

TCEQ DOCKET NO. 2022-1155-MWD

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| APPLICATION BY | § | BEFORE THE TEXAS |
| GRAM VIKAS PARTNERS, INC. | § | COMMISSION ON |
| TPDES | § | ENVIRONMENTAL |
| PERMIT No. WQ015990001 | § | |

APPLICANT’S RESPONSE TO HEARING REQUESTS

TO THE HONORABLE COMMISSIONERS:

COMES NOW, the Applicant, Gram Vikas Partners, Inc. (“Applicant”) and files its Response to Hearing Requests in the above-referenced matter, and would respectfully show as follows:

BACKGROUND

I. FACILITY DESCRIPTION

Gram Vikas Partners, Inc. (Applicant) applied for new TPDES Permit No. WQ0015990001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.20 million gallons per day (MGD).

The wastewater treatment facility (“WWTF”) will be located approximately 0.3 miles south-southeast of the intersection of Farm-to-Market Road 1101 and Watson Lane, in Comal County, Texas 78130. The treated effluent will be discharged to Mesquite Creek, thence to York Creek, thence to the Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin.

II. HEARING REQUESTERS

Nine individuals and 2 groups have requested a Contested Case Hearing in this matter. Applicant opposes the hearing requests of all the individuals and groups.

Individuals:

Individual #1: Mary Annis Allen

Individual #2: Tristan Casteneda Jr. (on behalf of Sylvia Casteneda)

Individual #3: Drew Engelke
Individual #4: Byron Evans
Individual #5: Patrick Flint
Individual #6: Michael and Rita Lingsjo (addressed as one requester)
Individual #7: Karen Montgomery
Individual #8: Diane C. Scott
Individual #9: James Seeger

Groups:

Group # 1: Texas Rivers Protection Association
Group #2: Wilbarger Creek Conservation Alliance (Jonathan Beall)

RESPONSE

I. STANDING GENERALLY

For purposes of discussing objections, Applicant notes that the question of distance from the plant or the discharge point is relevant to the question of an “affected person.”¹ The factors for determining whether a person is an “affected person” are set forth at 30 Tex. Admin Code § 55.203(c).

Not only is distance specifically identified as a factor,² but the question of distance is important in determining three of the other 5 factors that apply to non-governmental entities.³ Critical to the analysis of what distance restrictions or other limitations are imposed is the fact that

¹ Section 5.56 of the Texas Water Code expressly provides that in order to grant a hearing request, the Commission must determine that the request was filed by an “affected person.” Tex. Water Code § 5.56(c).

² “In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following: . . . (2) distance restrictions or other limitations imposed by law on the affected interest.” 30 Tex. Admin Code § 55.203(c)(2).

³ “(3) whether a reasonable relationship exists between the interest claimed and the activity regulated; (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person; (5) likely impact of the regulated activity on use of the impacted natural resource by the person.” 30 Tex. Admin Code § 55.203(c). The further away a requestor is, the less there might be an impact or a reasonable relationship.

TCEQ identifies affected landowners in its application instructions (1) landowners that are adjacent to the applicant's property⁴ and (2) landowners that are **one mile** downstream from the discharge point.⁵ Therefore, Applicant objects to all landowners that are not (1) adjacent to the applicant's property, or (2) within one mile downstream of the discharge point.

Additionally, the regulations require that the requester provide "a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application." 30 Tex. Admin Code § 55.201(d)(2).

Many of the requesters utterly fail to identify the requester's location vis-à-vis the facility or along the discharge route.

Although distance is the single-most critical issue in the evaluation of whether a person has standing, it is also important to note that an "affected person" means "a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing." Tex. Water Code § 5.115(a). An "interest common to members of the general public does not qualify as a personal justiciable interest." *Id.* Many of the requesters fail to articulate how their interest is different from that of the general public.

Finally, there are procedural requirements for seeking a hearing. Specifically, the Hearing Requester must substantially comply with the requirements set-forth in 30 Tex. Admin Code § 55.201. As will be discussed herein, most, if not all, of the Hearing Requesters failed to provide the information required.

⁴ TCEQ-10053 (06/28/2022) Municipal Wastewater Permit Application at Pages 16 and 24.

