

**TCEQ DOCKET NO. 2024-1115-EAQ
PROGRAM ID NO. 13001906**

**IN THE MATTER OF THE
APPROVAL OF A WATER
POLLUTION ABATEMENT PLAN
BY VULCAN CONSTRUCTION
MATERIALS, LLC**

§
§
§
§
§
§
§

**BEFORE THE TEXAS

COMMISSION ON

ENVIRONMENTAL QUALITY**

**INDIVIDUAL LANDOWNERS, KIRA OLSON, AND PHCE’S REPLY TO
RESPONSES TO MOTIONS TO OVERTURN EXECUTIVE DIRECTOR’S
DECISION**

TO THE HONORABLE CHAIRMAN AND COMMISSIONERS OF THE TEXAS
COMMISSION ON ENVIRONMENTAL QUALITY:

Pursuant to 30 Tex. Admin. Code § 50.139, Robert Carrillo, Cheryl Johnson, John Casimir Kucewicz, Jr., and Douglas E. Smith (collectively, “Individual Landowners”), Preserve Our Hill Country Environment, Kira Olson, and Preserve Our Hill Country Environment Foundation (collectively “Movants”) file this Reply to the Responses to their Motions to Overturn the Executive Director’s (“ED”) Decision approving Vulcan Construction Materials, LLC’s (“Vulcan”) Water Pollution Abatement Plan for the Vulcan Comal Quarry (the “Quarry”). Movants offer the following replies to the arguments submitted by Vulcan, the ED, and the Office of Public Interest Counsel (“OPIC”) and urge the Commissioners to grant their Motions and overturn the ED’s approval of Vulcan’s WPAP. For support, Movants offer the following:

I. Introduction

The Commission should grant the motions to overturn filed by Movants. Notice of the WPAP failed to meet the minimum requirements of federal due process, since no notice

of the WPAP application was provided to any affected groundwater owner. Furthermore, the TCEQ rules require the identification and consideration of *all* potential pathways for contaminant migration into the aquifer, while the Executive Director only required the identification and consideration of *some* potential contaminant pathways. Additionally, blasting activities constitute a “regulated activity” under the plain language of the TCEQ rules, and the Executive Director erred in ignoring such activities. The approval of a WPAP that allows for the installation of injection wells within the Edwards Aquifer violates TCEQ’s own rules. Finally, adherence to the state policies enunciated in statutes governing TCEQ’s protection of groundwater require consideration of the protection of endangered species, which TCEQ has failed to do.

II. Notice of the application failed to meet the minimum requirements of constitutional due process.

The Executive Director, Vulcan, and OPIC each err in asserting that notice of the application was adequate merely because the minimum notice requirements of the TCEQ rules were met. Of course, the validity of TCEQ’s action depends upon more than just whether the TCEQ rules were met. Compliance with the due process requirements of the United States Constitution is also required but was missing.

Constitutional due process applies to governmental decisions which deprive a person “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment. *Matthews v. Eldridge*, 424 U.S. 319, 331 (1976). As the Fifth Circuit Court of Appeals has held, a person’s interest in their groundwater is such a protected property interest. *Stratta v. Roe*, 961 F.3d 340, 357 (5th Cir. 2020).

Notice is a fundamental element of due process, and the notice in this case failed to meet the minimum level necessary to protect Movants' due process rights. When an administrative agency is making a decision, the U.S. Supreme Court has noted that, "[t]he essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it." *Eldridge*, 424 U.S. at 348 (internal quotations omitted). In order to meet the minimum requirements of constitutional due process, the administrative procedures provided are to be tailored, in light of the decision to be made, to the capacities and circumstances of those who are to be heard. *Id.* at 349. Due process requires notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).

