

Brooke T. Paup, *Chairwoman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 14, 2025

Laurie Gharis, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-105  
Austin, Texas 78711-3087

RE: Blizexas LLC for TCEQ Permit No. WQ0016111001  
TCEQ Docket No. 2025-0543-MWD

Dear Ms. Gharis:

Enclosed you will find the Executive Director's Response to Hearing Requests and Requests for Reconsideration.

Please do not hesitate to contact me at [Harrison.Malley@tceq.texas.gov](mailto:Harrison.Malley@tceq.texas.gov) if you have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cole Malley".

Cole Malley, Staff Attorney - Environmental Law Division

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

<b>APPLICATION BY BLIZEXAS LLC FOR</b>	<b>§</b>	<b>BEFORE THE</b>
<b>TCEQ PERMIT NO.</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>WQ0016111001</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

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**EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS AND REQUESTS  
FOR RECONSIDERATION**

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**I. INTRODUCTION**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Requests on an application by Blizexas LLC (Applicant) for a new TCEQ Permit No. WQ0016111001. The Office of the Chief Clerk received a contested case hearing request from the following individuals: Jacobi Alvarez, Wendy Austin, Juan Carlos Bonilla, Sondra Cherico, Catherine D’Abate, Dave D’Abate, Stephanie Darter, Mark Hunter Denton, Cristiano De Paolis, Barbara Dietz, Casey Durchholz, Esteban Espana, Jesus Espana, Laura Espana, Salvador Espana, Fitzhugh Neighbors, Kevin Fleming, Robert Henry Fritz, Greater Edwards Aquifer Alliance, Hays Trinity Groundwater Conservation District, Cynthia Steele High, Rachel Hill, William High, Michael Howard, Debbie Jenkins, Greg Jenkins, Jason Katz, Jana Kaura, Bryan Kelley, Phaedra Kelley, Thomas Kessler, Daniel Lopez, Johanna Mailer, Trisha Markey, Steve McCreary, Anne Smith Miller, Sue G. Munns, Thomas Munns, Michael Munsell, Carrie Napiorkowski, Vic Napiorkowski, Kimmy K. Norris, Pamela Pannes, Mollie Bea Passernig, Stefan Passernig, Edward J. Reynolds, Karen Richards, David Roach, Leah Rummel, Save our Springs, John Sehon, Connie Shepherd, Shield Ranch, Claudia Smith, Richard Sorenson, Tracey Sorenson, Annie Spade, James D. Spry, Steve Warntjes, Patricia Whiteside, Mark Wojcik, Terri Van Ackerman, and Tim Van Ackerman.

The ED also received Requests for Reconsideration from City of Austin, Ann Banos, Alison Baucom, Greater Edwards Aquifer Alliance, Fitzhugh Neighbors, Patricia K. Gibson, Anna Konvit, Mark Purcell, Shield Ranch, Sue Searles, Connie Shepherd, Annie Spade, Matt Spinn, and Roslynn Spinn.

The ED recommends that the Commission grant the hearing requests for Greater Edwards Aquifer Alliance, Hays Trinity Groundwater Conservation District, Jason Katz, Sue G. Munns, Carrie Napiorkowski, Vic Napiorkowski, Fitzhugh Neighbors, Shield Ranch, Richard Sorenson, Tracey Sorenson, Save our Springs, and Steve Warntjes. The ED recommends that the Commission deny the remaining hearing requests and requests for reconsideration.

Attached for Commission consideration are satellite maps of the area showing the locations of the facility, discharge area, and requestors.

## **II. FACILITY DESCRIPTION**

Blizexas, LLC has applied to TCEQ for a new permit, 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 subsurface drip irrigation system with a minimum area of 2.75 acres of public access land. The proposed wastewater treatment facility will serve the Rockingwall Ranch Event Venue.

The Rockingwall Ranch Wastewater Treatment Facility 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 facility has not been constructed.

The wastewater treatment facility and disposal site will be located approximately 0.25 miles east of the intersection of Crumley Ranch Road and Fitzhugh Road, in Hays County, Texas 78737, which is located in the drainage basin of Barton Creek in Segment No. 1430 of the Colorado River Basin. Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Austin Wastewater Processing Facility, Permit No. 2384, in Travis County. The draft permit authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

The draft permit authorizes the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.012 MGD via subsurface drip irrigation system with a minimum area of 2.75 acres of public access land. The facility will include a storage tank (GST1), with a total capacity of 36,000 gallon for storage of treated effluent prior to irrigation. The permittee is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. Application rates shall not exceed 0.1 gallons per square foot per day. The permittee will maintain the Bermudagrass (warm season) overseeded with Winter Ryegrass (cool season) on the disposal site. The effluent limitations in the draft permit, based on a daily average, are 10 mg/l biochemical oxygen demand (BOD5), and 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 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.

In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e). The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Austin Wastewater Processing Facility, Permit No. 2384, in Travis County. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

## **III. PROCEDURAL BACKGROUND**

TCEQ received this application for a new permit on February 17, 2022, and declared it administratively complete on April 26, 2022. The Notice of Receipt and

Intent to Obtain a Water Quality Permit (NORI) was published in *The Hays Press News Dispatch* on May 11, 2022. The application was determined technically complete on June 15, 2022. The Notice of Application and Preliminary Decision (NAPD) was published in *The Hays Press News Dispatch* on July 20, 2022. The first public meeting notice was published in *The Dripping Springs Century News* on October 27, 2022. The first public meeting was held on November 29, 2022.

The second public meeting was scheduled for January 29, 2024. A combined NORI/NAPD was published in *El Mundo* on August 10, 2023. The second public meeting notice was published in *El Mundo* on December 21, 2023, in *The Dripping Springs Century News* on December 28, 2023, and in *The Austin American-Statesman* on December 28, 2023.

The public comment period ended at the close of the meeting on January 29, 2024. The hearing request period ended on April 2, 2025. This application was filed after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

#### **IV. THE EVALUATION PROCESS FOR HEARING REQUESTS**

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. SB 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

##### **A. Response to Requests**

The ED, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.<sup>1</sup>

Responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.<sup>2</sup>

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<sup>1</sup> 30 Texas Administrative Code (TAC) Section (§) 55.209(d).

<sup>2</sup> 30 TAC § 55.209(e).

## **B. Hearing Request Requirements**

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requestor prior to the filing of the ED's Response to Comment.<sup>3</sup>

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including 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 and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.<sup>4</sup>

## **C. Requirement that Requestor be an Affected Person/"Affected Person" Status**

To grant a contested case hearing, the Commission must determine that a requestor is an "affected" person by conducting the following analysis:

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Except as provided by § 55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.

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<sup>3</sup> 30 TAC § 55.201(c).

<sup>4</sup> 30 TAC § 55.201(d).

- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - (1) whether the interest claimed is one protected by the law under which the application will be considered;
  - (2) distance restrictions or other limitations imposed by law on the affected interest;
  - (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;
  - (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and
  - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.
- (d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also consider the following:
  - (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
  - (2) the analysis and opinions of the ED; and
  - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.
- (e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.

#### **D. Referral to the State Office of Administrative Hearings**

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.”<sup>5</sup> The Commission may not refer an issue to the State Office of Administrative Hearings (SOAH) for a contested case hearing unless the Commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person whose hearing request is granted; and
- (3) is relevant and material to the decision on the application.<sup>6</sup>

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<sup>5</sup> 30 TAC § 50.115(b).

<sup>6</sup> 30 TAC § 50.115(c).

## V. ANALYSIS OF THE REQUESTS

The ED has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestors qualify as affected persons, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

### A. Whether the Requestors Complied With 30 TAC §§ 55.201, 55.203, and 55.205

#### 1. *Parties the Executive Director recommends the Commission find Affected Persons*

- Jason Katz, Sue G. Munns, Carrie Napiorkowski, Vic Napiorkowski, Shield Ranch, Richard Sorenson, Tracy Sorenson, and Steve Warntjes.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses provided in their hearing requests, the properties identified in their requests are all located less than 0.75 miles from the proposed wastewater treatment facility.

In their requests, each of the requestors describe their concerns about the application and draft permit. These concerns range from general opposition to specific personal concerns related to the draft permit's potential impacts on groundwater, effluent limits, water quality, wildlife, livestock, human health impacts, as well as odors emanating from the facility. These issues fall within TCEQ's jurisdiction as set forth in Chapter 26 of the Texas Water Code, and they are all relevant and material to the Commission's decision on the application.

Upon review of the hearing requests, each of these requestors identify personal justiciable interests that could be affected by the draft permit in ways uncommon to the general public. This is based on their close proximity to the land application areas as well as the types of interests claimed, which include impacts on personal wells and livestock. Their proximity to the irrigation areas may also affect the use and enjoyment of their property, which could be impacted by odors and the impacts to groundwater.

Based on the issues raised in these requests and the articulation of how their interests would be affected, these requestors have substantively complied with the requirements of 30 TAC §§ 55.201 & 203.

Therefore, the ED recommends that the Commission grant these hearing requests.

- Hays Trinity Groundwater Conservation District.
  - Charlie Flatten, general manager of the District, submitted timely comments and a hearing request on behalf of the district which contained the district's name, address, and phone number pursuant to 30 TAC § 55.201(d).



In the hearing request, the District states that it “is a state agency authorized by Chapter 8843 Special District Local Laws Code, and Chapter 36 of the Texas Water Code to protect and manage the quality and quantity of the Trinity Aquifer within the boundaries of its jurisdiction...” The District further states that its jurisdiction includes all of the proposed irrigation sites for the Blizexas facility. Throughout the hearing request, the District raised several concerns about the proposed facility’s impact on groundwater.

