

**TCEQ DOCKET NO. 2025-0543-MWD**

**APPLICATION OF BLIZEXAS LLC  
FOR TCEQ PERMIT NO.  
WQ0016111001**

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**BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY**

**APPLICANT’S RESPONSE TO HEARING REQUESTS AND REQUESTS FOR  
RECONSIDERATION**

Blizexas LLC (“Applicant”) respectfully submits this Response to Hearing Request and Requests for Reconsideration in the above-referenced matter.

**BACKGROUND**

**I. FACILITY DESCRIPTION**

Applicant submitted an application to TCEQ for a new permit, TCEQ Permit No. WQ0016111001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day via a subsurface area drip dispersal system (SADDs) with a minimum area of 2.75 acres of public access land. The Applicant proposes to operate Rockingwall Ranch wastewater treatment facility (WWTF) that will serve the Rockingwall Ranch property.

The Rockingwall Ranch WWTF will be an activated sludge process plant using the conventional mode. Treatment units will include an onsite lift station, two flow equalization basins, a bar screen, an aeration basin, a final clarifier, a tertiary media filter, and a chlorine contact chamber. The Applicant is proposing to use two flow equalization basins, each 40,000 gallons, to dampen the high variability of wastewater generation and convey a consistent, attenuated flow stream to the subsequent treatment units. According to 30 TAC § 217.6(d) rules, the applicant is required to submit to TCEQ the design of the proposed wastewater treatment facility including the

flow equalization basins for review and approval prior to construction. The facility has not been constructed.

The facility and disposal site will be located approximately 0.25 mile east of Crumley Ranch Road and Fitzhugh Road, Hays County, Texas 78737. The facility and disposal site will be located in the drainage basin of Barton Creek in Segment No. 1430 of the Colorado River Basin. No discharge of pollutants into water in the State is authorized by this permit.

If the draft permit is issued, 12,000 gallons of treated effluent would be authorized to be land applied by subsurface area drip dispersal system irrigation to 2.75 acres at an application rate of 0.1 gallons per square foot per day. The effluent limits in the draft permit are consistent with 30 TAC Chapter 309 and Table 1 in § 309.4.

The effluent limitations in the draft permit, based on a daily average, are 10 milligrams per liter (mg/l) biochemical oxygen demand – 5 day (BOD5), 15 mg/l total suspended solids (TSS), and 126 colony forming units (CFU) or most probable number (MPN) of Escherichia coli (E. coli) per 100 milliliters (ml). The effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

## **II. SUMMARY OF RESPONSES**

885 comments were submitted for this very small WWTF. The vast majority of hearing requests expressed generalized concerns and did not specify a personal justiciable interest. Applicant asserts that no hearing requester has actually expressed a personal justiciable interest, that all hearing requests should be denied, and that the permit be issued.

### **RESPONSES TO SPECIFIC REQUESTS**

#### **I. REQUESTERS WHO EXPRESSED ONLY GENERALIZED CONCERNS.**

The requesters listed below express generalized concerns that are common to the general public in their hearing requests but do not even attempt to explain how they have a personal justiciable interest. Their requests, therefore, should be denied:

1. Alvarez, Jacobi
2. Austin, Wendy
3. Banos, Ann
4. Bonilla, Juan Carlos
5. Baucom, Alison
6. Coleman, Rick
7. Crowell, Edward
8. Darter, Stephanie
9. D'Abate, Catherine Munns
10. D'Abate, Dave
11. Denton, Mark Hunter
12. De Paolis, Cristiano
13. Dietz, Barbara
14. Durchholz, Casey
15. Espana, Esteban
16. Espana, Jesus
17. Espana, Laura
18. Espana, Salvador
19. Fleming, Kevin
20. Fritz Family (submitted by Robert Henry Fritz)
21. Gibson, Patricia K.
22. Hill, Rachel
23. Howard, Michael
24. Kaura, Jana
25. Kelley, Phaedra
26. Kelley, Bryan
27. Kessler, Barbara
28. Kessler, Thomas
29. Konvit, Anna
30. Lopez, Daniel
31. Mailer, Johanna
32. Markey, Trisha
33. McCown, Michaela
34. McCreary, Steve
35. Miller, Anne Smith
36. Munsell, Michael
37. Norris, Kimmey K
38. Pannes, Pamela
39. Passernig, Stefan and Mollie Bae