The authorization of Vulcan's intended quarry activities by approval of its proposed WPAP has the potential to impact area groundwater—including groundwater owned by Movants. Thus, procedures compliant with the minimum requirements of due process required notice reasonably calculated to apprise the owners of groundwater in the area of the authorized activity, with an opportunity for those persons to present their objections. No such notice was provided in this case. As admitted by the Executive Director, the only entities provided with notice of the WPAP application were local governmental entities. The TCEQ engaged in no effort whatsoever to provide notice reasonably calculated to apprise interested parties of the pending decision and afford them an opportunity to present their objections.

As a consequence of TCEQ's failure to provide notice meeting the minimum requirements of due process, several Movants were entirely deprived of notice in sufficient time to participate in the comment process on the application. Robert Carrillo did not learn of the application until July of 2024—several months after the end of the comment period. Cheryl Johnson, John Kucewicz, Jr., and Douglas Smith likewise were not aware of the application until after the Executive Director made the decision to approve the WPAP.

The substantial rights of each of these individuals was prejudiced by TCEQ's total failure to provide notice of the application to any individual property owner. Such failure is inconsistent with the balancing test for constitutional due process established by the United States Supreme Court in *Matthews v. Eldridge*, 424 U.S. 319 (1976). The three factors to be considered are: (1) the private interest that will be affected; (2) the risk of an erroneous deprivation of that interest with consideration given to the probable value of additional safeguards; and (3) the Government's interest and administrative burdens that substitute processes would involve. *Id.* at 334. Here, Movants hold property interests in groundwater potentially impacted by the TCEQ's decision. An incorrect decision by TCEQ could effectively destroy the value of that property by rendering the groundwater so contaminated as to be useless for its intended purpose or withdrawn to the point of being unavailable. The administrative burden of providing proper mailed notice of the application is minimal. In short, constitutional due process requires that the interests of administrative efficiency identified by the Executive Director yield to the protection and preservation of private property rights.

Notably, State Senator Donna Campbell and State Representative Carrie Isaac requested that TCEQ hold a public meeting with regard to Vulcan's WPAP. Despite this affirmation of the particular need for TCEQ to incorporate a consideration of public concerns, the Executive Director chose to push through with approval of a woefully deficient WPAP.

Considering that the level of notice provided in this case failed to meet the minimum constitutional requirements, the Executive Director's approval of the WPAP should be reversed.

III. The Application failed to demonstrate compliance with the requirements of the TCEQ Rules.

An agency acts arbitrarily when it fails to follow its own rules. *Rodriguez v. Serv. Lloyds Ins. Co.*, 997 S.W.2d 248, 255 (Tex. 1999). Here, Movants' motions have identified several of TCEQ's own rules which the Executive Director failed to follow in her decision to approve Vulcan's proposed WPAP. These failures place the quantity and quality of groundwater within the Edwards Aquifer at risk.

A. In violation of 30 Tex. Admin. Code § 213.5(b)(3), the Geologic Assessment failed to identify all potential pathways for contaminant movement to the Edwards Aquifer.

As noted in Movants' motions, the TCEQ rules require that the geologic assessment identify *all* potential pathways for contaminant movement to the Edwards Aquifer. While Movants cannot themselves inspect the property, in order to avoid trespass, Movants have pointed out that the extremely low number of features identified within the Geologic Assessment is simply not statistically credible given the size of the site.

Both the Executive Director and Vulcan seem to defend the number of features identified based on an assertion that the more limited scope of TCEQ guidance effectively circumscribes the requirements of the TCEQ rules. Vulcan goes so far as to say that “The GA Instructions are the applicable criteria for a GA’s compliance with 30 Tex. Admin. Code § 213.5(b)(3).” This is not true. This rule speaks for itself and, by its plain language, requires identification of *all* potential pathways for contaminant movement. TCEQ guidance cannot transform the regulatory requirement to identify “all” pathways into a requirement to identify merely “some” pathways. Yet, this is what both the Executive Director and Vulcan contend when they say that the type of features providing pathways for contaminant movement to the aquifer identified by Movants are *not* required to be identified in the GA.

B. In violation of 30 Tex. Admin. Code § 213.5(b)(4)(A)(iv), the Geologic Assessment failed to identify and address blasting activities as an activity or process which may be a potential source of contamination.

