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February 10, 2026

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

*Via TCEQ Online Comment Form*

**Re: Comments regarding the Application by Lennar Homes of Texas Land and Construction LTD, Jeanette R. Morris, and Bobbie J. Neff for Proposed TPDES Permit No. WQ0016660001 for the Broken Cedar Ranch Wastewater Treatment Facility.**

Dear Ms. Gharis:

On behalf of Fischer Neighbors, Greater Edwards Aquifer Alliance (“GEAA”), and Clark and Amanda Deady, two members of Fischer Neighbors and GEAA, I submit these written comments regarding the Application by Lennar Homes of Texas Land and Construction LTD, Jeanette R. Morris, and Bobbie J. Neff (collectively, “Applicant”) for new TPDES Permit No. WQ0016660001 (the “Application”) to authorize the discharge of treated domestic wastewater from the proposed Broken Cedar Ranch Wastewater Treatment Facility in Comal County, Texas (the “Facility”).

**I. Background**

According to the Application, the Applicant has applied to the TCEQ for a new permit that would authorize the discharge of treated domestic wastewater in three phases: (1) at a daily average flow not to exceed 0.10 million gallons per day (MGD) in the Interim I phase; (2) at a daily average flow not to exceed 0.30 MGD in the Interim II phase, and (3) at a daily average flow not to exceed 0.6 MGD in the Final phase. The stated intent for the proposed wastewater treatment facility is to serve the Broken Cedar Ranch Development, a proposed new 850-lot subdivision in Comal County, Texas.

The proposed facility would be located approximately 750 feet southeast of the intersection of Rocky Ranch Road and Farm-to-Market Road 484, in Comal County, Texas 78133. The effluent would be discharged to an “unnamed tributary”, thence to Potter Creek, thence to Canyon Lake in Segment No. 1805 of the Guadalupe River Basin. TCEQ has preliminarily determined that the unclassified receiving water use is minimal aquatic life use for the unnamed tributary and Potter

Creek.<sup>1</sup> The designated uses for Segment No. 1805 are primary contact recreation, public water supply, aquifer protection, and exceptional aquatic life use.

The Draft Permit would apply the following effluent limitations in all phases, based on a 30-day average: 5 mg/l five-day carbonaceous biochemical oxygen demand (CBOD5), 5 mg/l total suspended solids (TSS), 2 mg/l ammonia-nitrogen (NH3-N), 126 colony forming units (CFU) or most probable number (MPN) of E. coli per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). Additionally, the Draft Permit would apply a total phosphorus (TP) limitation in each phase: in the first phase (Interim I phase), the TP limitation, based on a 30-day average, would be 1 mg/l, in the second phase (Interim II phase) the TP limit would be 0.3 mg/l, and in the third and Final phase, the TP limit would be 0.15 mg/l.

## **II. Comments**

### **A. The public comment period should be extended.**

The public comment period should be extended for at least two weeks beyond the public meeting. As explained more thoroughly below, there is information in the Application that is incomplete or is unclear, and the public deserves an opportunity to receive additional information from the Applicant and the ED at the public meeting and be allowed a reasonable amount of time to prepare comments that are informed by that information. Expecting members of the general public to be able to make comments based on brand new information received at the public meeting by the close of the public meeting is unreasonable and unfairly limits access to public participation, particularly in light of the statutory and regulatory limitations that require all hearing requests be based on issues that were raised during the public comment period.

### **B. The receiving waters have not been properly classified.**

The Application represents that the discharge point flows into an unnamed intermittent stream, but the Application does not indicate the method used to make this determination (e.g., personal observation, historical observation by adjacent landowners, or USGS records). The only minimal statement in the Application that the “streambed is dry” provides no information as to the location or reach of this observation. Furthermore, the Application erroneously indicates that the downstream characteristics do not change within three miles. The Application also erroneously identifies no existing uses of the receiving waters.

