

From: [Gerald Brent Liedtke](#)
To: [CHIEFCLK](#)
Subject: Re: Reply to Executive Director
Date: Sunday, May 22, 2022 10:55:16 PM

Luke Budd
17278 FM 2090
Conroe, Texas 77306
(713)377-4667 (DAYTIME PHONE)

TO: Chief Clerk, TECQ
FROM: Luke Budd, Affected Person
PERMIT: WQ0016005001
LOCATION: .25 MILES NORTH OF FM 2090 AT CROCKETT
MARTIN ROAD

SPECIFIC DESC, RIPTION: Waste water from the Plant threatens contamination of my water well, my two ponds, my house and wood working shop

Where I earn my living, and this is whenever it floods

DISPUTED ISSUES OF FACT: (1) The Plant is going to be built in the flood plain; and (2) Treated effluent is discharged on dry land, and it will travel

Along dry land to Caney Creek

REQUEST: "I AM REQUESTING A CONTESTED CASE HEARING..."

Sent from [Mail](#) for Windows

Respectfully submitted,

Luke Budd, Affected Person

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From: [Gerald Brent Liedtke](#)
To: [CHIEFCLK](#)
Subject: FW: Reply to Executor Director's Response to Luke/Brent's Request for Contested Public Hearing
Date: Sunday, May 22, 2022 10:18:55 PM

Sent from [Mail](#) for Windows

From: [Gerald Brent Liedtke](#)
Sent: Sunday, May 22, 2022 10:02 PM
To: pjosmith69@gmail.com
Subject: Reply to Executor Director's Response to Luke/Brent's Request for Contested Public Hearing

TO: Office of Chief Clerk Texas Commission on Environmental Quality
VIA EMAIL: www.tceq.texas.gov/goto/e-filing

RE: Permit No. WQ0016005001; Crystal Springs Water Co., Inc.

REPLY TO EXECUTIVE DIRECTOR'S RESPONSE

TO BRENT LIEDTKE'S REQUEST FOR A

CONTESTED PUBLIC HEARING

COMMISSIONERS:

GREETINGS. My reply to the Executive Director's responses opposing a contested hearing is simple: Luke Budd, his brother "Monty" and myself live at 17278 FM 2090, Conroe, Texas 77306, about a third of a mile south of the plant conceived in the above-TCEQ number. The Executive Director issued the following "Notice of Application and Preliminary Decision" on November 3, 2021:

"... Relationship to Water rights. Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to TWC chapter 11..."

"... Permit does not convey any property rights of any sort or any exclusive privilege..."

Luke Budd and I filed public comments complaining of effluent being discharged into an area that is not a discharge into water. Since those comments were posted there has been no specific “approval”, and there has been no approval for such discharge pursuant to TWC chapter 11. The problems will affect me directly as I live at the listed residence, I provide service, free, to Montgomery County citizens in need, and I expect that I should be allowed to enjoy the property where I live, and I should not have to stand by and see the property destroyed, its value diminished further.

The Executive Director has expressed his opinion that Luke Budd and I are not affected persons. His opinion is irrelevant. If the Executive Director opposes Luke’s and my objections because we are not “affected persons” he is duty bound to follow the law. He should be making reports to the Commission complete with his own findings of fact, his own conclusions of law, and when he makes legal conclusions he needs to cite the law as interpreted by the Texas Court of Appeals at Austin and the Texas Supreme Court. Reference to the opinions of those Courts are clear: the hearing process is to be encouraged, not discouraged with personal opinions. In fact, the cases can be read to be interrupted as though the Executive Director is duty bound to encourage “affected persons” to “participate”, and their participation should be encouraged all the way to contested hearings before administrative law judges, especially if the “affected persons” have complaints and have made timely comments relating to regulatory issues

I have read the case law. The Executive Director, in his response, recited the statutes and rules verbatim. What he did not recite was the holdings interpreting those statutes and rules. In that case law, and the Commissioners and Executive Director should be aware of this reality, those statutes and rules are to be interpreted so as to encourage contested hearings, use of the administrative hearing process and with the presumption that affected persons should have contested case

hearings at their disposal so their complaints about the regulatory process can be resolved with Administrative Law Judges, filing findings of fact and conclusions of law in support of their decisions and being fully appealable and a condition precedent to filing a civil lawsuit if they are not satisfied with the contested hearing. I am an “affected person” because my retirement home is in jeopardy of being inundated with fecal matter after each flood, and if you have not been paying attention, IT FLOODS A LOT around my retirement home.

