



Member Organizations

Aquifer Guardians in Urban Areas
Austin Regional, Alamo and Lone Star
Chapters of the Sierra Club
Bexar Audubon Society
Bexar County Green Party
Boerne Together
Cibolo Nature Center
Cibolo Creek Conservation Society
Citizens Allied for Smart Expansion
Citizens for Protection of Cibolo Creek
Environment Texas
First Universalist Unitarian Church of
San Antonio
Friends of Canyon Lake
Friends of Dry Comal Creek
Fuerza Unida
Friends of Government Canyon
Hays Community Action Network
Headwaters Coalition
Helotes Heritage Association
Helotes Nature Center
Hill Country Planning Association
Guardians of Lick Creek
Guadalupe River Road Alliance
Kendall County Well Owners Association
Kinney County Ground Zero
Leon Creek Business Association
Medina County Environmental Action
Association
Native Plant Society of San Antonio
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
Santuario Sisterfarm
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
West Texas Springs Alliance
Water Aid – Texas State University
Wildlife Rescue & Rehabilitation
Wimberley Valley Watershed Association

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April 18, 2015

The Honorable Speaker Joe Straus

Re: HB 1865

Dear Speaker Straus,

Yesterday, the Senate passed SB 709, a bill designed to make it more difficult for citizens to contest permit applications at the Texas Commission for Environmental Quality (TCEQ), on a 22-9 vote. On behalf of the Greater Edwards Aquifer Alliance (GEAA), I am writing to ask you to vote no on SB 709 companion bill, HB 1865.

~~X~~ **HB 1865** - Morrison / **SB 709** – Frazer Relating to environmental permitting procedures for applications filed with the Texas Commission on Environmental Quality. Under these bills affected residents would bear the burden of proving that an application should be denied. Shifting the burden of proof imposes significant costs upon the public to perform fact-finding and engage experts simply to protect themselves from injury.

SB 709 and HB 1865 create unjustified limits on public participation by residents and associations by requiring an affected resident to file comments on an issue himself or herself, even though the resident may not have received notice of the application during end of comment period, may not have had access to information on the issue, may not have received notice of the application during end of comment period, or may not have understood the complex permitting process.

The bills would make it easier for the TCEQ to deny an impartial hearing by refusing to acknowledge that a person will be potentially impacted by a permit and would impose procedural requirements, such as particular language in an organization's purpose statement, that further enable TCEQ to deny a hearing based on minor technicalities. These requirements inhibit the ability of local communities to participate in TCEQ decisions to form groups to fight a polluting facility that may not have adopted a specific enough charter or bylaws during the relatively short period when the Executive Director is making a decision on the permit, or may not have even organized yet during the initial public comment period.

Working as I do with our member organizations and individuals from throughout our region, I feel that this legislation will not serve the people of Texas well. Because Texas does not empower land use or zoning authority at the County level, contesting permits is the only recourse available to citizens residing outside of municipalities. Even the simple powers of governing incompatible land uses are currently denied Texas Counties.

Over the past ten years, GEAA has helped Texans in Mico, Quihi, San Geronimo Valley, Blanco, La Coste, Bandera County, Kendall County, Helotes, Comal County, Hays County, San Marcos, Wimberley, San Antonio, Boerne, Lick Creek, Castroville, and Medina County in contesting permits for projects that would devalue their water supplies and/or negatively impact their properties. Overwhelmingly, they are contesting waste water discharge permits and air emissions permits. Most actions to contest permits that

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we have been involved in have been for projects in rural areas, because citizens of these areas are denied local governments empowered to prohibit bad projects on their behalf.

In 2007, GEAA partnered with the San Geronimo Valley Alliance and San Antonio Water Systems to contest sewage discharge permits for the Hills of Castle Rock subdivision. You may recall this was a high density subdivision planned to be built ten miles northwest of Helotes. If built, it would have been bigger than any towns in Medina County and would have discharge sewage effluent from 12,000 residents into the San Geronimo Creek. Through the SOAH process a settlement was reached that addressed all the major issues of the protestants.

This is just one example of citizens successfully engaging in the Contested Case process to protect their communities and our environment. Over the past ten years, many of our member groups and individual members have engaged in contesting TCEQ permits - by which action they have committed themselves to raising hundreds of thousands of dollars, collectively, in fighting permits that will negatively impact the value of their homes and properties, their health and well-being. I know of no stronger proof of the value and necessity of a fair and accessible contested case hearing process as a venue of last resort for thousands of Texans than our members' commitment to engaging in this process.

All too often, GEAA, our member groups, and individual citizens have been required to contest permits for projects that probably should not have been granted in the first place. We have seen TCEQ issue permits based upon faulty modeling and false information submitted by the applicant. TCEQ is underfunded, understaffed, and under pressure to grant permits in compliance with a timeframe that does not favor thorough review. Mistakes do happen. Texans rely on the right to contest permits that impact their property and well being. Please do not compromise or deny them this right.

We always hear that Texas is a property rights state. But, from what I have seen, individual property owners are extremely disadvantaged under state law when it comes to asserting their rights as property owners. Please do not curtail their rights further by adopting changes to the contested case hearing process as this bill calls on you to do.

Thank you for the opportunity to present these comments on behalf of the Greater Edwards Aquifer Alliance (GEAA). GEAA unites 51 organizations behind a comprehensive plan to protect the Edwards Aquifer, its springs, rivers and streams, flora and fauna, and the Texas Hill Country. It is the consensus of all 51 of our member organizations, which span 21 counties in Central and South Texas, to oppose this legislation. Collectively, our groups represent approximately 25,000 Texans. We urge you to vote against passage of HB 1865. We hope that you will consider GEAA as a resource at your disposal, and feel free to call us with any questions or concerns you have regarding issues that impact our water resources. We look forward to working with you during the 84th Legislative session to preserve and protect our groundwater resources, and the Texas Hill Country that sustains them.

Respectfully,



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