The activities involved in Vulcan’s proposed operations include extensive blasting operations. As explained by Movants (and uncontested by Vulcan or the ED) the conduct of blasting operations has the potential to contaminate the underlying aquifer with nitrate pollution. Vulcan argues that such activities are not required to be identified because they are not “regulated activities.” But nothing in 30 Tex. Admin. Code § 213.5(b)(4)(A)(iv) limits the activities required to be identified to only regulated activities. Furthermore, TCEQ rules define “regulated activities” to include “clearing, excavation, or any other activities that alter or disturb the topographic, geologic, or existing recharge characteristics of a site.” 30 Tex. Admin. Code § 213.3(28)(A)(ii). Blasting is certainly an activity that

disturbs the topographic characteristics of a site. Thus, blasting for quarry purposes is encompassed within the scope of “regulated activities” as that term is defined in Chapter 213 of the TCEQ rules. Accordingly, blasting activities must be listed in the geologic assessment, addressed in the WPAP, and considered as an activity authorized by the WPAP. Vulcan has failed to meet these requirements, and the ED violated the TCEQ rules by approving the WPAP despite this non-compliance.¹

C. Activities authorized by TCEQ’s approval of the WPAP include prohibited injection wells, in violation of 30 Tex. Admin. Code § 213.8(c).

Vulcan asks that the Commission ignore any issues related to boreholes used for blasting based on Vulcan’s contention that the blasting method at the site is not a “regulated activity.” As discussed above, blasting falls well within the scope of activities defined as a “regulated activity” under the TCEQ rules.

Vulcan further claims that the blasting boreholes at the quarry must be ignored because they are planned for the *future*. This is nonsense. The entire WPAP permitting process is forward-looking. The purpose of a WPAP is to preemptively plan for and address potential contamination while ensuring that authorized activities are protective of the Edwards Aquifer. Given that blasting is an inherent element of Vulcan’s planned activities authorized by the WPAP, the Commission cannot ignore the impacts that blasting activities will have upon the Edwards Aquifer.

¹ Blasting will also have an impact due to the shallow nature of the groundwater table beneath the site. In fact, the depth of excavation allowed by the WPAP violates the requirements of the TCEQ rules. This gets into a highly technical area, and is addressed by the attached technical analysis by Dr. James Doyle responding to the technical contentions by Vulcan and the Executive Director (Attachment A to this Brief). Dr. Doyle is a retired professional geologist with over 40 years of experience in geological evaluation for simulation studies, risk analysis, and defining drilling targets. Dr. Doyle’s qualifications are included as an attachment to PHCE’s Motion to Overturn (PDF p. 193).

In addressing the impacts of these activities, it is relevant (and required) to consider whether the proposed activities are consistent with TCEQ rules intended to protect the quality of the Edwards Aquifer. These rules include the regulatory prohibition on the location of an injection well in, or through, the Edwards Aquifer.

Neither Vulcan nor the ED provide a genuine logic to conclude that the boreholes proposed do not meet the regulatory criteria to be considered injection wells. The Executive Director asserts that the authority for regulating underground injection under TCEQ's UIC rules "does not contemplate regulating blasting to facilitate quarrying and surface mining." Yet, no legal basis for this claim is provided. The relevant criteria for determining what constitutes an "injection well" are the criteria set forth in the TCEQ regulations. As explained in Movants' motions, the boreholes used to inject ANFO into the Edwards Aquifer meet these criteria.

Vulcan claims that the WPAP does not authorize waste disposal wells or injection wells. But the WPAP does authorize Vulcan to engage in activities which include the blasting operations at the site, including the construction and use of boreholes in a manner that constitutes the completion and operation of an injection well in the Edwards Aquifer. The Stratigraphic Column included within the Geologic Assessment identifies the Edwards Aquifer as being present at the surface of the quarry. Accordingly, the boreholes associated with blasting activities—which constitute injection wells—will be completed directly into the Edwards Aquifer. This activity—authorized by the WPAP—will endanger groundwater in a manner not allowed under the TCEQ rules.

