



March 4, 2023

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

VIA ELECTRONIC FILING

RE: Corix Utilities (Texas) Inc., McKinney Roughs Permit Application WQ0013977001 - Requesting a Public Meeting and Review of Integrated Assessments of Segment 1428.

Dear Ma. Gharis:

These comments on the above referenced application are submitted on behalf of Environmental Stewardship and its members.

Environmental Stewardship is requesting that a public meeting be held to assure it and others have adequate information and time to submit comments prior to TCEQ's final decision regarding whether to grant the proposed draft permit. Environmental Stewardship reserves its right to a contested case hearing contingent on resolving all issues raised herein resulting from the application and draft permit.

The initial comments of Environmental Stewardship are provided in the attached listing of issues, concerns, and objections. Environmental Stewardship would be pleased to discuss these matters with Corix Utilities (Texas) Inc. and/or the Commission to resolve all or any. Attachment 1

Environmental Stewardship is a Texas non-profit that works to protect the Colorado River, Matagorda Bay, and the Carrizo-Wilcox Aquifer group in the lower basin. Environmental Stewardship has members who own property near and downriver from the McKinney Roughs wastewater discharge. Environmental Stewardship also has members who have drinking water and/or irrigation wells in the Colorado Alluvial Aquifer and adjacent aquifers downriver from the proposed discharge, who would be adversely affected by the proposed 10-fold increase in wastewater discharge. Moreover, Environmental Stewardship is concerned about the overall ecological health of the Colorado River, its tributaries, and the aquifers of the region.

For example, member landowners who have certified-organic farms and traditional agriculture on Wilbarger Bend adjacent to the McKinney Roughs discharge, and who depend on wells in the Colorado Alluvial Aquifer (CAA) to irrigate their crops, are concerned about the impact of a 10-fold increase in effluent discharge from the McKinney Roughs wastewater treatment plant that would likely contaminate the quality of water available for their organic farming operations.

Other member residents downriver from the McKinney Roughs discharge to the river who frequently boat, fish, and recreate on this section of the river already complain that the fishing in the river, and general visual appearance of the water in the river, have degraded over the past several years, and fishing is poor. They are concerned that a 10-fold increase in wastewater discharged from the treatment plant will further degrade the aquatic life use of the river and thereby their fishing and recreational use of the river.

This concern is further exacerbated by the explosion of gravel mining operations in this segment of the river and the cumulative impact of recently approved stormwater discharges, and this increased wastewater discharge, on the river. We understand that two Tex-Mix Concrete stormwater permits have been approved subsequent to the Corix application -- one for a 60-acre borrow downstream of the McKinney Roughs park and another for a 20-acre pit upstream of the park. It is likely that more will be requested as this is a 900-acre sand and gravel mining operation in the middle of Wilbarger Bend that is just getting underway. We also understand that Travis Material has also just signed a lease for a similar operation on the other side of FM 969 along the river and will likely be applying for similar stormwater permits in the near future.

In relation to this concern, we are also concerned that the 10-fold increased flow into the unnamed tributary will cause erosion of the banks and streambed, leading to further siltation of the river, destruction of the natural streambed, degrading the natural ecology, and thereby also degrading the park experience. We are already noticing shoaling of silt along the reach of the river where the Hwy 969 boat ramp is located under the bridge. Boater are saying that this is making this ramp difficult, if not impossible/impractical to use.

Other member residents down river from the McKinney Roughs, are concerned about potential contamination of their groundwater wells as a result of continuing degradation of the water quality in the river that can result in contamination of shallow aquifers by under-regulated chemical compounds often found in municipal and industrial wastewater.

Other members landowners with riparian rights down river from the McKinney Roughs are concerned about potential contamination of surface water of the Colorado River, and the alluvial aquifer, as a result of degradation of the water quality in the river, and the alluvial aquifer, due to direct discharge, and potential contamination that will likely result from the proposed permit application.

It has become clear to persons that use and recreate on this reach of the river that the water quality and ecology of the Colorado River below Austin are impaired. Two segments (1428 and 1434), that have the highest aquatic and recreational use standards in the state, are falling short of meeting the standards set in the 1980's and early '90's, and updated in 2018. (TAC, Title 30, Chapter 307.10(1), Appendix A - pages 29-31.)

Environmental Stewardship *strongly* objects to the statement by TCEQ that Segment No. 1428 of the Colorado River is not currently listed on the State's inventory of impaired and threatened waters (the 2022 CWA § 303(d) list). Contrary to the history of water quality assessments on this section of the river, this statement implies that this segment is not impaired or threatened waters. The evidence shows that for more than 17 years concerns have been raised about impairment of fish and macrobenthic communities, but these concerns have not been adequately investigated.