- 40. Purcell, Mark
- 41. Reynolds, Edward J.
- 42. Richards, Karen
- 43. Shepherd, Connie
- 44. Searles, Sue
- 45. Schon, John
- 46. Sorenson, Tracey and Richard
- 47. Spade, Annie
- 48. Spinn, Matt & Roslynn
- 49. Spry, James D.
- 50. Van Ackeren, Terri and Tim
- 51. Whiteside, Patricia

## **II. REQUESTERS WHO HAVE ATTEMPTED TO SHOW A PERSONAL JUSTICIABLE INTEREST, BUT DO NOT ACTUALLY SHOW HOW THEY ARE AFFECTED**

### **1. Cherico, Sondra**

Ms. Cherico is two miles away from the TLAP facility. She expresses generic concerns about wastewater facilities but does not show how she would be personally affected. Her request should be denied.

### **2. Fleming, Kevin**

Mr. Fleming asserts the following:

I am an affected party because my personal justiciable interest is affected by the application. My []property is located approximately 0.7 miles from the proposed wastewater discharge, and I have a well on my property that provides our domestic water supplies. Because of the proximity of Blizexas's site to my property and the impacts that Blizexas's discharges will have on my property, including my well, as set forth above, I will be adversely affected by the proposed facility in a manner not common to members of the general public.

Mr. Fleming asserts that there will be a discharge. That is not the case. This is a TLAP permit and no discharges are permitted. Because he is not adjacent to the TLAP property, and because he asserts a "discharge" may affect his water well because there will be no "discharge" authorized, his request should be denied.

### **3. High, William and Cynthia**

Mr. High primarily complains about impervious cover and the development generally, which are not regulated by TCEQ. To the extent that he raises issues with the WWTF or fields, they are one mile away from the facility and they do not show how they are impacted any differently from members of the general public. Their request should be denied.

### **4. Jenkins, Greg and Debbie**

Greg and Debbie Jenkins express the following about their personal justiciable interest:

“Our house is at 13800 Trail Driver Street, Austin, TX 78737, almost exactly 2 miles from the proposed concert venue treatment facility. When this venue is active, we will be able to hear the noise of concerts and activities and see the lighting from our house. It is quite possible that it will affect aquifer levels that could result in our well going dry.”

The Jenkins live 2 miles away from the facility. The purport to be affected by noise and lighting from concerts and activities, none of which is regulated by TCEQ. Because he is not adjacent to the TLAP property, and because they do not show how the WWTF could potentially affect their interests, their request should be denied.

### **5. Katz, Jason**

Mr. Katz, who lives over a mile away asserts that the water quality of his well would be affected. Because he is not adjacent to the TLAP property, and because a TLAP Permit does not discharge into the surface water or groundwater, he cannot show how his well could be affected and his request should be denied.

### **6. Munns, Susan and Thomas**

The Munns express concern about stormwater runoff and erosion, which are not regulated by this permit. Their request should be denied.

### **7. Napiorkowski, Carrie & Vic**

The Napiorkowskis primarily complain about runoff, detention ponds, and land use plans, which are not regulated by this permit. They further assert that the “discharge” will affect their property, but this is a TLAP permit and no discharges are permitted. Their request should be denied.

**8. Roach, David**

Mr. Roach is two miles away from the TLAP facility. He expresses generic concerns about wastewater facilities but does not show how he would be personally affected. His request should be denied.

**9. Rummel, Leah**

Ms. Rummel expresses concern about stormwater runoff and flooding, which are not regulated by this permit. She is also not adjacent to the TLAP property. Her request should be denied.