D. The statutory policies governing TCEQ require protection of existing uses of groundwater, which would include the support of endangered species.

Both Vulcan and the Executive Director assert that the protection of endangered species is irrelevant to a consideration of a water pollution abatement plan. However, Chapter 26 of the Water Code, relating to TCEQ's authority to protect groundwater quality, provides that it is the policy of the State that activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater. Tex. Water Code § 26.401. The support of endangered species is an existing use of the impacted area of the Edwards Aquifer. Protection of these species is required for TCEQ's actions to be consistent with this policy enunciated by the Legislature.

IV. Conclusion

For the reasons listed above, Movants respectfully request the Commission grant their Motions to Overturn the Executive Director's Decision and deny the WPAP. In the alternative, the ED should provide proper notice of the WPAP—both mailed and published in a local newspaper—and reopen the comment period to allow the affected public a meaningful opportunity to comment on the WPAP and participate in a public meeting.

Respectfully submitted,

/s/ Eric Allmon

Eric Allmon

State Bar No. 24031819

callmon@txenvirolaw.com

PERALES, ALLMON & ICE, P.C.

1206 San Antonio St.

Austin, Texas 78701

512-469-6000 (t) | 512-482-9346 (f)

Counsel for Movants

CERTIFICATE OF SERVICE

By my signature below, I certify that on September 6, 2024, a true and correct copy of the foregoing document was served upon the mailing list below via electronic mail and/or first-class mail.

/s/ Eric Allmon
Eric Allmon

FOR VULCAN:

Richard Spry
Vulcan Construction Materials, LLC
10101 Reunion Pl., Ste. 500
Austin, Texas 78216
p: 512.541.3594 | f: 512.469.9408
spryr@vmcmail.com

Lisa Uselton Dyar
McGinnis Lochridge LLP
1111 W. 6th St., Bldg. B, Ste. 400
Austin, Texas 78703
(512) 495-6000
ldyar@mcginnislaw.com

Caleb Chance, P.E.
Pape-Dawson Engineers, Inc.
2000 NW Loop 410
San Antonio, Texas 78213
cchance@pape-dawson.com

FOR MOVANTS:

Kira Olson
245 Saur Road
Bulverde, Texas 78163
210-889-4657
kirafallspring@gmail.com

Milann and Prudence Guckian
30954 FM 3009
New Braunfels, Texas 78132
p: 830-885-2723 | 361-947-7101
bgr@gvtc.com

FOR THE EXECUTIVE DIRECTOR:

Lori Wilson, Regional Director
TCEQ Regional Office – Austin
P.O. Box 13087, MC R11
Austin, Texas 78711-3087
lori.wilson@tceq.texas.gov

Michael T. Parr II, Staff Attorney
Charmaine Backens, Deputy Director
Todd Galiga, Senior Attorney
TCEQ Environmental Law Division
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
michael.parr@tceq.texas.gov
charmaine.backens@tceq.texas.gov
todd.galiga@tceq.texas.gov
p: 512-239-0611 | f: 512-239-0626

Ryan Vise
TCEQ External Relations Division
P.O. Box 13087, MC 118
Austin, Texas 78711-3087
p: 512-239-0010 | f: 512-239-5000
pep@tceq.texas.gov

Kyle Lucas
TCEQ Alternative Dispute Resolution
P.O. Box 13087, MC 222
Austin, Texas 78711-3087
p: 512-239-0687 | f: 512-239-4015
kyle.lucas@tceq.texas.gov

**FOR THE OFFICE OF THE CHIEF
CLERK:**

Docket Clerk

TCEQ Office of Chief Clerk

P.O. Box 13087, MC 105

Austin, Texas 78711-3087

p: 512-239-3300 | f: 512-239-3311

<https://www14.tceq.texas.gov/epic/efiling/>

**FOR THE OFFICE OF PUBLIC
INTEREST COUNSEL:**

Eli Martinez

Garrett T. Arthur

TCEQ Office of Public Interest Counsel

P.O. Box 13087, MC 103

Austin, Texas 78711-3087

eli.martinez@tceq.texas.gov

garrett.arthur@tceq.texas.gov

ATTACHMENT A

Use of Water Level Measurements to Establish a Minimum Quarry Floor Elevation

James Doyle, Ph.D.