Pursuant to 30 TAC § 55.203(c)(7), the Commission’s determination as to affectedness for governmental entities shall include the entity’s statutory authority over or interest in the issues relevant to the application. It is not disputed that the proposed facility is within the jurisdictional boundaries of the District. The hearing request is specifically focused on issues relevant to groundwater which is germane to the purposes for which the District was created. GCDs under Chapter 36 of the Texas Water Code have authority to adopt rules for groundwater quality. The district is concerned that the draft permit could affect groundwater quality of the aquifer which falls within their jurisdiction. Based on the issues raised in their hearing request, the District has substantively complied with the requirements of 30 TAC §§ 55.201 & 203.

Therefore, the ED recommends that the Commission grant the District’s hearing request.

- Greater Edwards Aquifer Authority (GEAA), Fitzhugh Neighbors, and Save Our Springs (SOS).
- Each of these organizations submitted timely comments and a hearing request which contained their names, addresses pursuant to 30 TAC § 55.205(b).

According to its hearing request, Fitzhugh Neighbors is a non-profit organization whose purpose is to advocate for sustainable growth and development in the Fitzhugh Corridor and protect the natural environment of Central Texas near the discharge site. GEAA’s hearing request states that it is a nonprofit organization that advocates for the protection and preservation of the Edwards and Trinity Aquifers, their springs, watersheds, and the Texas Hill Country. GEAA and Fitzhugh Neighbors, who submitted a joint request, had specific concerns about the permit including impacts on surface water, groundwater, facility operation, runoff, regionalization, effluent limits, wildlife, and adequate notice.

According to its hearing request, Save Our Springs is a non-profit conservation organization which was created to, “protect the Edwards Aquifer, its springs and contributing streams, and the natural and cultural heritage of the Hill Country region and its watersheds.” SOS also seeks to protect Barton Creek, its watershed, and the local groundwater. SOS raised similar concerns about how the draft permit addresses impacts to water quality, Barton Creek, wildlife, effluent limits, and how the facility operates under the permit.



According to 30 TAC § 55.205(a), hearing requests submitted by groups or associations must comply with the following requirements: at least one member of the group must have standing in their own right, the interests of the group must be germane to its purpose, and neither the claim asserted nor the relief requested requires the participation of the individual members in the case. GEAA and Fitzhugh Neighbors identified several individual members living less than 0.75 miles from the proposed facility with concerns about how the application will impact the use and enjoyment of their property. These individuals are Carrie and Witold “Vic” Napiorkowski, Sue and Tom Munns, Dave and Catherine D’Abate, and Richard and Tracey Sorenson. SOS identified Sharon Thiede, who lives less than 0.14 miles from the proposed facility. Ms. Thiede expressed similar concerns about the application including health impacts, impacts to wildlife, water quality, and odor issues due to her close proximity to the facility.

These groups advocate for multiple issues, but most relevant to the application are their interests in protecting surface water quality, groundwater, and wildlife. These groups’ interests about the application are directly related to why they were created. Also, the relief requested in both requests does not require the participation of any one member of the organizations.

Under 30 TAC § 55.205(b), TCEQ rules also state that requests by groups or associations may not be granted unless all the criteria of this subsection is met, including 30 TAC § 55.205(b)(2), which requires that, “the request identifies, 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.” In the hearing requests, these organizations each identified individuals by name and address with interests located less than .75 miles from the proposed facility and land application areas. These requests comply with the requirements of 30 TAC § 205(b)(2).

These groups have raised issues that are relevant to the Commission’s decision on the application and have provided sufficient information demonstrating how their individual members are affected. Therefore, having complied with the procedural and substantive requirements of TCEQ’s rules, the ED recommends that the Commission grant these hearing requests pursuant to 30 TAC § 55.205.

## ***2. Parties the Executive Director recommends the Commission not find Affected Persons***

- Jacobi Alvarez, Sondra Cherico, Mark Hunter Denton, William High, Cynthia Steele High, Debbie and Greg Jenkins, Steve McCreary, Jana Kaura, Thomas Kessler, Kimmy K. Norris, David Roach, Claudia Smith, Leah Rummel, Annie Spade, Tim Van Ackerman, and Terri Van Ackerman.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses provided in their hearing requests, the properties identified in their

requests are all located between 0.98 and 19.7 miles from the proposed wastewater treatment facility.

In their requests, they each describe their concerns about the application. These concerns range from general opposition to specific concerns related to the draft permit's potential impacts on groundwater, water quality, wildlife, livestock, as well as odors emanating from the facility. While some of these concerns are relevant to a Texas Land Application Permit (TLAP) application, as the Commission has jurisdiction to address some of these issues as part of the permitting process, these requestors have not substantially complied with the requirements of TCEQ's rules to request a hearing and be considered an affected person.

Under 30 TAC § 55.203(c), the Commission shall consider several factors to determine whether someone is an affected person. These include likely impacts on personal interests and whether a reasonable relationship exists between the interest claimed and the activity regulated. Under these rules, the requestors must articulate how they are uniquely affected in ways uncommon to the general public. The properties in question are located at least 0.75 miles away from the proposed facility and the irrigation areas. Given this distance and the limited scale of the subsurface irrigation of only 12,000 gallons per day, it is unlikely that a reasonable relationship exists between the interests claimed and the regulated activity nor is it likely that the effluent would impact these requestors in a unique way.

The ED therefore recommends that the Commission find these individuals not be considered affected persons as their hearing requests have not sufficiently demonstrated they have personal justiciable interests affected by the application under 30 TAC § 55.203(c).

- Esteban Espana, Salvador Espana, Juan Carlos Bonilla, Jesus Espana, Laura Espana, Phaedra Kelley, Bryan Kelley, and Thomas Munns.
  - Each of these requestors submitted timely hearing requests which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses they provided in their hearing requests, the properties identified in their requests are all located between 1.97 and 2.08 miles from the proposed wastewater treatment facility.

In their hearing requests, each of the requestors identified multiple concerns they had about the application. These included impacts on Barton Creek and the impact to the environment. However, each of them failed to meet a threshold procedural requirement for requesting a contested case hearing.

Pursuant to 30 TAC § 55.201(d)(4)(B), hearing requests must list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. While these requestors may have submitted hearing requests citing concerns relevant to the Commission's decision on the application, none of the requestors timely submitted comments during the comment period. As TCEQ rules require that hearing requests be

based on issues raised in the comment period, these requests should be denied as none of the requestors submitted timely comments.

Therefore, the ED recommends that the Commission deny these hearing requests as they did not substantially comply with the requirements of 30 TAC § 55.201(d)(4)(B).

- Catherine Munns D'Abate, Dave D'Abate, Stephanie Darter, Daniel Lopez, Johanna Mailer, Trisha Markey, Anne Smith Miller, Michael Munsell, Pamela Pannes, Cristiano De Paolis, Karen Richards, John Schon, and James D. Spry.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses they provided in their hearing requests, the properties identified in their requests are all located between 0.23 and 151.81 miles from the proposed wastewater treatment facility and irrigation area.

While these requestors submitted hearing requests, they contained no information other than a request for a hearing, or they did not identify any personal justiciable interests. For these reasons, their requests should be denied.

Under 30 TAC § 55.201(d)(2), requestors must identify their personal justiciable interest affected by the application. As they have not explained to the Commission how they are uniquely affected, they have failed to substantively comply with TCEQ rules.

Therefore, the ED recommends that the Commission deny these hearing requests pursuant to 30 TAC § 55.201(d)(2).

- Wendy Austin, Barbara Dietz, Casey Durchholz, Kevin Fleming, Robert Henry Fritz, Rachel Hill, Michael Howard, Mollie Bea Passernig, Stefan Passernig, Edward J. Reynolds, Connie Shepherd, Patricia Whiteside, and Mark Wojcik.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses they provided in their hearing requests, the properties identified in their requests are all located between 0.8 and 10.84 miles from the proposed wastewater treatment facility and irrigation area.

In their hearing requests, they raised concerns regarding impacts to groundwater, water quality, wildlife, facility operations, and other related issues. However, the hearing requests should be denied as each of these requestors failed to articulate a personal justiciable interest that could be affected by the draft permit.

According to 30 TAC § 55.201(d)(2), requestors must articulate how their justiciable interests would be uniquely affected by the proposed regulatory activity in ways uncommon to the general public. In these requests, the requestors concerns are generalized as to the local community. They do not claim any interest of theirs would be affected by this draft permit. By failing to identify a justiciable interest, they have not

substantially complied with TCEQ's requirements to request a contested case hearing.

Therefore, the ED recommends that the Commission deny these hearing requests pursuant to 30 TAC § 55.201(d)(2).

**B. Whether the Issues the Requestors Raised are Referable to the State Office of Administrative Hearings (SOAH).**

**1. Whether the draft permit is protective of human health. (RTC Response 6)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown that the effluent limits in the draft permit are not protective of human health, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**2. Whether the draft permit is protective of water quality by preventing wastewater effluent from discharging into surface waters or adversely affecting groundwater. (RTC Response 3)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit is not protective of water quality by failing to prevent wastewater from affecting surface water and groundwater, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**3. Whether the draft permit complies with applicable siting, buffer zone requirements including odors, and effluent storage to protect against over-application and runoff of treated effluent from irrigation areas, as set forth in 30 TAC Chapters 309 and 222. (RTC Response 5)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not comply with TCEQ's rules in Chapters 309 and 222, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**4. Whether the draft permit contains adequate effluent limitations and testing requirements to prevent irrigation area nutrient accumulation and leaching past the rooting zone. (RTC Response 12)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not contain adequate effluent limitations and testing requirements, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**5. Whether the Applicant substantially complied with the applicable notice requirements for the Application. (RTC Response 15)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the Applicant did not comply with TCEQ's notice requirements, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**6. Whether the draft permit is protective of wildlife, livestock, birds, and other animals, including threatened and endangered species. (RTC Response 4)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit is not protective of livestock and wildlife, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**7. Whether the application is administratively and technically complete. (RTC Response 9)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the application is administratively or technically incomplete, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**8. Whether the draft permit complies with the Commission's regionalization policy pursuant to Tex. Water Code § 26.081.**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, but is not relevant and material to the issuance of the draft permit. Pursuant to TCEQ's regionalization guidance, applicants seeking TLAP permits are not required to evaluate regionalization.<sup>7</sup> The Executive Director recommends not referring this issue to SOAH.

