Chairman Blythe and Members of the House Special Interim Committee on Water Supply and Waste Disposal in Metropolitan Areas:

Thank you for the invitation extended by your Chairman, Representative Bill Blythe, asking me to discuss the reasons for my circulating a petition requesting Speaker Daniel to designate a standing committee of the House to undertake an investigation of the Texas Water Quality Board and its Executive Director, Hugh Yantis.

Before I give you some insight into that subject, let me say that the work of this Special Interim Committee can not only complement the investigation that is to be undertaken upon adjournment of the Constitutional Convention by the Pollution Subcommittee of the Environmental Affairs Committee--headed by one of your members, Representative Gene Jones of Houston. Your committee can also do a great service by concentrating on the specific mission that was assigned to it: water supply and waste disposal in our metropolitan areas. Representative Jones' Subcommittee will have a far broader area to study, and will not be able to fully explore all ramifications of the special problems that our urban centers are having with water supply and waste disposal. I think that the work of this Special Interim Committee together with that of Representative Jones' Subcommittee can go a long way toward establishing a solid foundation for remedial legislation that we will need to enact when the 64th Legislature convenes in January.

Let me also add this personal note. My own experience with
committee investigations shows that if you do a thorough job the agencies will take corrective action in an effort to head-off legislation. That is what has happened as a result of the House Committee on Human Resources' investigation on child care. While our investigation was underway the agencies began to shake out the cobwebs that had accumulated during two decades of neglect. We then came up with a tentative draft of a proposed bill. The agencies, including the Departments of Public Welfare and MH/MR, reacted by voluntarily undertaking some of the reforms which we proposed.

I think that this Special Interim Committee, and Rep. Jones' Subcommittee that has been designated by the Speaker to undertake the exhaustive investigation that 45 of us called for, can have this same kind of impact in the water quality field.

The impressions which I have gathered from several months of concern while working with the City of Corpus Christi to head-off a TWQB permit for a toxic chemical disposal site near Three Rivers, and my reactions to what I have seen and heard, lead me to some tentative conclusions which I would like to pass along to you. It would be my hope that your investigation can establish that at least some of these tentative conclusions of mine are not entirely correct. But if your work establishes that I am right, I hope that you can come up with some satisfactory answers to a series of very vexing problems.

My first conclusion is not so tentative after all. I think it's a safe assumption. The Texas Water Quality Board has lost the confidence of large numbers of very capable professional people. You have
seen the newspaper editorials denouncing the TWQB's various decisions on permits. Those reflect a loss of popular support. I am talking about the disrepute in which the TWQB is held by professionals: engineers, public health officials, and medical practitioners. Veteran employees and officials of the City of Corpus Christi tell me that they have never worked with a public agency which evidences so little concern for the public good, that is so disdainful of local government, that runs roughshod over all who oppose it, as the Texas Water Quality Board.

As "Exhibit A" I am submitting the petition filed by Bexar County and the City of San Antonio in their law suit against the TWQB. This was filed last month. If you listen to not another word I say, or read not another exhibit that I submit, I urge you to read the Plaintiff's Original Petition in the law suit styled BEXAR COUNTY AND CITY OF SAN ANTONIO, TEXAS vs. TEXAS WATER QUALITY BOARD AND DENTON DEVELOPMENT CO., INC. This is the suit over the TWQB permit which Bexar County and the City of San Antonio allege will cause pollution of the Edwards Underground Aquifer, the source of drinking water for a vast metropolitan area and a large rural area too, for that matter.

If even some of the allegations made in this law suit against the TWQB are correct, the State has a major problem on its hands with this agency.

My second conclusion is that the TWQB is not structured properly. Unlike most other State agencies and commissions, it is not governed by an all-citizen board. The statute establishing the TWQB provided for membership on the Board of the Executive Directors of the Water
Development Board (that is Harry Burleigh); the Railroad Commission (Commissioner Langdon occupies that slot); and the State Department of Health (Dr. Peavy). We, most unfortunately, have wound up with proxies attending many Board Meetings. And they frequently rank lower on the bureaucratic totem pole than Hugh Yantis, Executive Director of the TWQB. Consequently, they don't talk back to Yantis, and we have a virtual dictatorship and not the kind of citizen-controlled State agency which we are familiar with, and which is without question desirable in this case.

Dr. Walter Quebedeaux, the Director of the Harris County Pollution Control Department, has written a very thoughtful and provocative letter to Representative Gene Jones on this subject, and I am passing it along to you as my "Exhibit B". Dr. Quebedeaux makes the suggestion that we consider merging the TWQB and the Texas Air Control Board into one agency. I am no fan of agency mergers merely for the sake of creating one larger agency, but this idea has some merit and I hope that you will look into it thoroughly. Needless to say, passage of a bill merging the TWQB and the TACB into one anti-pollution agency would allow the Governor to put some new faces on the board of the newly-formed agency.

I am inclined to believe that the Legislature flunked the course when we structured the TWQB along its present lines, and I will never cast my vote in the future for the creation of any agency whose board will be dominated by employees of other agencies.

