

**BASTROP COUNTY MUNICIPAL UTILITY DISTRICT NO. 1
BASTROP, TEXAS**

October 24, 2022

BY ELECTRONIC MAIL (commissr@tceq.gov) AND BY MESSENGER

Mr. Toby Baker
Executive Director
Texas Commission on Environmental Quality
Directors Section MC-109
12100 Park 35 Circle, Bldg A, Rm 179
Austin TX 78753

Dear Mr. Baker:

The Board of Directors of Bastrop County Municipal Utility District No. 1 (the "District") has received confirmation that the Appelt Company and Texas Aggregate LLC, an affiliate of Lauren Concrete, are engaged in active negotiations to locate a sand and gravel operation on property that abuts the District's southern boundary. The purpose of this letter from the District is: (1) to request that the Texas Commission on Environmental Quality (the "TCEQ") provide the District notice of applications to operate a sand and gravel operation in Bastrop County; and (2) to register the District's objection and opposition to any and all related applications to operate a sand and gravel mining operation in Bastrop County or adjacent to the District boundaries. Because the TCEQ is the primary agency for authorizing, monitoring and enforcing adherence to laws governing both municipal utility districts and sand and gravel operations and aggregate production operations (collectively, "APOs"), for the reasons stated below, the District requests that the TCEQ provide the District written notice of any applications for registration of sand and gravel operations or APOs made anywhere in Bastrop County currently pending and in the future.

Bastrop County MUD No. 1 Opposes the Proposed Sand and Gravel Operations Adjacent to the District's Southern Boundary

There is no question that the proposed location of this sand and gravel operation will have an adverse impact on the health and safety of residents and wildlife within or around the District, as well as increasing the probability of damage to the District's water and wastewater infrastructure, including the District's water and sewer lines and its water storage plant and wastewater treatment plant.

Bastrop County officials have informed the District and other County residents that County authority to regulate these types of operations is extremely limited under Texas law. The District's Board of Directors, along with the District's legal counsel, have requested to meet with a representative of TCEQ in order to better understand how the TCEQ balances the

rights of landowners that wish to conduct these types of operations with the rights of nearby residents and the general public.

The limited regulatory environment around APOs has been brought to the attention of the Texas Legislature for several years. The aggregate industry seem to expect significantly more stringent regulations may be instituted in coming years, and participants in the aggregate industry appear to be racing to lease and/or purchase land for aggregate operations in Central Texas and file applications for these operations so that they are “grandfathered” under the existing regulations. We implore you to give careful consideration to the quality of life of local residents that will be significantly impacted by these types of operations.

History & Background

In 1998, a land developer, Les Appelt, carved out approximately 700 acres from his 1300 acres of land in Bastrop County and subdivided the land generally into one-quarter acre to one-acre tracts and constructed the utility lines and water storage and wastewater treatment plants to serve these tracts. He then requested the creation of the District pursuant to TCEQ regulations. These utility lines and plants were constructed by Mr. Appelt’s company in the lower Colorado River floodway. The District reimbursed the Appelt Company for the costs of the District’s infrastructure. Now that the Appelt Company no longer owns substantial lands or platted lots in the southern portion of the District, it is discussing a sand and gravel mining operation to be located near the southern boundary of the District.

Below is a list of some of the more important issues that should be considered by the TCEQ as part of its review of the application for this proposed activity.

1. The large majority of the subject Appelt property being considered for the sand and gravel operation is located in the Colorado River floodplain/floodway. This operation, if permitted, would exacerbate flood hazards upstream, and result in significant silt deposits downstream.
2. The subject Appelt property lies within the federally defined critical habitat area of the Houston Toad, an endangered species.
3. Due to prevailing winds, not only the residential community located in the District, commonly referred to as Colovista, but also developments such as Pine Forest and Tahitian Village, as well as the City of Bastrop, will be in the direct path of large amounts of dust and other particulates created by the mining of sand and gravel in this area.
4. The large, heavy trucks moving the sand and gravel will devastate existing Bastrop County roads, and the County has stated that it does not have sufficient funds in its budget to repair these roads once destroyed by this trucking. Further, any available access to Texas Highway 71 presents a serious traffic safety hazard.
5. The District has ample available capacity to substantially increase the tax base for Bastrop County. The proposed sand and gravel operation will destroy that potential. Further, this operation, both noisy and dirty, will degrade values of existing homes in the area. Approximately 175 families currently live in the District. The District has

capacity in its water and sewer facilities to double that number of families it serves to 350.

6. District representatives have spoken to the Bastrop County Commissioner whose precinct includes the District regarding this matter and were told that the aggregate industry will not have a positive net economic impact on Bastrop County. However, the County lacks sufficient authority to effectively regulate this industry within County boundaries.

Conclusion.

The considerable dust and particulates resulting from this mining, the noise from operation and the associated trucking and the water runoff from this operation know no boundaries. The insensitive commercial behavior by the parties to this potential transaction, along with lack of public notice, lack of State and local regulations, lack of funding to pay for road damage, and the lack of regard for the health and safety of Bastrop County residents, make this situation intolerable for the District, the County and its residents. The necessity of public notice along with very stringent State and local regulation, including permitting and related analysis, are obvious.

We appreciate your attention to this matter and our comments.

Sincerely,
Bastrop County Municipal Utility District Board of Directors

Enc: Map of Bastrop County Floodplain

cc: The Honorable Governor Greg Abbott; Info@GregAbbott.com
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