The BMP from RG-500, Best Management Practices for Quarry Operations, regarding ensuring a 25' separation of the aquifer and quarry floor requires a good faith estimate of the highest level the water might reach on a quarry site. In their response to the MTO, Vulcan justifies their adoption of a 1022' msl elevation as the high water mark by lifting the two italicized sentences from this paragraph on page 2 of RG-500 (italics and bold emphasis are mine):

“Determining the allowable quarry depth during the planning stages of development generally requires a preliminary estimate of the high-water level at the site. *The best way to estimate this level is to use the water level measured in a water supply well or boring on-site for which historical data are available. The TCEQ will accept the water-table elevation measured in December 2007 either on-site or in the nearest off-site well as the elevation **from which the 25 ft separation applies.*** If an off-site well is used, then the current water level on-site and in the adjacent well should be compared to determine whether to make any adjustments to account for regional variation in the water-surface elevation using the methodology outlined for a county reference well. Abundant data on water surface elevations are available from the Edwards Aquifer Authority and the Barton Springs/Edwards Aquifer Conservation District.”

The key point is that acceptance of the December 2007 date should be for wells in the Edwards Aquifer. Also, the BMP clearly allows offset wells for use in adjustments to account for regional variation in water-surface elevation.

In 2012, when RG-500 was written, quarries were mostly along the southern edge of the recharge zone. The aquifer beneath those quarries is the Edwards, and the BMP is discussed only in terms of the Edwards. The monitor wells suggested for use as references are all in the Edwards Aquifer.

Vulcan's quarry is different in that it is on the northern edge of the recharge zone where the Edwards Aquifer is not present. This is illustrated with a map from data from the EAA of the wells they use for Comal County (Figure 1). The wells clearly show the aquifer at the site is the Trinity. The proposed Vulcan site is in the Edwards Aquifer Recharge Zone. It is correctly designated by the state as a sensitive area because contaminants introduced at the surface there will reach the Edwards Aquifer via cross-fault flow from the Trinity Aquifer.