My "Exhibit C" is a resolution adopted on February 11 of this year by the Nueces County Medical Society. I pass it along to you.
and ask what your response as State Representatives would be if your local medical society adopted a similar resolution opposing the construction of a disposal site for heavy metals, salts, paints, oils, solvents, and toxic chemicals to be located within your water shed, only 10 miles from the river which feeds your city's reservoir.

Whatever your reaction would have been, my reaction to this Nueces County Medical Society resolution and to the vehement opposition of the City of Corpus Christi to this Yantis-approved permit was to round up the names of 44 other House Members on a petition asking the Speaker to designate a committee to give the TWQB and Mr. Yantis a thorough airing. The Speaker responded in a very positive manner, and turned the job over to Rep. Jones' Pollution Subcommittee. I am pleased that Rep. Jones already has staff work under way and that hearings will begin shortly after adjournment of the Constitutional Convention.

Rather than go into technical details about the TWQB's permit for that toxic waste dump at Three Rivers, I will submit as my "Exhibit D" a letter from Mr. Robert E. Schneider, Director of Public Utilities for the City of Corpus Christi, to Dr. Paul Gray. Dr. Gray is a member of the Environmental Pollution Committee of the Texas Medical Association and is Chairman of the Nueces County Medical Society's Environmental Pollution Committee.

My "Exhibit E" is a letter from Gus Herzik of the State Department of Health to Dr. Vernon L. Medlin, President of the Nueces County Medical Society, and my "Exhibit F" is a letter from Dr. Gray.
to Mr. Herzik.

For your information, Dr. Gray wrote me on May 29, and I quote, "I received no response from the State Health Department and little satisfaction from my conversation with Dr. Peavy."

And that, Gentlemen, is a matter which I am going to look into myself in my capacity as Chairman of the House Committee on Human Resources, which as you know has legislative jurisdiction over the State Department of Health.

I call your attention to this paragraph on page 2 of Mr. Schneider's letter to Dr. Gray:

"The entire application, including the engineer's statement and the geologist's, leaves a lot of questions unanswered and makes a lot of general statements that they should have had to qualify. We are dealing with products that are known to be toxic and hazardous, and allowing them to be buried in the water shed where the only source of potable water is that captured within the run-off of that shed is unthinkable. This potable water supply serves both municipal and industrial users in the Coastal Bend area and as far southwest as Alice."

Those of us in Nueces County have the feeling that something is rotten in Denmark; not just because of the technical problems with the application for this permit, but because the City of Corpus Christi received no written notice of the hearing on the application until December 5, 1973. We found out later that on December 17, Mr. Yantis had already issued the permit and the company--South Texas Industrial Services--was moving ahead with construction. The TWOB
claims that all of the adjacent landowners were notified of the hearing, but only five of the nine adjacent landowners actually received notification.

I call your attention to the fact that Paul Harris, Executive Vice-President of the disposal company that got this permit, South Texas Industrial Services, served from 1969 to 1972 as director of industrial solid waste management for the TWQB. Another employee of the company, David Hendricks, is also a former Yantis lieutenant. Sunday's Houston Chronicle and Dallas Times-Herald give us other examples of "cronyism" at work in the TWQB.

For additional background, I am including, as my "Exhibit G", an excellent article from the May 5, 1974 issue of THE CORPUS CHRISTI CALLER by Don Rodman, a staff writer for the paper. I have earlier given this article to Chairman Bigham of the Environmental Affairs Committee and to Rep. Jones, Chairman of its Pollution Subcommittee. I urge all of you to read it.

Gentlemen, a close look at my exhibits will show you that Bexar County, the City of San Antonio, the City of Corpus Christi, and some live Oak County ranchers have all been the victims of the Hugh Yantis steamroller. I have seen my fill of state agencies which neglect their duties—that put their own interpretation on the laws which the Legislature has enacted to govern their conduct—and I have seen some ineptitude and incompetence in several agencies. But I have never heard before so many highly qualified and responsible chemists, engineers and physicians tell me that an agency of our state government has acted in such a ruthless, high-handed and autocratic manner, and with such total disregard for the public interest, as the Texas Water Quality Board.

It is long past time we put a stop to it.
IN THE DISTRICT COURT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Plaintiffs-Appellants, Bexar County, Texas and the City of San Antonio located in Bexar County, Texas. The Plaintiffs-Appellants are both, bodies corporate and politic, and political subdivisions of the State of Texas, duly constituted and organized under the laws of the State of Texas. Bexar County is acting by and through the duly elected, qualified and authorized Criminal District Attorney of Bexar County, Texas. The City of San Antonio is acting by and through its duly appointed, qualified and authorized Attorney. The Plaintiffs-Appellants now complain of the Defendants, the Texas Water Quality Board, an agency of the State of Texas and the Denton Development Company, Inc., a Texas corporation formed for profit. For this cause of action Plaintiffs-Appellants would respectfully show this Honorable Court; the following:

I.

