014

DOCUMENTS	NUMBER OF PAGES (not including cover pg.)
Re: Comments and Request for Contested Case Hearing regarding Application of JPHD, Inc. for TPDES Permit No. WQ0015201001.	<p style="text-align: center;">10</p>

CONFIDENTIALITY NOTICE: This message is intended for the use of the individual or entity to which it is addressed. This message consists of information from LOWERRE & FREDERICK, PERALES, ALLMON & ROCKWELL and may be privileged, confidential and exempt from disclosure by law. Unauthorized distribution or copying of this information is prohibited. If you have received this communication in error, please notify us immediately at our telephone number listed above. We will promptly arrange for the return of the message to us.

PLEASE CALL 512.469.6000 AS SOON AS POSSIBLE IF ALL PAGES ARE NOT RECEIVED OR IF THERE ARE ANY OTHER PROBLEMS WITH THE TRANSMITTAL OF THIS FAX.

CHIEF CLERKS OFFICE

2014 MAY 30 PM 12:01

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

TCEQ Public Meeting Form
December 15, 2014

4

JPHD, Inc.
Water Quality Permit
Permit No. WQ0015201001

PLEASE PRINT

Name: Eric Allmon

Mailing Address: 707 Rio Grande Suite 200
Austin, TX 78701

Physical Address (if different): _____

City/State: Austin Zip: 78701

This information is subject to public disclosure under the Texas Public Information Act

Email: callmon@Hlawfirm.com

Phone Number: 512.469.6000

• Are you here today representing a municipality, legislator, agency, or group? Yes No
If yes, which one? HPR Members

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's 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 form to the person at the information table. Thank you.

Callmon

TCEQ Public Meeting Form
December 15, 2014

JPHD, Inc.
Water Quality Permit
Permit No. WQ0015201001

PLEASE PRINT

Name: Robert A Ayres

Mailing Address: 3101 Bee Caves Rd, Ste 260 Austin
78796

Physical Address (if different): 16037 Hamilton Pool Rd

City/State: Austin, TX Zip: 78738

****This information is subject to public disclosure under the Texas Public Information Act****

Email: bobayres@shieldrand.com ✓

Phone Number: 512-496-4916

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

If yes, which one? _____

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's 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 form to the person at the information table. Thank you.

December 15, 2014

RECEIVED

DEC 15 2014

AT PUBLIC MEETING

11

Texas Commission on Environmental Quality
Attn: Mr. Richard Hyde, Executive Director
c/o Star Hill Ranch
15000 Hamilton Pool Road
Bee Cave, Texas 78738

Re: Comments on JPHD, Inc.'s Application for Proposed Water Quality Permit No. WQ0015201001

Dear Mr. Hyde:

As representative of the Ayres Family and Shield Ranch, I am submitting the following comments for your careful consideration in connection with the above referenced proposed Water Quality Permit No. WQ0015201001:

1. Shield Ranch is a 6,800-acre property located approximately 3 miles west of the intersection of State Highway 71 and Hamilton Pool Road, and only 4500 feet from the location of the proposed treatment plant. The proposed drip irrigation field is located just across Hamilton Pool Road from Shield Ranch.
2. The proposed drip irrigation site is thinly soiled and mostly rocky terrain. Neither the soil nor native vegetative coverage in place is likely to adequately contain the proposed discharge of up to 0.45 million gallons per day. Accordingly, the threats of seepage and discharge into adjacent waters of the state, *e.g.*, Rocky Creek, and the potential for pollution of waters of the state from the insufficiently treated wastewater to be discharged is a threat to Rocky Creek and the Shield Ranch downstream from the point of origin.
3. Shield Ranch has approximately 1 mile of a tributary to, and the main stem of Rocky Creek running through it. Accordingly, Shield Ranch is concerned that the current and future uses and enjoyment of Rocky Creek and the Shield Ranch property located downstream of the proposed wastewater treatment facility, and its proposed disposal field, will be impacted impermissibly and/or adversely if TCEQ grants the Application.