Contrary to these assertions, the USGS map actually shows a pool on Applicant’s property. Furthermore, landowners and other commenters note that Potter Creek, downstream from the discharge, contains several perennial pools that support aquatic life use and primary contact recreation. Thus, the Application is incorrect and the receiving waters have not been properly classified. For this reason alone, the Application should be returned.

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<sup>1</sup> Potter Creek is also commonly called Potters Creek or Potter’s Creek.

**C. The proposed discharge will not be protective of surface water quality and existing uses.**

Because the receiving waters have not been properly classified and the existing and attainable uses have been improperly determined, it cannot be demonstrated that the Draft Permit is protective of surface water quality that will maintain those existing uses. The definition of “existing use” includes a use that is currently being supported by a specific water body or that was attainable on or after November 28, 1975. Furthermore, the Application does not demonstrate that the proposed permit would ensure compliance with applicable Texas Surface Water Quality Standards. This is of particular concern given high concentrations of nutrients in the proposed effluent, which would degrade water quality and lead to excessive algae growth. Excessive algal growth would impair aesthetic conditions and also lower dissolved oxygen levels in the receiving waters. This degradation would adversely affect aquatic life use and the recreational and financial uses of people who swim, wade, boat, fish, and lead commercial ventures on the water downstream of the proposed outfall. Fischer Neighbors, GEAA, and the Deadys are also concerned about potential contamination from other constituents in the effluent including nitrates, PFAS, pharmaceuticals, and contaminants of emerging concern. Pursuant to TCEQ’s Tier 2 analysis, a wastewater discharge permit may not cause a lowering of water quality by more than a *de minimis* extent, but certainly not to the extent that an existing use is impaired. 30 Tex. Admin. Code § 307.5(b)(2). Thus, the Application does not show that the Draft Permit would comply with the Commission’s antidegradation requirements. For these reasons, the Application should be denied or nutrient limits must be significantly lowered to ensure the draft permit will comply with the Texas Surface Water Quality Standards and the Commission’s antidegradation requirements.

**D. The proposed draft permit will not be protective of groundwater and drinking water wells.**

Text Application identifies several groundwater wells in close proximity to the discharge route. The proposed discharge location and route is located in the Edwards Aquifer Contributing Zone. It is also located within the Comal Trinity Groundwater Conservation District. On the front page of the CTGCD’s website is a report entitled “Surface Water Groundwater Interaction and Water Quality of the Guadalupe River Basin and the Trinity Aquifer in Western Comal County, Texas,” dated December 9, 2019,<sup>2</sup> which draws several conclusions about the area in which the proposed discharge would be located. Importantly, the report concludes that the basin does, in fact, recharge the Middle Trinity Aquifer. The report also concluded that the Guadalupe River is a losing stream. In short, the surface-groundwater interactions in this area are well documented, making groundwater contamination by nutrients, nitrates, PFAS, pharmaceuticals, and CECs, particularly of the numerous domestic water wells, a major concern. Because there is not information in the Application to demonstrate that this groundwater and drinking water wells will be protected from contamination, the Application should be returned or denied.

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<sup>2</sup> Available at: [https://www.comaltrinitygcd.com/files/ugd/e62693\\_fb415e070e394f8da3d5f13ac625e688.pdf](https://www.comaltrinitygcd.com/files/ugd/e62693_fb415e070e394f8da3d5f13ac625e688.pdf) (last visited, Feb. 3, 2026).

**E. The Application has not demonstrated that there are no drinking water intakes within five miles of the proposed discharge location.**

The Application states there are no drinking water intakes within five miles of the proposed outfall, but no supporting information has been provided. There are multiple intakes on Canyon Lake from multiple water providers. The Applicant's map indicates that the confluence of the proposed discharge route with Canyon Lake is approximately three miles downstream from the proposed outfall. Therefore, the TCEQ should require the Applicant to identify all of the drinking water intakes on Canyon Lake to demonstrate that none are within five miles of the proposed outfall.