**VI. REQUESTS FOR RECONSIDERATION**

**City of Austin (Liz Johnston), Ann Banos, Alison Baucom, Greater Edwards Aquifer Alliance, Fitzhugh Neighbors, Patricia K. Gibson, Anna Konvit, Mark Purcell, Shield Ranch, Sue Searles, Connie Shepherd, Annie Spade, Matt Spinn, and Roslynn Spinn.**

TCEQ's rules provide that the request for reconsideration must expressly state that the person is requesting reconsideration of the executive director's decision and provide reasons why the decision should be reconsidered. 30 TAC § 55.201(e). The Commission received fourteen timely requests from the City of Austin (Liz Johnston), Ann Banos, Alison Baucom, Greater Edwards Aquifer Alliance, Fitzhugh Neighbors, Patricia K. Gibson, Anna Konvit, Mark Purcell, Shield Ranch, Sue Searles, Connie Shepherd, Annie Spade, Matt Spinn, and Roslynn Spinn.

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<sup>7</sup> Evaluating Regionalization for Proposed Wastewater Systems; Water Quality Division RG-632 August 2023.

The issues identified in these requested concerned the following issues: impacts to livestock, wildlife, aquatic life, groundwater, notice requirements, odors, noise impacts, health, light pollution, traffic, and impacts to water quality. The issues raised in all of the requests concerned issues that are either outside TCEQ's jurisdiction and cannot be considered as part of the wastewater permitting process, or they were considered by the ED and were addressed in the ED's RTC.

THEREFORE, THE EXECUTIVE DIRECTOR RECOMMENDS THAT THE COMMISSION DENY THE REQUESTS FOR RECONSIDERATION

## VII. CONCLUSION

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission find Greater Edwards Aquifer Alliance, Hays Trinity Groundwater Conservation District, Jason Katz, Sue G. Munns, Vic Napiorkowski, Carrie Napiorkowski, Fitzhugh Neighbors, Shield Ranch, Richard Sorenson, Tracey Sorenson, Save Our Springs, and Steve Warntjes affected persons and grant their hearing requests.
2. The Executive Director recommends that the Commission deny all requests for reconsideration.
3. If referred to SOAH that the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.
4. If referred to SOAH, concurrently refer the matter to Alternative Dispute Resolution.
5. If referred to SOAH, refer the following issues as raised by the affected persons as identified by the Executive Director:
  - **Issue A) Whether the draft permit is protective of human health.**
  - **Issue B) Whether the draft permit is protective of water quality by preventing wastewater effluent from discharging into surface waters or adversely affecting groundwater.**
  - **Issue C) Whether the draft permit complies with applicable siting, buffer zone requirements including odors, and effluent storage to protect against over-application and runoff of treated effluent from irrigation areas, as set forth in 30 TAC Chapters 309 and 222.**
  - **Issue D) Whether the draft permit contains adequate effluent limitations and testing requirements to prevent irrigation area nutrient accumulation and leaching past the rooting zone.**
  - **Issue E) Whether the Applicant substantially complied with the applicable notice requirements for the Application.**
  - **Issue F) Whether the draft permit is protective of wildlife, livestock, birds, and other animals, including threatened and endangered species.**
  - **Issue G) Whether the application is administratively and technically complete.**



Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,  
Executive Director

Phillip Ledbetter, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



---

Harrison Cole Malley  
Staff Attorney  
Environmental Law Division  
State Bar of Texas No. 24116710  
MC-173, P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-1439  
Fax: (512) 239-0606



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Caleb Shook, Staff Attorney  
Environmental Law Division  
State Bar No. 24130852  
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Phone (512) 239-5425  
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE DIRECTOR OF  
THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY



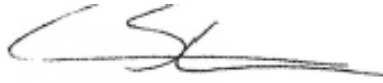
## CERTIFICATE OF SERVICE

I certify that on July 14, 2025, the “Executive Director’s Response to Hearing Request” for TCEQ Permit WQ0016111001 for Blizexas LLC was filed with the TCEQ’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



---

Harrison Cole Malley  
Staff Attorney  
Environmental Law Division



---

Caleb Shook, Staff Attorney  
Environmental Law Division  
State Bar No. 24130852

# Attachment A

# Blizexas, LLC TLAP Permit No. WQ0016111001

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 7/7/2025  
CRF 0122188  
Cartographer: AProvenc

N

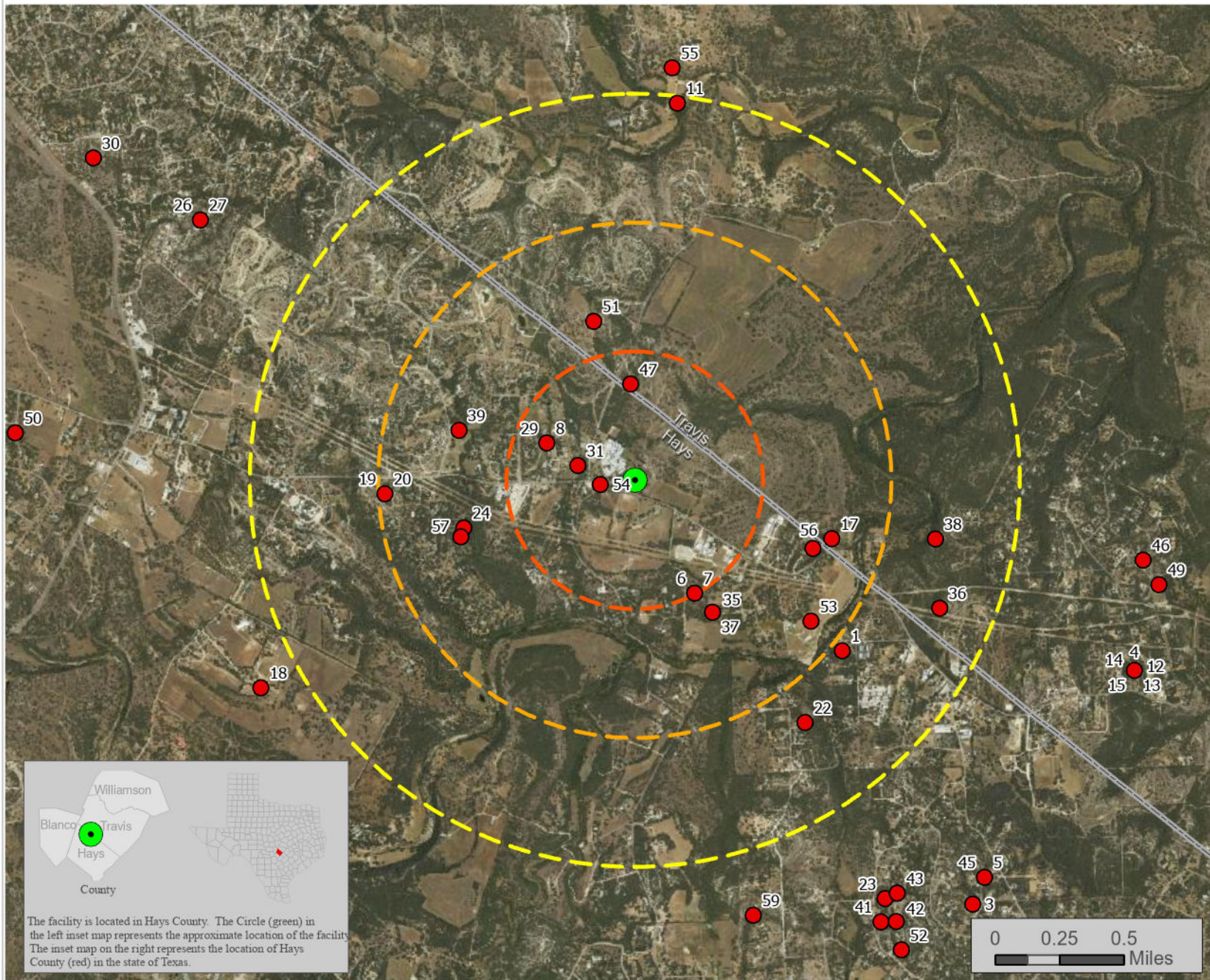


- Land application site
- Requestors
- 0.5-Mile From Land Application Site
- 1.0-Mile From Land Application Site
- 1.5-Mile From Land Application Site
- County Boundary

Distances from Requestors to  
Land Application Site in  
Appendix A

Source: This map was requested by the Office of Legal Services (OLS) and is based on information provided in the application and hearing requests. The applicant provided site location information, and the hearing requestors provided physical addresses. The map is a visual representation and approximation.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in Hays County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Hays County (red) in the state of Texas.

0 0.25 0.5  
Miles



# Blizexas, LLC TLAP Permit No. WQ0016111001

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 7/7/2025  
CRF 0122188  
Cartographer: AProvenc

N



- Land application site
- Requestors
- 0.5-Mile From Land Application Site
- 1.0-Mile From Land Application Site
- 1.5-Mile From Land Application Site
- County Boundary

Distances from Requestors to  
Land Application Site in  
Appendix A

Source: This map was requested by the Office of Legal Services (OLS) and is based on information provided in the application and hearing requests. The applicant provided site location information, and the hearing requestors provided physical addresses. The map is a visual representation and approximation.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in Hays County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Hays County (red) in the state of Texas.