MR
SHIELD RANCH

3101 Bee Caves Road, Suite 260
Austin, Texas 78746
(512) 476-4816

4. Rocky Creek is also a source of water, as well as food source, for livestock, both domestic and wildlife, that inhabit Shield Ranch. Accordingly, impairment of water quality and the potential negative impacts to both domestic and wildlife livestock at Shield Ranch are a concern.
5. Due to its proximity to the proposed facilities and discharge, Shield Ranch is concerned about the potential for nuisance odors from the treatment plant to impact the use and enjoyment of the property, as well as disrupt operations on Shield Ranch, including operation of the El Ranchito campsite described below during summer months.
6. Shield Ranch is home to El Ranchito Camp, a nonprofit camp sponsored by the owners of Shield Ranch in collaboration with Westcave Preserve and El Buen Samaritano Episcopal Mission. El Ranchito is an affordable nature-immersion summer camp for young people entering 4th through 12th grades. Campers at El Ranchito explore nature, conduct field and service trips throughout the Shield Ranch, live outdoors, and swim in, wade, fish and conduct ecological studies in the creeks on the Ranch, including Rocky Creek. Exposure of El Ranchito's young campers to water borne pollutants, bacteria and other potential health risks from the proposed discharge by the Applicant upstream of Shield Ranch pose a threat that TCEQ should consider in a contested case hearing.
7. Shield Ranch is also concerned about the potential adverse impacts of the wastewater disposed of by irrigation to the underlying groundwater formations which are shared by Shield Ranch and can be produced through wells used for livestock and other beneficial purposes on the Ranch.
8. Finally, the Application should be referred to a contested case hearing on the issue of "whether the proposed facility, and its location, is in conformance with the state's Regionalization Policy." Specifically, the proposed facilities and discharge to be authorized by the Application are proximate to an existing wastewater treatment facility authorized by Permit No. WQ00014664001 owned and operated by the Travis County Municipal Utility District No. 16.

Sincerely,
Shield Ranch Family Partnership


Robert Ayres, Managing Partner

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Wednesday, March 26, 2014 9:49 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015201001

H

From: psychlinda2002@yahoo.com [<mailto:psychlinda2002@yahoo.com>]
Sent: Tuesday, March 25, 2014 9:53 PM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0015201001

*MWD
90957*

REGULATED ENTY NAME JPHD WWTP

RN NUMBER: RN107010209

PERMIT NUMBER: WQ0015201001

DOCKET NUMBER:

COUNTY: TRAVIS

PRINCIPAL NAME: JPHD INC

CN NUMBER: CN604489724

FROM

NAME: Daniel Jones

E-MAIL: psychlinda2002@yahoo.com

COMPANY:

ADDRESS: 7107 DESTINY HILLS DR
AUSTIN TX 78738-7419

PHONE: 9795719012

FAX:

COMMENTS: 7107 Destiny Hills Austin Tx 78738 March 25, 2014 Office of the Chief Clerk MC – 105 TCEQ PO Box 13087 Austin, TX 78711-3087 Re: Proposed TLAP permit number WQ0015201001 (JPHD, Inc Dear Sir: I am a resident of the Destiny Hills subdivision and I am very concerned about the planned 1600 homes that are planned for the Masonwood West development and the proposed wastewater disposal system which is to be built adjacent to our neighborhood. I am concerned that the effluent to be discharged from the

MWD

proposed waste water treatment plant will negatively impact little Barton creek. Although we are presently in years of reduced rain fall, the potential for large amounts of rain such as the 15 inches of rain in December 1991 or excesses of 52 inches of rain in the years 1991 and 2004, combined with the estimated 13 million gallons per month of effluent from the treatment plant, will overwhelm the absorptive capacity of the thinly soiled land that has been set aside. I am also concerned that the estimated 13 million gallons of effluent may make its way into the aquifer resulting in potential ground water contamination. Since I am on a well, this is of great concern for me. In addition, I am concerned that the size of the proposed waste water facility may result in odor and noise or discharge pollution problems that may negatively impact my quality of life. I would like to know how the TCEQ plans on carrying out their environmental monitoring of this facility. My understanding is that if this waste water treatment facility is approved in its present forum and problems do arise our only recourse is through the courts. I would prefer that recourse not be necessary. An ounce of prevention on your part may save the residents of Destiny Hills a pound of trouble in later years. I request that there be a public hearing concerning this application and I would like to be informed as to any decisions made by TCEQ in regards to the proposed TLAP permit number WQ0015201001 (JPHD, Yours truly, Daniel H. Jones