**F. The proposed discharge will harm livestock and wildlife, including threatened and endangered species.**

In addition to prior comments regarding impacts to aquatic life, the proposed discharge will also harm threatened and endangered species. As the Statement of Basis/Technical Summary acknowledges, the Peck's cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs Riffle Beetle (*Heterelmis comalensis*), and the fountain darter (*Etheostoma fonticula*) can occur in Comal County. The golden-cheeked warbler is also present throughout Comal County as do migrating Monarch butterflies. Both species have been observed by members of Fischer Neighbors. Neither the Application or Statement of Basis/Technical Summary demonstrate that the presence of these species were considered at, below, or in the vicinity of the proposed outfall. Therefore, the Application should be returned or denied for the failure to consider impacts to threatened and endangered species.

**G. The Application does not demonstrate that Lennar's compliance history has been considered.**

Pursuant to 30 Tex. Admin. Code § 60.1, the Commission must consider the Applicant's compliance history in order to make a decision regarding the issuance of this permit. The compliance history must include "information about a person, specific to the site which is under review, as well as other sites which are owned or operated by the same person." 30 Tex. Admin. Code § 60.1(c). A search of the TCEQ's Central Registry for Lennar Homes of Texas Land and Construction Ltd. (CN602412207) returns 1,553 affiliation records. Neither the Application, nor the Statement of Basis/Technical Summary indicate that any consideration of compliance history has been conducted. For this reason the Application should be returned or denied.

If Lennar's compliance history has been considered, please describe in detail how this review was conducted, including identifying each of the components that was considered.

**H. The Application does not demonstrate that the odor abatement measures have been met.**

The Application indicates that a portion of the requisite 150' buffer zone encroaches on TxDOT right-of-way. Though the Application points to a letter from TxDOT regarding this use of right-of-way, no such letter has been included with the publicly-available application. Furthermore, the Application has not demonstrated that the facility will successfully prevent and abate nuisance odors in a manner sufficient to comply with 30 Tex. Admin. Code § 309.13(e). The

facility will be located directly adjacent to several homes, and the wind rose indicates (together with the inadequate buffer) that these homes will be directly impacted by odors from the facility. For this reason, the Application should be returned or denied.

**I. The risk of flood inundation should be carefully considered.**

Pursuant to 30 Tex. Admin. Code § 309.13, the Applicant must demonstrate that the wastewater facility site is suitable and the facility is protected from flood inundation. Given that very little information about the receiving waters has been provided in the Application—and that much of the information is inaccurate and unverified—and that the risk of severe flooding events are a grave concern in the Guadalupe River basin, the risk of flood inundation should be carefully considered. Though the Application does not provide it, the applicable FEMA Firm panel indicates it was last updated in 2009. Until more up-to-date information can be verified, the Application should be returned or denied.

**J. The Application has not demonstrated a need for the requested capacity.**

Pursuant to Texas Water Code § 26.0282, the Applicant has not demonstrated a need for the requested 600,000 gpd total capacity:

In considering the issuance, amendment, or renewal of a permit to discharge waste, the commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal *based on consideration of need, including the expected volume and quality of the influent* and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as such by commission order pursuant to provisions of this subchapter. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater.

Texas Water Code § 26.0282 (emphasis added).

The Application indicates that the Broken Cedar Ranch Development is currently planning 850 units at 250 gpd/unit. By multiplying 850 units by 250 gpd/unit, the Applicant is only claiming a need—at most—for 212,500 gpd. As the Instructions for Completing the Domestic Wastewater Permit Application (“TCEQ Instructions”) at page 67 state, “[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases.” For this reason alone, the Application should be returned or denied.

**K. Certain information remains missing.**

The Applicant has failed to identify the operator, pursuant to 30 Tex. Admin Code § 305.48(a). This information is required for every application for a wastewater discharge permit. Thus, because it is missing, the Application must be returned or denied.

### III. Conclusion

For the reasons stated above, Fischer Neighbors, Greater Edwards Aquifer Alliance, and Clark and Amanda Dedy request that the Application be denied. Thank you for your time and attention to this matter.

Respectfully submitted,

/s/ Lauren Ice

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