

Alamo, Austin, and Lone Star chapters of the Sierra Club
Bexar Audubon Society
Bexar Green Party
Boerne Together
Bulverde Neighborhood Alliance
Cibolo Nature Center
Citizens Allied for Smart Expansion
Citizens for the Protection of Cibolo Creek
Comal County Conservation Alliance
Environment Texas
First Universalist Unitarian Church of San Antonio
Friends of Canyon Lake
Friends of Dry Comal Creek
Friends of Government Canyon
Fuerza Unida
Green Party of Austin
Green Society of UTSA
Guadalupe River Road Alliance
Guardians of Lick Creek
Headwaters at Incarnate Word
Helotes Heritage Association
Hill Country Planning Association
Kendall County Well Owners Association
Kinney County Ground Zero
Leon Springs Business Association
Medina County Environmental Action
Native Plant Society of Texas – SA
Northwest Interstate Coalition of Neighborhoods
Preserve Castrovilla
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
West Texas Springs Alliance
Wildlife Rescue & Rehabilitation
Wimberley Valley Watershed Association

March 18, 2019

House Environmental Regulations Committee

Chair: Rep. J. M. Lozano
Vice Chair: Rep. Ed Thompson
Members: Rep. César Blanco
Rep. Kyle J. Kacal
Rep. John Kuempel
Rep. Rep. Geanie W. Morrison
Rep. Ron Reynolds
Rep. John Turner
Rep. Rep. Erin Zwiener

RE: HB 3114

Honorable Members of the House Environmental Regulations Committee,

The Greater Edwards Aquifer Alliance (GEAA) opposes HB 3114 Relating to contested case hearings on matters under the jurisdiction of the Texas Commission on Environmental Quality.

Since 2005, GEAA has partnered with citizens throughout Texas to contest applications for permits from the Texas Commission for Environmental Quality (TCEQ) that would harm our water, air, property rights, or quality of life. Through this process we have usually been able to secure much better outcomes with recommendations for denial of the permits or through negotiated settlements that mitigate harmful impacts of the proposed project.

Some of these negotiated settlements have resulted in projects that went from being nightmares - in terms of potential impacts - to being model projects to be emulated as examples of how new development can occur while making the most of our natural resources. In some instances, citizen participation through the contested case process resulted in increased, rather than diminished, property valuations because applicants agreed to changes in the proposed permit that vastly improved certain projects. The contested case hearing process has become increasingly important within the unincorporated areas of the fast growing IH 35 corridor because counties have no authority to regulate land uses.

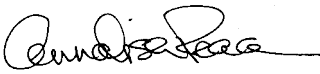
Thus, we believe that the contested case process serves to make Texas a better place to live by engaging citizens who will be affected by new projects in the permitting process. This engagement, however, depends upon a public perception that the contested case process is fair and impartial. Since considerable expense is involved in opposing a permit, affected parties must have faith that participation in determining the future of their communities will be worth the effort.

Determinations in TCEQ hearings should be made by an impartial and independent decision-maker. The primary purpose of a contested case hearing is to determine the facts, such as the depth to groundwater beneath a proposed landfill to protect nearby water wells, and those facts should be determined through an objective consideration of the evidence by someone without an interest in the outcome. In fact, an impartial fact-finder is an essential element of due process.

TCEQ, itself, cannot make an unbiased determination of the facts after a draft permit has been issued. At that point, the TCEQ Executive Director's staff has already negotiated the permit with the applicant, has often helped draft significant parts of the application, and the Executive Director supports the application. This prevents the agency from independently and impartially determining the facts regarding a permit

As far as we can see, if this bill becomes law it will discourage Texas property owners from participating in a process meant to protect them from adverse impacts from the activities of their new neighbors, and will serve only to erode Texans' faith in their state government. We urge you vote no to HB 3114. Thank you for the opportunity to submit these comments.

Respectfully,

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

Annalisa Peace
Executive Director
Greater Edwards Aquifer Alliance