⁵ TCEQ-10053 (06/28/2022) Municipal Wastewater Permit Application at Pages 16 and 19.

II. OBJECTIONS TO INDIVIDUAL REQUESTORS

Because many of the requestors did not provide the distance information required by 30 Tex. Admin Code § 55.201(d)(2), Applicant relies on the Affected Landowner Map submitted with the application to discuss the requests (**Exhibit A**).

A. PERSONS WHO ARE NOT ADJACENT TO THE FACILITY AND DO NOT OWN PROPERTY ALONG THE DISCHARGE ROUTE

According to **Exhibit A**, none of the individual requestors are adjacent to the Applicant's property or within a mile of the discharge route. There should be little debate that these persons fail to qualify as an affected person.

Individual #1: Mary Annis Allen

Ms. Allen is not on the Affected Landowner Map. See **Exhibit A**. She is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Ms. Allen states that she is +/- 1 mile from "the site." She makes no allegation that her property is along the discharge route. Such a distance, if it is along the discharge route is too far to be able to show a justiciable interest.

She asserts generally that the Responses to Comment are inadequate but makes no attempt to describe a personal justiciable interest.

Ms. Allen fails to state an interest that is protected under the law pursuant to 30 Tex. Admin Code § 55.203(c)(1). She does not show how her interest is different than an interest common to members of the general public. 30 Tex. Admin Code § 55.203(a). Ms. Allen complains about the following:

- 1) Migratory Sandhill Cranes
- 2) Noxious odors
- 3) Compliance
- 4) Frequency of testing
- 5) Property values (not regulated by the permit)

6) Flooding (not regulated by the permit)

She does not show how any of these issues are particular to her. She does not show how property values or flooding are subject to TCEQ review. She does not express any concerns that are particular to her and not the general public.

Ms. Allen's request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant's property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).
3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).
4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, Ms. Allen did not comply with the following requirements of 30 Tex. Admin Code § 55.201(d):

1. The Requestor did not provide "a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application." 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify "the factual basis of [any] the disputes." 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not "list any disputed issues of law." 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Ms. Allen's request should be denied.

Individual #2: Tristan Castaneda Jr.

Tristian Castaneda Jr. provides his address as 502 West 13th Street in Austin Texas. He asserts that he is requesting hearing status on behalf of his "mother and property owner of Apache Creek Ranch, located at 7495 FM 1101, Sequin, Texas 78155[], Sylvia G. Castaneda."

There is no rule that allows one person to request a hearing or seek party status on behalf

of another. The rules are written such that the “requestor” must make the request. 30 Tex. Admin Code § 55.201(e)(1). Sylvia G. Castaneda did not make a request and Tristian does not show how he is personally affected. The request should be denied.

To the extent that the Commission decides to consider Tristan’s request a valid request for another person, it should still be denied.

Ms. Sylvia Castaneda is not on the Affected Landowner Map. See **Exhibit A**. She is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Ms. Sylvia Castaneda allegedly “is at or within a mile of the proposed wastewater treatment plant site.” There is no allegation that her property is along the discharge route. Such a distance, if it is along the discharge route is too far to be able to show a justiciable interest.

Tristian fails to state an interest that is protected under the law pursuant to 30 Tex. Admin Code § 55.203(c)(1). He does not show how Sylvia’s interest is different than an interest common to members of the general public. 30 Tex. Admin Code § 55.203(a). Tristian complains about the following:

- 1) Notice
- 2) The technical sufficiency and protective standards recommended in the proposed permit
- 3) The evaluation of the discharge route
- 4) Antidegradation review
- 5) Water Quality

The request does not show how any of these issues are particular to Sylvia. The request does not express any concerns that are particular to Sylvia and not the general public.

The Request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant’s property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).

3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).
4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, the Request did not comply with the following requirements of 30 Tex.

Admin Code § 55.201(d):

1. The Requestor did not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify “the factual basis of [any] the disputes.” 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not “list any disputed issues of law.” 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Mr. Casteneda’s request on behalf of his mother should be denied.

Individual #3: Drew Engelke

Mr. Engelke is not on the Affected Landowner Map. See **Exhibit A**. He is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Mr. Engelke does not comply with the requirement of 30 Tex. Admin Code § 55.201(d)(2) because he does not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.”