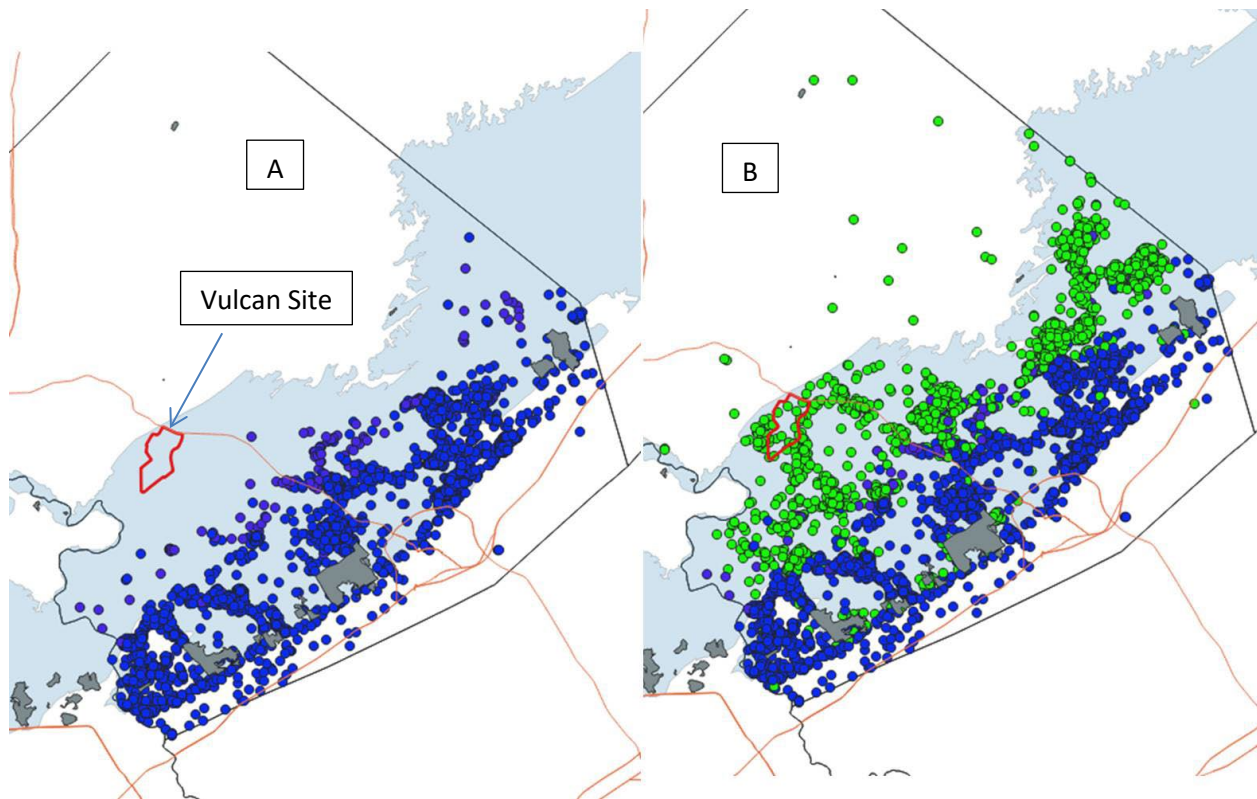


Figure 1. A) wells characterized by the Edwards Aquifer Authority as Edwards are shown in blue. Quarries are shown in gray. Light blue is the Edwards aquifer recharge zone. B) Wells characterized by the EAA as Trinity are added in green

In the MTO we've pointed out water elevation measurements on or within a few hundred feet of the proposed Vulcan site. This is the Upper Trinity which is the relevant aquifer. Also, Vulcan's Geological Assessment notes that the Upper Glen Rose outcrops on the site which should have been another clear indicator to Vulcan that the Edwards Aquifer is not present. In their response, Vulcan either omits or is unaware that it is the Upper Trinity under discussion.

There is no reason to expect the upper Trinity to move in lockstep with the Edwards. The catchment area for streams crossing the upper Trinity Aquifer differs from the Edwards Aquifer, and the Edwards receives additional charge from the Trinity. All the wells where we discussed water levels in the MTO indicate the aquifers don't move together. The nearest monitoring well in the Upper Trinity with dates before and after December 2007 is approximately seven miles to the west and also indicates the December 2007 is not definitive for the Vulcan site (Figure 2).

If the highest water level that can occur at the proposed quarry site is 1022' msl, there is no plausible physical explanation for the observations within a few hundred feet of the property line. Published potentiometric surfaces for the Upper Trinity show a southeast

dip. All of the wells under discussion are in the same fault block according to recent USGS mapping (Figure 3).

In his report, Brian Smith indicates potentiometric surfaces may dip as much as 100 ft/mile. If the site water elevation is no higher than 1022' msl, the elevation change between a given well observation and the property line at its time of measurement would require an unnaturally high dip rate, and the dip directions would vary from northeast to northwest. For example, the EAA made four separate water elevation measurements in well 6822204 from Aug, 2019 to Aug, 2023 (Figure 4). Three of those are higher than 1022' msl. Since the well is 271 ft from the property line a 15 ft rise is equivalent to 292 ft/mi counter to the expected regional dip of the potentiometric surface. In their response, Vulcan sidestepped this issue by deceptively lifting the phrase, "this area" from the MTO to indicate the observations are not relevant and ignored that they were clearly indicated in the MTO to be within a few hundred feet of the site.