**10. Smith, Claudia**

Ms. Smith runoff and development in general, which is not regulated by this permit.. She is three miles from the facility. Her request should be denied.

**11. Warntjes, Steve**

Mr. Warntjes primary concern is about stormwater runoff, which is not regulated by this permit. He is also not adjacent to the TLAP property. His request should be denied.

**12. Wojcik, Mark**

Mr. Wojcik primary concern is about development in general, which is not regulated by this permit. He is also not adjacent to the TLAP property. His request should be denied.

### **III. GOVERNMENTAL OR PRIVATE ORGANIZATION REQUESTS**

#### **1. The City of Austin (submitted by Liz Johnston)**

The City of Austin does not actually request a contested case hearing. Instead, it states:

The City also notes that staff were given insufficient time to review the RTC as we did not receive the response until March 10, 2025. The City requests additional time to determine if we wish to seek a contested case hearing.

Thus, it should not be granted party status in a contested case hearing.

Even if its request could be considered a proper request for a contested case hearing, it request should be denied.

Austin failed to show that it is an Affected Party. First, Austin failed to cite any specific “statutory authority over or interest in the issues relevant to the application,” required by 30 TAC § 55.203(c)(7). Clearly, Austin has no statutory authority over the issues relevant to the application because the application is outside both the corporate limits and ETJ of the City of Austin. It is important to remember that while Austin is a home rule city, and that the powers of a home rule city are extensive, they are not omnipotent. Even Austin remains subject to all of the limitations imposed by state law. “As a general rule a municipal corporation's powers cease at municipal boundaries and cannot, without plain manifestation of legislative intention, be exercised beyond its limits.” *Ex parte Ernest*, 138 Tex. Crim. 441, 444, 136 S.W.2d 595, 597 (Tex. Crim. App. 1939). By seeking party status in this proceeding, Austin is attempting to exercise its powers outside of its jurisdictional limits. This should not be permitted.

The fact that Austin has no authority to participate in this proceeding is evident from the Texas Local Government Code. According to that Code, unless otherwise authorized by state law, a municipality “shall not regulate” the following even if it within the municipality's ETJ:

(5) the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if [certain other facts apply].

Tex. Loc. Gov't Code. §§ 212.003(a)(5). Here, the wastewater plant is outside of the Austin's ETJ. Yet, the City of Austin is attempting through this TCEQ proceeding to regulate the type of wastewater plant that should be constructed by another City. Austin simply does not have the authority to weigh-in on this question.

Since Austin has no regulatory authority over the facility or property, Austin must prove its standing as if it were a private individual. Austin has no special or protected municipal interests this far from its corporate boundaries. Austin has not been able to meet that burden.

## **2. Hays Trinity Groundwater Conservation District (submitted by Charlie Flatten)**

The Hays Trinity Groundwater Conservation District ("HTGWCD") expresses concern over Barton Creek and the Trinity and Edwards Aquifers. Yet, the draft permit, which is a land application permit, does not authorize any discharge into Barton Creek or the Trinity or Edwards Aquifers. In other words, HTGWCD does not have any "statutory authority over or interest in the issues relevant to the application," as required by 30 TAC § 55.203(c)(7). It's request should be denied.

## **3. Fitzhugh Neighbors and the Greater Edwards Aquifer Alliance (submitted by Lauren Ice and Annalisa Peace)**

Fitzhugh Neighbors and the Greater Edwards Aquifer Alliance ("GEAA") rely on individual members whose properties are not immediately adjacent to the TLAP property (See Attachments A and B of Fitzhugh Neighbors and GEAA's Hearing Request). To the extent that an easement for a driveway across the road could be considered an adequate property interest to give persons standing, Fitzhugh Neighbors and GEAA do not explain how the WWTF might affect



the driveway in any meaningful way. As the individual members identified by Fitzhugh Neighbors and GEAA do not have standing in their own right, such standing cannot be imputed to Fitzhugh Neighbors or GEAA.