LAW OFFICES OF
JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

DAVID E. JACKSON*
JOHN MATTHEW SJOBERG*
EDMOND R. MCCARTHY, JR.
ELIZABETH A. TOWNSEND†

711 WEST 7TH STREET
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(512) 472-7600
FAX (512) 225-5565

OF COUNSEL
ROBERT C. WILSON
MARC O. KNISELY**

*BOARD CERTIFIED IN
OIL, GAS AND MINERAL LAW
**BOARD CERTIFIED IN CIVIL APPELLATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

www.jacksonsjoberg.com

EDMOND R. MCCARTHY, III

*MWD
20957
FSJ*

August 27, 2014

REVIEWED

AUG 29 2014

*PM
H*

CHIEF CLERKS OFFICE
via Fax
AUG 28 PM 2:41
Texas and Tennessee
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Ms. Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality
12100 Park 35 Circle
Bldg. F, 1st Floor (MC-105)
Austin, Texas 78753

By *[Signature]* & Certified Mail

Re: Applicant: JPHD, Inc.; Notice of Receipt of Application and Intent to Obtain Water Quality Permit; Proposed Permit No. WQ0015201001;

Dear Ms. Bohac:

I am writing on behalf of Robert (Bob) Ayres, as representative of the Ayres Family and Shield Ranch, a 6,800-acre property located in western Travis County, downstream of the location of the proposed wastewater treatment plant and its point of disposal proximate to Rocky Creek. Shield Ranch is located approximately 3 miles west of the intersection of State Highway 71 and Hamilton Pool Road, on Hamilton Pool Road in Travis County, Texas 78738. The Ranch is only 4500 feet from the location of the proposed treatment plant. The site of the proposed drip irrigation field, however, is located just across Hamilton Pool Road from Shield Ranch. (Members of the Ayres Family and Shield Ranch shall be referred to hereinafter as "Shield Ranch"). The purpose of this letter is to renew Shield Ranch's prior requests for (i) a public meeting, and (ii) a contested case hearing on the above-referenced Application for Permit No. WQ0015201001.

The Applicant proposes to discharge effluent by drip irrigation on thinly soiled and rocky terrain in the Hill Country of Western Travis County. Neither the soil nor native vegetative coverage in place is expected to adequately contain the discharge of up to 0.45 million gallons per day. The threat of seepage and discharge into adjacent waters of the state, e.g., Rocky Creek, the potential for pollution of insufficiently treated wastewater is a threat to Rocky Creek as it will pass through Shield Ranch downstream from the point of origin.

Shield Ranch is concerned whether both the current and future uses and enjoyment of Rocky Creek and the Shield Ranch property located downstream of the proposed wastewater

[Handwritten signature]

treatment facility and its proposed disposal field would be impacted impermissibly and/or adversely by the TCEQ's granting the Application.

Shield Ranch requests that TCEQ conduct a public meeting on the Application to provide an opportunity for the submission of comments and to receive information based on questions posed to the applicant and Executive Director's staff. Additionally, Shield Ranch expressly requests a contested case hearing be conducted on the Application (proposed Permit No. WQ0015201001) for purposes of determining issues authorized by law to ensure compliance with the requirements of TCEQ's rules and regulations including Chapters 305 and 307, and Chapter 26, Texas Water Code. The following factors, which make Shield Ranch an "affected person" within the meaning of that term and entitles Shield Ranch to standing in a contested case hearing, are offered for the Executive Director's consideration in evaluating the requests of Shield Ranch.

1) Shield Ranch is located approximately 4,500 feet from the proposed wastewater treatment plant facility and just across Hamilton Pool Road from the proposed drip irrigation field proximate to Rocky Creek. Additionally, Rocky Creek flows through Shield Ranch. Shield Ranch has approximately 1 mile of a tributary to, and the main stem of Rocky Creek running through the property. Due to the proximity of Shield Ranch to the proposed facilities and discharge, Shield Ranch is concerned about the potential for nuisance odors that would impact the use and enjoyment of the property, as well as disrupt operations on Shield Ranch, including operation of the El Ranchito campsite described below during summer months.

2) In addition to nuisance odors, Shield Ranch is concerned about the potential negative and adverse impacts to water quality in Rocky Creek and the waters that would traverse Shield Ranch. Rocky Creek, Shield Ranch understands, is designated as a high quality aquatic stream segment, which designation contemplates both contact recreation and high quality habitat both for aquatic species and riverine terrestrial species. Shield Ranch enjoys a recreational use of Rocky Creek and does not want to see that impaired or harmed by a decrease in water quality, including the potential for exposure to bacteria and other contaminant constituents, resulting from the upstream discharge at the proposed wastewater treatment plant.