PARTIES

1. That Plaintiff-Appellant, Bexar County, is one (1) of the two hundred and fifty-four (254) counties created and authorized by Article IX, Section 1 of the Constitution of the State of Texas. The County of Bexar acts by and through its duly elected, qualified and authorized Commissioners' Court pursuant to Article V, Section 15 of the Constitution of the State of Texas.
2. That Plaintiff-Appellant, the City of San Antonio is a political subdivision located within Bexar County, Texas, created and authorized by Article XI, Section 5 of the Constitution of the State of Texas. The City of San Antonio acts by and through its duly elected, qualified and authorized City Council pursuant to Sections 1, 2, 3 and 4 of the Charter for the City of San Antonio, Bexar County, Texas.

3. That Ted Butler is the duly elected, qualified and authorized Criminal District Attorney of Bexar County, Texas. That as Criminal District Attorney of Bexar County, Texas, Ted Butler is authorized to represent Plaintiff-Appellant, Bexar County in this cause of action pursuant to the authority granted him by Article V, Section 21 of the Constitution of the State of Texas, and Article 326K-50 of the Civil Statutes of the State of Texas.

4. That Crawford Reeder, is the duly appointed, qualified and authorized City Attorney for the City of San Antonio, and as its attorney, he is authorized to represent the City in this cause of action pursuant to the authority granted him by Section 3, 53 and 54 of the City Charter.

5. That Defendant, Texas Water Quality Board, (sometimes hereinafter referred to as the "Board"), is an agency of the State of Texas duly organized, authorized and existing pursuant to Title 2, Chapter 21 of the Texas Water Code. Service upon the Texas Water Quality Board may be had by serving Hugh Yantis, Executive Director of the Texas Water Quality Board, 1700 North Congress Avenue, Austin, Travis County, Texas.

6. That the Denton Development Company, Inc., (sometimes hereinafter referred to as the "Developer"), is a profit making Corporation duly organized and incorporated under the laws of the State of Texas. Service upon the Denton Development Company, Inc., may be had by serving its duly authorized agent for service, Lloyd A. Denton at Suite 101, 8103 Broadway, San Antonio, Texas.
II. VENUE
That venue of this cause of action is in Travis County, Texas pursuant to Article 1995, Section 30 of the Civil Statutes of Texas and Article 21.451(a) as amended 1973, Title 2, Chapter 21 of the Texas Water Code.

III. JURISDICTION
That the Citizens of Bexar County, Texas and the City of San Antonio, Bexar County, Texas, duly represented herein by the Plaintiffs, Bexar County and the City of San Antonio, invoke the jurisdiction of this Honorable Court pursuant to the following:

A. Title 2, Chapter 21 of the Texas Water Code, more specifically, Section 21.451, as amended 1973 of the Texas Water Quality Act.

B. Title 33, Chapter 26 of the United States Code annotated, more specifically, the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.

C. The Texas Bill of Rights, more specifically, Article I, Section 19 of the Constitution of the State of Texas.

D. The United States Constitution, more specifically, the 14th Amendment of the Constitution of the United States of America.

IV. INTRODUCTION
1. This cause of Action is an appeal to this Honorable District Court from the Texas Water Quality Board Order issued on April 24, 1974. Said Order, in direct violation of the policy and purpose of the Texas Water Quality Act, authorizes the Defendant, the Denton Development Company, Inc., under permit Number 11554 to
discharge human sewage over an area within Bexar County, Texas some six (6) miles northeast of San Antonio, Texas. Such discharge area lies directly astride a sensitive geologic rock formation known as the Recharge Zone to the Edwards Underground Aquifer.

2. That the Developer's primary purpose in seeking the Texas Water Quality Board's approval to discharge, initially, one million (1,000,000) gallons of sewage per day onto the Edwards Recharge Zone is to remove sewage from its proposed development in a manner which will be least costly to the Developer and therefore will result in the greatest possible financial gain, an act which is itself completely void of any concern for the continued health, safety, and welfare of the Citizens of Bexar County, Texas.

V.

FACTS

1. The Edwards Aquifer is an underground rock formation of limestone that stretches from Uvalde, Texas to San Marcos, Texas. At its widest point, around San Antonio, the Aquifer spans several miles beneath the surface. The Edwards rock formation remains an underground strata except along the northern edge of the Aquifer region, where because of turbulence, millions of years ago, a fault was created in the formation, causing a long thin break in the limestone strata, forcing the broken area to jut to the surface. This thin fault line, with millions of fractures, today lies exposed to surface matter thereby acting as a conduit of surface water to the billions of underground solution channels, caves, and caverns which labyrinth the Edwards Underground Reservoir or Aquifer. Because the exposed area of Edwards limestone is the only means by which surface water may enter the Aquifer it is called the Recharge Zone: The Aquifer itself is protected from vertical infiltration by a veil of impermeable rock.
2. The Aquifer supplies the entire water supply for over one million persons, including all residents of San Antonio. San Antonio is the largest city in the United States relying upon underground water. The underground river known as the Edwards Aquifer is one of the few remaining pure water supplies in the world. Because of its protected veil of impermeable rock it has flowed free of human pollutants while surface streams have become so foul that even fish cannot live.

