

The applicant claims that I am not an affected person because I do not live on my property. But, the applicant fails to acknowledge that Texas Health & Safety Code 361.121(c) does not establish a limit on who may be an affected person. That statute establishes that persons living within ¼ mile of the application site must be considered “affected,” but the statute does not say that these are the only persons that can be considered “affected.” TCEQ has faced this question before, and has made clear that affected persons with regard to sludge applications are not limited to persons living on land located within ¼ mile of the application site. In fact, Applicant’s position with respect to my request is contrary to applicant’s recommendation that the hearing request of the City of La Coste should be granted. The City of La Coste does not live on land located within ¼ mile of the application site. There is simply no indication that this language of the statute was intended to define the entire category of persons who may be considered affected

Dorothy Simons  
2021 McDuffie St.  
Houston, Texas 77019

June 27, 2016

TCEQ  
Office of Chief Clerk  
ATTN: Agenda Docket Clerk  
Mail Code 105, TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

To: Persons on the Attached Mailing List

Re: Docket No. 2016-0665-IWD  
Beneficial Land Management, L.L.C.  
Request(s) filed on Permit No. WQ0004666000

Dear Ms Bohac,

I have reviewed the factors found in 30 TAC 55.203 for determining if a person is an affected person and I request that the TCEQ find me an affected person as my property, livestock, wildlife, groundwater and surface water could be compromised by the close proximity to the Land Application Site which is located ten miles northwest of the City of Inez, on Farm-to Market Road 444 and 2.5 miles northeast of the intersection of Karnes Road and Farm-to-Market Road 444, in Victoria County, Texas 77968. The sewage sludge land application site is located within the drainage basin of Lavaca Bay and Chocolate Bay in Segment No. 2453 of the Lavaca-Guadalupe Coastal Basin. This property is adjacent to my land. The ED and OPIC agreed with me that I am an affected person. The Applicant BLM is trying to set the bar too high. I clearly qualify base on both my proximity to the site and the use of my property.

I believe that I should be respectfully considered as an affected person because my property which is described as follows is adjacent to the land application site:

Property ID and Legal Description  
R28824  
5116000000400  
A5116 Hays, John, Acres 406  
Property Situs Address-1496 CO RD 105  
Owner Information-  
Dorothy B. Simons (713)-408-8474  
P.O. Box 22301  
Houston, Texas 77227

And  
Property ID and Legal Description  
R29187  
5222000000800  
A5222 McCrabb, John, Acres 500.00  
Property Situs Address  
CO RD 113  
Owner Information –  
George F. Sr. Testamentary Trust  
Attn, Dorothy B. Simons, Trustee (713)-408-8474  
P.O. Box 22301  
Houston, Texas 77227

I have an interest that is not common with the general public. This is my land and I will be retiring on the property and living there full time.

I am extremely concerned about my groundwater. My wells have been tested by the TCEQ and they found detectable Barium in my well. I am concerned that the groundwater on my property could be contaminated as BLM has not adequately addressed the existence of wells at the site. I was made aware that Four uncapped water wells are present on or near the area where sludge application will occur. The application does not provide for sufficient buffer zones for these wells. This will or could have resulted in the infiltration of contaminants into the groundwater. Previous application materials compiled by Wernli Exploration, Inc. indicate the presence of at least one water well that is not buffered, and three oil or gas wells that do not include any buffer. In all, there are at least 11 wells on the property, not counting monitoring wells. The presence of these wells will potentially result in the contamination of groundwater by pollutants contained in the sludge and grease and grit trap waste which BLM plans to apply to the site.

I am very concerned with the environmental impacts of the facility, as well as the dangerous precedent that would be set with the approval of this application. Given the potential harm associated with the grease and grit trap wastes being applied, and the unsuitability of the site for sewage sludge application, TCEQ should discontinue BLM's authorization to apply sewage sludge and grease and grit trap waste at the site.