3) Rocky Creek is a source of water, as well as food source, for livestock, both domestic and wildlife, that inhabit Shield Ranch. Accordingly, impairment of water quality and the potential negative impacts to the livestock at Shield Ranch are a concern of Shield Ranch. Livestock, both domestic and wildlife, at Shield Ranch use Rocky Creek as habitat, drinking supply as well as food supply. Accordingly, the potential threat of pollution to Rocky Creek, and impairment of the environment, and instream uses of the creek are issues that should be considered as part of a contested case hearing on the Application for the upstream discharge into Rocky Creek.

4) Shield Ranch is also the home to a nonprofit camp sponsored by the owners of Shield Ranch in collaboration with Westcave Preserve and El Buen Samaritano Episcopal Mission known as El Ranchito Camp. El Ranchito is an affordable nature-immersion summer camp for young people entering 4th through 12th grades. Campers at El Ranchito explore nature,

conduct field and service trips throughout the Shield Ranch, live outdoors, and swim in the creeks, including Rocky Creek. Among the contact water recreation sports enjoyed include swimming and wading, fishing and ecological studies. Exposure of El Ranchito's young campers to water borne pollutants, bacteria and other health risks that could result from the proposed discharge by the Applicant upstream of Shield Ranch pose a threat that TCEQ should consider as part of the permitting processing and be an issue considered in a contested case hearing.

5) Shield Ranch is also concerned about the potential adverse impacts of the wastewater disposed of by irrigation to the underlying groundwater formations which are shared by Shield Ranch and can be produced through wells used for livestock and other beneficial purposes on the Ranch.

6) Finally, the above-referenced Application should be referred to SOAH for contested case hearing on the issue of "whether the proposed facility, and its location, is in conformance with the state's Regionalization Policy." Specifically, the proposed facilities and discharge that would be authorized by the Application are proximate to an existing wastewater treatment facility authorized by Permit No. WQ00014664001 owned and operated by the Travis County Municipal Utility District No. 16. Shield Ranch relies upon its understanding of the requirements prescribed by the Commission's Regulatory Guidance Document No. RG-357 (January 2003). Shield Ranch believes that the proposed wastewater facilities are eligible for regionalization with the existing Travis County MUD No. 16 Facilities and that the Commission should consider that matter as part of a contested case hearing.

For the reasons outlined herein, Shield Ranch, its owner the Ayres Family, its guests and invitees have direct interests in and uses of Rocky Creek that are entitled to protection by TCEQ. The interests and the concerns expressed herein related both to the Application and the rights and property interests of Shield Ranch are (i) within the jurisdiction of the Commission and (ii) will be impacted by the TCEQ's decision on the Application. Therefore, as a matter of law, they are relevant issues that should be considered as part of the factors weighed by the Commission in determining whether or not to grant the Applicant's permit request. Accordingly, Shield Ranch respectfully requests that the Commission conduct both a town hall style public meeting on the Application as well as a contested case hearing before the State Office of Administrative Hearings on the above-referenced Application.

Pursuant to the requirements of 30 TAC Ch. 55, the contact person for Shield Ranch is Mr. Bob Ayres, Managing Partner for the Family Partnership that owns and operates Shield Ranch. Mr. Ayres can be contacted at the following address:

Shield Ranch
c/o Bob Ayres, Managing Partner
Shield Ranch
3101 Bee Caves Rd., Suite 260
Austin, TX 78746
Tel: (512) 476-4816
Fax: (512) 469-7823

August 27, 2014

Page 4

Copies of correspondence should be provided to me as counsel for Shield Ranch and Mr. Ayres at the following:

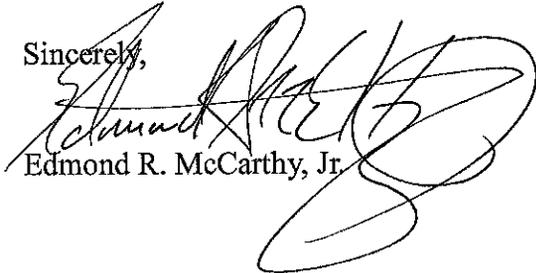
Edmond R. McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Townsend, LLP
711 W. 7th St.
Austin, TX 78701
Tel: (512) 225-5606
Fax: (512) 225-5565
emcarthy@jacksonsjoberg.com

Shield Ranch looks forward to the opportunity to work with the Applicant in this case, and by copy of this letter is providing notice of the filing of these renewed requests with the Applicant to the following person identified in the TCEQ Notice:

JPHD, Inc.
Attn: Daniel Ryan, P.E.
LJA Engineering, Inc.
c/o 17024 Hamilton Pool Rd.
Austin, TX 78738

Should you have any questions please feel free to contact me as counsel for Shield Ranch and Mr. Ayres. Thank you for your assistance in this regard. Best wishes.