It is beyond credulity that the Executive Director thinks he can simply provide his opinion to the Commissioners and think that is sufficient to be doing his job. The law is clear that findings and conclusions are essential to this process. It is meaningless that the Executive Director is putting unsupported opinion before the Commission with a “take it or leave it” message to all of the Commissioners, and the scientists who have committed to the Commission to protect air and water and “measured” business opportunity. The Commission deserves better, and the law requires it

Treated waste water will be processed in a Flood Plain. If you do not believe that the proposed Plant is in the flood plain look at the evidence. Each and every map, even the aerial photo the Executive Director has provided you in his response, not a single map qualifies as a topological map because not a single map referred to here has ELEVATIONS supplied by the surveyor. No map used by Water Engineers is adequate to be relied upon because there is no elevation shown on the maps themselves. They did not do a survey? The resolution is simple had the Executive Director done his job: Present the survey with elevation markings showing the plant is out of the flood plain; OR re-evaluate Water Engineers’ commitment to following the law. Check the engineers’ backgrounds to see if this is a recurring problem. What engineering firm does not do a survey before a project application is filed? And with Water Engineers, they are project engineers on at least four other projects in the area identical to this one. Luke Budd

suggested a site for the plant close to the current site, out of the flood plain, with a real spring for discharge of the treated effluent, and Shelly Young, your project engineer on the White Rock site, made up a story for Luke Budd, and it was not all that convincing a story, and in fact should have been embarrassing.

Treated waste water will be discharged onto the ground and even the Commission does not have authority to do that without permission of the adjacent land owners. Ray Young admitted he did not have that permission and he did not own that property. Take a look at the Application, give it a close look, and Larry Purcell reported this would not be necessary because he did own the adjacent properties. P-Tech Tubular is directly adjacent to the site where the Plant is going to be built. The last map of the area shows what is referred to as an “unnamed tributary” go conveniently at the point of discharge, right next to and emptying into a culvert. First, just go look at the property. This entire application process is operating on the presumption that no one will go out there and look at it, and no one did, and no one will, and the Commission deserves a better quality for resolving regulatory disputes.

CONCLUSION: The Commission should know that the regulatory procedure did not begin with Crystal Spring’s application June 18, 2021. Cline Budd, the man the notice was mailed to originally, initiated the original protest back in 1995. He sued Cadence Federal Group, a subsidiary of the multi-billion dollar and world wide conglomerate. He sued because the plan when building the waste water plant to service Conroe Independent School District was to run the treated effluent through the “Gin House Branch” of Caney Creek across Mr. Budd’s property. He did not consent, so they wanted to run the treated effluent across his property via a storm drainage ditch in the front of his property. Suit was filed, and it was settled privately, between counsel, Harry Arthur for Mr. Budd and Reid Gettys for Credence Federal Group. The settlement was that the school had to run its affluent IN A PIPE across Mr. Budd’s property to Caney Creek.

You can check that out, with the Montgomery County District Clerk, and why the Executive Director has not already is one of the real questions he may face in the contested hearing. The point is, Cline Budd is now deceased, but Luke Budd asked Ray Young to “put it in a pipe”, and if he would have, we would not be in this regulatory dispute today. Why the engineers would not take a simple suggestion, and why the Executive Director has not suggested they do take Luke Budd’s simple advice.

The “opinion” of the Executive Director is not worthy of your consideration because it su is based on ... “opinion”. Luke Budd and I have presented the facts, in a timely manner each and every time, and not surprisingly, the Executive Director does not want us heard. A contested hearing is supported by the facts and the law. Your decision is simple.

I certify that I emailed this document to the Chief Clerk. I attempted to email it to the Executive Director but my email to him is blocked.