3. It is only through the surface-recharge portion of the Edwards formation that pollutants may filter into the Edwards Aquifer. This recharge zone is approximately 1/2 mile wide in northern Bexar County. Bexar County has recognized the sensitivity of this 1/2 mile strip known as the Recharge Zone. In fact, Bexar County has retained consultants in geology, hydrology, and biology to determine the detrimental effects of discharging pollutants upon the Recharge Zone. All consultants have expressed certainty that the discharge of sewage upon the Recharge Zone will ultimately filter into the Aquifer proper and pollute its now pure waters.

4. The Developer in early 1973 made application to the Texas Water Quality Board to discharge, initially, one million (1,000,000) gallons of sewage per day upon the Edwards Recharge Zone, lying six (6) miles northeast of San Antonio and directly upstream from three (3) proposed San Antonio River Authority recharge dams.

5. Having received the Developer's application, the Texas Water Quality Board directed one Millard Bruce to investigate the proposed discharge site over the Recharge Zone and file a report. Millard Bruce is neither a hydrologist nor geologist; however, he is the only Texas Water Quality Board employee to tour the site. Though the Texas Water Quality Board does employ a qualified hydrologist and several geologists, none of these qualified personnel ever set foot on the proposed area, despite the sensitivity of the geologic and hydrologic strata upon which this mass of human waste would filter if the Developer's application were granted.
Though Millard Bruce was not skilled in geology or hydrology he was astute enough to file a report with the Texas Water Quality Board which advised the Board that the discharge from the Denton Development would filter into the Aquifer and he further speculated that "degradation of Edwards will follow . . ." 

Thereafter, the Texas Water Development Board, a responsible agency, did dispatch its staff geologist, David Evans, to investigate the proposed site. Geologist Evans in his report to the Texas Water Quality Board advised that "the proposed development and sewage-treatment plant are on the Recharge Zone of the Edwards and associated limestones," and that the effluent therefrom would "... infiltrate the Aquifer and degrade significantly the quality of groundwater in the Edwards Underground Reservoir."

Despite the warning comments of its only employee to examine the proposed site, and the Water Development Board's staff geologist, the Texas Water Quality Board went forward with its approval of the Developer's Application.

6. A hearing date of April 24, 1974 was set for the application of Denton Development Company, Inc., to discharge, initially, 1,000,000 gallons of human sewage per day directly upon the Recharge Zone. Notices of said hearing were not prepared until April 15, 1974, (See attachment) and they were not received by the interested parties until April 18, 1974, a mere six (6) days before the hearing.

Further, upon consultation with the Presiding Officer of the hearing Commission, the representative for Bexar County and San Antonio was informed that the hearing would not commence until the afternoon of April 24, 1974. Upon his arrival at the afternoon session of the Texas Water Quality Board Hearing Commission, the representative for Bexar County and the City of San Antonio was informed that the Commission had approved the application of Denton Development Company, Inc., at the morning session.
7. The Texas Water Quality Board, ignoring the certainties of pollution to the Edwards Aquifer, has now issued its discharge permit to Denton Development Company, Inc., thereby violating the trust placed upon it by the Texas Water Quality Act to preserve and protect the quality of all waters in the State. The Board's action was thereby invalid, arbitrary, and unreasonable.

8. The Board at its April 24, 1974 meeting made no determination as to whether or not it would be feasible from an engineering and economic standpoint to transport treated waste effluent from the Recharge Zone in order to protect the Edwards Underground Reservoir from pollution. The Board also failed to determine whether the sewage treatment plant should be located on the Recharge Zone or whether its removal is necessary in order to protect the Edwards Underground Reservoir from pollution. Both failures to act by Board are a direct violation of the Texas Water Quality Board's Order Number 74-0326-4, passed on March 26, 1974.

VI.

CAUSES OF ACTION

The Board's action failed to comply with the rights guaranteed under the Constitution of the State of Texas and the United States Constitution and it wholly abandoned the clear intent and purpose of the Texas Water Quality Act; and, furthermore, the Board's actions were invalid, arbitrary, and unreasonable for the hereinafter stated reasons:

A. The issuance of the permit is invalid because only six days notice of the Hearing was given to Bexar County and San Antonio, rather than twenty days notice as required by Section 21.074 of the Texas Water Quality Act. Such failure to give timely notice operated to the detriment of Plaintiffs-Appellants named herein because they were unable in so short a period to adequately examine and comment on the Developer's application;
furthermore, the misrepresentation to the representative of Bexar County and San Antonio that the hearing would be held at a time later than it actually was held, was a denial to the Citizens of Bexar County and San Antonio of their right to be heard thus violating the notice requirements of the Texas Water Act and the due process requirements of the Constitution of the State of Texas, Article I, §19 and the 14th Amendment to the United States Constitution.

B. The granting of the permit to discharge one million (1,000,000) gallons of human sewage per day astride the Recharge Zone was an arbitrary and unreasonable action because the discharge will pollute the Edwards Aquifer rather than maintain its quality for the public health and enjoyment as required by Section 21.02 of the Texas Water Quality Act.

C. The action of the Board was arbitrary and unreasonable because it made its decision, having never directed any of its hydrologic or geologic personnel to study or examine the discharge site, despite the known sensitivity of the Recharge Zone.

D. The Board's action was arbitrary and unreasonable in light of the fact that the only employee that the Board dispatched to the proposed discharge area made a report indicating the certainty of pollution to the Aquifer should sewage be discharged from the proposed site.