Sincerely,


Edmond R. McCarthy, Jr.

ERM/tn

cc: Shield Ranch, Attn: Bob Ayres
JPHD, Inc., Attn: Daniel Ryan, P.E.

JACKSON, SJOBERG, MCCARTHE
711 WEST 7TH
AUSTIN, TEXAS 787

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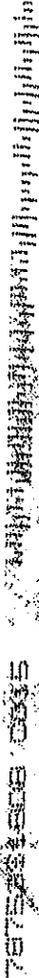
TCEQ MAIL CENTER
AJ

Ms. Bridget C. Bohac, Chief Clerk
TCEQ
12100 Park 35 Circle
Bldg. F, 1st Floor (MC-105)
Austin, TX 78753

2014 AUG 28 PM 2:42

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**BOARD CERTIFIED IN CIVIL APPELLATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

www.jacksonsjoberg.com

REVIEWED

August 27, 2014

AUG 27 2014

By BP

Licensed in Texas and
admitted to practice

CHIEF CLERKS OFFICE

AUG 27 PM 4:36

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

*MWD
909609
409657*

*PM
H*

via e-File, Fax
& Certified Mail, Return Receipt

Ms. Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality
12100 Park 35 Circle
Bldg. F, 1st Floor (MC-105)
Austin, Texas 78753

Re: Applicant: JPHD, Inc.; Notice of Receipt of Application and Intent to Obtain
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MWD

August 27, 2014
Page 2

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August 27, 2014
Page 3

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c/o Bob Ayres, Managing Partner
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Tel: (512) 476-4816
Fax: (512) 469-7823

August 27, 2014
Page 4

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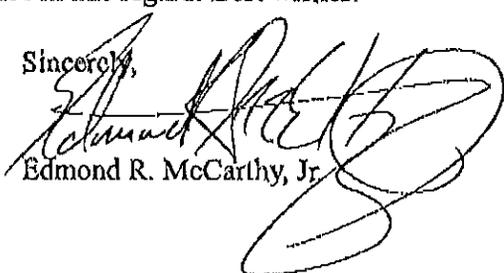
Edmond R. McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Townsend, LLP
711 W. 7th St.
Austin, TX 78701
Tel: (512) 225-5606
Fax: (512) 225-5565
emccarthy@jacksonsjoberg.com

Shield Ranch looks forward to the opportunity to work with the Applicant in this case, and by copy of this letter is providing notice of the filing of these renewed requests with the Applicant to the following person identified in the TCEQ Notice:

JPHD, Inc.
Attn: Daniel Ryan, P.E.
LJA Engineering, Inc.
c/o 17024 Hamilton Pool Rd.
Austin, TX 78738

Should you have any questions please feel free to contact me as counsel for Shield Ranch and Mr. Ayres. Thank you for your assistance in this regard. Best wishes.

Sincerely,


Edmond R. McCarthy, Jr.

ERM/tn

cc: Shield Ranch, Attn: Bob Ayres
JPHD, Inc., Attn: Daniel Ryan, P.E.

Law Offices Of
JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.
 711 WEST 7TH STREET
 AUSTIN, TEXAS 78701-2785
 (512) 472-7600
 FAX (512) 225-5565
 SHINDER'S DID (512) 225-5606

FACSIMILE TRANSMISSION

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DATE: August 27, 2014 **NO. PAGES (including cover):** 5

TO: Bridget C. Bohac, Chief Clerk **FAX NO.:** (512) 239-3311 **CONTACT NO.:** (512) 239-3300

FROM: Edmond R. McCarthy, Jr. **C/M NO.:** 40-275

RE: Hearing Request re: Proposed Permit No. WQ0015201001

ATTACHMENT: Letter

MESSAGE:

ORIGINALS TO FOLLOW: YES NO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 2014 AUG 27 PM 4:36
 CHIEF CLERKS OFFICE

