



Member Organizations

Alamo, Austin, and Lone Star chapters
Sierra Club

AGUA

Bexar Audubon Society

Bexar and Austin Green Parties

Boerne Together

Cibolo Nature Center

Citizens Allied for Smart Expansion

Citizens for the Protection of Cibolo Creek

Environment Texas

Environmental Stewardship Committees
of the Episcopal Church of Reconciliation
& Episcopal Diocese of West Texas

First Universalist Unitarian Church of
San Antonio

Friends of Canyon Lake

Friends of Dry Comal Creek

Friends of Government Canyon

Fuerza Unida

Headwaters at Incarnate Word

Hays Community Action Network

Helotes Heritage Association

Helotes Nature Center

Hill Country Planning Association

Green Society of UTSA

Guadalupe River Road Alliance

Guardians of Lick Creek

Kendall County Well Owners Association

Kinney County Ground Zero

Leon Springs Business Association

Medina County Environmental Action
Association

Native Plant Society of Texas – SA

Northwest Interstate Coalition of
Neighborhoods

Preserve Castroville

Preserve Lake Dunlop Association

San Antonio Audubon Society

San Antonio Conservation Society

San Geronimo Valley Alliance

San Marcos Greenbelt Alliance

San Marcos River Foundation

Save Barton Creek Association

Save Our Springs Alliance

Scenic Loop/Boerne Stage Alliance

Securing a Future Environment

SEED Coalition

Solar San Antonio

Sisters of the Divine Providence

Travis County Green Party

Water Aid – Texas State University

Wildlife Rescue & Rehabilitation

Wimberley Valley Watershed Association

April 4, 2017

Chairman, Representative Joseph Pickett
Vice Chairman, Representative Ed Thompson
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Representative Tony Dale
Representative Kyle J. Kacal
Representative Brooks Landgraf
Representative J. M. Lozano
Representative Ron Reynolds
Representative Eddie Rodriguez

Honorable Chairman Pickett and Members of the House Environmental Regulations
Committee,

On behalf of the fifty-two member groups of the Greater Edwards Aquifer Alliance, I
present these comments in support of H.B. 3036, authored by Tracy O. King. This bill
specifically addresses concerns of those charged with protecting our drinking water
by prohibiting the discharge of sewage effluent into waterways that recharge the
Edwards Aquifer.

Provided here are brief descriptions of TPDES permits that GEAA has opposed, and
the outcomes of those actions during the past ten years.

In 2007, the *Belterra* subdivision's application to amend their TLAP to a TPDES to
discharge wastewater into Bear Creek in Hays County was opposed by the Barton
Springs Edwards Aquifer Conservation District, by Hays and Travis counties, and by
95% of the municipalities within that District. Despite a recommendation from the
Administrative Law Judge to stating that the "WCID has not met its burden of proving
that the proposed discharge under the terms of the revised Draft Permit would not
cause more than a de minimis degradation of Bear Creek, Edwards Aquifer, and
Barton Springs, concerning algal growth in Barton Springs Pool", *Belterra's* permit
was granted. In their ruling, TCEQ Commissioners cited their reluctance to effect a
rule change that should, in their opinion, be a taken up by the State Legislature.
Ultimately, a negotiated settlement was reached that has resulted in no direct
discharges to Bear Creek to date.

In 2008, *The Hills of Castle Rock* in Medina County applied for a permit to discharge
wastewater into the San Geronimo Creek. This application was contested by GEAA,
San Antonio Water Systems, the San Geronimo Valley Alliance, and individual
landowners on the basis that it would harm the quality of the water of San Geronimo
Creek and the Edwards Aquifer. Additionally, both the SAWS Board of Directors and
the City of San Antonio cited concerns about Hills of Castle Rocks plans to discharge
into the San Geronimo as among their reasons for denying water service to this
subdivision on December 4, 2007. A settlement agreement between the San
Geronimo Valley Alliance and Baruch Properties required the applicant to withdraw
the TPDES permit and agree to land application.