**4. Save our Springs Alliance (submitted by Victoria Rose)**

SOS relies upon “Sharon Thiede . . . who owns real property and lives at 15211 Fitzhugh Road, Austin, Texas 78736 which less than one mile from the proposed facilities.” One mile from the facilities downstream of a discharge point for a TPDES Permit may confer standing, but it does not when TLAP is involved. There is no discharge and the individual identified by SOS is not adjacent to the facility. Standing should not be granted on this basis.

**5. Shield Ranch (submitted by Paul Sarahan)**

Shield Ranch asserts that it has a personal justiciable interest beased solely on proximity. It does not, specify, however, how the draft permit, if issued, may actually affect its interests. Its request should be denied.

**SUBJECT OF THE HEARING**

If a hearing is granted, because this is a TLAP permit that does not allow a discharge, the following topics should not be referred to SOAH:

1. Whether the draft permit is protective of surface water quality in Barton Creek.
2. Whether the draft permit is protective of groundwater quality.

As the ED noted in the response to comments:

The proposed permit does not authorize any discharge of wastewater or pollutants to waters in the state, which includes groundwater. The draft permit contains several requirements intended to prevent groundwater contamination. These requirements include numerous Special Provisions added to the draft permit to address specific site conditions, consistent with state regulations.

These Special Provisions at page 7 of the RTC. As there is no discharge, groundwater concerns are not an issue and should not be referred to SOAH.

With respect to groundwater, at page 4 of the RTC, the ED states:

The permit, if issued, would not authorize the discharge of pollutants into water in the state, including Barton Creek. Therefore, the proposed facility is not expected to cause any impacts to Barton Creek. The draft permit prohibits any wastewater from surfacing, ponding, or running off along the ground surface.

As there is no discharge, groundwater concerns are not an issue and should not be referred to SOAH.

Respectfully submitted,

**THE AL LAW GROUP PLLC**

*/s/ David Tuckfield*

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David J. Tuckfield  
State Bar Number: 00795996  
12400 West Hwy 71, Suite 350-150  
Austin, TX 78738  
Telephone: (512) 576-2481  
Facsimile: (512) 366-9949  
david@allawgp.com

**ATTORNEYS FOR APPLICANT**

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on the persons on the attached mailing list following parties as shown below on this 14<sup>th</sup> day of July 2025 as follows:

### **By efilng**

Docket Clerk  
Texas Commission on  
Environmental Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711  
<https://www.tceq.texas.gov/goto/efilngs>

### **By first class mail**

**Requesters as listed on the attached  
mailing list**

### **By email**

#### **TCEQ Executive Director**

Harrison Malley, Staff Attorney  
TCEQ, Environmental Law Division  
MC-173  
P.O. Box 13087  
Austin, Texas 78711  
[Harrison.Malley@tceq.texas.gov](mailto:Harrison.Malley@tceq.texas.gov)

#### **TCEQ Office of Public Interest Counsel**

Garrett T. Arthur  
Public Interest Counsel  
P.O. Box 13087, MC 103  
Austin, Texas 78711-3087  
[garrett.arthur@tceq.texas.gov](mailto:garrett.arthur@tceq.texas.gov)

#### **TCEQ External Relations**

Ryan Vise, Deputy Director  
TCEQ External Relations Division  
MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087  
[ryan.vise@tceq.texas.gov](mailto:ryan.vise@tceq.texas.gov)