0 10 20  
Miles

# Appendix A for Blizexas, LLC TLAP Permit No. WQ0016111001

<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
<b>1</b>	Allred, Larry	30.2362	-98.0123	1.04
<b>2</b>	Alvarez, Jacobi	30.2219	-97.6975	19.70
<b>3</b>	Austin, Wendy	30.2218	-98.0041	2.11
<b>4</b>	Bonilla, Juan Carlos	30.2348	-97.9933	2.08
<b>5</b>	Cherico, Sondra	30.2233	-98.0033	2.06
<b>6</b>	**D'Abate, Catherine	30.239593	-98.021844	0.50
<b>7</b>	**D'Abate, Dave	30.239593	-98.021844	0.50
<b>8</b>	Darter, Stephanie	30.2482	-98.0313	0.37
<b>9</b>	Denton, Mark Hunter	30.2169	-98.0069	2.30
<b>10</b>	Dietz, Barbara	30.2565	-98.2064	10.84
<b>11</b>	Durchholz, Casey	30.2672	-98.0224	1.47

<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
12	Espana, Esteban	30.2348	-97.9933	2.08
13	Espana, Jesus	30.2348	-97.9933	2.08
14	Espana, Laura	30.2348	-97.9933	2.08
15	Espana, Salvador	30.2348	-97.9933	2.08
16	Flatten, Charlie (on behalf of Hays Trinity Groundwater Conservation District)	30.2152	-98.0014	2.57
17	Fleming, Kevin	30.242522	-98.01285	0.80
18	Fritz, Robert Henry	30.2347	-98.0502	1.66
19	High, Cynthia Steele	30.2455	-98.0419	0.97
20	High, William	30.2455	-98.0419	0.97
21	Hill, Rachel	30.2387	-97.8953	7.81
22	Howard, Michael	30.2322	-98.0148	1.15
23	Jenkins, Debbie & Greg	30.2222	-98.0098	1.89
24	Katz, Jason	30.2435	-98.0368	0.69



<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
25	Kaura, Jana	30.198	-98.0221	3.31
26	Kelley, Bryan	30.2611	-98.0536	1.97
27	Kelley, Phaedra	30.2611	-98.0536	1.97
28	Kessler, Thomas	30.2152	-98.0014	2.57
29	Lopez, Daniel	30.2482	-98.0313	0.37
30	Mailer, Johanna	30.2647	-98.0605	2.45
31	Markey, Trisha	30.2469	-98.0293	0.23
32	McCown, Michela	30.2995	-98.0696	4.53
33	McCreary, Steve	30.2493	-98.0675	2.52
34	Miller, Anne Smith	30.3135	-97.7406	17.66
35	**Munns, Thomas & Susan	30.2385	-98.0207	0.59
36	Munsell, Michael	30.2385	-98.0059	1.29
37	**Napiorkowski, Vic & Carrie	30.2385	-98.0207	0.59



<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
38	Norris, Kimmey K	30.2424	-98.0061	1.19
39	Pannes, Pamela	30.249	-98.037	0.71
40	Paolis, Cristiano De	30.2544	-98.1716	8.75
41	Passernig, Stefan & Mollie Bea	30.2209	-98.0101	1.96
42	Pena, Hector	30.2209	-98.0091	1.99
43	Reynolds, Edward J	30.2225	-98.009	1.90
44	Richards, Karen	30.2894	-98.0825	4.53
45	Roach, David	30.2233	-98.0033	2.06
46	Rummel, Leah	30.241	-97.9926	2.00
47	Sarahan, Paul Christopher (on behalf of Shield Ranch)	30.251437	-98.025767	0.37
48	Sehon, John	29.9826	-95.5093	151.77
49	Shepard, Connie	30.2396	-97.9916	2.08
50	Smith, Claudia	30.2493	-98.0659	2.42

<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
51	**Sorenson, Tracey & Richard	30.255	-98.0281	0.64
52	Spade, Annie	30.2193	-98.0088	2.10
53	**Spry, James D	30.2379	-98.0143	0.88
54	*Thiede, Sharon	30.245804	-98.027854	0.14
55	**Van Ackeren, Terri and Tim	30.2692	-98.0227	1.61
56	Warntjes, Steve	30.241992	-98.014087	0.74
57	Weston, Clay	30.243	-98.037	0.71
58	Whiteside, Patricia	30.253	-97.7909	14.04
59	Wojcik, Mark	30.2214	-98.0184	1.75

\*\* In addition to filing individual hearing requests, these requestors were listed as members of the Greater Edwards Aquifer Alliance and Fitzhugh Neighbors.

\*Sharon Thiede is listed as a member of Save Our Springs who did not file a separate hearing request.

MAILING LIST  
Blizexas, LLC  
TCEQ Docket No./TCEQ Expediente N.º 2025-0543-MWD;  
Permit No./ Permiso N.º WQ0016111001

FOR THE APPLICANT/PARA EL SOLICITANTE

William Hirschman  
Blizexas, LLC  
258 Union Avenue  
Los Gatos, California 95032  
  
Erin Banks, P.E., President  
WWD Engineering  
9217 U.S. Highway 290 West, Suite 110  
Austin, Texas 78736

FOR THE EXECUTIVE DIRECTOR/PARA LA DIRECTOR EJECUTIVA

via electronic mail/vía correo electrónico:

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Texas Commission on  
Environmental Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711  
  
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Texas Commission on  
Environmental Quality  
Water Quality Division, MC-148  
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Austin, Texas 78711  
  
Ryan Vise, Deputy Director  
Texas Commission on  
Environmental Quality External  
Relations Division  
Public Education Program, MC-108  
P.O. Box 13087  
Austin, Texas 78711

FOR PUBLIC INTEREST COUNSEL/PARA ABOGADOS DE INTERÉS PÚBLICO

via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney  
Texas Commission on  
Environmental Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE RESOLUTION/PARA LA RESOLUCIÓN ALTERNATIVA DE DISPUTAS

via electronic mail/vía correo electrónico:

Kyle Lucas  
Texas Commission on  
Environmental Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA LA SECRETARIA OFICIAL

via eFilings:

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/efilings>

REQUESTER(S)/SOLICITANTE(S)

See attached list/Ver listado adjunto.

REQUESTER(S)/SOLICITANTE(S)

Jacobi Alvarez  
6905 E Riverside Dr Apt 208  
Austin Tx 78741

Wendy Austin  
13000 Trail Driver  
Austin Tx 78737

Juan Carlos Bonilla  
11306 Long Branch Dr  
Austin Tx 78736

Sondra Cherico  
12900 Trail Driver  
Austin Tx 78737

Catherine Munns D'abate  
14909 Fitzhugh Rd Unit F  
Austin Tx 78736

Dave D'abate  
14909 Fitzhugh Rd Unit F  
Austin Tx 78736

Stephanie Darter  
11914 Fitzhugh Cors  
Dripping Springs Tx 78620

Cristiano De Paolis  
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Dripping Springs Tx 78620

Mark Hunter Denton  
13325 Trail Driver  
Austin Tx 78737

Casey Durchholz  
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Austin Tx 78738

Esteban Espana  
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Austin Tx 78736

Jesus Espana  
11306 Long Branch Dr  
Austin Tx 78736

Laura Espana  
11306 Long Branch Dr  
Austin Tx 78736

Salvador Espana  
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Austin Tx 78736

Robert Henry Fritz  
13111 Silver Creek Rd  
Dripping Springs Tx 78620

William High  
12107 Triple Creek Dr  
Dripping Springs Tx 78620

Rachel Hill  
8310 Hanbridge Ln  
Austin Tx 78736

Michael Howard  
12630 Pauls Valley Rd  
Austin Tx 78737

Lauren Ice  
1206 San Antonio St  
Austin Tx 78701

Greg Jenkins  
13800 Trail Driver  
Austin Tx 78737

Jason Katz  
12333 Triple Creek Cir  
Dripping Springs Tx 78620

Jana Kaura  
3808 Hidden Hills Dr  
Dripping Springs Tx 78620

Bryan Kelley  
100 Twin Creek Cir  
Dripping Springs Tx 78620

Phaedra Kelley  
100 Twin Creek Cir  
Dripping Springs Tx 78620

Thomas Kessler  
312 Sundown Rdg  
Austin Tx 78737

Daniel Lopez  
11914 Fitzhugh Cors  
Dripping Springs Tx 78620

Johanna Mailer  
1201 Deer Creek Cir  
Dripping Springs Tx 78620

Trisha Markey  
11706 Crumley Ranch Road  
Dripping Springs Tx 78620

Michaela McCown  
19300 Hamilton Pool Rd  
Dripping Springs Tx 78620

Steve McCreary  
251 Crossroads Dr  
Dripping Springs Tx 78620

Anne Smith Miller  
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Susan And Thomas Munns  
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Austin Tx 78736

Michael Munsell  
14909 Fitzhugh Rd Unit A  
Austin Tx 78736

Carrie Napiorkowski  
14909 Fitzhugh Rd Unit B  
Austin Tx 78736

Kimmey K Norris  
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Pamela Pannes  
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206 Sundance Trl  
Dripping Springs Tx 78620

David Roach  
12900 Trail Driver  
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Leah Rummel  
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Paul C. Sarahan  
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Paul Sarahan  
7600 N Capital Of Texas Hwy  
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Sehon, John  
5206 Fm 1960 Rd W  
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Connie Shepherd  
13016 Winding Creek Rd  
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Claudia Smith  
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Tracey And Richard Sorensen  
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Austin Tx 78738

Annie Spade  
13508 Trail Driver  
Austin Tx 78737

James D Spry  
12350 Pauls Valley Rd  
Austin Tx 78737

Cynthia Steele High  
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Dripping Springs Tx 78620

Terri And Tim Van Ackeren  
10017 Crumley Ranch Rd  
Austin Tx 78738

Mark Wojcik  
12900 High Sierra  
Austin Tx 78737

Steve Warntjes  
14410 Fitzhugh Rd  
Austin Tx 78736

Patricia Whiteside  
2307 Barton Hills Dr  
Austin Tx 78704

Brooke T. Paup, *Chairwoman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 14, 2025

Laurie Gharis, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-105  
Austin, Texas 78711-3087

RE: Blizexas LLC for TCEQ Permit No. WQ0016111001  
TCEQ Docket No. 2025-0543-MWD

Dear Ms. Gharis:

Enclosed you will find the Executive Director's Response to Hearing Requests and Requests for Reconsideration.