The permit is not protective in light of the impacts of the sewage sludge itself. The application indicates that the fields are located within the drainage area of Segment 2435. I am concerned that runoff from the fields will drain into the Arenosa Creek (Segment 2453C) and ultimately onto my property. Since 2010, TCEQ has recognized that this water body is impaired due to excessive levels of bacteria. I contacted all of the cattle raisers around the area and they all have between 40-50% less cattle on the land around the creek so I feel the past impairment was due to the BLM operations, and the issuance of the requested permit will only continue to negatively impact pathogen and bacteria levels in the Arenosa Creek. I am also concerned that the Lavaca Bay, which is downstream is also at risk. The Lavaca Bay is recognized as a concern for elevated

levels of nutrients. The proposed land application will potentially contribute continuing or worsening nutrient problems in the Lavaca Bay. Calhoun County filed their resolution of opposition because of this possibility. The Arenosa Creek has been one of our family's favorite areas to go to enjoy the beauty and tranquility. My girls loved to go to the creek to play and relax. Now we are concerned about the waters being toxic. During heavy rains my ranch house has at times been flooded with three feet of water from the Arenosa Creek.

As acknowledged in BLM's Nutrient Management Plan, the site is underlain by the Cieno, Nada and Telferner soil series. Each of these soil types is characterized by slow water infiltration rates, which heightens the potential for runoff. Cieno soil is characterized by ponding, and there are several areas of ponding at the site consistent with this characteristic of Cieno soils. Cieno soils are also characterized by a shallow depth to the underlying saturated zone. Each of these limitations increase the likelihood that the application of sewage sludge, as well as grease and grit trap waste, will pollute the environment. This potential has not been sufficiently addressed by BLM.

BLM's site is characterized by numerous problems related to the application of sewage sludge.

1. Impairment of downstream waters due to elevated bacteria levels.
2. A large number of wells in the application area, creating conduits for groundwater contamination.
3. A network of insufficiently protected on-site canals, creating flow paths for surface water contamination.
4. Soils with limited infiltration rates, which heighten the potential for surface runoff.
5. Soil areas characterized by ponding.
6. Forested areas within the application fields preventing environmentally-protective application and incorporation of waste.

These characteristics of the site render it inappropriate for the application of sewage sludge or grease and grit.

BLM's application claims that it seeks "beneficial use of wastes that including grease and grit trap wastes." But, by this application, BLM seeks to circumvent the requirements of TCEQ's rules governing the disposal of solid waste. BLM seeks to land apply material that falls squarely within the definitions of "Grease trap waste" and "Grit trap waste" set forth at 30 TAC 330.3(60) respectively. TCEQ's rules applicable to solid waste do not allow the disposal of such wastes in the manner that BLM applies the wastes at the site.

Since Grease and Grit Trap Waste is classified as Special Waste and must be disposed of in a Class 1 or Class 2 landfill, under what authority has the TCEQ used to allow Beneficial Land Management to land apply Grease and Grit Trap Waste?

Though it is unlawful to land apply grease and grit trap waste, under what Authority allowed the TCEQ to enter into an "Agreement" to allow BLM to land apply Grease and Grit Trap Waste?

The so called Agreement for “Experimental Use” was for three years commencing on July 6, 2011 through July 6, 2014. Under what Authority has TCEQ continued to allow BLM to land apply Grease and Grit Trap Waste beyond this inappropriate agreement?

Who at the TCEQ approved this waste to be land applied and under what Authority?

I am concerned about the safety of my Livestock, Wildlife, Groundwater, Surface Water, Air Quality, Property Values, and Health of my family, hunters and cowboys from the toxins that are in sewage sludge and grease and grit trap waste.

I have been made aware that the TCEQ does not have the manpower or the budget to properly monitor a project of this magnitude on an ongoing basis. This company is part of a trio of companies-A Liquid Waste hauler, a sewage treatment and dewatering company and the Land Application Company which vertically integrate the liquid waste business. This strikes me as a dangerous monopoly.

I have seen information that the history of land application at the site included several years of unauthorized land application of grease and grit trap waste. How can we be protected from this happening again? Unless the TCEQ take action, I fear they will continue. I have been told that on several occasions BLM trucks have gotten stuck in saturated pastures and had to be towed out.

BLM has not demonstrated a compliance history that would justify issuance of the permit. Jess Mayfield is President and Manager of BLM, while he is also the President and majority owner of SOS Liquid Waste Haulers and other companies associated with the processing and treatment of liquid wastes.

Sincerely,

Dorothy Simons