Respectfully submitted,

Brent Liedtke, Affected Person

From: [Gerald Brent Liedtke](#)
To: [CHIEFCLK](#)
Subject: FW: Request for Contested Case Hearing
Date: Sunday, May 22, 2022 7:24:53 PM

Sent from [Mail](#) for Windows

From: [Gerald Brent Liedtke](#)
Sent: Saturday, May 21, 2022 12:41 PM
Subject: RE: Request for Contested Case Hearing

May 23, 2022

Office of the Chief Clerk
Texas Commission on Environmental Quality
VIA: chiefclk@tceq.texas.gov

Office of the Executive Director
Texas Commission on Environmental Quality
VIA: exec.dir@tceq.texas.gov

Office of the Commissioners
Texas Commission on Environmental Quality
VIA: commissr@tceq.texas.gov

**RE: Affected Persons' Joint Reply to Exec. Dir.'s
Response to the Affected Persons' Request
For a Contested Hearing with the State Office
Of Administrative Hearings**

LUKE BUDD'S REPLY

Crystal Spring's application was received by TCEQ on June 18, 2021. Executive Director determined the application was technically

correct on July 25, 2021 and administratively complete September 17, 2021. My comment was filed November 28, 2021 and sent directly to Water Engineers, Inc. and Ray Young, President. Mr. Young contacted me and asked if we could meet to reconcile my complaint, adding in a telephone message that I had raised some good points. I met with Ray and Shelly Young. I showed them some pictures of the 100 Year Flood Plane where we both agreed the Plant was located. The place we agreed the Plant was to be built is in the Flood Plane, and that is where the application approved by the Executive Director's reply has the Plant located even today.

In our meeting Ray Young showed me a map of the new site for the Plant that had to be arranged because he had not had the site for the Plant surveyed before he made his application. The survey he claimed he had made on December 6, 2021 moved the Plant 300 feet to the East. Unfortunately, that is still in the Flood Plane, even according to the survey map he showed me on December 7, 2021.

Ray Young called me again. He asked me, "What will it take for me to withdraw my complaint to the TCEQ. I told him simply, "Move the Plant out of the Flood Plane and put the effluent in a pipe to Caney Creek. {At our meeting on December 7, 2021 I had suggested a site well out of the flood plane, on the property they did own, and where the effluent could be discharged into a real creek, dry most of the time, but running to . Caney Creek. The project engineer Shelly Young told me that could not be done because it had been determined by TCEQ that the oxygen levels in that creek were too low, and Ms. Young said that with a straight face, but I knew she and Ray were laughing inside.

As to my suggestion that he put the effluent in a pipe Ray Young told me he could not do that because they did not "own the land". Where the effluent will be discharged has been referred to the Application reviewed and approved by the Executive Director as an "unnamed tributary" and it has been referred to in the Application as a "stream". That application was prepared by people at Water

Engineers, Inc. on the presumption no one from the TCEQ would actually make an inspection of the site, or the discharge point, and no one from TCEQ has inspected the area as of this date. The land at the point of discharge is neither a “tributary” of Caney Creek, and it is not a “stream” because there is no water. Water is definitionally essential to both a tributary, named or unnamed, and water is equally essential to a stream. You cannot have one without the other. My reading of the English language is that water is essential to both. My reading of the Crystal Springs application is that water is essential for Crystal Springs to convince TCEQ and the Executive Director is what the effluent will be discharged into because that, too, is essential. There is no water. The land that the effluent will be dumped out onto is the same land Ray Young told me “they” did not own. A second look at the Application will reveal that no agreements have been made from the adjacent owner(s) to run the effluent onto their land. Also, review of the Application will reveal no agreements have been made to run the effluent through the county culverts either. That is necessary because to get the effluent to Caney Creek it will have to run underneath Crockett Martin because the discharge point is east of Crockett Martin and Caney Creek is west of Crockett Martin. The application could resolve the problem with agreements from the land owners and Montgomery County to use their culverts, but that in and of itself, was not done either.

My complaint was the effluent was going to be dumped out on dry ground. For at least two years that effluent would be fully chlorinated. A review of the same application reviewed by the Executive Director shows that there is no dichlorination chamber in Unit of the proposed Plant. The sum result of this situation, clearly, is that fully chlorinated effluent is proposed and approved to run out of the Plant and onto property owned by someone other than Crystal Springs, and approving that Plant is not within the authority of the Executive Director, unless he can point me to a statute or agency rule that authorizes the Executive Director and this Commission to run effluent, fully chlorinated, on property owned by someone else who

has not given consent to run the effluent over their property. A final word on this point, clearly no one has done an inspection of this site for the Plant because the culverts that the effluent will have to run through at a rate of 250,000 gallons per day, which computes to seven and one half million (7,500,000) gallons of effluent, fully chlorinated, per month, and all that effluent will not fit in those county culverts. Simply put, the effluent will not make it to Caney Creek. It threatens to simply by pass the culverts and run over other owners' property all the way South down the adjacent property all the way to FM 2090, and MY PROPERTY is the FIRST property the effluent will enter right on the other side of FM 2090. That is my complaint.