/s/ David Tuckfield

**REQUESTERS:**

Jacobi Alvarez  
6905 E RIVERSIDE DR  
AUSTIN, TX, 78741 -6695

Wendy Austin  
13000 TRAIL DRIVER  
AUSTIN TX 78737-9536

Ann Banos  
11321 OAK BRANCH DR  
AUSTIN TX 78737-8818

Juan Carlos Bonilla  
11306 LONG BRANCH DR  
AUSTIN TX 78736-6507

Alison Baucom  
12600 PAULS VALLEY RD  
AUSTIN TX 78737-9506

Rick Coleman  
108 TEMPRANILLO WAY  
LAKEWAY TX 78738-1238

Edward Crowell  
9310 HONEYCOMB DR  
AUSTIN TX 78737-1117

Stephanie Darter  
11914 FITZHUGH CORS  
DRIPPING SPRINGS TX 78620-5018

Catherine Munns D'Abate  
UNIT F  
14909 FITZHUGH RD  
AUSTIN TX 78736-6300

Dave D'Abate  
UNIT F  
14909 FITZHUGH RD  
AUSTIN TX 78736-6300

Mark Hunter Denton  
13325 TRAIL DRIVER  
AUSTIN TX 78737-9531

Cristiano De Paolis  
439 VAIL RIVER RD  
DRIPPING SPRINGS TX 78620

Barbara Dietz  
350 LOST VALLEY RD  
DRIPPING SPRINGS TX 78620-3337

Casey Durchholz  
10200 CRUMLEY RANCH RD  
AUSTIN TX 78738-6011

Esteban Espana  
11306 LONG BRANCH DR  
AUSTIN TX 78736-6507

Jesus Espana  
11306 LONG BRANCH DR  
AUSTIN TX 78736-6507

Laura Espana  
11306 LONG BRANCH DR  
AUSTIN TX 78736-6507

Salvador Espana  
11306 LONG BRANCH DR  
AUSTIN TX 78736-6507

Kevin Fleming  
1956  
14230 FITZHUGH RD  
AUSTIN TX 78736-6414

Fritz Family (submitted by Robert Henry Fritz)  
SOLARO ESTATE WINERY  
13111 SILVER CREEK RD  
DRIPPING SPRINGS TX 78620-5234

Patricia K. Gibson  
12700 PAULS VALLEY RD  
AUSTIN TX 78737-9507

Rachel Hill  
8310 HANBRIDGE LN  
AUSTIN TX 78736-3010

Michael Howard  
12630 PAULS VALLEY RD  
AUSTIN TX 78737-9506

Jana Kaura  
3808 HIDDEN HILLS DR  
DRIPPING SPRINGS TX 78620-3943

Phaedra Kelley  
100 TWIN CREEK CIR  
DRIPPING SPRINGS TX 78620-3021

Bryan Kelley  
100 TWIN CREEK CIR  
DRIPPING SPRINGS TX 78620-3021

Barbara Kessler  
312 SUNDOWN RDG  
AUSTIN TX 78737-9596

Thomas Kessler  
312 SUNDOWN RDG  
AUSTIN TX 78737-9596

Anna Konvit  
11807 OAK KNOLL DR  
AUSTIN TX 78759-3806

Daniel Lopez  
11914 FITZHUGH CORS  
DRIPPING SPRINGS TX 78620-5018

Johanna Mailer  
1201 DEER CREEK CIR  
DRIPPING SPRINGS TX 78620-3015

Trisha Markey  
11706 CRUMLEY RANCH ROAD  
DRIPPING SPRINGS TX 78620

Michaela McCown  
19300 HAMILTON POOL RD  
DRIPPING SPRINGS TX 78620-2816

Steve McCreary  
251 CROSSROADS DR  
DRIPPING SPRINGS TX 78620-3160

Anne Smith Miller  
4404 BELLVUE AVE  
AUSTIN TX 78756-3419

Michael Munsell  
UNIT A  
14909 FITZHUGH RD  
AUSTIN TX 78736-6300

Kimmey K Norris  
190 CAROL ANN DR  
AUSTIN TX 78737-9594

Pamela Pannes  
12027 BONHAM RANCH RD  
DRIPPING SPRINGS TX 78620-5127

Stefan and Mollie Bae Passernig  
319 CAROL ANN DR  
AUSTIN TX 78737-9595

Mark Purcell  
STE R-130, NO 171  
12600 HILL COUNTRY BLVD  
AUSTIN TX 78738-6723

