

January 11, 2016

Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711

We are writing on behalf of ourselves as land owners, for our three children, and our grandchildren who intend to continue residence on our property, for the landowners/residents of Comal County, and, as advocates of Friends of the Dry Comal Creek, who seek to preserve its current status.

We implore the TCEQ to dismiss the permit application approval process for RE: Docket No. 2015-1624-MWD, Randolph Todd Company, LLC, Request(s) filed on Permit No. WQ0015314001. The reasons are stated below: 1. TCEQ Commissioners should immediately discontinue this permit process because TCEQ has approved this permit 'administratively' based on "false" information provided by Randolph Todd, LLC, and Oscar Graham. The facts are evident, in documentation submitted to TCEQ, 1/10/16, whereby Todd Randolph, LLC falsely asserts ownership in the permit application, submitting the documentation to TCEQ with highlights, documenting as an important omissions in this permit application, TCEQ-10053ins (07/14/2014)

Instructions for Completing the Domestic Wastewater Permit Application, page 33 of 122, item k. states, k. Owner of land where treatment facility is/will be Provide the name and mailing address of the owner of the land where the facility is located. If the mailing address is a P.O. Box, insert the P.O. Box number within the space provided. The owner was not the same as the applicant and did not have the terms in place to meet the stipulations. In this permit application, item k. lists "Randolph Todd Company, LLC" as the owner of the land. This is not true. The owners of the land are Franklin Meyer, Delores Meyer, Terry Meyer, and Vicky Lynn Meyer Graves. The applicant does not have any agreement giving the facility owner sufficient rights to the land for the operation of the facility. The fact that the applicant is relying on the TCEQ to grant them this permit so that they can go ahead with a high density development, financially beneficial only to the applicant is, as Mr. Rollo said last June during the Public Meeting, "a business decision." Mr. Rollo stated he had no intention of tying up any of his money in this property if he is unable to get a permit.

The following facts are included in Ms. Houser's filed, highlighted documents:

a. Randolph Todd, LLC, DOES NOT own the property on which the TDPEs permit is being sought. On their initial application, there are sections (Attachment 1) germane to the argument, whereby Randolph Todd routinely states that they own the property and that the discharge is into the Dry Comal Creek which is deemed as Waters of the State by TCEQ. Per TAC rules, Randolph Todd must own the property if they are discharging effluent into Waters of State per (TAC, Title 30, Rule 281.4 see section item 4; Application for Use of State Water). More specifically, the formal Municipal Waste Permit Application TCEQ Form 10053, Section 7, page 13, (k) and (l) calls for the identification of "The Owner" by name of the property/land and "The Owner" owner of effluent disposal site/land/property by name. The applicant has repeatedly omitted the name of the owner (Franklin Meyer) and inserted (Randolph Todd). Also as per TCEQ, since Randolph Todd is not the owner of the property, Randolph Todd should have filed the permit with the landowner as the co-permittee. The application shows that they have crossed thru this section. At the public meeting on June 18, 2015, the citizens brought up the 'administrative' error and that TCEQ rules were violated in regards to ownership. The applicant was allowed to provide (by TCEQ staff) on August 11, 2015 a copy of executed option to purchase the

property from Franklin Meyer by Randolph Todd. This "option to purchase" does not comply with the requirements of TCEQ Rule 281.4, which requires under (4) Appropriate ownership documents (including easements and consents). TCEQ violated their own rules requiring verifiable evidence of ownership, as noted in the Executive Director Response to Public Comments dated 12/28/15, page 9, response 7. ... "that the company will have ownership upon permit approval". Additional evidence that Randolph Todd, LLC does not own the property are found in two documents which provide signed and notarized signatures of the Franklin Myer family, thus affirming that (Franklin Myer not Randolph Todd) own the property. (The dates whereby the TPDES permit is filed with TCEQ (10/21/14) was before the filing of the WCID on 11/10/14) 1. Franklin Meyer on 11/10/2014 for the WCID showing metes and bounds of property owned by Franklin Myer and family (contrary to Randolph Todd signing the initial permit request on 10/9/14 stating they 'truthfully' own the property). 2 Submission by Franklin Myer on 10/14/15 for the MUD showing metes and bounds of property owned by Franklin Myer and family. contrary to Randolph Todd signing the initial permit requests on 10/9/14 stating that they "truthfully" own the property. Can TCEQ allow this permit process to continue, violating their own rules and statutes, acting as a 'de-facto' zoning committee. If TCEQ allows the continuation of this permitting process, then they should allow a 'contested case' hearing to take place, and all issues identified by TCEQ ED and OPIC should be referred to SOAH.