This Application has been approved as of this reply. That means the effluent will run over dry ground for the full quarter mile it takes to get to my property. I am in a Buffer Zone for this Plant, being within the mile radius and two mile diameter resulting from the Buffer Zone. The application approves a Buffer Zone that will allow effluent, fully chlorinated, to be absorbed into the ground threatening my water well. And when it floods that fully chlorinated effluent will compromise my water well. I understand the Plant cannot be within 500 feet of private water wells, but those regulations are clearly not in existence to regulate waste water treatment plants dumping fully chlorinated effluent on dry ground, with no approval from adjacent land owners and no approval to use county culverts, and certainly not where there are two culverts to handle seven and one half million gallons of effluent per month.

Flood waters come into my house, my shop and my brother's house on our property. Attached to his application are pictures of the flood waters. When Ray Young saw those pictures he remarked: "That is a lot of water!" The pictures speak for themselves except for one other factor. In Phase I operation of this Plant there is no dichlorination of the effluent. Also, total suspended solids total fourteen (14) pounds of human excrement in the effluent per day. That computes to 420 pounds of hu/the an excrement in the effluent per

month. In floods, those total suspended solids will be in my home, my shop where I make my living and my brother's home where he lives and makes his living. For the Executive Director to prevail on his theory of denial of a contested hearing, he will have to show that I am not an affected person. To do that this Commission will have to conclude that my harm is no different than that suffered by society in general. My harm is associated to that caused by one Plant, its construction and operation threaten my home, my shop, my water well, the peaceful enjoyment of my property, the ability to make a living on my property, to hunt and fish the ponds on my property and to live without human excrement released from this Plant onto my property daily. My claims are easily discernable. It is a galactically misleading and a mind-boggling untruth and that society in general suffers the same harms, that society's general suffering being identical to mine makes me not an "affected person", and for that reason, the Executive Director's conclusion that I not be accorded a contested hearing is viable and should be followed. I should not be permitted to complain. That conclusion, likewise, is unreasonable, and this Commission does not have the authority, under the law of this State, to deny a contested hearing. To that end, I incorporate by reference, as though copied in full and set forth at length herein, the Reply of Brent Liedtke, as he addresses the applicable law. To be clear, my claim in addition to the facts set forth supra., the applicable precedent of Texas Court of Appeals at Austin, Texas the Executive Director

REPLY

OF BRENT LIEDTKE

Affected Person

I incorporate by reference the factual basis for Luke Budd's reply to the Executive Director. Executive as though copied in full and set forth herein in its entirety. Director misleads this Commission when he infers that the procedural history for this Application begins at the Application being filed by Crystal Springs Water Co., Inc. This

Executive Director knew or should have known that this case actually began in 1995 when Conroe Independent School District was building the waste water treatment plant to serve the Middle School and High School right across the street from the Budds' Family home, and businesses and water well and ponds for fishing, almost on "all fours" with the issues in this Application.

**Cline Budd and Stephen Budd, in 1995, knowing Stephen Budd held a quit claim deed to the property from Cline Budd, and knowing effluent from the Conroe I.S.D. waste water treatment plant was intended to be run across the Budd property, around the "Gin House Branch" of Caney Creek, across the Budds' property, contaminating two ponds and one water well. The Budds sued in: Montgomery County District Court represented by their family lawyer who would eventually non-suit the case after full evidentiary hearings in open court, and the most interesting thing happened: Cline Budd was permitted to remain as a party to the suit even though his claim was exactly the same as Luke's claim is currently. Cline Budd had Quit-Claimed his interest in the property to his son, Stephen, but both lived on the property in October, 1995 when suit was filed, and though Cline Budd was not the record owner of the property, but he had standing (unchallenged by th
eTCEQvc**