Response of Jonathan Seth Held to the Executive Director's Recommendation Denying Affected-Person Status

I. Introduction
I, **Jonathan Seth Held**, respectfully object to the Executive Director's recommendation that I not be recognized as an "affected person" under **30 Texas Administrative Code § 55.203** in connection with **TCEQ Docket No. 2025-1322-MWD (Permit No. WQ0016521001)** for the proposed 3405 Wastewater Treatment Facility (WWTF).

The Executive Director's conclusion rests on a mistaken characterization of both my proximity to the sludge disposal area and the nature of my concerns, which directly implicate my personal health, property use, and quality of life interests—not merely those of the general public. I live less than 0.25 miles from the sludge boundary of the proposed facility, well within the odor, aerosol, and nuisance impact zone recognized in numerous TCEQ precedents.

II. Legal Framework
Under **Texas Water Code § 5.115(a)** and **30 TAC §§ 55.203(a)–(c)**, 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, and not merely an interest common to members of the general public.

Relevant factors include proximity to the facility; potential impact on health, safety, and property use; impact on use and enjoyment of natural resources; and whether the interest is one protected by law.

III. Proximity and Precedent
I reside approximately 0.25 miles (1,320 feet) from the proposed facility. This distance is well within the range recognized by TCEQ and SOAH as sufficient to establish standing for affected-person status, particularly where odor, air emissions, or groundwater contamination are potential consequences.

Relevant Precedents:
• *Matter of Application by Bosque Solutions, LLC*, TCEQ Docket No. 2018-0475-MWD (SOAH ALJ, 2018)
• *City of Midlothian Wastewater Permit*, SOAH Docket No. 582-08-0724
• *Application by Double Diamond, Inc.*, SOAH Docket No. 582-10-0271
• *TCEQ v. White Oak Farms, LP*, 2009 TX ENV LEXIS 1021

IV. Specific, Individualized Harms
I documented numerous specific harms including:
• Air quality and odor concerns from sludge aeration and effluent application.
• Noise from aeration equipment and sludge transport.
• Health risks from airborne particulates.
• Absence of monitoring and complaint SLAs.
• No environmental impact study despite proximity to San Gabriel River Basin.
• Property value devaluation.
• Traffic and safety impacts from facility access routes.

V. The Executive Director's Mischaracterization
The ED's assertion that I "did not demonstrate how I am affected in a manner not common to the general public" is factually and legally incorrect. My comments directly raised personal and localized

impacts on air quality, noise, governance, and property rights, consistent with **30 TAC § 55.203(a)**.

VI. Requested Relief
I respectfully request that the Commission:
1. Reverse the ED's recommendation and find that I am an affected person entitled to a contested case hearing.
2. Refer the following issues for hearing:
• Odor and effluent buffer compliance under 30 TAC Chs. 309 & 222.
• Lack of environmental impact studies.
• Noise, monitoring, and governance deficiencies.
• Public health and property protection adequacy under the Texas Water Code.

VII. Conclusion
Given my proximity, personalized impacts, and substantive fact-based concerns, denial of affected-person status would be inconsistent with Texas Water Code § 5.115, 30 TAC § 55.203, and established TCEQ precedent.

Accordingly, I request that TCEQ grant affected-person status, refer the matter to the State Office of Administrative Hearings (SOAH), and ensure full factual development of the health, environmental, and governance issues raised herein.

Respectfully submitted,

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Dated: October 26, 2025

Addendum to Response of Jonathan Seth Held

TCEQ Docket No. 2025-1322-MWD (Permit No. WQ0016521001)
Applicant: 3405 Investments, LLC
Respondent: Executive Director of the Texas Commission on Environmental Quality (TCEQ)
Filed by: Jonathan Seth Held, 205 Marbella Way, Georgetown, Texas 78633

I. Purpose of This Addendum
This addendum supplements my formal response to the Executive Director's (ED) recommendation denying me affected-person status. It provides supporting legal precedent from prior TCEQ and State Office of Administrative Hearings (SOAH) decisions and demonstrates that the ED's conclusion is inconsistent with both **Texas Water Code § 5.115(a)** and **30 Texas Administrative Code § 55.203**.

II. Relevant Case Law and Administrative Precedent

A. Matter of Application by Bosque Solutions, LLC
TCEQ Docket No. 2018-0475-MWD (SOAH ALJ, 2018).
In *Bosque Solutions*, nearby landowners within approximately 0.4–0.6 miles of a wastewater land-application site were granted affected-person status. The Administrative Law Judge held that:
"Even at distances of up to one-half mile, individuals who allege odors, aerosol drift, or mechanical noise possess a personal and justiciable interest distinct from that of the general public."
This case directly applies to my situation. I reside approximately 0.25 miles from the sludge application area and raised identical concerns about odor emissions, air quality, and operational disturbances.

B. City of Midlothian Wastewater Permit
SOAH Docket No. 582-08-0724 (2008).
In this case, homeowners 1,000–1,500 feet from a wastewater facility were found to be affected persons. The ALJ held that:
"The potential for odor nuisance and operational noise constitutes a sufficient basis for affected-person status even absent verified violations."
Like these residents, I am within the same range and affected by identical nuisance factors including odor and noise.

C. Application by Double Diamond, Inc.
SOAH Docket No. 582-10-0271 (2010).
In *Double Diamond*, residents within 2,000 feet were recognized as affected due to odor, potential groundwater contamination, and property value impacts. The ALJ referenced **30 TAC § 309.13**, noting that odor and drift effects extend well beyond 1,000 feet. My residence—1,320 feet away—falls squarely within this range.

D. TCEQ v. White Oak Farms, LP
2009 Tex. Env. LEXIS 1021 (SOAH decision adopted by TCEQ).
In *White Oak Farms*, the ALJ emphasized that:
"Physical distance is not dispositive; the determinative factor is whether the requestor can demonstrate a plausible connection between the facility's operation and a particularized harm."
This case confirms that credible, site-specific concerns—like my own—create a sufficient nexus for standing even at greater distances.

III. Legal Application
The cited precedents collectively affirm that:
1. Proximity within 0.25 miles is well within the recognized zone of potential impact for wastewater

operations.
2. Odor, aerosol drift, and noise impacts are legally recognized bases for affected-person status.
3. Lack of environmental study and complaint SLAs raise compliance issues under **30 TAC § 55.203(c)(1)-(4)** and **Texas Water Code § 26.121**.
4. The ED's recommendation conflicts with TCEQ and SOAH precedent.

IV. Conclusion
Given my proximity, documented impacts, and the consistent interpretation of law in these cases, I respectfully request that TCEQ:
• Reverse the ED's recommendation;
• Recognize my status as an affected person; and
• Refer my issues for a contested case hearing before SOAH under **30 TAC § 50.115**.

Respectfully submitted,

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Dated: October 26, 2025