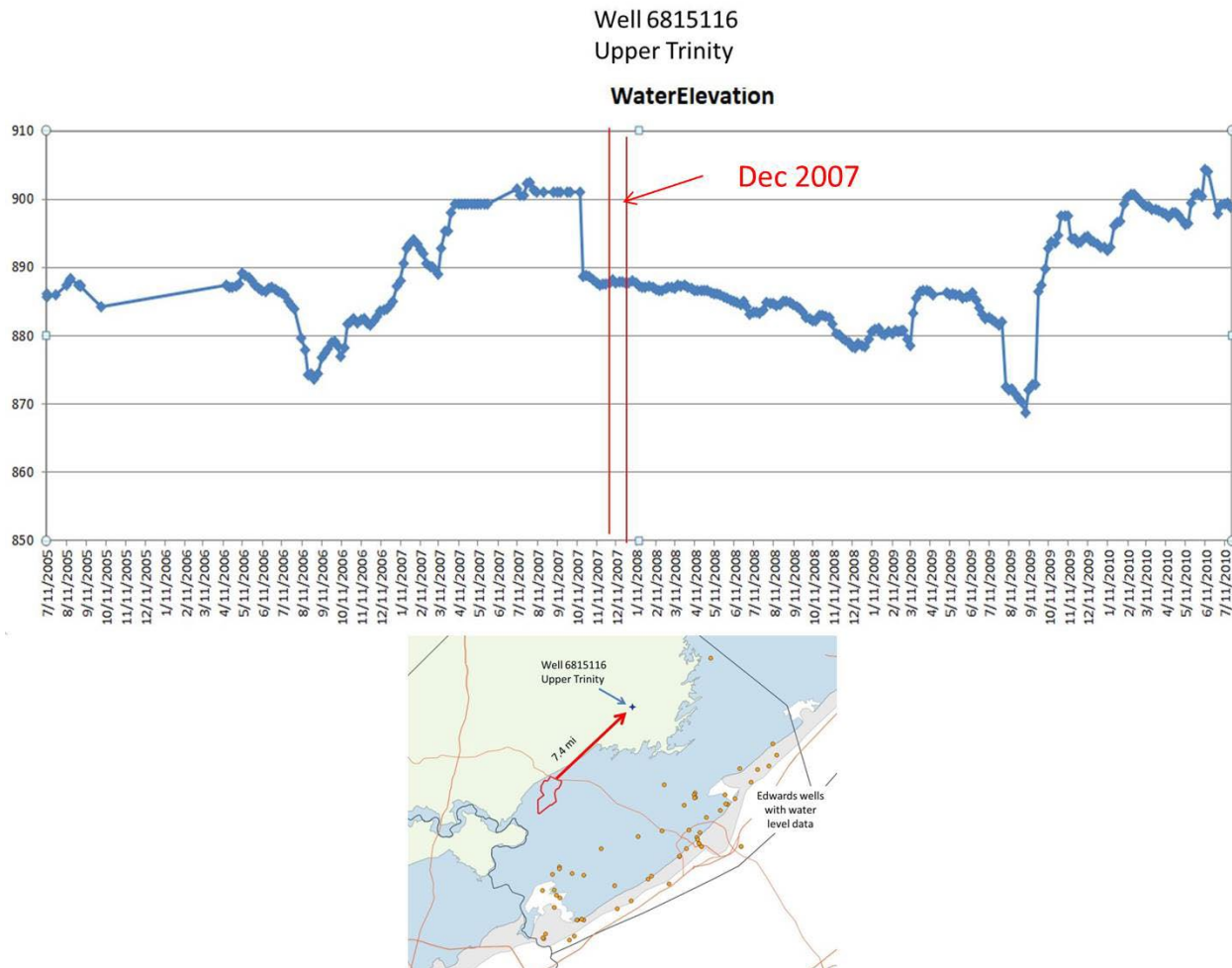


Figure 2. Location of the nearest Upper Trinity monitoring well with data before and after Dec., 2007.

