

## EPA Called Upon to “De-Delegate” TCEQ as Water Permitting Authority

*Local Groups among 20 Organizations Supporting Petition just as EPA insists on reviewing Desalination Permits*

FOR RELEASE: Noon CST Thursday, Sept. 23, 2021

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**IOBCWA PRESIDENT  
PATRICK NYE**



**Ingleside on the Bay Coastal Watch Association**

**Corpus Christi, TX** – Hillcrest Residents Association (HRA) and Ingleside on the Bay Coastal Watch Association (IOBCWA) are among twenty environmental groups who filed a [“de-delegation” petition](#) today requesting that EPA take over Texas’ broken system, which has made it too easy for industries to contaminate waterways across the state.

“We are asking EPA to fix Texas water permitting programs to ensure waterways are protected and to ensure that ALL communities have a voice in the review process,” says **Lamont Taylor, Vice President of HRA**, a grassroots organization representing Corpus Christi’s Hillcrest neighborhood along Refinery Row. “Hillcrest has a history of environmental racism; is surrounded by refineries, tank farms, highways, and the Corpus Christi Ship Channel; and is facing a new threat - a desalination plant.”

According to **Patrick Nye, IOBCWA President**, the battles over several desalination plants in Corpus Christi Bay provides a prime example of how “TCEQ protects neither the environment nor Texas; it rubber stamps harmful industry permits - period! It classifies large changes to the natural state of sensitive bodies of water as trivial, and then allows these permits to sail through the permitting process.” Despite significant sustained public outcry from citizens in Port Aransas, Hillcrest, Portland, and Ingleside on the Bay, TCEQ has issued draft permits for costly desalination plants on Harbor Island, Corpus Christi’s Inner Harbor, and La Quinta Channel to support petrochemical industries being lured here by both the Port of Corpus and the City of Corpus Christi.

But things are about to slow down...

A [Sept. 20th letter from the EPA](#) informed the TCEQ that “EPA hereby terminates its waiver of review of these [desalination facilities] draft permits” and reasserts its role to ensure “that state issued permits are consistent with the requirements of the Clean Water Act (CWA)”. The EPA specifically called into question TCEQ’s classification of the Port of Corpus Christi’s planned desal plant on Harbor Island as “minor” despite concerns about “impacts of the proposed discharge to aquatic life, the water quality of the receiving waterbody Corpus Christi Bay, and the TCEQ’s overall permit development and issuance process”.

Water pollution is a major problem in Texas, with 9,711 miles of the state’s rivers, 590,214 acres of its lakes, and 1,248 square miles of its estuaries so polluted they are considered “impaired” under the federal Clean Water Act, according to the de-delegation petition filed today by the 20 allied organizations, including IOBCWA and HRA (see list at bottom).

To control this pollution, EPA delegated authority to Texas to administer a federal permitting program that sets limits for polluters. The petition documents how TCEQ has failed in its responsibilities by not requiring that polluters document the economic or social necessity of projects that harm downstream water quality and demonstrate that there are no viable alternatives. “The original economic justification granted in 2003 for extending the La Quinta Channel was to create a dedicated containerized cargo handling facility for domestic IMPORTS to benefit the public,” claims **Kathryn Masten, former Executive Director of IOBCWA**.

“However, the Port of Corpus Christi dropped plans for La Quinta Trade Gateway in 2017 after the longstanding oil export ban was lifted. La Quinta Channel was repurposed for EXPORTS that benefit private interests, with a goal to extract crude oil and LNG from the Permian Basin and Eagle Ford Shale as quickly as possible for sale to foreign countries.” Adds **IOBCWA Treasurer Jennifer Hilliard**, “As a 60-year-old bayfront community located at the convergence of the Corpus Christi and La Quinta Ship Channels, the incorporated City of Ingleside on the Bay has experienced coastal erosion, loss of fishing habitat, and pollution on all sides as oil and LNG terminals, petrochemicals, and ship traffic have exploded all around us. Instead of TCEQ taking into account our detailed comments in writing and at online public hearings, we’ve had to resort to legal action against the very public agencies that are supposed to protect us.”