He asserts generally that the application review was inadequate and that issuance of the permit would result in “the long-term environmental effects to the area in north Guadalupe County,” but makes no attempt to describe a personal justiciable interest. The request does not show how any of these issues are particular to Mr. Engelke. The request does not express any concerns that are particular to Mr. Engelke and not the general public.

The Request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant's property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).
3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).
4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, the Request did not comply with the following requirements of 30 Tex.

Admin Code § 55.201(d):

1. The Requestor did not provide "a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application." 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify "the factual basis of [any] the disputes." 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not "list any disputed issues of law." 30 Tex. Admin Code § 55.201(d)(4)(B).
4. The Requestor did not list all relevant and material disputed issues of fact that were raised by the Requestors during the public comment period and that are the basis of the hearing request. 30 Tex. Admin Code § 55.201(d)(4)(B).
5. Because the Requestor did not respond to the Response to Comments ("RTCs") in any manner, the requestor did not "specify any of the executive director's responses to the requestor's comments that the requestor disputes" 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Mr. Engelke's request should be denied.

Individual #4: Byron Evans

Mr. Evans is not on the Affected Landowner Map. See **Exhibit A**. He is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Mr. Evans does not comply with the requirement of 30 Tex. Admin Code § 55.201(d)(2) because he does not provide "a brief, but specific, written statement explaining in plain language

the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.”

He asserts concerns generally on behalf of “adjacent and nearby landowners, their property, livestock and animals,” but makes no attempt to describe a personal justiciable interest. The request does not show how any of these issues are particular to Mr. Evans. The request does not express any concerns that are particular to Mr. Evans and not the general public.

The Request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant’s property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).
3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).
4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, the Request did not comply with the following requirements of 30 Tex. Admin Code § 55.201(d):

1. The Requestor did not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify “the factual basis of [any] the disputes.” 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not “list any disputed issues of law.” 30 Tex. Admin Code § 55.201(d)(4)(B).
4. The Requestor did not list all relevant and material disputed issues of fact that were raised by the Requestors during the public comment period and that are the basis of the hearing request. 30 Tex. Admin Code § 55.201(d)(4)(B).
5. Because the Requestor did not respond to the Response to Comments (“RTCs”) in any manner, the requestor did not “specify any of the executive director's responses to the requestor's comments that the requestor disputes” 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Mr. Evans' request should be denied.

Individual #5: Patrick Flint

Mr. Flint is not on the Affected Landowner Map. See **Exhibit A**. He is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Mr. Flint does not comply with the requirement of 30 Tex. Admin Code § 55.201(d)(2) because he does not provide "a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application."

The extent of his substantive comments are as follows:

I am very concerned about the environmental impact of the proposed water treatment facility. Additionally, the proposed water treatment facility appears to be right next to our property line. I understand the area is going to be developed, the placement of the treatment center and how the developer protects the community is what we need TECQ to consider. This community Mesquite Ranch was here first. We are counting on you to protect us.

He asserts concerns generally for the "community," but makes no attempt to describe a personal justiciable interest. The request does not show how any of these issues are particular to Mr. Flint. The request does not express any concerns that are particular to Mr. Flint and not the general public.

The Request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant's property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).
3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).

4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, the Request did not comply with the following requirements of 30 Tex.

Admin Code § 55.201(d):

1. The Requestor did not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify “the factual basis of [any] the disputes.” 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not “list any disputed issues of law.” 30 Tex. Admin Code § 55.201(d)(4)(B).
4. The Requestor did not list all relevant and material disputed issues of fact that were raised by the Requestors during the public comment period and that are the basis of the hearing request. 30 Tex. Admin Code § 55.201(d)(4)(B).
5. Because the Requestor did not respond to the Response to Comments (“RTCs”) in any manner, the requestor did not “specify any of the executive director's responses to the requestor's comments that the requestor disputes” 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Mr. Flint’s request should be denied.

Individual #6: Michael and Rita Lingsjo

Michael and Rita Lingsjo are considered jointly because they provide the same address in their request.