Environmental Stewardship asserts that segment 1428 is impaired according to the 2020 and 2010, 2008, and 2006 Texas Integrated Reports, and likely should be on the 303(d) list of impaired streams where it would be subject of a management strategy to remedy the impairments.

In reviewing the 2020 Texas Integrated [Assessment] Report¹ for the Colorado River (Basin 14) it is clear that impaired fish and macrobenthic communities in these segments of the river are not only currently impaired, but many of these impairments are carried forward from the 2006 report "due to inadequate data for this method of assessment".

Environmental Stewardship is requesting that the TCEQ conduct, prior to making a final decision regarding this permit, such biological assessment studies as are necessary to not only adequately assess, but to take remedial actions where needed to reverse the degradation of these segments of the river.

In order that Environmental Stewardship, and the public, are able to review and evaluate such studies as may have been conducted, we are requesting copies of the anti-degradation reviews on the receiving waters (Tier 1 and 2), and the studies that underlay these reviews. Environmental Stewardship further requests that this determination be reexamined and modified after appropriate studies have been conducted to determine the current status of impaired fish and macrobenthic communities resulting from nitrogen, total phosphates, and other impairments in the segments 1428, including the level of PFAS contamination.

Further, it is not clear whether the 10-fold increase in wastewater discharge to the river is the sum total of all phases of expansion that can be expected for the McKinney Roughs wastewater treatment facility, and whether the final total increase will further degrade the water quality in the river and aquifers. We raise this question from the much greater expansion in the service area shown in the graphic in the study done for the Bastrop Economic Development Council (BECD), as compared a similar graphic in the draft permit. See Figures 1 and 2, Attachment 2

Environmental Stewardship is also asking whether the effluent limitations and conditions of 30 TAC Chapter 311: Watershed Protection; Subchapter E: Colorado River Watershed, have been updated to include best-available technology-based treatment to meet the exceptional aquatic use standard?

Our members are concerned about the planned increases to the service area. Do they include new subdivisions and where are they located? Do they dispose of only treated domestic waste or are they commingled with industrial waste?

Further, PFAS compounds have been detected in 11 of 11 samples within these two segments of the Colorado River and its tributaries. Monitoring for these compounds in the effluent needs to be included in the toxic substances monitoring and reporting requirements. Attachment 3

Finally, Environmental Stewardship and its members questions whether this amendment application should be considered a new permit application. A Corix spokesperson agreed with one of our members that the sulfur odor was a concern and that was an indication that the facility is operating at

¹ The Texas Integrated Report describes the status of the state's waters, as required by Sections 305(b) and 303(d) of the federal Clean Water Act. It summarizes the condition of the state's surface waters, including concerns for public health, fitness for use by aquatic species and other wildlife, and specific pollutants and their possible sources. <https://www.tceq.texas.gov/waterquality/assessment/20twqi>

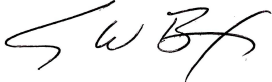
over-capacity. The member also learned that the existing facility will be decommissioned and new technology, plus sulfur abatement plan mentioned in the permit ,will address this issue. As such, we assert that this is not an upgrade but a total replacement and therefore should be considered a new permit. Further, we assert that it would be more appropriate that this wastewater should be consolidate in a regional facility somewhere off of the McKinney Roughs Park property. We believe that there is a need for regionalization to reduce the number of fragmented systems that are springing up in this segment of the river.

Moreover, Corix Utilities (Texas) Inc. has already been cited by TCEQ, for numerous violations under the original permit.

Environmental Stewardship's overall goal is protection of the exceptionally high-quality waters of the Colorado River in this segment, and groundwater aquifers that exchange water with the river. The draft permit proposed by TCEQ raises many concerns in addition to those raised in these comments. Lacking adequate time and documents, we have limited our comments to those of greatest concern.

Thank you for your consideration. If you have any questions regarding these comments, please feel free to contact me.

Sincerely,



Steve Box
Executive Director
Environmental Stewardship
Executive.Director@envstewardship.org

ATTACHMENT 1 - ISSUES LIST

ATTACHMENT 2 - PERMIT & BEDC MAP OF CITY OF BASTROP ETJ EXPANSION

ATTACHMENT 3 - PFAS SURFACE WATER MONITORING REPORT

CC: Mr. Troy Hotchkiss, P.E., Integrated Water Services, Inc., thotchkiss@integratedwaterservices.com
Corix Utilities (Texas) Inc. Bobby.Hicks@corixtexas.com
Garrett Arthur, Office of Public Interest Counsel, TCEQ garrett.arthur@tceq.texas.gov
Charles Maguire, Deputy Administrator Region IV EPA maguire.charles@epa.gov
c/o Renea Ryland ryland.renea@epa.gov
Shannon Love, Attorney for TPWD Shannon.Love@tpwd.texas.gov
Gregory Klaus, Bastrop County Judge gregory.klaus@co.bastrop.tx.us
Senator Charles Schwertner, District 5 Charles.Schwertner@senate.texas.gov
Representative Stan Gerdes, District 17 Stan.Gerdes@house.texas.gov

Environmental Stewardship is a nonprofit organization whose purposes fall under the following categories: Public Policy - Aiming to protect, conserve, restore, and enhance the earth's natural resources in order to meet current and future needs of the environment and humans; Science & Ecology - Gathering and using scientific information to restore and sustain ecological services provided by environmental systems; and Outreach & Education - Providing environmental education and outreach that encourages public stewardship. We are a Texas nonprofit 501(c) (3) charitable organization. For more information visit our website at <http://www.environmental-stewardship.org/>.