E. The permit issued by the Board and the Developer's discharge of sewage into the Recharge Zone will result in a taking of the public's water supply without just compensation, thereby violating the Users' property rights under the Constitution of Texas and the United States Constitution.

F. The Board's action is in violation of the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq. as amended, which provides that the Nation's waters shall not be degraded by any private or public group or any governmental entity.
G. Since it is the purpose of the Texas Water Quality Act to maintain the quality of water in the State in a manner consistent with the public health and wellbeing, the Board's action has violated the public trust for which it was created by the legislature, and has once again cast its lot with the polluter.

H. The action of the Board was invalid, arbitrary and unreasonable because the Board failed to follow its own guidelines enacted by the Board at its previous monthly meeting of March 26, 1974. The Board violated Section III, (A) of Texas Water Quality Board Order Number 74-0326-4 by failing to make a determination as to whether diversion of treated waste effluent from the Recharge Zone was feasible from an engineering and economic standpoint.

I. The Texas Water Quality Act, Section 21.003 (11) and (16) provide that no discharge permit shall be granted to any applicant unless such permit will "preserve and enhance the quality of the water" in the State. Such provision thereby establishes for the waters of Texas a "non degradation" policy which must be adhered to. The Board's action—in this instance violates the "non degradation" policy established by the Texas Water Quality Act because the discharge of sewage upon the Recharge Zone will degrade the waters of the Aquifer.

VII.

PRAYER

The Texas Water Quality Board and Denton Development Company, Inc., having violated the laws in the aforestated particulars, Bexar County and San Antonio respectfully pray that this Honorable Court cancel and suspend the Board permit number 11554 and enjoin the Denton Development Company, Inc., from discharging sewage at, upon, or near the Recharge Zone, and further, that the Court declare the Board's action to be in violation of the clear intent and purpose of the Texas Water
Quality Act and the Federal Water Pollution Control Act, and
it is further moved that all attorneys fees and costs of
litigation be awarded to the named Plaintiffs-Appellants in
this action, and such other and further relief, both general
and special, both in law and in equity to which the Plaintiffs-
Appellants may show themselves justly entitled.

Respectfully submitted,

TED BUTLER
Criminal District Attorney
Bexar County, Texas

RODGERS T. STOREY
Assistant Criminal District Attorney
(Civil Section)

NELSON M. ATWELL
Assistant Criminal District Attorney
(Special Crimes Section)

KEITH W. BURRIS
Assistant Criminal District Attorney
(Felony Section)
Bexar County Courthouse
San Antonio, Texas 78204

CRAWFORD A. REEDER
City Attorney for San Antonio, Texas
City Hall
San Antonio, Texas
TO: Parties interested in the application of Denton Development Company (West Elm Creek)

Gentlemen:

The enclosed Hearing Commission Report will be presented to the Texas Water Quality Board at its regular monthly meeting commencing at 9:00 a.m. in the Madrid-Granada Rooms, Sheraton Crest Inn, 111 East First Street, Austin, Texas on April 24, 1974.

The Board will receive only: the report of the Hearing Commission; evidence which is necessary to correct or point out deficiencies in the summary of evidence contained in the report; or newly discovered evidence or evidence which for good reason, in the judgment of the Board, was not presented to the Hearing Commission and which should be received in order to prevent an injustice or to complete the record. Persons who make requests to present newly discovered or additional evidence should be prepared to show that the same was not presented to the Hearing Commission for good reason. The Board may exclude evidence that is merely repetitious of that set out in the summary of evidence in the report of the Hearing Commission or which is repetitious of evidence previously heard by the Board.

We request that written exceptions and written requests to be heard at the Board Meeting be transmitted to the Board's staff at least three (3) days prior to the Board Meeting. If the request to speak or the written exceptions are in the nature of protest to the issuance of a permit, waste control order, or certificate of registration, out of fairness to the applicant, the person making the protest should furnish a copy of it to the applicant at least three (3) days prior to the Board Meeting.

Very truly yours,

James Showen, Director

[Signature]

W/VF

[Stamp: RECEIVED APR 18 1974]

[Stamp: OFFICE OF LIPER RELIEF COUNTY JUDGE, BEAR COUNTY]
Hon. Gene Jones  
House of Representatives  
Capitol Station  
Austin, Texas  78711

Dear Gene:

I was glad to see you were named to be Chairman of the Pollution Subcommittee, which has just been named by Speaker Price Daniel, Jr. While the moving force behind this action on the part of the Speaker was the situation involving the City of Corpus Christi, there is a multitude of items which your committee should consider. As you know I have been in the forefront of complaining about the activities of the Texas Water Quality Board. I believe I can show your committee specific examples of "ultra vires" actions which have been taken; therefore, I would like to request that I be notified when this committee begins to study so that I can offer testimony. I will be out of the state the week of June 9. Any time other than that can be fitted into my schedule.

