



The League of Independent Voters of Texas
P.O. Box 651
Bastrop, Texas 78602

March 21, 2023

VIA ELECTRONIC FILING

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

RE: Gapped Bass LLC Permit
Application WQ0005397000

Dear Chief Clerk Gharis:

The League of Independent Voters of Texas (LIV) is a nonprofit, nonpartisan membership association for voters of all persuasions who call themselves independents. LIV submits these comments on behalf of those members.

LIV's home office is in Bastrop County, where many residents, including our members, depend on groundwater for their water supply. One particular issue illustrates how LIV has assisted independent voters in Texas to organize and express their concerns to local and state government and permitting authorities. That is, LIV has a long history of involvement in the issues concerning the sustainability of our state's water supply --- as to both quantity *and quality* --- especially issues concerning the Carrizo-Wilcox Aquifer (Aquifer). Many of our members are also interested in the conservation and protection of the Colorado River, and the many amenities it offers to the State of Texas.

LIV also supports the efforts of the Lost Pines Groundwater Conservation District (District),

Environmental Stewardship, and the Simsboro Aquifer Water Defense Fund (SAWDF) to conserve and protect our local aquifers, the Colorado River because of its interaction with those aquifers, and both the river's and aquifers' water quality.

We agree with the concerns expressed by the District to TCEQ about the subject permit, specifically the concerns raised by the District and more fully described in its letter to TCEQ dated March 20, 2023, that the Calvert Bluff, Simsboro, and Hooper formations of the Aquifer, along with the Colorado Alluvial Aquifer intersect *and interact* with the Colorado River where Gapped Bass LLC proposes to discharge or land apply 142,500 gallons of wastewater per day (gpd) into the river, or the same volume by surface irrigation on-site close to the river.

We adopt the District's concerns that Gapped Bass's proposed permit will have an adverse effect on the interests of everyone who uses groundwater in the District, including LIV's members. We concur in the District's findings that, given the sensitive hydrogeologic site, the TCEQ Executive Director (ED) has not demonstrated that groundwater will be protected under the permit from discharges into the river, nor has the ED demonstrated that groundwater will be protected from land application. We further urge their recommendations for needed monitoring be implemented.

We assert that the conclusions of the District, which we adopt here in our comments, are amply documented by the District, and we will not repeat their research and documentation here.

LIV frequently collaborates with Environmental Stewardship and its members, and with the Simsboro Aquifer Water Defense Fund (SAWDF) on issues affecting the water supply of Bastrop County, and other central Texas counties. We support their recommendations in their comments on this permit, which are based on the well-documented science and policy research of Environmental Stewardship, as described in its lengthy comments submitted on this draft permit. Again, we support but will not repeat their research and documentation here.

Your constituents --- the residents of Bastrop County and all Texans who share the Colorado River deserve no less than to have Texas's environmental regulators carry out their delegated duties under the federal Clean Water Act with respect to the Gapped Bass LLC permit.

On January 24, 2023, twenty organizations advocating for clean water and air protections in Texas received an answer to their September 2021 petition to the Environmental Protection Agency (EPA) on the Texas Commission for Environmental Quality (TCEQ) indicating that the EPA is taking their petition seriously.

The petitioners' media release on January 31, 2023 (Release) explains the nature of their petition and the EPA's inquiry as follows:

The [EPA] officials are conducting an investigation into whether Texas's environmental regulators are fully carrying out their delegated duties under the Clean Water Act and Clean Air Acts. In a letter dated January 24, 2023, the EPA's Region 6 Acting Regional Deputy Administrator explains that there is an ongoing informal investigation. In short,

[TCEQ] is being investigated by EPA for failure to carry out the protections required by the Clean Water Act and Clean Air Act.

The release may be found here: "[Take Corrective Action or Risk Losing Authority Over Clean Water and Clean Air Programs.](#)"

The Release cites these as some of the elements of concern under investigation:

- The TCEQ places the burden on members of the public to prove that a permit violates legal requirements rather than requiring that parties applying to pollute prove that they will be doing so at legally acceptable levels;
- TCEQ creating unlawful barriers to public participation and judicial review of permitting decisions; and
- TCEQ's failure to recognize large volume water-polluting projects as "major facilities" and subsequent denial of consideration for wastewater effluent discharge as pollution that can degrade receiving waters.

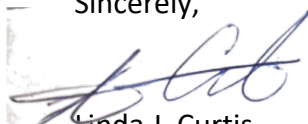
The Release notes that taking "corrective action" could be done by the Texas Legislature's currently open sunset review process and directions to the TCEQ by legislation. It further cites a report issued by the Sunset Review Staff of the Texas Legislature, which states "TCEQ's Policies and Processes Lack Full Transparency and Opportunities for Meaningful Public Input, Generating Distrust and Confusion Among Members of the Public."

In closing, LIV asserts that the public, through their own comments as well as the evidence submitted by the District and Environmental Stewardship, has more than met its burden to establish that this permit in its current form does not prove that Gapped Bass LLC has met *its* burden, as a polluter of the Colorado River, its environs, and the aquifers it recharges, that it will accomplish that pollution *at legally acceptable levels*.

LIV respectfully requests on behalf of its affected members that TCEQ deny the permit until Gapped Bass LLC has fully met its burden of proving their legal compliance as an applicant who wants to pollute some of Texas' most precious resources. We intend to ask the Legislature to so direct TCEQ in the current sunset review process.

Thank you in advance for your consideration of our concerns.

Sincerely,



Linda J. Curtis
Executive Director