Please do not hesitate to contact me at [Harrison.Malley@tceq.texas.gov](mailto:Harrison.Malley@tceq.texas.gov) if you have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "Harrison Cole Malley".

Cole Malley, Staff Attorney - Environmental Law Division



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

<b>APPLICATION BY BLIZEXAS LLC FOR</b>	<b>§</b>	<b>BEFORE THE</b>
<b>TCEQ PERMIT NO.</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>WQ0016111001</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

---

**EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS AND REQUESTS  
FOR RECONSIDERATION**

---

**I. INTRODUCTION**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Requests on an application by Blizexas LLC (Applicant) for a new TCEQ Permit No. WQ0016111001. The Office of the Chief Clerk received a contested case hearing request from the following individuals: Jacobi Alvarez, Wendy Austin, Juan Carlos Bonilla, Sondra Cherico, Catherine D’Abate, Dave D’Abate, Stephanie Darter, Mark Hunter Denton, Cristiano De Paolis, Barbara Dietz, Casey Durchholz, Esteban Espana, Jesus Espana, Laura Espana, Salvador Espana, Fitzhugh Neighbors, Kevin Fleming, Robert Henry Fritz, Greater Edwards Aquifer Alliance, Hays Trinity Groundwater Conservation District, Cynthia Steele High, Rachel Hill, William High, Michael Howard, Debbie Jenkins, Greg Jenkins, Jason Katz, Jana Kaura, Bryan Kelley, Phaedra Kelley, Thomas Kessler, Daniel Lopez, Johanna Mailer, Trisha Markey, Steve McCreary, Anne Smith Miller, Sue G. Munns, Thomas Munns, Michael Munsell, Carrie Napiorkowski, Vic Napiorkowski, Kimmy K. Norris, Pamela Pannes, Mollie Bea Passernig, Stefan Passernig, Edward J. Reynolds, Karen Richards, David Roach, Leah Rummel, Save our Springs, John Sehon, Connie Shepherd, Shield Ranch, Claudia Smith, Richard Sorenson, Tracey Sorenson, Annie Spade, James D. Spry, Steve Warntjes, Patricia Whiteside, Mark Wojcik, Terri Van Ackerman, and Tim Van Ackerman.

The ED also received Requests for Reconsideration from City of Austin, Ann Banos, Alison Baucom, Greater Edwards Aquifer Alliance, Fitzhugh Neighbors, Patricia K. Gibson, Anna Konvit, Mark Purcell, Shield Ranch, Sue Searles, Connie Shepherd, Annie Spade, Matt Spinn, and Roslynn Spinn.

The ED recommends that the Commission grant the hearing requests for Greater Edwards Aquifer Alliance, Hays Trinity Groundwater Conservation District, Jason Katz, Sue G. Munns, Carrie Napiorkowski, Vic Napiorkowski, Fitzhugh Neighbors, Shield Ranch, Richard Sorenson, Tracey Sorenson, Save our Springs, and Steve Warntjes. The ED recommends that the Commission deny the remaining hearing requests and requests for reconsideration.

Attached for Commission consideration are satellite maps of the area showing the locations of the facility, discharge area, and requestors.

## **II. FACILITY DESCRIPTION**

Blizexas, LLC has applied to TCEQ for a new permit, 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 subsurface drip irrigation system with a minimum area of 2.75 acres of public access land. The proposed wastewater treatment facility will serve the Rockingwall Ranch Event Venue.

The Rockingwall Ranch Wastewater Treatment Facility 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 facility has not been constructed.

The wastewater treatment facility and disposal site will be located approximately 0.25 miles east of the intersection of Crumley Ranch Road and Fitzhugh Road, in Hays County, Texas 78737, which is located in the drainage basin of Barton Creek in Segment No. 1430 of the Colorado River Basin. Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Austin Wastewater Processing Facility, Permit No. 2384, in Travis County. The draft permit authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

The draft permit authorizes the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.012 MGD via subsurface drip irrigation system with a minimum area of 2.75 acres of public access land. The facility will include a storage tank (GST1), with a total capacity of 36,000 gallon for storage of treated effluent prior to irrigation. The permittee is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. Application rates shall not exceed 0.1 gallons per square foot per day. The permittee will maintain the Bermudagrass (warm season) overseeded with Winter Ryegrass (cool season) on the disposal site. The effluent limitations in the draft permit, based on a daily average, are 10 mg/l biochemical oxygen demand (BOD5), and 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 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.

In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e). The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Austin Wastewater Processing Facility, Permit No. 2384, in Travis County. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

## **III. PROCEDURAL BACKGROUND**

TCEQ received this application for a new permit on February 17, 2022, and declared it administratively complete on April 26, 2022. The Notice of Receipt and

Intent to Obtain a Water Quality Permit (NORI) was published in *The Hays Press News Dispatch* on May 11, 2022. The application was determined technically complete on June 15, 2022. The Notice of Application and Preliminary Decision (NAPD) was published in *The Hays Press News Dispatch* on July 20, 2022. The first public meeting notice was published in *The Dripping Springs Century News* on October 27, 2022. The first public meeting was held on November 29, 2022.

The second public meeting was scheduled for January 29, 2024. A combined NORI/NAPD was published in *El Mundo* on August 10, 2023. The second public meeting notice was published in *El Mundo* on December 21, 2023, in *The Dripping Springs Century News* on December 28, 2023, and in *The Austin American-Statesman* on December 28, 2023.

The public comment period ended at the close of the meeting on January 29, 2024. The hearing request period ended on April 2, 2025. This application was filed after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

#### **IV. THE EVALUATION PROCESS FOR HEARING REQUESTS**

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. SB 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

##### **A. Response to Requests**

The ED, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.<sup>1</sup>

Responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.<sup>2</sup>

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<sup>1</sup> 30 Texas Administrative Code (TAC) Section (§) 55.209(d).

<sup>2</sup> 30 TAC § 55.209(e).

## **B. Hearing Request Requirements**

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requestor prior to the filing of the ED's Response to Comment.<sup>3</sup>

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including 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 and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.<sup>4</sup>

## **C. Requirement that Requestor be an Affected Person/"Affected Person" Status**

To grant a contested case hearing, the Commission must determine that a requestor is an "affected" person by conducting the following analysis:

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Except as provided by § 55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.

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<sup>3</sup> 30 TAC § 55.201(c).

<sup>4</sup> 30 TAC § 55.201(d).

- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - (1) whether the interest claimed is one protected by the law under which the application will be considered;
  - (2) distance restrictions or other limitations imposed by law on the affected interest;
  - (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;
  - (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and
  - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.
- (d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also consider the following:
  - (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
  - (2) the analysis and opinions of the ED; and
  - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.
- (e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.

#### **D. Referral to the State Office of Administrative Hearings**

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.”<sup>5</sup> The Commission may not refer an issue to the State Office of Administrative Hearings (SOAH) for a contested case hearing unless the Commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person whose hearing request is granted; and
- (3) is relevant and material to the decision on the application.<sup>6</sup>

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<sup>5</sup> 30 TAC § 50.115(b).

<sup>6</sup> 30 TAC § 50.115(c).

## V. ANALYSIS OF THE REQUESTS

The ED has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestors qualify as affected persons, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

### A. Whether the Requestors Complied With 30 TAC §§ 55.201, 55.203, and 55.205

#### 1. *Parties the Executive Director recommends the Commission find Affected Persons*

- Jason Katz, Sue G. Munns, Carrie Napiorkowski, Vic Napiorkowski, Shield Ranch, Richard Sorenson, Tracy Sorenson, and Steve Warntjes.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses provided in their hearing requests, the properties identified in their requests are all located less than 0.75 miles from the proposed wastewater treatment facility.

In their requests, each of the requestors describe their concerns about the application and draft permit. These concerns range from general opposition to specific personal concerns related to the draft permit's potential impacts on groundwater, effluent limits, water quality, wildlife, livestock, human health impacts, as well as odors emanating from the facility. These issues fall within TCEQ's jurisdiction as set forth in Chapter 26 of the Texas Water Code, and they are all relevant and material to the Commission's decision on the application.

Upon review of the hearing requests, each of these requestors identify personal justiciable interests that could be affected by the draft permit in ways uncommon to the general public. This is based on their close proximity to the land application areas as well as the types of interests claimed, which include impacts on personal wells and livestock. Their proximity to the irrigation areas may also affect the use and enjoyment of their property, which could be impacted by odors and the impacts to groundwater.

Based on the issues raised in these requests and the articulation of how their interests would be affected, these requestors have substantively complied with the requirements of 30 TAC §§ 55.201 & 203.

Therefore, the ED recommends that the Commission grant these hearing requests.

- Hays Trinity Groundwater Conservation District.
  - Charlie Flatten, general manager of the District, submitted timely comments and a hearing request on behalf of the district which contained the district's name, address, and phone number pursuant to 30 TAC § 55.201(d).