ATTACHMENT 1

ISSUES RAISED BY THE COVER LETTER OR EXPLAINED BELOW

- a) Whether the proposed discharge will adversely impact: the environment, fish and other aquatic life, and wildlife, including endangered or threatened species, e.g., excess nutrients, chlorine, and PFAS.
- b) Whether the proposed discharge will adversely impact the health of the members of Environmental Stewardship and their families, as a result of contact with the waters of the Colorado River downstream of the discharge, e.g., exposure during access to the River from McKinney Roughts Park to chemicals in the discharge.
- c) Whether the proposed discharge will adversely impact the health of the members of Environmental Stewardship and their families, as a result of consumption of fish caught in the Colorado River, e.g., exposure to PFAS and other toxic chemical in the discharge.
- d) Whether the proposed discharge will adversely impact the health of the members of Environmental Stewardship and their families or their agricultural operations, e.g., exposure to contaminants that enter the alluvial and related aquifers during times of recharge from the River and subsequent pumping from members wells for drinking water and irrigation.
- e) Whether the treatment facilities and discharge will be operated and maintained to avoid nuisance conditions, e.g., odors from the operations, sludge management or ponding of waste waters at the facilities or in the discharge ditch or ditches or the unnamed stream.
- f) Whether the Application, and all representations contained therein, are complete and accurate and were provide and evaluated by a qualified person, e.g., whether the waste waters will be from municipal sources only given the sources include a park and development with commercial activities are in the expanded service area and the likely agricultural and industrial sources nearby to make the representations.
- g) Whether the Applicant substantially complied with applicable public notice requirements, e.g., whether the landowner list is correct for mailed notice and proper and timely notice was issued in the appropriate newspaper(s)
- h) Whether the evaluation of impacts properly considers current conditions and complies with applicable regulations to ensure the draft permit is protective of water quality, including utilizing accurate assumptions and inputs, e.g., proper evaluation of the current state of pollutants in and impairments of the Colorado River and its tributaries downstream of the discharge in a manner that considers the total loading on the river.
 - a. Whether the impacts of the explosion of gravel mining operations and associated stormwater permits in this segment of the river have been properly considered and enforced relative to the silt load being deposited into the river.
 - b. Whether the 10-fold increase in discharge is an appropriate ecological aquatic-life use of the tributary.
- i) Whether the Executive Director's antidegradation review was accurate, e.g., proper evaluation of the current state of pollutants in, and impairments of, the Colorado River downstream of the discharge, proper use of the historic measuring period for evaluation of degradation and proper evaluation of the degradation standard:
 - a. Whether impairments in Segment 1428, AUID: 1428_0 have been timely field studied using biological metrics, monitored, and assessed by TCEQ, based on

TCEQ, TPWD, or LCRA data collected since originally assessed in 2006 to determine if the segment should be on the 303(d) list based on impairment of fish and microbenthic communities, nitrogen, and phosphorus, or whether removal of these causes for impairment were justifiably based on best-available science.

- j) Whether the draft permit includes all appropriate and necessary requirements to comply with Texas law, TCEQ rules and policies, e.g., does the discharge to a watercourse and the permit include required biomonitoring,
- k) Whether the draft permit includes all appropriate and necessary requirements to protect the public health; and the environment, e.g. monitoring, record keeping and reporting to allow the Commission and the public to access the data needed to evaluate the impacts over time.
- l) Whether the draft permit includes all appropriate and necessary requirements to assure it can be enforced, e.g., are the facilities, the discharge location and monitoring stations clearly identified so that TCEQ, TPWD, and Bastrop County could inspect and sample the discharge and sources clearly reported to assure proper evaluation of any effluent or impacts.
- m) Whether this amendment application should be considered a new permit application and located where it can serve the regional needs of the community avoiding the trend toward fragmentation of wastewater services in this segment.
 - a. Whether the existing facility will be decommissioned and new technology, plus a sulfur abatement plan mentioned in the permit, will adequately address the issues raised.
 - b. Whether fragmentation of wastewater treatment facilities in the region will be adequately addressed, or whether a new location should be considered.
- n) Whether the burden of proof has rightfully been placed on the Applicant and the Commission to prove that concerns and issues brought up before the Commission are in accordance with the federal laws that have been delegated to the State.
- o) Whether the Commission has been as transparent, as is necessary to provide the public adequately and fully with timely and visible notice of proposed actions and timely and efficiently provided the information and documents necessary for the public interest to be able to review and respond to such proposed actions without delays.