The Lingsjos are not on the Affected Landowner Map. See **Exhibit A**. They are not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

The Lingsjos do not comply with the requirement of 30 Tex. Admin Code § 55.201(d)(2) because they do not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” They state that they live in the “Mesquite Ranch subdivision in New

Braunfels” and that the plant will “go up basically in our back yard” or that the plant will “literally at our back property line.” but they do not provide distances or specificity.

The Request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant’s property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).
3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).
4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, the Request did not comply with the following requirements of 30 Tex. Admin Code § 55.201(d):

1. The Requestor did not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify “the factual basis of [any] the disputes.” 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not “list any disputed issues of law.” 30 Tex. Admin Code § 55.201(d)(4)(B).
4. The Requestor did not list all relevant and material disputed issues of fact that were raised by the Requestors during the public comment period and that are the basis of the hearing request. 30 Tex. Admin Code § 55.201(d)(4)(B).
5. Because the Requestor did not respond to the Response to Comments (“RTCs”) in any manner, the requestor did not “specify any of the executive director's responses to the requestor's comments that the requestor disputes” 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, the Lingensjo’s request should be denied.

Individual #7: Karen F. Montgomery

Ms. Montgomery is not on the Affected Landowner Map. See **Exhibit A**. She is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Ms. Montgomery does not comply with the requirement of 30 Tex. Admin Code § 55.201(d)(2) because she does not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” She complains about “a housing development abutting up to our homes and back yards at Mesquite Ranch in New Braunfels, TX” but makes no allegation that her property adjacent to the plant site or is along the discharge route.

Ms. Montgomery seems to complain more about the housing development than she does the plant. She makes no attempt to describe a personal justiciable interest.

Ms. Montgomery fails to state an interest that is protected under the law pursuant to 30 Tex. Admin Code § 55.203(c)(1). She does not show how her interest is different than an interest common to members of the general public. 30 Tex. Admin Code § 55.203(a). The extent of Ms. Montgomery’s complains of the following:

- 1) View
- 2) Property values
- 3) Fear of leaks, smells, and illness
- 4) The plant location
- 5) Water runoff from homes that will use the plant

She does not show how any of these issues are particular to her. She does not show how her view, property values or water runoff from the development are subject to TCEQ review. She does not express any concerns that are particular to her and not the general public.

Ms. Montgomery’s request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant’s property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).
3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).

4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, Ms. Montgomery did not comply with the following requirements of 30 Tex.

Admin Code § 55.201(d):

1. The Requestor did not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify “the factual basis of [any] the disputes.” 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not “list any disputed issues of law.” 30 Tex. Admin Code § 55.201(d)(4)(B).
4. The Requestor did not list all relevant and material disputed issues of fact that were raised by the Requestors during the public comment period and that are the basis of the hearing request. 30 Tex. Admin Code § 55.201(d)(4)(B).
5. Because the Requestor did not respond to the Response to Comments (“RTCs”) in any manner, the requestor did not “specify any of the executive director's responses to the requestor's comments that the requestor disputes” 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Ms. Montgomery’s request should be denied.

Individual #8: Diane C. Scott

Ms. Scott is not on the Affected Landowner Map. See **Exhibit A**. She is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Ms. Scott does not comply with the requirement of 30 Tex. Admin Code § 55.201(d)(2) because she does not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” She states that her property is along York creek but does not say where. **Exhibit A** shows that York Creek is well over one mile downstream of the discharge point.

Ms. Scott complains about possible flooding, but she makes no attempt to describe a

personal justiciable interest.

Ms. Scott fails to state an interest that is protected under the law pursuant to 30 Tex. Admin Code § 55.203(c)(1). She does not show how her interest is different than an interest common to members of the general public. 30 Tex. Admin Code § 55.203(a). Ms. Scott's complaints of flooding but does not show how any potential flooding is particular to her. She does not show how flooding is subject to TCEQ review. She does not express any concerns that are particular to her and not the general public.