LAW OFFICES OF
JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

DAVID E. JACKSON*
JOHN MATTHEW SJOBERG*
EDMOND R. McCARTHY, JR.
ELIZABETH A. TOWNSEND†

711 WEST 7TH STREET
AUSTIN, TEXAS 78701-2785
(512) 472-7600
FAX (512) 225-5565

MAY -5 PM 2:28
CHIEF CLERKS OFFICE

OF COUNSEL
ROBERT C. WILSON
MARC O. KNISELY**

EDMOND R. McCARTHY, III

www.jacksonsjoberg.com

*BOARD CERTIFIED IN
OIL, GAS AND MINERAL LAW
**BOARD CERTIFIED IN CIVIL APPELLATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

May 2, 2014
REVIEWED PM
Licensed in Texas and Tennessee

MAY 06 2014

By [Signature]

Ms. Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality
12100 Park 35 Circle
Bldg. F, 1st Floor (MC-105)
Austin, Texas 78753

MWD
90957
via e-File, Fax
& Certified Mail, RRR

Re: Applicant: JPHD, Inc.; Notice of Receipt of Application and Intent to Obtain Water Quality Permit; Proposed Permit No. WQ0015201001;

Dear Ms. Bohac:

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For the reasons set forth below, Shield Ranch requests that TCEQ conduct a public meeting on the Application to provide an opportunity for the submission of comments and to receive information based on questions posed to the applicant and Executive Director's staff.

MWD

Additionally, Shield Ranch expressly requests a contested case hearing be conducted on the Application (proposed Permit No. WQ0015201001) for purposes of determining issues authorized by law to ensure compliance with the requirements of TCEQ's rules and regulations including Chapters 305 and 307, and Chapter 26, Texas Water Code. The following factors, which make Shield Ranch an "affected person" within the meaning of that term and entitles Shield Ranch to standing in a contested case hearing, are offered for the Executive Director's consideration in evaluating the requests of Shield Ranch.

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5) Finally, the above-referenced Application should be referred to SOAH for contested case hearing on the issue of "whether the proposed facility, and its location, is in conformance with the state's Regionalization Policy." Specifically, the proposed facilities and discharge that would be authorized by the Application are proximate to an existing wastewater treatment facility authorized by Permit No. WQ00014664001 owned and operated by the Travis County Municipal Utility District No. 16. Shield Ranch relies upon its understanding of the requirements prescribed by the Commission's Regulatory Guidance Document No. RG-357 (January 2003). Shield Ranch believes that the proposed wastewater facilities are eligible for regionalization with the existing Travis County MUD No. 16 Facilities and that the Commission should consider that matter as part of a contested case hearing.

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Pursuant to the requirements of 30 TAC Ch. 55, the contact person for Shield Ranch is Mr. Bob Ayres, Managing Partner for the Family Partnership that owns and operates Shield Ranch. Mr. Ayres can be contacted at the following address:

Shield Ranch
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Shield Ranch
3101 Bee Caves Rd., Suite 260
Austin, TX 78746
Tel: (512) 476-4816
Fax: (512) 469-7823

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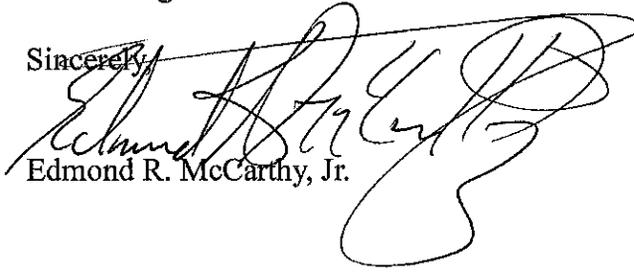
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40-275

JACKSON, SJOBERG, MCCARTHY &
711 WEST 7TH STREET
AUSTIN, TEXAS 78701-2

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2014 MAY -5 PM 2: 28

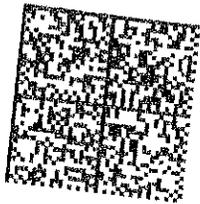
CHIEF CLERKS OFFICE

RECEIVED MAIL



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Ms. Bridget C. Bohac, Chief Clerk
TCEO
12100 Park 35 Circle
Bldg. F, 1st Floor (MC-105)
Austin, TX 78753



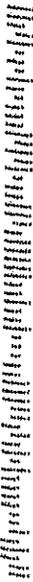
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LAW OFFICES OF JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

DAVID E. JACKSON* JOHN MATTHEW SJOBERG* EDMOND R. McCARTHY, JR. ELIZABETH A. TOWNSEND*

711 WEST 7TH STREET AUSTIN, TEXAS 78701-2785 (512) 472-7600 FAX (512) 225-5565

OF COUNSEL ROBERT C. WILSON MARC O. KNISELY**

*BOARD CERTIFIED IN OIL, GAS AND MINERAL LAW **BOARD CERTIFIED IN CIVIL APPELLATE LAW TEXAS BOARD OF LEGAL SPECIALIZATION