In the hearing request, the District states that it “is a state agency authorized by Chapter 8843 Special District Local Laws Code, and Chapter 36 of the Texas Water Code to protect and manage the quality and quantity of the Trinity Aquifer within the boundaries of its jurisdiction...” The District further states that its jurisdiction includes all of the proposed irrigation sites for the Blizexas facility. Throughout the hearing request, the District raised several concerns about the proposed facility’s impact on groundwater.

Pursuant to 30 TAC § 55.203(c)(7), the Commission’s determination as to affectedness for governmental entities shall include the entity’s statutory authority over or interest in the issues relevant to the application. It is not disputed that the proposed facility is within the jurisdictional boundaries of the District. The hearing request is specifically focused on issues relevant to groundwater which is germane to the purposes for which the District was created. GCDs under Chapter 36 of the Texas Water Code have authority to adopt rules for groundwater quality. The district is concerned that the draft permit could affect groundwater quality of the aquifer which falls within their jurisdiction. Based on the issues raised in their hearing request, the District has substantively complied with the requirements of 30 TAC §§ 55.201 & 203.

Therefore, the ED recommends that the Commission grant the District’s hearing request.

- Greater Edwards Aquifer Authority (GEAA), Fitzhugh Neighbors, and Save Our Springs (SOS).
- Each of these organizations submitted timely comments and a hearing request which contained their names, addresses pursuant to 30 TAC § 55.205(b).

According to its hearing request, Fitzhugh Neighbors is a non-profit organization whose purpose is to advocate for sustainable growth and development in the Fitzhugh Corridor and protect the natural environment of Central Texas near the discharge site. GEAA’s hearing request states that it is a nonprofit organization that advocates for the protection and preservation of the Edwards and Trinity Aquifers, their springs, watersheds, and the Texas Hill Country. GEAA and Fitzhugh Neighbors, who submitted a joint request, had specific concerns about the permit including impacts on surface water, groundwater, facility operation, runoff, regionalization, effluent limits, wildlife, and adequate notice.

According to its hearing request, Save Our Springs is a non-profit conservation organization which was created to, “protect the Edwards Aquifer, its springs and contributing streams, and the natural and cultural heritage of the Hill Country region and its watersheds.” SOS also seeks to protect Barton Creek, its watershed, and the local groundwater. SOS raised similar concerns about how the draft permit addresses impacts to water quality, Barton Creek, wildlife, effluent limits, and how the facility operates under the permit.



According to 30 TAC § 55.205(a), hearing requests submitted by groups or associations must comply with the following requirements: at least one member of the group must have standing in their own right, the interests of the group must be germane to its purpose, and neither the claim asserted nor the relief requested requires the participation of the individual members in the case. GEAA and Fitzhugh Neighbors identified several individual members living less than 0.75 miles from the proposed facility with concerns about how the application will impact the use and enjoyment of their property. These individuals are Carrie and Witold “Vic” Napiorkowski, Sue and Tom Munns, Dave and Catherine D’Abate, and Richard and Tracey Sorenson. SOS identified Sharon Thiede, who lives less than 0.14 miles from the proposed facility. Ms. Thiede expressed similar concerns about the application including health impacts, impacts to wildlife, water quality, and odor issues due to her close proximity to the facility.

These groups advocate for multiple issues, but most relevant to the application are their interests in protecting surface water quality, groundwater, and wildlife. These groups’ interests about the application are directly related to why they were created. Also, the relief requested in both requests does not require the participation of any one member of the organizations.

Under 30 TAC § 55.205(b), TCEQ rules also state that requests by groups or associations may not be granted unless all the criteria of this subsection is met, including 30 TAC § 55.205(b)(2), which requires that, “the request identifies, 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.” In the hearing requests, these organizations each identified individuals by name and address with interests located less than .75 miles from the proposed facility and land application areas. These requests comply with the requirements of 30 TAC § 205(b)(2).

These groups have raised issues that are relevant to the Commission’s decision on the application and have provided sufficient information demonstrating how their individual members are affected. Therefore, having complied with the procedural and substantive requirements of TCEQ’s rules, the ED recommends that the Commission grant these hearing requests pursuant to 30 TAC § 55.205.

## ***2. Parties the Executive Director recommends the Commission not find Affected Persons***

- Jacobi Alvarez, Sondra Cherico, Mark Hunter Denton, William High, Cynthia Steele High, Debbie and Greg Jenkins, Steve McCreary, Jana Kaura, Thomas Kessler, Kimmy K. Norris, David Roach, Claudia Smith, Leah Rummel, Annie Spade, Tim Van Ackerman, and Terri Van Ackerman.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses provided in their hearing requests, the properties identified in their

requests are all located between 0.98 and 19.7 miles from the proposed wastewater treatment facility.

In their requests, they each describe their concerns about the application. These concerns range from general opposition to specific concerns related to the draft permit's potential impacts on groundwater, water quality, wildlife, livestock, as well as odors emanating from the facility. While some of these concerns are relevant to a Texas Land Application Permit (TLAP) application, as the Commission has jurisdiction to address some of these issues as part of the permitting process, these requestors have not substantially complied with the requirements of TCEQ's rules to request a hearing and be considered an affected person.

Under 30 TAC § 55.203(c), the Commission shall consider several factors to determine whether someone is an affected person. These include likely impacts on personal interests and whether a reasonable relationship exists between the interest claimed and the activity regulated. Under these rules, the requestors must articulate how they are uniquely affected in ways uncommon to the general public. The properties in question are located at least 0.75 miles away from the proposed facility and the irrigation areas. Given this distance and the limited scale of the subsurface irrigation of only 12,000 gallons per day, it is unlikely that a reasonable relationship exists between the interests claimed and the regulated activity nor is it likely that the effluent would impact these requestors in a unique way.

The ED therefore recommends that the Commission find these individuals not be considered affected persons as their hearing requests have not sufficiently demonstrated they have personal justiciable interests affected by the application under 30 TAC § 55.203(c).

- Esteban Espana, Salvador Espana, Juan Carlos Bonilla, Jesus Espana, Laura Espana, Phaedra Kelley, Bryan Kelley, and Thomas Munns.
  - Each of these requestors submitted timely hearing requests which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses they provided in their hearing requests, the properties identified in their requests are all located between 1.97 and 2.08 miles from the proposed wastewater treatment facility.

In their hearing requests, each of the requestors identified multiple concerns they had about the application. These included impacts on Barton Creek and the impact to the environment. However, each of them failed to meet a threshold procedural requirement for requesting a contested case hearing.

Pursuant to 30 TAC § 55.201(d)(4)(B), hearing requests must list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. While these requestors may have submitted hearing requests citing concerns relevant to the Commission's decision on the application, none of the requestors timely submitted comments during the comment period. As TCEQ rules require that hearing requests be

based on issues raised in the comment period, these requests should be denied as none of the requestors submitted timely comments.

Therefore, the ED recommends that the Commission deny these hearing requests as they did not substantially comply with the requirements of 30 TAC § 55.201(d)(4)(B).

- Catherine Munns D'Abate, Dave D'Abate, Stephanie Darter, Daniel Lopez, Johanna Mailer, Trisha Markey, Anne Smith Miller, Michael Munsell, Pamela Pannes, Cristiano De Paolis, Karen Richards, John Schon, and James D. Spry.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses they provided in their hearing requests, the properties identified in their requests are all located between 0.23 and 151.81 miles from the proposed wastewater treatment facility and irrigation area.

While these requestors submitted hearing requests, they contained no information other than a request for a hearing, or they did not identify any personal justiciable interests. For these reasons, their requests should be denied.

Under 30 TAC § 55.201(d)(2), requestors must identify their personal justiciable interest affected by the application. As they have not explained to the Commission how they are uniquely affected, they have failed to substantively comply with TCEQ rules.

Therefore, the ED recommends that the Commission deny these hearing requests pursuant to 30 TAC § 55.201(d)(2).

- Wendy Austin, Barbara Dietz, Casey Durchholz, Kevin Fleming, Robert Henry Fritz, Rachel Hill, Michael Howard, Mollie Bea Passernig, Stefan Passernig, Edward J. Reynolds, Connie Shepherd, Patricia Whiteside, and Mark Wojcik.
  - Each of these requestors separately submitted timely comments and a hearing request which contained their names, addresses, and phone numbers pursuant to 30 TAC § 55.201(d). According to the addresses they provided in their hearing requests, the properties identified in their requests are all located between 0.8 and 10.84 miles from the proposed wastewater treatment facility and irrigation area.

In their hearing requests, they raised concerns regarding impacts to groundwater, water quality, wildlife, facility operations, and other related issues. However, the hearing requests should be denied as each of these requestors failed to articulate a personal justiciable interest that could be affected by the draft permit.

According to 30 TAC § 55.201(d)(2), requestors must articulate how their justiciable interests would be uniquely affected by the proposed regulatory activity in ways uncommon to the general public. In these requests, the requestors concerns are generalized as to the local community. They do not claim any interest of theirs would be affected by this draft permit. By failing to identify a justiciable interest, they have not

substantially complied with TCEQ's requirements to request a contested case hearing.

Therefore, the ED recommends that the Commission deny these hearing requests pursuant to 30 TAC § 55.201(d)(2).