Ms. Scott's request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant's property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).
3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).
4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, Ms. Scott did not comply with the following requirements of 30 Tex. Admin Code § 55.201(d):

1. The Requestor did not provide "a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application." 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify "the factual basis of [any] the disputes." 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not "list any disputed issues of law." 30 Tex. Admin Code § 55.201(d)(4)(B).
4. The Requestor did not list all relevant and material disputed issues of fact that were raised by the Requestors during the public comment period and that are the basis of the hearing request. 30 Tex. Admin Code § 55.201(d)(4)(B).
5. Because the Requestor did not respond to the Response to Comments ("RTCs") in any manner, the requestor did not "specify any of the executive

director's responses to the requestor's comments that the requestor disputes”
30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Ms. Scott’s request should be denied.

Individual #9: James Seeger

Mr. Seeger is not on the Affected Landowner Map. See **Exhibit A**. He is not, therefore adjacent to the site, or within a mile of the discharge point along the discharge route.

Mr. Seeger does not comply with the requirement of 30 Tex. Admin Code § 55.201(d)(2) because he does not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” He simply does not identify his location vis-à-vis the facility or discharge point.

The only comments provided after the Response to Comments deal with flooding, but he makes no attempt to describe a personal justiciable interest.

Mr. Seeger fails to state an interest that is protected under the law pursuant to 30 Tex. Admin Code § 55.203(c)(1). He does not show how his interest is different than an interest common to members of the general public. 30 Tex. Admin Code § 55.203(a). Mr. Seeger complains of flooding but does not show how any potential flooding is particular to him. He does not show how flooding is subject to TCEQ review. He does not express any concerns that are particular to him and not the general public.

Mr. Seeger’s request fails for the following reasons:

1. Requestor fails to demonstrate that the alleged interest is within distance restrictions or other limitations imposed by law (adjacent to the Applicant’s property). 30 Tex. Admin Code § 55.203(c)(2)).
2. Requestor fails to show a reasonable relationship between the interest claimed and the activity regulated. 30 Tex. Admin Code § 55.203(c)(3)).

3. Requestor fails to show a likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person. 30 Tex. Admin Code § 55.203(c)(4)).
4. Requestor fails to show a likely impact of the regulated activity on use of the impacted natural resource by the person. (see 30 Tex. Admin Code § 55.203(c)(5)).

Furthermore, Mr. Seeger did not comply with the following requirements of 30 Tex. Admin Code § 55.201(d):

1. The Requestor did not provide “a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application.” 30 Tex. Admin Code § 55.201(d)(2).
2. The Requestor did not specify “the factual basis of [any] the disputes.” 30 Tex. Admin Code § 55.201(d)(4)(B).
3. The Requestor did not “list any disputed issues of law.” 30 Tex. Admin Code § 55.201(d)(4)(B).
4. The Requestor did not list all relevant and material disputed issues of fact that were raised by the Requestors during the public comment period and that are the basis of the hearing request. 30 Tex. Admin Code § 55.201(d)(4)(B).
5. Because the Requestor did not respond to the Response to Comments (“RTCs”) in any manner, the requestor did not “specify any of the executive director's responses to the requestor's comments that the requestor disputes” 30 Tex. Admin Code § 55.201(d)(4)(B).

Based on the foregoing, Mr. Seeger’s request should be denied.

III. OBJECTIONS TO ASSOCIATION/GROUP REQUESTORS

A. Objection to Texas Rivers Protection Association (“TRPA”) (Group #1)

Applicant objects to Texas Rivers Protection Association (“TRPA”) because it did not satisfy the requirements of organizational standing codified at 30 Tex. Admin. Code § 55.205 (standing for an organization). Specifically, TRPA does not satisfy 30 Tex. Admin. Code § 55.205(a)(3) or (b)(3), which provide that “the interests the group or association seeks to protect [must be] germane to the organization’s purpose.”

TRPA’s attorney (Save our Springs, Inc. or “SOS”) states that TRPA’s “mission is to protect public access and preserve the flow, water quality, and natural beauty of the rivers of Texas, including the San Marcos and Guadalupe Rivers.”⁶ TRPA’s website identifies its mission as follows:⁷

- Protect the flow, water quality and natural beauty of the rivers of Texas.
- Promote the safe and wise use of Texas rivers.
- Promote an awareness of the rights of the public to use navigable rivers and an awareness of the rights of riparian landowners to be protected from trespass and other intrusions.
- Promote mutual respect between river users and landowners for each other’s legal rights.
- Foster an awareness and respect for diverse natural waterway environments.
- Educate its members and the public concerning conservation and preservation of Texas rivers and streams, and to perform such related educational services within the meaning of Section 501(c)(3).
- Acquire property and/or easements that provide its members, and the public, access to Texas rivers and streams.