Handwritten: mwd / 9060 / 75606

www.jacksonsjoberg.com

May 2, 2014

By: [Signature]

EDMOND R. McCARTHY, III

Licensed in Texas and Tennessee

CLERK'S OFFICE

MAY -2 AM 11:39

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

via e-File, Fax & Certified Mail, RRR

Ms. Bridget C. Bohac, Chief Clerk Texas Commission on Environmental Quality 12100 Park 35 Circle Bldg. F, 1st Floor (MC-105) Austin, Texas 78753

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Handwritten signature: mwd

May 2, 2014

Page 2

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May 2, 2014
Page 3

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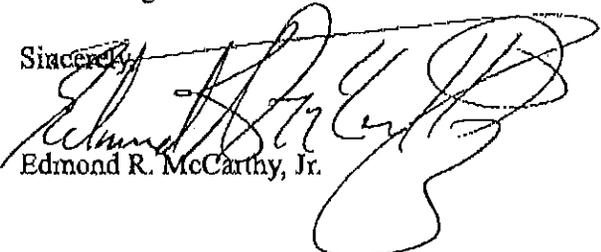
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ERM/tm
Encl.

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DATE: May 2, 2014 **NO. PAGES (including cover):** 4

TO: Bridget C. Bohac, Chief Clerk **FAX NO.:** (512) 239-3311 **CONTACT NO.:** (512) 239-3300

FROM: Edmond R. McCarthy, Jr. **C/M NO.:** 40-275

RE: Proposed Permit No. WQ0015201001

ATTACHMENT: Letter

MESSAGE:

ORIGINALS TO FOLLOW: YES NO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 2014 MAY -2 AM 11:39
 CHIEF CLERKS OFFICE

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Friday, May 02, 2014 11:58 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015201001
Attachments: Chief Clerk Ltr 5-2-14.pdf

mwd
90957

Pm
H

From: emccarthy@jacksonsjoberg.com [<mailto:emccarthy@jacksonsjoberg.com>]
Sent: Friday, May 02, 2014 11:35 AM
To: donotReply@tceq.texas.gov
Subject: Public comment on Permit Number WQ0015201001

REGULATED ENTY NAME JPHD WWTP

RN NUMBER: RN107010209

PERMIT NUMBER: WQ0015201001

DOCKET NUMBER:

COUNTY: TRAVIS

PRINCIPAL NAME: JPHD INC

CN NUMBER: CN604489724

FROM

NAME: Edmond R. McCarthy, JR

E-MAIL: emccarthy@jacksonsjoberg.com

COMPANY: Jackson, Sjoberg, McCarthy & Townsend

ADDRESS: 711 W 7TH ST
AUSTIN TX 78701-2711

PHONE: 5122255606

FAX: 5122255565

COMMENTS: Please see attached letter.

mwd

LAW OFFICES OF
JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

DAVID E. JACKSON*
JOHN MATTHEW SJOBERG*
EDMOND R. McCARTHY, JR.
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www.jacksonsjoberg.com

—————
EDMOND R. McCARTHY, III

May 2, 2014

†Licensed In Texas and
Tennessee

Ms. Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality
12100 Park 35 Circle
Bldg. F, 1st Floor (MC-105)
Austin, Texas 78753

*via e-File, Fax
& Certified Mail, RRR*

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3) Rocky Creek is a source of water, as well as food source, for livestock, both domestic and wildlife, that inhabit Shield Ranch. Accordingly, impairment of water quality and the potential negative impacts to the livestock at Shield Ranch are a concern of Shield Ranch. Livestock, both domestic and wildlife, at Shield Ranch use Rocky Creek as habitat, drinking supply as well as food supply. Accordingly, the potential threat of pollution to Rocky Creek, and impairment of the environment, and instream uses of the creek are issues that should be considered as part of a contested case hearing on the Application for the upstream discharge into Rocky Creek.

4) Shield Ranch is also the home to a nonprofit camp sponsored by the owners of Shield Ranch in collaboration with Westcave Preserve and El Buen Samaritano Episcopal Mission known as El Ranchito Camp. El Ranchito is an affordable nature-immersion summer camp for young people entering 4th through 12th grades. Campers at El Ranchito explore nature, conduct field and service trips throughout the Shield Ranch, live outdoors, and swim in the creeks, including Rocky Creek. Among the contact water recreation sports enjoyed include swimming and wading, fishing and ecological studies. Exposure of El Ranchito's young campers to water borne pollutants, bacteria and other health risks that could result from the proposed discharge by the Applicant upstream of Shield Ranch pose a threat that TCEQ should consider as part of the permitting processing and be an issue considered in a contested case hearing.