We are dependent on our clean well water as our only source of water. Our land and well are located east of where the "Dry" Comal Creek crosses Herbelin Rd. The "Dry" Comal Creek is currently typical to be in a "dry" state unless rain causes it to flow, often with heavy rain to impassable conditions, bringing along debris and whatever contamination exists from upstream. This dry creek condition will no longer be "dry" as in its current typical state should the Meyer property development discharge be permitted of up to 390,000 gallons of treated effluent per day into Dry Comal Creek, thereby changing the status/ environment of this typically "dry" creek into a "wet" creek with effluents, with only a matter of time and happenstance for inevitable contamination with failures of man working against nature.

As a citizen of the State of Texas, I previously felt secure in thinking efforts were directed to protecting the Edwards Aquifer as the pristine source of drinking water for our wells and for the citizens dependent upon clean water. I have, however, over the last 10 years witnessed decadent water conditions in Guadalupe Co., and personally received correspondence indicating TCEQ stating the drinking water was during at least two different extended time periods, not to be consumed for individuals with frail health, and not deemed suitable for plants or fish. During these extended periods of time, due to the health concerns over the water, we hauled our drinking water from our Herbelin Rd well to Seguin, to - preserve our ability to drink water not deemed fit for consumption without reservations, nor wanting to drink chlorinated water. Living "downstream" from the Meyer's property potential waste water discharge contaminating our well, is perceived to be reliving being "downstream" from NBU water treatment plants. We again feel that we are being positioned as affected parties due to our concerns regarding this waste treatment facility. and, the possible, eventual degradation of our drinking water from our well.

The addition of approximately 1,500 households, stressing an already stressed water supply, , the decreased dilution of solid waste and of human waste with the use of mandated low water use toilets, the added release of the proposed 350 K gallons of treated effluent over the Edward's Recharge Zone along with the likelihood of a hazardous spill at the facility site, all pose a very real threat of contaminating the aquifer.

We continue to be perplexed while digesting the TCEQ response to citizen concerns throughout this permit application. TCEQ regulations are written to protect the rights of developers, protecting poorly developed permits, supporting the permit application efforts, despite TCEQ regulations being manipulated while continuing with the permitting process. This process was witnessed firsthand in Austin, when TCEQ ruled against a land owner, attempting to protect his property against effluent discharge, and is currently subjected to the eminent domain powers under that developer's MUD.

Unfortunately, in the eyes of the "affected" parties of this permit application process, TCEQ's role appears to be only a permit process agency, not proactive in protecting water resources. This particular region is so important, as with the area of Barton Springs in Austin. There are many areas in the state of Texas where the rulings are not as critical to the environment. Clean viable water has already become critical to the livelihood of the citizens. TCEQ should take a stance and function as what it was intended to be, and be proactive in protecting the environment and rights of those dependent upon clean water sources, and not function just as a developers advocate in permitting and then as a cleanup agency for instances of violation and destruction of our water resources. Citizens are offended by the agency's actions, especially for poorly, inaccurate and invalidly presented permit applications. Citizens are again offended when faith is entrusted to state agency, only to find out this entrusted agency's job is not proactive in preventing harm to the environment, but is only there to notify water treatment facilities and citizens dependent on their water supply in the aftermath that the permitted facilities are being charged with cleanup whilst the affected parties who have no other water supply other than to purchase bottle water, are deprived of their clean water source.

The rules created by the TCEQ were designed to protect the rights of all affected parties, the environment, as well as the water quality and supply, not just the rights of developers. Those rules are frequently broken – not necessarily on purpose, but sometimes because of the general nature of the facility and its operation. Fines and penalties imposed by TCEQ are cheap, inexpensive licenses to continue to do whatever it takes to get developments underway, again. What is the ultimate expense? The affected persons feel this to be at the expense, of their health, and quality of life. Without TCEQ functioning as a proactive agency to protect the clean water resources under this environmental sensitive area, we look at the possibility of the drinkable water in manufactured purified jelly fish wafer forms as recently presented in the media.

TCEQ must recognize and treat this area as environmentally sensitive, being located on the Edward's Recharge Zone, and not worth the risk of polluting Dry Comal Creek and/or the aquifer. The developers circumvent the intent of protecting the Recharge zone, TCEQ Rule 213, Section 6, – necessitating pumping of the effluent out of the Edward's Recharge Zone but will release it into the Dry Comal Creek to be in compliance, while the facility itself is located in the Edward's Recharge Zone, it sends the treated effluent back over the Recharge Zone. The applicant has found loopholes while it is blatantly circumventing the intent of the rules written to protect the aquifer.

TCEQ. please take a stance here in 2016, that as an agency you as stewards charged to protect this water resource, will protect this source of water. Please deny the permit in its entirety.

As a side note, we recently had a complete analysis of our well water, by a Side note: we recently utilized a TCEQ certified lab for a complete analysis of our well water, to establish a baseline or reporting should we need this data at some future date,

Thank you,

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cc: The Honorable Donna Campbell
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