These mission statements describe protection of rivers, not creeks. TRPA specifically describes its interest as protecting the San Marcos River.⁸ It is true that the discharge route ultimately flows to the San Marcos River, but the San Marcos River is approximately 21.2 stream miles from the discharge point. **Exhibit B** (affidavit of Aaron Laughlin) at ¶ 3. The discharge is into Mesquite Creek (not a river). TRPA has not and cannot show how the interest it seeks to protect (the San Marcos River), which is approximately 21.2 miles downstream from the discharge point into a creek, could possibly be affected by this permit.

TRPA’s mission in this case is to protect the San Marcos River. Such interest is too attenuated to determine that it is an “affected person” in this case.

⁶ SOS Hearing Request Letter (September 16, 2022) at 1 (pdf 12 of the Hearing Requester Letters).

⁷ <https://txrivers.org/about-trpa/mission-purpose/> (last checked October 24, 2022).

⁸ SOS Hearing Request Letter (September 16, 2022) at 1 (pdf 12 of the Hearing Requester Letters); *see also* Letter from Victoria Rose (SOS) and David Price (TRPA) (March 21, 2022) at 1 (pdf 53 of the Hearing Requester Letters)

B. Objection to Greater Edwards Aquifer Alliance (“GEAA”) (Group #2)

Applicant objects to Greater Edwards Aquifer Alliance (“GEAA”) because it did not satisfy the requirements of organizational standing codified at 30 Tex. Admin. Code § 55.205 (standing for an organization). Specifically, TRPA does not satisfy 30 Tex. Admin. Code § 55.205(a)(3) or (b)(3), which provide that “the interests the group or association seeks to protect [must be] germane to the organization’s purpose.”

GEAA’s attorney (SOS) states that GEAA “promotes effective broad-based advocacy for protection and preservation of the Edwards Aquifer, its springs, watersheds, and the Texas Hill Country that sustains it.”⁹ This mission statement matches the mission statement on GEAA’s website.¹⁰ SOS’s assertion that GEAA “regularly participates in the wastewater permitting process in the Texas Hill Country to ensure that water quality is maintained in the rivers, streams, and aquifers GEAA seeks to protect, including the receiving waters for the Draft Permit” is nowhere reflected in the GEAA’s mission statement on its website.¹¹

GEAA’s interest in protecting the Edwards Aquifer are too attenuated to make GEAA an “affected person” in this case. The facilities that are the subject of this docket are not in the Edwards Aquifer Contributing Zone, the Edwards Aquifer Recharge Zone, or the Edwards Aquifer Artesian Zone. **Exhibit B** (affidavit of Aaron Laughlin) at ¶ 4.

GEAA’s mission is to protect the Edwards Aquifer. Such interest is too attenuated to determine that it is an “affected person” in this case because the facilities are not in the Edwards Aquifer Contributing Zone, the Edwards Aquifer Recharge Zone, or the Edwards Aquifer Artesian Zone .

⁹ SOS Hearing Request Letter (September 16, 2022) at 2 (pdf 13 of the Hearing Requester Letters).

¹⁰ <https://aquiferalliance.org/the-geaa-mission/> (last checked October 24, 2022).

¹¹ <https://aquiferalliance.org/the-geaa-mission/> (last checked October 24, 2022).

In addition, GEAA fails to satisfy 30 Tex. Admin. Code § 55.205(b)(2), which provides that the request must identify, “by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right.” GEAA’s website, however, shows that GEAA is made-up of member groups, not individual members.¹² Despite the allegation made by SOS, there is no evidence that GEAA has individual members which could satisfy the requirement of 30 Tex. Admin. Code § 55.205(b)(2). GEAA should not, therefore, be granted party status.

IV. DISPUTED ISSUES

If the Commission grants a request for a contested case hearing, it must “limit the number and scope of the issues to be referred to the State Office of Administrative Hearings for a hearing.” Tex. Water Code § 5.556(e).