It has long been my opinion that the mere changing of one or two individuals heading the Texas Water Quality Board staff would not result in a change of attitude. Your committee might consider whether or not this is the time to combine the Texas Water Quality Board and the Texas Air Control Board under the direction of a completely appointive citizen board, in the same manner as the representation of the Texas Air Control Board is accomplished. Such a combination saves the tax payers of this state money, in that there would be only the
necessity for supporting a single board. If this combination is made, a new administrator would be better able to combine the activities, as well as correct the deficiencies which we now find. The old adage that "a new broom sweeps clean" is true.

Sincerely yours,

W. A. Quebedeaux, Jr., Ph.D.
Director
Harris County Pollution Control Department

cc: Representative Carlos Truan
    Representative Ron Waters
    Representative Woody Denson
    Representative Joe Salam
    Representative Nick Nichols
    Speaker Price Daniel, Jr.
EXHIBIT "C"

THE NUECES COUNTY MEDICAL SOCIETY

RESOLUTION

WHEREAS, The proposal by South Texas Industrial Services to construct a sanitary fill for materials, many of which may be or are extremely hazardous to the human body, is to be located near Whittset, Texas in an area whose drainage is directly into the Atascosa River, a major tributary of the Nueces River Watershed; and

WHEREAS, Despite all precautions there can be no guarantee that seepage of heavy metals and other toxic materials will not occur to contaminate our water supply; and

WHEREAS, There are many unknowns regarding the interaction of the various chemicals as to their effect on seepage rate, breakdown end products; and

WHEREAS, There are strong doubts as to the efficiency and permanency of construction; and

WHEREAS, We are concerned with the long-term protection of our water supply and have grave doubts of the operative maintenance of said landfill; and

WHEREAS, as physicians, we have a health responsibility to our community; therefore be it

RESOLVED, That the Nueces County Medical Society opposes the construction and operation of a sanitary landfill for disposal of waste tars, pitches, polymer resins, oils, organic and inorganic sludges, solvents, paints, residues, catalysts, heavy metals, salts, metal containers, wood, paper, and plastic, as proposed by the South Texas Industrial Services, Inc. Near Whittset, Texas.

Passed by unanimous vote by the Executive Committee of the Nueces County Medical Society on February 11, 1974

[Signature]

[Signature]

[Signature]

[Signature]

NUECES COUNTY MEDICAL SOCIETY

PRESIDENT: JAMES F. WRIGHT, M.D.
Vice President: H. E. COMSTOCK, M.D.
Secretary: JOHN L. SNODRIDGE, M.D.
Treasurer: ROBERT S. ROWE, M.D.
Assistant Secretary: HENRY F. KEITZ, M.D.
Assistant Treasurer: OTIS H. HARRELL, M.D.
State Delegate: OTIS H. HARRELL, M.D.
Alternate: OTIS H. HARRELL, M.D.
The following document was scanned from the library’s collection.

The scan accurately reflects the library’s copy.
Dr. Paul Gray  
2419 Medical Center  
Corpus Christi, Texas

Dear Dr. Gray:

We appreciate your interest in the South Texas Industrial Services project. As per your request I will list the following areas of concern that the City has for the development of this project. We believe the project was given less than adequate consideration by the hearing examiners of the Water Quality Board staff prior to their recommendation that the certificate be issued. The burden of proof has been transferred from the developer to the City of Corpus Christi and other water users. This is an unusual procedure in that the Water Quality Board should be looking after the welfare of the communities involved and the protection of their waters rather than providing a private corporation with a disposal site that has not been properly evaluated and which in the end may even have a questionable need. For years the Water Quality Board and the Railroad Commission have been opposing all types of surface pits for disposal purposes and even though there may appear to be a need for a pit for disposal of undesirable and unwanted wastes, it should not be located in any area where the surface waters are the only dependable source for a water supply. The application and certificate as issued has called for the burial of all types of industrial wastes including chlorinated hydrocarbon and heavy metals. The location of the site is 7.2 miles north of Three Rivers.

1. Weedy Creek crosses the lower corner of the disposal tract and some two miles away runs into the Atascosa River which joins the Nueces River approximately three miles below Three Rivers.

2. Test borings on the first ten-acre tract indicated a thin water strata from 15' to 18' with 5' to 20' of sandy to silty clay.
Even though the 40' level, which is indicated to be the bottom of the pits, seems to be of a more impervious type clay. Unanswered questions remain as to the thickness of this clay and whether or not it is truly impervious. It further appears that the applicant has taken the matter of the water at the 20' level very lightly when in all probability it will be draining into the pits and creating further probability of further leakage of waste materials.

3. The developer talks of chemicals and heavy metals being mixed with the clay and due to ion exchange would be neutralized. To date we have not been able to determine that this will or will not take place and it appears the developer's only responsibility would be to make some determination prior to burial of the different types of material as to its affect on the different types of clay.

4. Even though the certificate talks of large volumes of tonnage, it does not establish any quantitative values or tolerance limits.

5. The developer indicates it is very unlikely these hazardous and toxic materials will contaminate any surrounding ground waters or surface waters, but just in case they propose to provide test wells and will monitor the wells and Weedy Creek on a quarterly basis as a precaution. The parameter set out in the application as tests are of little significance in the type of waste being disposed of even though they may be very important in the handling of sewage effluent or other discharges being made into existing bodies of water. The monitoring should require that tests be made for heavy metals and other toxic and hazardous materials.