ATTACHMENT 2.

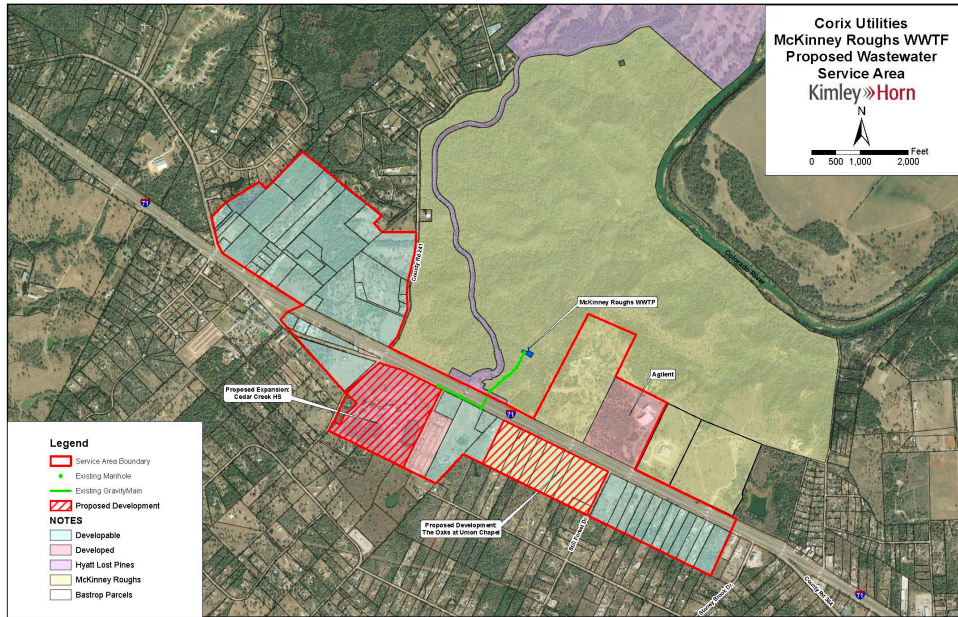


Figure 1. McKinney Roughs Waste Water Treatment Facility (WWTF) Proposed Wastewater Service Area. (from the Draft Permit)

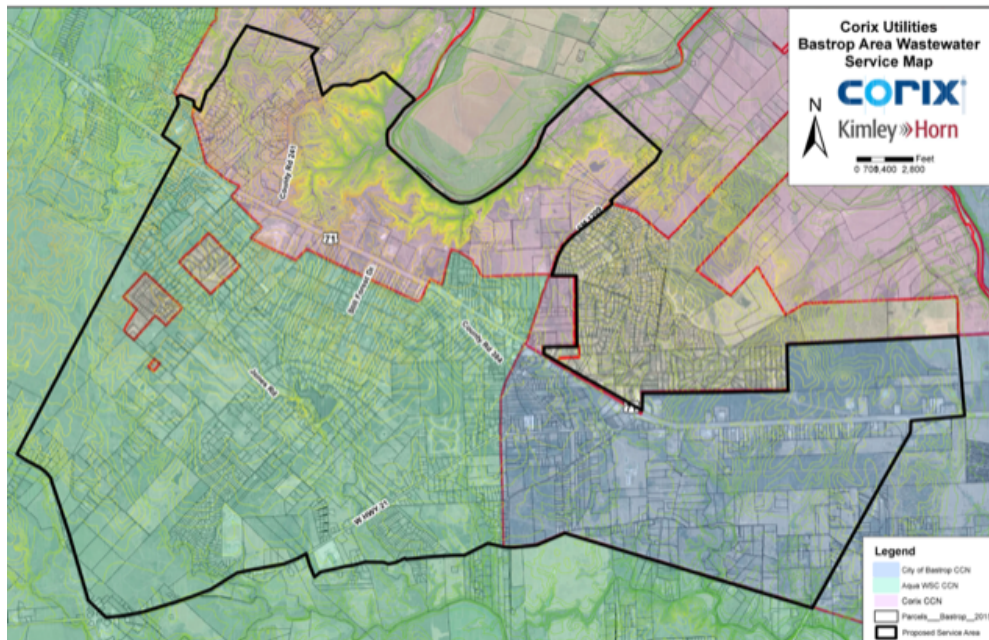


Figure 2. Corix Utilities Bastrop Area Wastewater Service Map. (from BECD document)