Some of the requestors sought to have the following issues addressed:

1. Whether the Draft Permit will violate Texas Water Quality Standards.
2. Whether the Draft Permit will violate applicable antidegradation standards.
3. Whether TCEQ should have conducted Tier 2 antidegradation review.

These are all the same question, and separating them in this way will lead to confusion and a waste of resources. If a hearing is granted, Applicant requests that these issues be combined into one issue, namely “whether the Draft Permit will violate Texas Water Quality Standards.”

¹² <https://aquiferalliance.org/> (last checked October 24, 2022).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of October 2022 a true and correct copy of the foregoing document was filed with the Office of the Chief Clerk and was served on the following by email (where indicated) and first-class mail (where indicated) as follows:

FOR THE EXECUTIVE DIRECTOR via electronic mail:

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E New Braunfels, TX 78130-2623

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San Marcos, TX 78666-8544

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Save Our Springs Alliance
4701 West Gate Blvd
Ste D401
Austin, TX 78745-1479

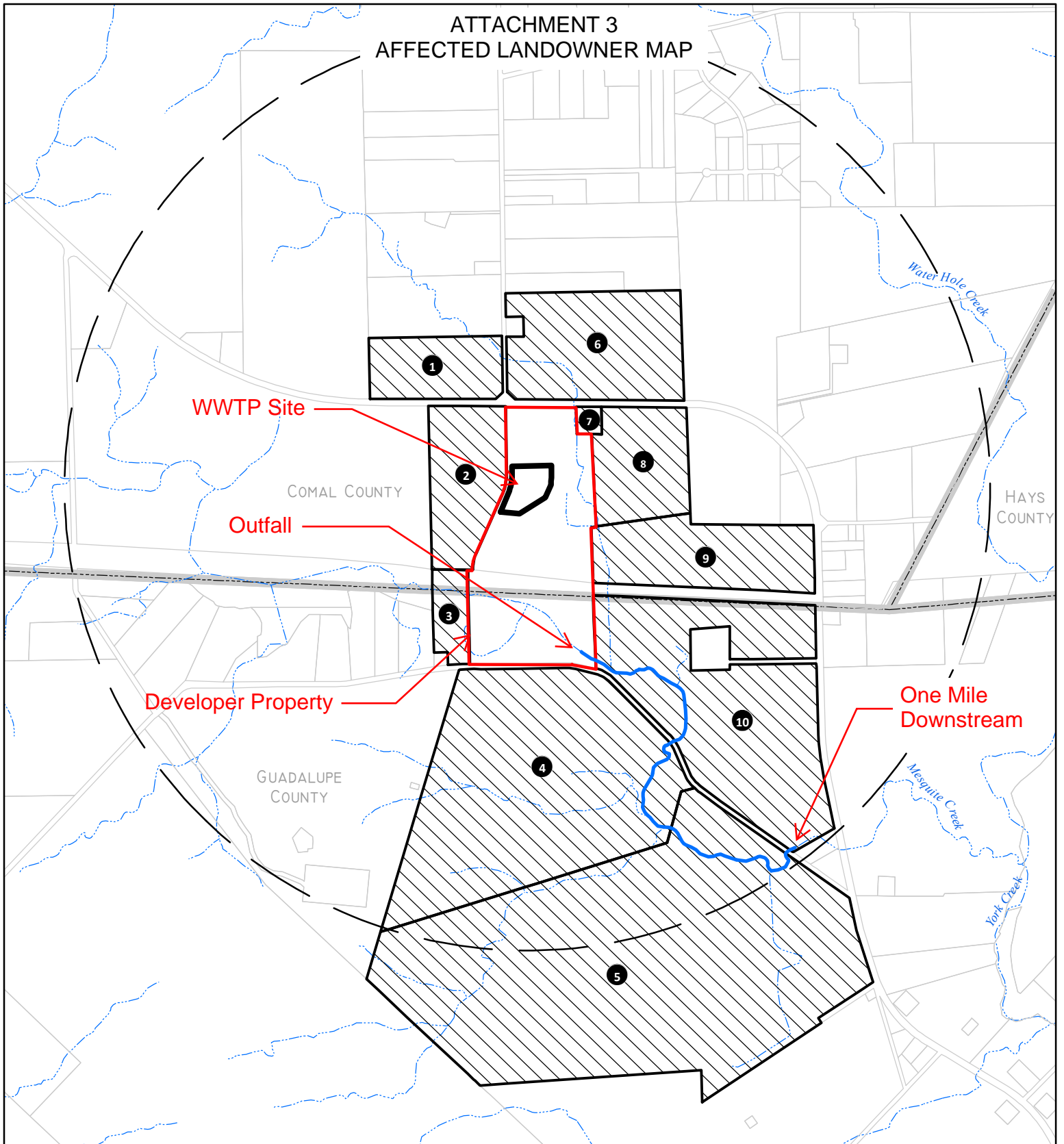
Diane C Scott
8155 Fm 1101
Seguin, TX 78155-0425