6. The location of the site is in an area with a rolling terrain with as much as a 40' drop in elevation from the initial site to Weedy Creek. The only borings taken were in and adjacent to the ten-acre tract without any evidence to determine whether the seepage would be toward the Creek or contained in a relatively flat strata of clay. It appears from very limited information that the strata of clay will slope to the Creek and would provide an excellent bleed-off for seepage from the storage pits. No attempt to determine what the seepage would be or how long it would take to migrate toward the Creek has been made. The application indicates in all probability this will not happen, but if there is any chance seepage will occur then there is no excuse for the pit being allowed in a water shed area.

7. The City of Corpus Christi's experience with land fills and the perpetual maintenance required after discontinuing it as a land fill area has been long and each have required much continued supervision. The site of the proposed land fill being located in a rolling terrain would have every possibility of being eroded away in the
years to come from heavy rainfall. No provisions are provided for in the certificate for perpetual maintenance after the fill has been abandoned.

8. Why did the Texas Water Quality Board even consider a disposal pit in the Nueces River shed when they have just embarked upon a 1½ year study with the Coastal Bend Council of Governments and the Nueces River Authority in a Master Plan for waste control and disposal. It would appear that if this type of study has any validity that it should have been finished prior to any consideration being given for the handling of hazardous and toxic materials within the river basin.

9. Although the certificate calls for a bond it does not set out the value of the bond requested. It is our understanding that a $60,000 bond has been posted at the request of the Executive Director of the Water Quality Board which would appear to be very inadequate if it is found the materials had to be moved due to abandonment of the facilities or upon the discovery of pollution occurring from the process.

The entire application, including the engineer's statement and the geologist's, leave a lot of questions unanswered and makes a lot of general statements that they should have had to qualify. We are dealing with products that are known to be toxic and hazardous, and allowing them to be buried in the water shed where the only source of potable water is that captured within the run-off of that shed is unthinkable. This potable water supply serves both municipal and industrial use in the Coastal Bend area and as far southwest as Alice.

The Coastal Bend Council of Governments' environmental committee will be discussing the project at their meeting on Tuesday at 1:30 p.m. Mr. Paul Harris, manager of the waste disposal area, will be on hand to give their arguments in favor of the disposal and I will be there to give the City's arguments against such proposal. You or any of your fellow associates are most welcome to attend the hearing and ask questions that you may deem to be important in helping to resolve the issues.

Sincerely yours,

Robert E. Schneider
Director of Public Utilities
Vernon L. Medlin, M. D., President
Nueces County Medical Society
P. O. Box 5280
Corpus Christi, Texas  78405

Subject: Industrial Solid Waste - Live Oak County
South Texas Industrial Services, Inc.
Near Three Rivers

Dear Dr. Medlin:

Inasmuch as I have been designated to represent the Commissioner of Health
as a member of the Texas Water Quality Board, Dr. J. E. Peavy has asked me
to respond to your letter of February 14, 1974, regarding the industrial
solid waste disposal site proposed to be constructed near Three Rivers.
In this regard, it will be our responsibility to provide the Texas Water
Quality Board with our comments regarding the environmental health implications
of the proposal.

This Department received a copy of an application for a Certificate of
Registration for an industrial solid waste disposal site from the Texas
Water Quality Board in December 1973. As a result, our Regional Engineer
has made a field inspection of the proposed site. His report indicates
that before we can provide an adequate recommendation to the Texas Water
Quality Board certain questions raised by the City of Corpus Christi should
be answered. We feel that these questions have not yet been satisfactorily
answered even though we understand the applicants have agreed to provide
all safeguards to protect the public health.

I hope this information will be useful to you. We will try to answer any
additional questions you may have.

Sincerely,

G. R. Herzik, Jr., P. E.
Deputy Commissioner for
Environmental Health

DLH: clld

cc: Region 10, TSDH
Live Oak County Health Department
Nueces County Health Department
G.R. Herzik, Jr., P.E.
Deputy Commissioner for Environmental Health
Texas State Department of Health
Austin, Texas

Subject: Industrial Solid Waste-Live Oak County
- South Texas Industrial Services, Inc.
  Near Three Rivers

Dear Mr. Herzik:

I have a copy of your letter of February 22, 1974 to Dr. Vernon Medlin, President of Nueces County Medical Society relative to our Society's Resolution opposing the South Texas Industrial Services permit for a land fill in the water shed of our area's water supply. Your doubts regarding the wisdom of allowing large scale dumping of chemical wastes there, is certainly shared by us in this locale, and as Chairman of our Medical Society Environmental Pollution Committee and as a member of the State Committee, I want to know what the State Water Quality Board is doing to satisfy their pending decision of approval or disapproval of the permit request. Certainly, a more thorough study is necessary than those made when Mr. Yantis gave temporary approval.

Please let me know what studies your office or the Board have made since our resolution and the opposition of the City of Corpus Christi have been made known to you.

Sincerely,

Paul M. Gray, M.D.
The following document was scanned from the library’s collection.