**B. Whether the Issues the Requestors Raised are Referable to the State Office of Administrative Hearings (SOAH).**

**1. Whether the draft permit is protective of human health. (RTC Response 6)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown that the effluent limits in the draft permit are not protective of human health, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**2. Whether the draft permit is protective of water quality by preventing wastewater effluent from discharging into surface waters or adversely affecting groundwater. (RTC Response 3)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit is not protective of water quality by failing to prevent wastewater from affecting surface water and groundwater, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**3. Whether the draft permit complies with applicable siting, buffer zone requirements including odors, and effluent storage to protect against over-application and runoff of treated effluent from irrigation areas, as set forth in 30 TAC Chapters 309 and 222. (RTC Response 5)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not comply with TCEQ's rules in Chapters 309 and 222, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**4. Whether the draft permit contains adequate effluent limitations and testing requirements to prevent irrigation area nutrient accumulation and leaching past the rooting zone. (RTC Response 12)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not contain adequate effluent limitations and testing requirements, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**5. Whether the Applicant substantially complied with the applicable notice requirements for the Application. (RTC Response 15)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the Applicant did not comply with TCEQ's notice requirements, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**6. Whether the draft permit is protective of wildlife, livestock, birds, and other animals, including threatened and endangered species. (RTC Response 4)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit is not protective of livestock and wildlife, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**7. Whether the application is administratively and technically complete. (RTC Response 9)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the application is administratively or technically incomplete, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

**8. Whether the draft permit complies with the Commission's regionalization policy pursuant to Tex. Water Code § 26.081.**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, but is not relevant and material to the issuance of the draft permit. Pursuant to TCEQ's regionalization guidance, applicants seeking TLAP permits are not required to evaluate regionalization.<sup>7</sup> The Executive Director recommends not referring this issue to SOAH.

**VI. REQUESTS FOR RECONSIDERATION**

**City of Austin (Liz Johnston), Ann Banos, Alison Baucom, Greater Edwards Aquifer Alliance, Fitzhugh Neighbors, Patricia K. Gibson, Anna Konvit, Mark Purcell, Shield Ranch, Sue Searles, Connie Shepherd, Annie Spade, Matt Spinn, and Roslynn Spinn.**

TCEQ's rules provide that the request for reconsideration must expressly state that the person is requesting reconsideration of the executive director's decision and provide reasons why the decision should be reconsidered. 30 TAC § 55.201(e). The Commission received fourteen timely requests from the City of Austin (Liz Johnston), Ann Banos, Alison Baucom, Greater Edwards Aquifer Alliance, Fitzhugh Neighbors, Patricia K. Gibson, Anna Konvit, Mark Purcell, Shield Ranch, Sue Searles, Connie Shepherd, Annie Spade, Matt Spinn, and Roslynn Spinn.

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<sup>7</sup> Evaluating Regionalization for Proposed Wastewater Systems; Water Quality Division RG-632 August 2023.

The issues identified in these requested concerned the following issues: impacts to livestock, wildlife, aquatic life, groundwater, notice requirements, odors, noise impacts, health, light pollution, traffic, and impacts to water quality. The issues raised in all of the requests concerned issues that are either outside TCEQ's jurisdiction and cannot be considered as part of the wastewater permitting process, or they were considered by the ED and were addressed in the ED's RTC.

THEREFORE, THE EXECUTIVE DIRECTOR RECOMMENDS THAT THE COMMISSION DENY THE REQUESTS FOR RECONSIDERATION

## VII. CONCLUSION

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission find Greater Edwards Aquifer Alliance, Hays Trinity Groundwater Conservation District, Jason Katz, Sue G. Munns, Vic Napiorkowski, Carrie Napiorkowski, Fitzhugh Neighbors, Shield Ranch, Richard Sorenson, Tracey Sorenson, Save Our Springs, and Steve Warntjes affected persons and grant their hearing requests.
2. The Executive Director recommends that the Commission deny all requests for reconsideration.
3. If referred to SOAH that the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.
4. If referred to SOAH, concurrently refer the matter to Alternative Dispute Resolution.
5. If referred to SOAH, refer the following issues as raised by the affected persons as identified by the Executive Director:
  - **Issue A) Whether the draft permit is protective of human health.**
  - **Issue B) Whether the draft permit is protective of water quality by preventing wastewater effluent from discharging into surface waters or adversely affecting groundwater.**
  - **Issue C) Whether the draft permit complies with applicable siting, buffer zone requirements including odors, and effluent storage to protect against over-application and runoff of treated effluent from irrigation areas, as set forth in 30 TAC Chapters 309 and 222.**
  - **Issue D) Whether the draft permit contains adequate effluent limitations and testing requirements to prevent irrigation area nutrient accumulation and leaching past the rooting zone.**
  - **Issue E) Whether the Applicant substantially complied with the applicable notice requirements for the Application.**
  - **Issue F) Whether the draft permit is protective of wildlife, livestock, birds, and other animals, including threatened and endangered species.**
  - **Issue G) Whether the application is administratively and technically complete.**



Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,  
Executive Director

Phillip Ledbetter, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



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REPRESENTING THE EXECUTIVE DIRECTOR OF  
THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

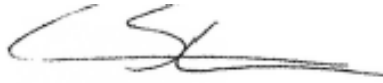
## CERTIFICATE OF SERVICE

I certify that on July 14, 2025, the “Executive Director’s Response to Hearing Request” for TCEQ Permit WQ0016111001 for Blizexas LLC was filed with the TCEQ’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



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Harrison Cole Malley  
Staff Attorney  
Environmental Law Division



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Caleb Shook, Staff Attorney  
Environmental Law Division  
State Bar No. 24130852



# Attachment A

# Blizexas, LLC TLAP Permit No. WQ0016111001

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 7/7/2025  
CRF 0122188  
Cartographer: AProvenc

N

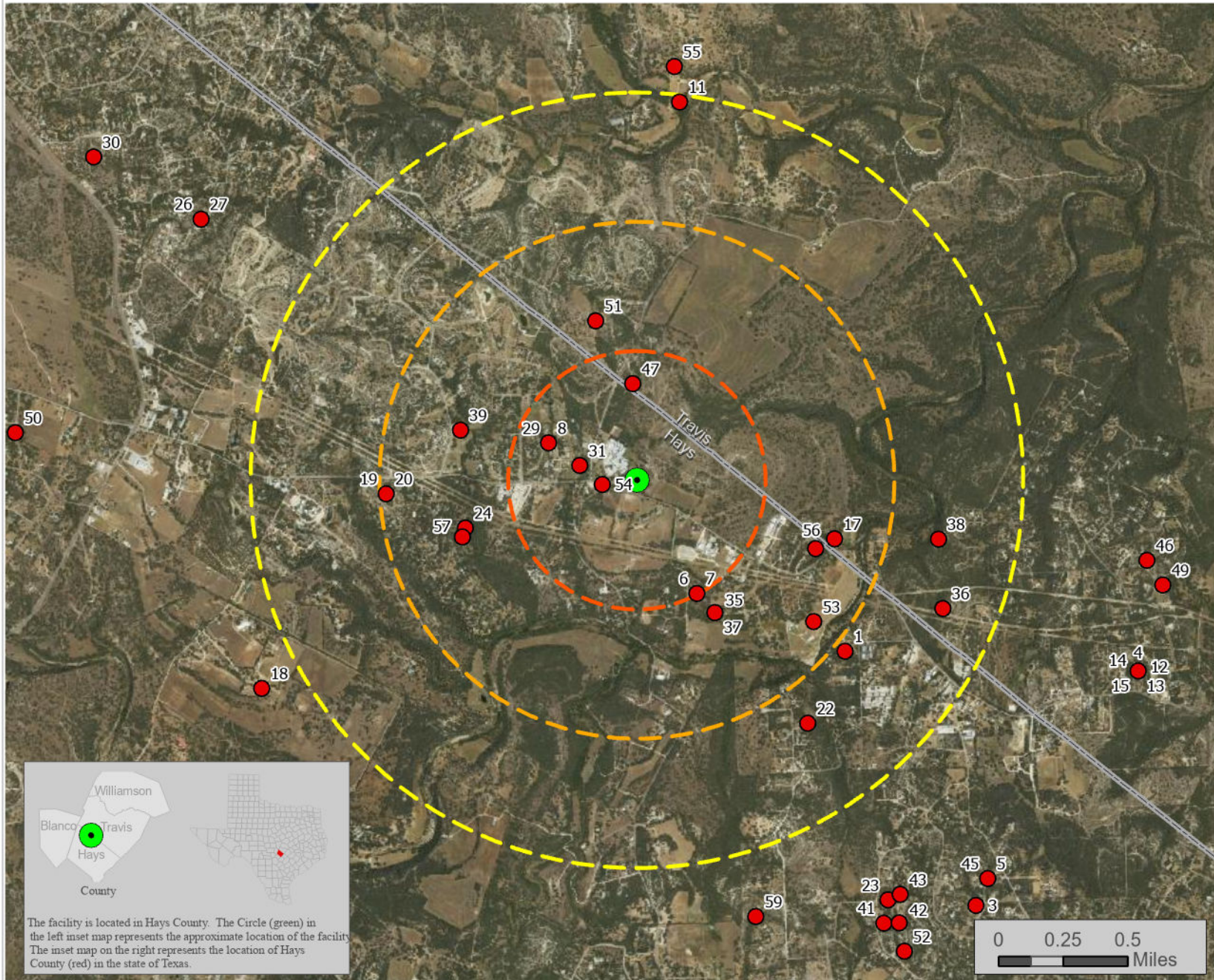


- Land application site
- Requestors
- 0.5-Mile From Land Application Site
- 1.0-Mile From Land Application Site
- 1.5-Mile From Land Application Site
- County Boundary

Distances from Requestors to  
Land Application Site in  
Appendix A

Source: This map was requested by the Office of Legal Services (OLS) and is based on information provided in the application and hearing requests. The applicant provided site location information, and the hearing requestors provided physical addresses. The map is a visual representation and approximation.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in Hays County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Hays County (red) in the state of Texas.