James Seeger
8601 Fm 1101
Seguin, TX 78155-0421

/s/ David J. Tuckfield
David Tuckfield








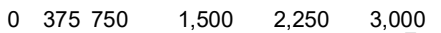
EXHIBIT A

ATTACHMENT 3 AFFECTED LANDOWNER MAP



MAP DATE: 04-12-21

Map Legend

- | | | | |
|--|---|---|----------------------------------|
|  | Mesquite Creek Development Boundary - 80.6 Acres |  | Discharge Route - 1 Mile Segment |
|  | Adjacent Parcels to Mesquite Creek Development Boundary |  | Creek / Stream |
|  | WW Treatment Plant Facility Boundary - 5.1 Acres |  | County Boundary |
|  | WW Treatment Plant Facility Boundary - 1 Mile Radius |  | 0 375 750 1,500 2,250 3,000 Feet |



Attachment 4 – List of Affected Landowners

1. Roberts, B.L.
534 Balfour Dr
San Antonio, TX 78239

2. CMH Homes Inc.
ATTN: Retail Licensing Dept.
PO Box 4098
Maryville, TN 37802

3. Garza, Rodolfo R. & Audrey A.
650 Schwarzlose Rd
New Braunfels, TX 78130

4. Pfluger, Charles E. Jr &
Lindsey S.
6960 FM 1101
New Braunfels, TX 78130

5. TXI Operations LP
2710 Wycliff Rd
Raleigh, NC 27607

6. Bading, Lanette & Laurel Bading
Evans
29 Lone Oak Trail
Sunset Valley, TX 78745

7. Ploch, Bryan D. & Cindy
6000 FM 1101
New Braunfels, TX 78130

8. Tuttle Investments, LTD
1661 S Seguin Ave
New Braunfels, TX 78130

9. Pfluger, Charles E. Jr
6960 FM 1101
New Braunfels, TX 78130

10. Same as #9

EXHIBIT B

AFFIDAVIT OF AARON LAUGHLIN

Before me, the undersigned, a notary public in and for the State of Texas, did on this day personally appear Aaron Laughlin, who, after being by me first duly sworn, did state upon his oath as follows:

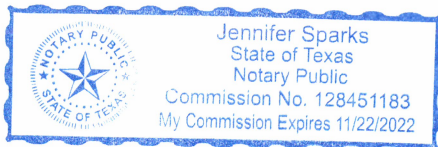
1. "My name is Aaron Laughlin. I am over the age of 21 years, of sound mind, and I am fully competent to testify to the matters set forth herein. I have personal knowledge of the statements contained herein and to my knowledge, the facts stated herein are true and correct.
2. I am a Professional Engineer in the State of Texas. I have experience in reviewing mapping information and am competent to determine distances based on publicly available mapping databases. I am familiar with the location of the facility that is proposed to be authorized by the draft permit in TCEQ Docket No. 2022-1155-MWD.
3. The distance between the discharge point that is the subject of TCEQ Docket No. 2022-1155-MWD and the San Marcos River (as measured by stream miles) is approximately 21.2 miles.
4. The facilities that are the subject of TCEQ Docket No. 2022-1155-MWD are not in the Edwards Aquifer Contributing Zone, the Edwards Aquifer Recharge Zone, or the Edwards Aquifer Artesian Zone.

Further, Affiant Sayeth not."



Aaron Laughlin, PE

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this 24th day of October 2022.



Notary Public in and for
the State of Texas