

TCEQ DOCKET NO. 2025-1295-MWD

APPLICATION BY	§	BEFORE THE TEXAS
HAYS COMMONS DEVELOPMENT	§	COMMISSION ON
INC FOR NEW TCEQ PERMIT NO.	§	ENVIRONMENTAL QUALITY
WQ0016373001	§	

**BARTON SPRINGS EDWARDS AQUIFER CONSERVATION DISTRICT'S
PROPOSED CLARIFICATION TO EXECUTIVE DIRECTOR' RESPONSE TO
HEARINGS REQUESTS**

Protestant Barton Springs Edwards Aquifer Conservation District (“BSEACD”) files this proposed clarification to the response to the Executive Director’s Response to Hearing Requests (“ED’s Response”) filed on September 26, 2025, in the above-captioned proceeding.

I. Background/Need for Clarification

The Executive Director has filed the ED’s Response in this proceeding. Among other matters, the ED’s Response addresses the hearing request [and request for party status] of BSEACD.¹

Importantly, the ED’s Response recommends that the Commission: (1) find that BSEACD is an affected governmental entity under 30 Texas Administrative Code (“TAC”) § 55.256(c)(6); and (2) grant the hearing request of BSEACD.²

In Section VII(E) of the ED’s Response, the ED sets forth an analysis of the hearing requests of cities and districts. With regard to BSEACD, the ED states as follows:

The requests on behalf of BSEACD explained that it is a groundwater conservation district created in 1986, validated by the Texas Legislature in 1987, and that the proposed facility is located within its boundaries. BSEACD’s request also explained that it has the powers, duties, authority, and responsibilities provided by Texas Water Code, Chapter 36, which includes the authority to adopt rules to protect water quality. Additionally, prior Commission precedent holds that a duly authorized Groundwater Conservation District can be an affected person in a contested case hearing for water quality permit applications because it has statutory authority over relevant issues related to water quality within its jurisdiction. The ED’s GIS Maps locate the proposed facility wholly within the boundaries of the BSEACD. Because BSEACD’s proximity to the proposed facility, and the statutory authority over water quality related issues, establishes the existence of the required reasonable relationship between the statutory authority claimed (protecting water quality) and the activity to be regulated.

¹ See ED’s Response at 10-11.

² See ED’s Response at 13.

The last sentence of the language set forth above appears to have syntax issues. Furthermore, the section appears to be missing an underlined sentence stating the ED's conclusion.

II. BSEACD Agrees with and Supports the ED's Recommendation and the Substance of the ED's Analysis with Respect to BSEACD

BSEACD agrees with and supports the ED's recommendation that the Commission: (1) find that BSEACD is an affected governmental entity under 30 TAC § 55.256(c) and (2) grant the hearing request of BSEACD. BSEACD also agrees with and supports the substance of the ED's Analysis with respect to BSEACD.

III. Proposed Clarification

In accordance with the ED's substantive analysis with respect to BSEACD, BSEACD proposes the following revisions to the ED's analysis with respect to BSEACD on page 11 of the ED's response:

The requests on behalf of BSEACD explained that it is a groundwater conservation district created in 1986, validated by the Texas Legislature in 1987, and that the proposed facility is located within its boundaries. BSEACD's request also explained that it has the powers, duties, authority, and responsibilities provided by Texas Water Code, Chapter 36, which includes the authority to adopt rules to protect water quality. Additionally, prior Commission precedent holds that a duly authorized Groundwater Conservation District can be an affected person in a contested case hearing for water quality permit applications because it has statutory authority over relevant issues related to water quality within its jurisdiction. The ED's GIS Maps locate the proposed facility wholly within the boundaries of the BSEACD. Because BSEACD's proximity to the proposed facility, and the statutory authority over water quality related issues, establishes the existence of the required reasonable relationship between the statutory authority claimed (protecting water quality) and the activity to be regulated. ~~Because~~ BSEACD's proximity to the proposed facility, and its ~~the~~ statutory authority over water quality related issues, establish~~es~~ the existence of the required reasonable relationship between the statutory authority claimed (protecting water quality) and the activity to be regulated.

The ED recommends that the Commission find that the Barton Springs Edwards Aquifer Conservation District is a governmental entity that is an affected person under 30 TAC § 55.203(c)(7).

IV. Request for Relief

BSEACD respectfully requests that the Commission: (1) find that BSEACD is an affected governmental entity under 30 TAC § 55.256(c)(6); and (2) grant the hearings request of BSEACD – as recommended by the ED and in accordance with the proposed clarifications set forth above.

Respectfully submitted,



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**BARTON SPRINGS EDWARDS
AQUIFER CONSERVATION DISTRICT**

CERTIFICATE OF SERVICE

I, undersigned counsel, certify that on October 2, 2025, a copy of the foregoing document was filed with the TCEQ's Chief Clerk and served on the persons listed below:

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