In addition, Texas is improperly barring court challenges of bad water pollution permits from people who use waterways for recreational purposes, such as fishing or kayaking, but do not own land nearby.

“Over the years, Texas has given a green light to a huge amount of contamination of our waterways by allowing developers and other polluters to shortcut the legally required permit review process that is meant to safeguard our rivers and streams,” said **Ilan Levin, Texas Director of the Environmental Integrity Project**. “For this reason, EPA needs to step in and take over – or force Texas to fix its broken review system.”

**Kristen Schlemmer, Legal Director and Waterkeeper for Bayou City Waterkeeper in Houston**, said: “It is time for the EPA to step in. For far too long, Texas has played around with rules designed to protect our water and health for the benefit of polluting industries. The state’s negligence has left us with sewer overflows that happen daily, bayous and bays that don’t meet even Texas’ relaxed water quality standards, and real consequences for our collective health.”

**Alex R. Ortiz, Sierra Club Water Resources Specialist**, said: “The State of Texas has continuously failed to protect its residents, wildlife, and waterways by depriving Texans of meaningful engagement and shirking its responsibility to establish and enforce protective water quality standards. It’s well past time for EPA to get involved and prevent further harm to our state.”

A key missing element to Texas’ permit review process, according to the petition, is the lack of an effective “anti-degradation policy” to protect water quality. This policy requires industries to document the economic or social necessity of projects that pollute waterways and demonstrate that there are no viable alternatives that would avoid pollution of the waters.

The Texas Commission on Environmental Quality (TCEQ) allows industries and developers to skirt this permitting requirement by almost always asserting that the impact on downstream waterways will be too minor to make any real difference (exempt because it’s “de-minimis”).

According to the petition:

- TCEQ in 2013 approved a permit to allow a coal-fired power plant northeast of Austin, the Oak Grove Steam Electric Station in Robertson County, to discharge 1.67 billion

gallons of wastewater a day into the Twin Oak Reservoir by falsely claiming that the impact of this huge amount of effluent was “de-minimis” – or too little to matter.

- TCEQ in 2015 approved a permit amendment for the Liberty Hill Wastewater Treatment Plant north of Austin that allowed the plant to quadruple its discharge into the San Gabriel River, to four million gallons a day, by claiming the amount of additional phosphorus pollution was too minor to matter. In fact, upstream and downstream photos of the San Gabriel River submitted as part of the petition show clear harm to the river, with thick mats of algae downstream of the plant fed by the phosphorus discharges, but clear water upstream.
- In 2006, TCEQ approved a permit for a new Lerin Hills Ltd. sewage treatment plant northwest of San Antonio that would allow up to 500,000 gallons of wastewater a day into a clear Texas Hill Country stream in part by wrongly finding this would have a “de-minimis” or trivial impact.
- In 2019, using the same “de-minimis” exemption, TCEQ approved a permit for the City of Dripping Springs sewage treatment plant to dump almost a million gallons a day of effluent into a tributary to Onion Creek, increasing phosphorus pollution levels by up to 30 times current levels and potentially threatening an endangered species of salamander.

The 20 environmental organizations who filed the petition argue that these incidents represent a broader pattern of Texas failing to adequately protect waterways. According to EPA enforcement data, industrial facilities in Texas exceeded wastewater discharge permits more than any other state in the nation in 2018.

Among the 9,711 miles of “impaired” rivers and 1,248 square miles of impaired bays across the state are, for example, [a majority of the waterways in the Houston region](#), including Upper Galveston Bay, Buffalo Bayou and several other tributaries to the San Jacinto River. “Impaired” waters like these are too polluted to fully support natural wildlife or public uses such as recreation or drinking water supply.

In 2018, the Bayou City Waterkeeper documented more than [9,000 water pollution violations](#) by the City of Houston over five years, including the release of millions of gallons of sewage and stormwater into waterways, often in Latino and Black neighborhoods.