Edward J. Reynolds  
13104 WELLS FARGO TRL  
AUSTIN TX 78737-9587

Karen Richards  
206 SUNDANCE TRL  
DRIPPING SPRINGS TX 78620-2729

Connie Shepherd  
13016 WINDING CREEK RD  
AUSTIN TX 78736-7414

Sue Searles  
13004 WELLS FARGO TRL  
AUSTIN TX 78737-9502

John Schon  
5206 FM 1960 RD W  
HOUSTON TX 77069-4420

Tracey and Richard Sorenson  
11400 CRUMLEY RANCH RD  
AUSTIN TX 78738-7073

Annie Spade  
13508 TRAIL DRIVER  
AUSTIN TX 78737-9529

Matt & Roslynn Spinn  
13315 TRAIL DRIVER  
AUSTIN TX 78737-9531

James D. Spry  
12350 PAULS VALLEY RD  
AUSTIN TX 78737-9609

Terri and Tim Van Ackeren  
10017 CRUMLEY RANCH RD  
AUSTIN TX 78738-6020

Patricia Whiteside  
2307 BARTON HILLS DR  
AUSTIN TX 78704-4501

Sondra Cherico  
12900 TRAIL DRIVER  
AUSTIN TX 78737-9538

Kevin Fleming  
1956  
14230 FITZHUGH RD  
AUSTIN TX 78736-6414

William and Dr. Cynthia High  
12107 TRIPLE CREEK DR  
DRIPPING SPRINGS TX 78620-3700

Greg and Debbie Jenkins  
13800 TRAIL DRIVER  
AUSTIN TX 78737-9524

Jason Katz  
12333 TRIPLE CREEK CIR  
DRIPPING SPRINGS TX 78620-3714

Susan and Thomas Munns  
14909 FITZHUGH RD  
AUSTIN TX 78736-6300

Carrie and Vic Napiorkowski  
UNIT B  
14909 FITZHUGH RD  
AUSTIN TX 78736-6300

David Roach  
OPTIMAL SOUND LLC  
12900 TRAIL DRIVER  
AUSTIN TX 78737-9538

Leah Rummel  
12100 TRAUTWEIN RD  
AUSTIN TX 78737-9358

Claudia Smith  
201 CROSSROADS DR  
DRIPPING SPRINGS TX 78620-3160

Steve Warntjes  
14410 FITZHUGH RD  
AUSTIN TX 78736-6303

Mark Wojcik  
12900 HIGH SIERRA  
AUSTIN TX 78737-9527

The City of Austin  
CITY OF AUSTIN WATERSHED PROTECTION  
DEPARTMENT  
PO BOX 1088  
AUSTIN TX 78767-1088

Hays Trinity Groundwater Conservation District  
HAYS TRINITY GROUNDWATER CONSERVATION  
DISTRICT  
PO BOX 1648  
DRIPPING SPRINGS TX 78620-1648

Fitzhugh Neighbors and the Greater Edwards Aquifer  
GREATER EDWARDS AQUIFER ALLIANCE  
1809 BLANCO RD  
SAN ANTONIO TX 78212-2616

(ICE , LAUREN CLAIRE  
PERALES ALLMON & ICE PC  
1206 SAN ANTONIO ST  
AUSTIN TX 78701-1834)?

Save our Springs Alliance  
ROSE , VICTORIA ANN  
SAVE OUR SPRINGS ALLIANCE  
3201 MENCHACA RD  
AUSTIN TX 78704-5941

ROSE , VICTORIA ANN  
SAVE OUR SPRINGS ALLIANCE  
STE D401  
4701 W GATE BLVD  
AUSTIN TX 78745-1479

Shield Ranch  
c/o SARAHAH , PAUL C  
ENOCH KEVER PLLC  
BLDG B, STE 200  
7600 N CAPITAL OF TEXAS HWY  
AUSTIN TX 78731-1184

AYRES , ROBERT A  
SHIELD RANCH  
1907 ELTON LN  
AUSTIN TX 78703-2917

AYRES , ROBERT A  
SHIELD RANCH  
STE 203  
3103 BEE CAVES RD  
AUSTIN TX 78746-5586