In 2014 the Johnson Ranch subdivision in Comal County applied to amend their TLAP permit to a TPDES to discharge effluent onto the land of the neighboring Lux Graham Ranch, contending that a ditch on their neighbors' property was, in fact, Waters of the State. Effluent would then flow into the Cibolo Creek, a major Edwards recharge feature. GEAA joined the Lux and Graham families in contesting the permit amendment. The Administrative Law Judge recommended denial of the permit on the grounds that the developer of the Johnson Ranch did not meet its burden of proof to show that sewage effluent from their development would not be harmful to children and cattle on Lux and Graham family property, and not severely compromise their use and enjoyment of their property. The judges ruled that Waters of the State did not exist. Therefore, the TCEQ lacked jurisdiction to issue this permit. On a vote of two Commissioners, TCEQ subsequently granted the permit. GEAA and the Lux and Graham families appealed. January 30, 2017 the district judge ruled that the TCEQ had used improper procedure in issuing this permit, and that the TCEQ had denied the GEAA, and the Lux and Graham families their right to due process. At this time TCEQ has issued a statement that they reserve the right to issue this permit. If so, we will appeal to a higher court.

In 2015 GEAA joined with area landowners to protest a TPDES permit for the Meyers Ranch subdivision to discharge into Dry Comal Creek in Comal County. Recognizing concerns regarding the TPDES permit, on March 12, 2015 the Comal County Commissioners Court voted unanimously to deny approval of a Water Conservation and Improvement District for Meyers Ranch. Ultimately, a settlement was reached between GEAA, affected landowners, and the applicant whereby the developers agreed to TLAP rather than TPDES.

In 2015 Lerin Hills subdivision applied for renewal of a TPDES permit that was issued in 2009. After a contested case hearing where all parties agreed that a proposed discharge would result in increased algal and aquatic plant growth, an administrative law judge concluded that the applicant had failed to show that this increase would be de minimis, and so found that the permit did not meet TCEQ's Tier 2 anti-degradation requirements. The Cow Creek Groundwater Conservation District sought but, was not granted, party status to contest the permit. We note that one of the parties contesting this permit was the Guadalupe Blanco River Authority on the grounds alternatives more protective of this karst region were available to the developer.

In 2016 GEAA joined with the Bulverde Neighborhood Alliance in Comal County to protest the TPDES permit to discharge effluent from the 4S Ranch subdivision into Lewis Creek. Also expressing concerns were two small water supply districts that served area subdivisions with water from Edward Aquifer wells. A negotiated settlement was reached whereby the applicant withdrew their request for TPDES and agreed to land application.

We believe that the outcomes of these cases demonstrate that the denial of TPDES permits does not substantially impact development within the Edwards Aquifer region. Additionally, we offer as evidence that passage of this bill will not prohibit development within the region the fact that Lakeway and Marble Falls are growing rapidly and prospering under a 'no discharge' regime.

Recognizing the futility of such a goal, GEAA does not seek to stop development in the Hill Country. Rather, we seek your assistance in insuring that new development does not negatively impact Hill Country creeks, streams, and springs nor the integrity of privately owned and public supply wells of the Edwards Aquifer.

All of the abovementioned causes were grandfathered from changes passed during the 84th session affecting contested case procedures. Moving forward, it will be extremely difficult to achieve such favorable outcomes.

In conclusion, I offer the following, cited in a review the Texas standards for wastewater treatment and discharge performed by GEAA. "The permit approval process should be the most closely followed process in following the intentions and realistic goals of wastewater treatment facilities. In an evaluation of the U.S. Environmental Protection Agency's Permit Compliance System data revealed that 56 % of major facilities in Texas were in Significant Non-Compliance (SNC) of their wastewater discharge permits for at least one quarter during the 15

months beginning January 1, 2000 and ending March 31, 2001. This was nearly twice the national average of 30 percent of major facilities in violation, and Texas ranked 2nd in the nation for percentage of major facilities in violation." Source: EPA, Permit Compliance System Database as reported in Texas Center for Policy Studies, Environmental Enforcement in Texas: A Review of Trends and Issues, February 2003.

The problems we seek to address with this legislation will proliferate unless action is taken this session. Your support is needed to assure good stewardship of our Hill Country water resources.

Respectfully,

A handwritten signature in black ink, appearing to read "Annalisa Peace". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Annalisa Peace
Executive Director
Greater Edwards Aquifer Alliance