[A 2021 report](#) showed that Harris County's Sylvan Beach Park tested unsafe for swimming 61% of the time, and 23 beaches in Galveston County were unsafe for swimming nearly a quarter of the time they were tested.

In the Corpus Christi area, a [2019 report](#) found five public beaches in Nueces County were unsafe for swimming more than two thirds of the time because of fecal bacteria caused by sewage leaks and urban runoff.

In the Hill Country region of central Texas, a [2020 report by the Save Barton Creek Association](#) found that more than 81 percent of the region's sewage plants had dumped pollution into local waterways above permitted limits since 2017.

In 2012, only Indiana surpassed Texas for the amount of toxic water pollution discharged to its waterways from industrial facilities, a total of 16,476,093 pounds in the Lone Star State, according to EPA's Toxic Release Inventory.

To solve the systemic pollution control problem in Texas, the petition asks EPA to require Texas to start using the correct review and documentation process for issuing permits and allow court challenges of water pollution permits to the full extent required under the Clean Water Act. If Texas fails to implement these corrective actions, the petition asks EPA to take over the state program and fix the problems itself.

**Annalisa Peace, Executive Director, Greater Edwards Aquifer Alliance**, said: "It is shameful that Texas citizens have to spend large sums of their own money on legal actions to ensure enforcement of the Clean Water Act. During the past sixteen years, many hundreds of Texans have joined us in contesting permits initially approved by the TCEQ that are not adequately protective of the waters of our state."

**Nick Dornak, President of Friends of the Brazos River**, said: "The iconic rivers of Texas have shaped our history both culturally and strategically. As poor pollution-control policies, climate change, and rapid population growth have stressed our finite water resources to the breaking point, we must develop a new paradigm for how we manage and protect our water in the 21st Century."

**Bill Bunch, Executive Director of Save Our Springs Alliance**, said: "For too long, TCEQ has ignored the overwhelming science and the law of the Clean Water Act by issuing permits allowing wastewater discharges into our pristine Texas Hill Country streams. Our court victory last year invalidating such a permit to pollute made it clear this practice needs to end."

**David Foster, Clean Water Action Texas Director**, said: "Delegating the authority to enforce the federal Clean Water Act to a state only works if that state actually implements the law. The TCEQ's failure to do this has exposed Texas waterways and the people and ecosystems that depend on them to enormous risk. It's time for EPA to take matters into its own hands."

The 20 organizations that filed the petition with EPA today are the following:

Environmental Integrity Project  
Clean Water Action  
Sierra Club  
Public Citizen

Save Our Springs Alliance  
Bayou City Waterkeeper  
Environmental Stewardship  
San Antonio Bay Estuarine Waterkeeper  
Ingleside on the Bay Coastal Watch Association  
Greater Edwards Aquifer Alliance  
Simsboro Aquifer Water Defense Fund  
Wimberley Valley Watershed Alliance  
Friends of the Brazos River  
Granbury Fresh  
Protect Our Blanco  
Friends of Dry Comal Creek  
Hamilton Pool Road Matters  
Hillcrest Residents Association  
Friends of Hondo Canyon  
Bandera Canyonlands Alliance

*The nonprofit Ingleside on the Bay Coastal Watch Association (IOBCWA) was formed in 2019 by citizens who are taking action to mitigate negative effects on our bayfront community due to rising sea levels, larger and more frequent ship traffic, and rapid industrialization.*

*The Hillcrest Residents Association (HRA) seeks to protect the public health, safety, and environment for residents in Hillcrest, a historically black neighborhood located along Corpus Christi's "Refinery Row" that is surrounded by refineries, tank farms, highways, and the Corpus Christi Ship Channel.*

*The Environmental Integrity Project (EIP) is a 19-year-old nonprofit organization, based in Austin, Texas, and Washington, D.C., that is dedicated to enforcing environmental laws and strengthening policy to protect human health and the environment.*

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