0 0.25 0.5  
Miles



# Blizexas, LLC TLAP Permit No. WQ0016111001

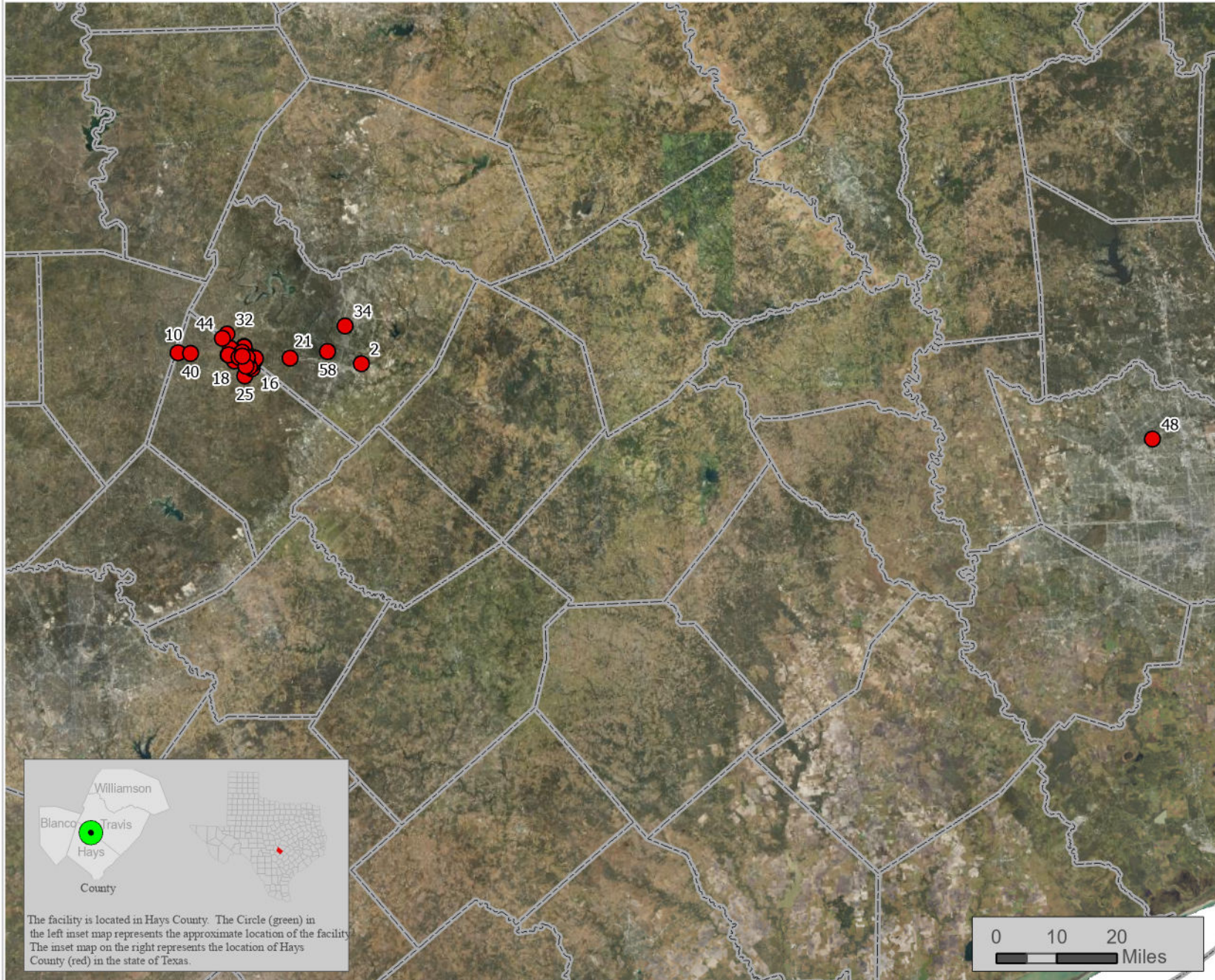
Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 7/7/2025  
CRF 0122188  
Cartographer: AProvenc

N

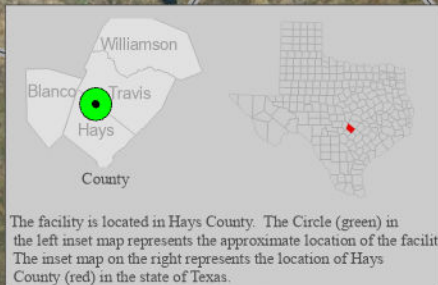


- Land application site
- Requestors
- 0.5-Mile From Land Application Site
- 1.0-Mile From Land Application Site
- 1.5-Mile From Land Application Site
- County Boundary

Distances from Requestors to  
Land Application Site in  
Appendix A

Source: This map was requested by the Office of Legal Services (OLS) and is based on information provided in the application and hearing requests. The applicant provided site location information, and the hearing requestors provided physical addresses. The map is a visual representation and approximation.

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The facility is located in Hays County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Hays County (red) in the state of Texas.



# Appendix A for Blizexas, LLC TLAP Permit No. WQ0016111001

<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
<b>1</b>	Allred, Larry	30.2362	-98.0123	1.04
<b>2</b>	Alvarez, Jacobi	30.2219	-97.6975	19.70
<b>3</b>	Austin, Wendy	30.2218	-98.0041	2.11
<b>4</b>	Bonilla, Juan Carlos	30.2348	-97.9933	2.08
<b>5</b>	Cherico, Sondra	30.2233	-98.0033	2.06
<b>6</b>	**D'Abate, Catherine	30.239593	-98.021844	0.50
<b>7</b>	**D'Abate, Dave	30.239593	-98.021844	0.50
<b>8</b>	Darter, Stephanie	30.2482	-98.0313	0.37
<b>9</b>	Denton, Mark Hunter	30.2169	-98.0069	2.30
<b>10</b>	Dietz, Barbara	30.2565	-98.2064	10.84
<b>11</b>	Durchholz, Casey	30.2672	-98.0224	1.47

<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
12	Espana, Esteban	30.2348	-97.9933	2.08
13	Espana, Jesus	30.2348	-97.9933	2.08
14	Espana, Laura	30.2348	-97.9933	2.08
15	Espana, Salvador	30.2348	-97.9933	2.08
16	Flatten, Charlie (on behalf of Hays Trinity Groundwater Conservation District)	30.2152	-98.0014	2.57
17	Fleming, Kevin	30.242522	-98.01285	0.80
18	Fritz, Robert Henry	30.2347	-98.0502	1.66
19	High, Cynthia Steele	30.2455	-98.0419	0.97
20	High, William	30.2455	-98.0419	0.97
21	Hill, Rachel	30.2387	-97.8953	7.81
22	Howard, Michael	30.2322	-98.0148	1.15
23	Jenkins, Debbie & Greg	30.2222	-98.0098	1.89
24	Katz, Jason	30.2435	-98.0368	0.69



<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
25	Kaura, Jana	30.198	-98.0221	3.31
26	Kelley, Bryan	30.2611	-98.0536	1.97
27	Kelley, Phaedra	30.2611	-98.0536	1.97
28	Kessler, Thomas	30.2152	-98.0014	2.57
29	Lopez, Daniel	30.2482	-98.0313	0.37
30	Mailer, Johanna	30.2647	-98.0605	2.45
31	Markey, Trisha	30.2469	-98.0293	0.23
32	McCown, Michela	30.2995	-98.0696	4.53
33	McCreary, Steve	30.2493	-98.0675	2.52
34	Miller, Anne Smith	30.3135	-97.7406	17.66
35	**Munns, Thomas & Susan	30.2385	-98.0207	0.59
36	Munsell, Michael	30.2385	-98.0059	1.29
37	**Napiorkowski, Vic & Carrie	30.2385	-98.0207	0.59

<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
38	Norris, Kimmey K	30.2424	-98.0061	1.19
39	Pannes, Pamela	30.249	-98.037	0.71
40	Paolis, Cristiano De	30.2544	-98.1716	8.75
41	Passernig, Stefan & Mollie Bea	30.2209	-98.0101	1.96
42	Pena, Hector	30.2209	-98.0091	1.99
43	Reynolds, Edward J	30.2225	-98.009	1.90
44	Richards, Karen	30.2894	-98.0825	4.53
45	Roach, David	30.2233	-98.0033	2.06
46	Rummel, Leah	30.241	-97.9926	2.00
47	Sarahan, Paul Christopher (on behalf of Shield Ranch)	30.251437	-98.025767	0.37
48	Sehon, John	29.9826	-95.5093	151.77
49	Shepard, Connie	30.2396	-97.9916	2.08
50	Smith, Claudia	30.2493	-98.0659	2.42

<b>ID</b>	<b>Name</b>	<b>Lat</b>	<b>Long</b>	<b>Distance to Land Application Site (Miles)</b>
51	**Sorenson, Tracey & Richard	30.255	-98.0281	0.64
52	Spade, Annie	30.2193	-98.0088	2.10
53	**Spry, James D	30.2379	-98.0143	0.88
54	*Thiede, Sharon	30.245804	-98.027854	0.14
55	**Van Ackeren, Terri and Tim	30.2692	-98.0227	1.61
56	Warntjes, Steve	30.241992	-98.014087	0.74
57	Weston, Clay	30.243	-98.037	0.71
58	Whiteside, Patricia	30.253	-97.7909	14.04
59	Wojcik, Mark	30.2214	-98.0184	1.75

\*\* In addition to filing individual hearing requests, these requestors were listed as members of the Greater Edwards Aquifer Alliance and Fitzhugh Neighbors.

\*Sharon Thiede is listed as a member of Save Our Springs who did not file a separate hearing request.



MAILING LIST  
Blizexas, LLC  
TCEQ Docket No./TCEQ Expediente N.º 2025-0543-MWD;  
Permit No./ Permiso N.º WQ0016111001

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Texas Commission on  
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See attached list/Ver listado adjunto.

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