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May 22, 2023

Office of the Chief Clerk  
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Response Regarding:  
TCEQ Docket No. 2023-0529-SLG Permit No. WQ0005323000

I am writing in reply to the response filed by the Applicant (NTMWD) in the above matter on May 8, 2023. The Applicant asserts that my original timely request as filed on November 9, 2021, does not establish my status as an affected person in this matter by TCEQ.

On May 8, 2023, additionally the Office of Public Interest Council has responded and affirmed that I (we) do have an interest as an affected person(s) and should be granted a contested hearing.

My family's home sits directly adjacent south of the smaller western parcel of the proposed monofil site and across CR 644 (just south) from the larger eastern parcel.

When looking to purchase this property and home, I made a specific effort to reach out to TXMWD to ascertain what was their intent on usage of the adjacent properties.

After speaking with Mr. Jerry Allen of NTMWD in December of 2016, he assured me that ***“TXMWD has no intention of development of these properties unless our methodology of disposal changes.”***

Four years hence after learning of the Application Filing, and having a discussion with the Director Public Services, City of Josephine, Mr. Kirk Peters, it appears that NTMWD district has had design discussions to pursue the Monofil facility and permit for several years prior with no disclosure to the affected public (those discussions and meetings with City officials should be public record).

**I believe this proximity sufficiently establishes that my family and I may be affected by this proposed monofil in a way not common to the public at large.**

The Applicant asserts in their response that I did not provide any specific harm that will be suffered should the project proceed. I am more than willing to expand upon my concerns, which include the potential harm to the health of my family, the impact on the local water supply and environment, and potential damage to my family's health and property.

One of many concerns are for Toxic Chemicals Present in the waste residuals and the potential for those chemicals to migrate, adversely impacting human health and the environment.

The applicant must provide (and has not yet) any prove-up or disclosure on the following items:

**1. PFAS – Forever Chemicals:**

- a. Please provide analytical laboratory testing results for the materials intended to be placed into the subject waste landfill, these so-called “water treatment plant residuals.”
- b. There are many chemical contaminants known to be present that are often ubiquitous in environment. Have the water treatment residuals been tested for the FOREVER CHEMICALS also known as per-and polyfluoroalkyl substances (PFAS)? This is a group of chemicals that has been found to be present everywhere in the environment and includes perfluorooctane sulfonic acid (PFOS) and perfluorooctanoic acid (PFOA).
- c. These PFAS chemicals are found in rivers and lakes, move through soils and contaminate drinking water sources, are persistent in the environment, and according to the USEPA are present in soil and water at or near waste sites. Yet there is no such small creek or watercourse present here as defined in *Hoefs V. Short*, 144 TEX 501, 273 S.W. 785 (1925), which states “a watercourse will have a defined bank and bed, a current and a permanent source of supply.” Again, this area has none. This indicates any discharge will not be properly disposed of, other than to leech residuals onto the adjacent land. Note: the only monofil facility found resided in the City of Houston and did not allow for any water runoff at all. And there were significant guidelines to contain massive rain flow to prevent any runoff. This site had a 3-year lifespan.
- d. Surveys conducted by the Centers for Disease Control and Prevention (CDC) show that most people in the United States have been exposed to some PFAS. Most known exposures are relatively low, but some can be high, particularly when people are exposed to a concentrated source over long periods of time. The proposed Waste Landfill can be a cause of long-term exposure to human health of these chemicals.

- e. On March 14, 2023, EPA announced the proposed National Primary Drinking Water Regulation (NPDWR) for six PFAS chemicals with the PFOA MCL of 4 parts per trillion (also expressed as nanograms per liter)
- f. **These PFAS chemicals may be concentrated in the water treatment process and disposed of at high concentrations in the “plant residuals” at the proposed facility.**

2. **Heavy Metals:**

- a. Waste residuals should be tested for the Resource Conservation and Recovery Act (RCRA) Target Analyte List (TAL) metals including - Ag, Al, As, Ba, Be, Ca, Cd, Co, Cr, Cu, Fe, Hg, K, Mg, Mn, Na, Ni, Pb, Sb, Se, Tl, V, Zn.
  - b. These metals are naturally occurring but when concentrated into a waste, can result in unacceptable toxicity to human health and the environment and can cause the waste to be hazardous.
3. **Odor concerns:** In the event the waste is organic and is allowed to enter an anaerobic state, the waste may produce significant odors and be a serious nuisance to adjacent landowners.
4. **Potential for methane production:** What protective measure will be employed to ensure that methane is not produced from the waste? Methane can travel in the subsurface, migrating horizontally and create a risk of explosion to adjacent properties.
5. **Volatile Organic Compounds (VOCs):** – same concern as above. VOCs can migrate in the subsurface soil vapors and seep into buildings on adjacent properties causing toxicity issues and adverse exposure to human health.
6. **Diminution of property value: The proposed facility will undoubtedly cause significant diminution of property value.**
7. **Truck Traffic Problems:**
- a. The Applicant’s Water Treatment Plant residuals disposal site (the “proposed Facility”) is a 310-acre monofil authorized for the disposal of only dewatered water treatment plant residuals at a max rate of 100,000 dry tons per year.
  - b. **At 260 workdays per year (5 days per week), 100,000 tons per year equals 384 tons per day and at 20 tons per truck, equals 20 trucks per day. Are the roads suited to handle this capacity of heavy trucks?**
  - c. What is the maximum design capacity and life expectancy of the landfill? At 100,000 tons per year, will this be operating for the next 30 years?

d. Noise from the truck traffic and operation of heavy equipment at the proposed dump is a serious concern. **There is no infrastructure to support such traffic volumes.**

**8. Dust Concerns and Air-born Toxins:**

- a. Dust will undoubtedly be a problem for the adjacent landowners.
- b. **The Forever Chemicals known as PFAS/PFOS as described above are also known to be mobile in air-born particles and will likely be deposited on adjacent properties.**

**9. Loss of View-scape caused by Unsightly/Ugly monofil:**

- a. What are the height restrictions of the landfill? What will this look like? There is serious concern about loss of view-scape and the presence on an imposing unsightly/ugly mountain of waste.

For these reasons I believe I am an affected person under 30 TAC §55.203 and I respectfully request that this matter be referred for a contested case hearing.

A handwritten signature in black ink, appearing to read "Michael E. Stubbe". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael E. Stubbe  
US Navy Veteran (Retired)