

Dear TCEQ Executive Director,

I am writing to formally address the response regarding my hearing request submitted on May 28, 2024, concerning the proposed facility. While I understand the decision to deny my request may have been based on my location in relation to the discharge route, I respectfully assert that this denial is based on misleading information regarding the Notice of Receipt of Application (NORI) and improper notification to affected landowners.

The **developer has used the discharge route instead of the facility location** as the basis for the NORI to **subvert the actual affected private property landowners**. This tactic minimizes the appearance of impact and misdirects attention from the **true proximity of the facility to surrounding properties**, including mine, near Countryside Street. In reality, the plant itself is **centrally located much closer to adjacent landowners**, creating significant impacts such as noise, odor, and environmental concerns, which directly affect me and my neighbors.

Additionally, I am deeply concerned about the **design of the facility and its implications for flooding**. The developer plans to use the **same retention pond intended for the development as the discharge pond for the facility**. This raises significant concerns about overflow and contamination during flood events. The retention pond is not only undersized for such dual purposes, but its use as a discharge point exacerbates the risk of environmental harm and property damage in the event of heavy rainfall or a flood.

It is critical to note that during Hurricane Harvey, **this property was submerged under water**. Given the history of flooding in this area, the **location and design of the facility are crucial considerations** to ensure it can withstand future flood events without endangering nearby properties. These flooding risks and the dual-purpose retention pond make it evident that the facility poses a much greater impact on adjacent landowners than the developer has represented in their application and NORI.

This approach to notification and design is a violation of the **developer's responsibilities under Texas Water Code § 5.115 and 30 Texas Administrative Code § 39.413**, which clearly place the burden of proper notification on the developer. The **NORI must notify all affected persons** based on the true scope of the project and its potential impacts, including those who live near the facility itself—not just along the discharge route. The failure to properly notify affected persons deprived myself and others of the opportunity to submit timely comments during the public comment period.

The **previous developer, Bayouside Partners**, followed TCEQ rules and notified all adjacent landowners as required. In stark contrast, the current developer appears to be deliberately attempting to bypass this obligation to silence potential objections and expedite approval. This failure undermines the integrity of the permitting process and violates the principles of transparency and fairness required by law.

Given these circumstances, I respectfully request that the TCEQ:

1. **Reassess the true proximity of the plant to affected properties, including my own**, rather than solely focusing on the discharge route.
2. **Reissue the NORI** to ensure that all affected persons are properly notified.
3. Restart the **public comment period** to allow adjacent landowners, who are just as directly impacted as the discharge route landowners, the opportunity to provide meaningful input on the application.
4. Ensure that the **design of the facility, including its discharge and retention systems, adequately addresses flooding risks** and the potential impact on nearby properties during severe weather events.
5. Investigate the **necessity of this facility**, considering the informal agreement with the WCID 8 for utility services, and confirm that this project is not merely a redundant back up plan at the expense of the affected community.

The Texas Water Code and TCEQ regulations place the burden of accurate and proper notification squarely on the developer. Allowing this misrepresentation and insufficient design to stand would set a harmful precedent, silencing the voices of affected landowners and putting communities at risk. I trust that TCEQ will address this matter appropriately and ensure that all parties are afforded due process in this permitting process.

Sincerely,
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REGULATED ENTY NAME FIELD CREEK CROSSING

RN NUMBER: RN111763314

PERMIT NUMBER: WQ0016360001

DOCKET NUMBER: 2024-1720-MWD

COUNTY: GALVESTON

PRINCIPAL NAME: CLEAR UTILITIES LLC, CN606086437

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DOCUMENT NAME: Response to the TCEQ Executive Director.pdf

Based on 30 TAC Section 1.10(h), the TCEQ General Counsel has waived the filing requirements of Section 1.10(c) to allow the filing of documents using this online system. The General Counsel also has waived the requirements of Section 1.10(e) so that the time of filing your documents is the time this online system receives your filings. Filings are considered timely if received by close of business (usually 5:00 p.m. CST) on the deadline date unless otherwise ordered. If your document is 20 pages or less (including cover letter, mailing list, and attachments) and it is for Commission consideration at an open meeting, the General Counsel has also waived the requirement of Section 1.10(d) to file paper copies with the Office of the Chief Clerk.