5) Finally, the above-referenced Application should be referred to SOAH for contested case hearing on the issue of "whether the proposed facility, and its location, is in conformance with the state's Regionalization Policy." Specifically, the proposed facilities and discharge that would be authorized by the Application are proximate to an existing wastewater treatment facility authorized by Permit No. WQ00014664001 owned and operated by the Travis County Municipal Utility District No. 16. Shield Ranch relies upon its understanding of the requirements prescribed by the Commission's Regulatory Guidance Document No. RG-357 (January 2003). Shield Ranch believes that the proposed wastewater facilities are eligible for regionalization with the existing Travis County MUD No. 16 Facilities and that the Commission should consider that matter as part of a contested case hearing.

For the reasons outlined herein, Shield Ranch, its owner the Ayres Family, its guests and invitees have direct interests in and uses of Rocky Creek that are entitled to protection by TCEQ. The interests and the concerns expressed herein related both to the Application and the rights and property interests of Shield Ranch are (i) within the jurisdiction of the Commission and (ii) will be impacted by the TCEQ's decision on the Application. Therefore, as a matter of law, they are relevant issues that should be considered as part of the factors weighed by the Commission in determining whether or not to grant the Applicant's permit request. Accordingly, Shield Ranch respectfully requests that the Commission conduct both a town hall style public meeting on the Application as well as a contested case hearing before the State Office of Administrative Hearings on the above-referenced Application.

Shield Ranch is confident that the issues outlined above can be adequately addressed through agreements of the parties. Shield Ranch is willing to work with the Applicant to address the issues discussed above. Shield Ranch has previously participated in other wastewater treatment plant permits in the area, including the Permit No. WQ0014664001 currently held by the West Travis County Municipal Utility District No. 16. In each of the prior applications, Shield Ranch was able to reach agreements with the Applicant and facilitate the TCEQ's issuance and the Applicant's subsequent development and operation of their wastewater treatment plant permit. To this end, Shield Ranch would encourage the Applicant to avail themselves of the free Alternative Dispute Resolution services available through the TCEQ.

Pursuant to the requirements of 30 TAC Ch. 55, the contact person for Shield Ranch is Mr. Bob Ayres, Managing Partner for the Family Partnership that owns and operates Shield Ranch. Mr. Ayres can be contacted at the following address:

Shield Ranch
c/o Bob Ayres, Managing Partner
Shield Ranch
3101 Bee Caves Rd., Suite 260
Austin, TX 78746
Tel: (512) 476-4816
Fax: (512) 469-7823

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Copies of correspondence should be provided to me as counsel for Shield Ranch and Mr. Ayres at the following:

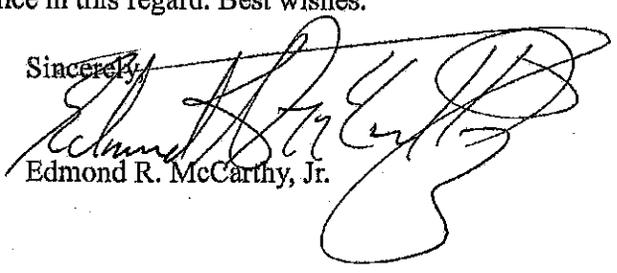
Edmond R. McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Townsend, LLP
711 W. 7th St.
Austin, TX 78701
Tel: (512) 225-5606
Fax: (512) 225-5565
emcarthy@jacksonsjoberg.com

Shield Ranch looks forward to the opportunity to work with the Applicant in this case, and by copy of this letter is providing notice of the filing of this request with the Applicant to the following person identified in the TCEQ Notice:

JPHD, Inc.
Attn: Daniel Ryan, P.E.
LJA Engineering, Inc.
c/o 17024 Hamilton Pool Rd.
Austin, TX 78738

Should you have any questions please feel free to contact me as counsel for Shield Ranch and Mr. Ayres. Thank you for your assistance in this regard. Best wishes.

Sincerely,


Edmond R. McCarthy, Jr.

ERM/tn
Encl.

cc: Shield Ranch, Attn: Bob Ayres