The scan accurately reflects the library’s copy.
Toxic waste project resented by property owners ‘downhill’

By DON RODMAN
Staff Writer

I feel like I’ve been run over by a truck.

That was the reaction a landowner had when he saw three rivers to the Water City Board’s unanimous vote to allow the Twenty-one Pit as the burial site for toxic waste. It’s the same feeling all the opponents of the project have expressed in varying ways since the proposal first came to the board in January.

The truck was the staff of the Water Quality Board driving to grant approval to the disposal company, South Texas Industrial Services.

The City of Corpus Christi has been carrying the lion’s share of the burden in fighting the project on the grounds that future leakage of toxic industrial waste could have the disastrous effect of contaminating the region’s only water supply.

Rejection toward the Water Quality Board staff’s handling of the case began building even before there was general knowledge of the project. The city did not receive any written notice of the first hearing on the application held in Three Rivers on Dec. 3. Thus, a phone call alerted them.

Alice Cunningham appeared, objected and was ignored. She returned with an understanding from the hearing examiner, Oscar Palacios, who has since quit his WQB job, that the city would get a chance to protest the application at the board’s January meeting.

A check later in December revealed that Hugh Yantis, WQB’s director, had already issued the permit Dec. 17 and the company was moving ahead with construction. Cunningham’s objections were dismissed in a hearing report with a sentence saying that “special provisions” of the permit and “natural impermeability of the soil” will keep the site from leaking.

The report also says that adjacent landowners were notified, as required by law. That point came under dispute at the last WQB meeting when William Graven, a Corpus Christi lawyer and owner of land near the site, said that in fact only five of the nine adjacent landowners actually received notice. Only one, Roy Mims, sent a letter of protest prior to the December hearing.

There are other points which have made opponents feel they were getting the shortend treatment.

Paul Harris, executive vice president of South Texas Industrial Services since its formation last year, was a Yantis lieutenant for three years. From 1970 to 1972 he was the WQB’s director of industrial solid waste management section. He helped develop the rules and regulations for waste disposal facilities controlled by the board and reviewed applications for new disposal sites.

During 1972 he was a consultant for companies applying to the WQB and during the first half of 1973 he was general manager of Biometrics, a firm that tried to get an industrial waste dump like the Three Rivers project off the ground in Travis County.

David Hendrick, another of the full-time managers of the disposal company, is also a former employee of the Texas Water Quality Board.

Jerry Butler, a principal owner of the company, is a Corpus Christi businessman. He represented K.C. County in the Texas House. Representatives for two terms in the 1970s until giving up his seat to A. Connelly of Floresville, both since-Gov. John Connally.

Yantis has been in Austin a long time and knows who is important. He told the board that he consulted with Harris and Butler before coming to the Texas Board.

Had Harris and Butler come to him with argument that they needed approval they could have made a deal for the city.

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See Project, page
Environmental Protection Agency. He said he approved it because he did not know of any opposition.

City Manager Marvin Townsend has quoted EPA representatives as saying there is no active consideration of the company's application, raising questions about the need for speedy approval.

The planned stockpile of pollutants in the Namun River watershed would never have come to the board for action if the city had not appealed Yantis' action in granting the construction permit. With that appeal now exhausted, the city's only alternative is to go into district court and seek a permanent injunction against the disposal firm.

Yantis has been able to get board support on most tough votes since the death of Gordon Fuller, a strong-willed politician from Atlanta, Texas, who was board chairman from 1960 until last June. Fuller often balked at the executive director's recommendations, pushing for and getting a harder line against polluting cities and industries. Two members indicated they would go against Yantis on the Three Rivers decision but by the next day they were voting with the majority in favor of the company.

A standing criticism of the board through the years has been that a majority of its members are actually staff-level people in other state agencies with lower rank than Yantis. There are three citizen seats on the board. (Fuller's is still empty) and one representative each from the Water Development Board, the Health Department, Parks and Wildlife and the Railroad Commission.

The list of things that raised opponent's skepticism included:

- A report dated Dec. 5 from William A. Trippet of the WQB geological services section said the proposed helicopter does not provide adequate measures for prevention of surface and groundwater contamination and that soil and subsurface formation data were inadequate, particularly data on permeability. This opinion was apparently disregarded.

- Sometimes after the extent of the Corpus Christi appeal became obvious, the WQB industrial services section hired a geologist of its own, taking the project away from Trippet. The new geologist, Buck Stenographer, is a University of Texas graduate student who has trained under Dr. Edward Jonas, U. of T. professor and principal technical consultant for South Texas Industrial Services.

- Jonas and other well-qualified consultants were not hired by the company until after the city pressed its appeal, raising more questions about prior technical work on the application.

Opponents were particularly perplexed that the effect of the Water Quality Board's decision was to send the responsibility for the dump back to the same staff and procedure that rammed the project through in the first place.

The city and South Texas Industrial Services were still waiting at week's end for final specifications from the WQB staff on just what will be required in new pit linings, covers and drains.

The city has already gotten a transcript of Yantis' recommended amendments to the company's permit and they have gone to engineering and legal departments for study. City Manager Marvin Townsend says a decision on going to court will depend on whether the experts think the threat to the city's water supply has been sufficiently eased.