In a remote meeting with TCEQ staff on Jul 2, 2024, I pointed out that there is no physically plausible explanation for the well observations within a few hundred feet of the property line if the water level on the site doesn't exceed 1022' msl and invited comments. There was no response.

In short, the BMP in RG 500 is about risk mitigation using historical records to establish the highest the aquifer is known to have reached and setting limiting the quarry floor to 25 ft above that. The examples in the BMP are established for the Edwards only. Since the Edwards is not present at the Vulcan site, we think historical information from the Upper Trinity should be used since that is the shallow aquifer present.

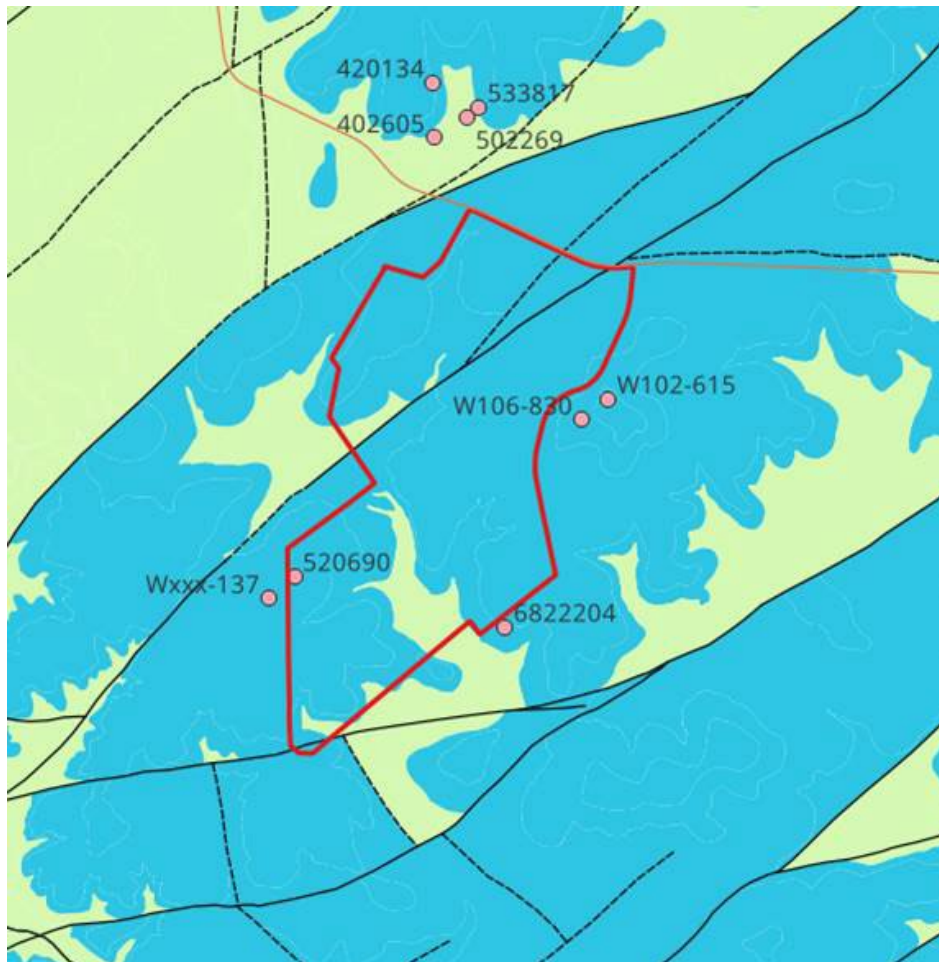


Figure 3. Field map from the USGS showing faults and the Edwards and Glen Rose Limestone.

Quality of the Geological Assessment

Vulcan's response to the MTO repeatedly dismisses the relevance of information cited by Jack Olivier and Brian Smith about the area surrounding Vulcan's site to the quality of the assessment on the site. Instead, the response touts the work of the Pape Dawson geologist, stating:

"Licensed professional geoscientists like Mr. Stultz exercise professional judgment

using experience and training and by following TCEQ guidance for conducting GAs for WPAP applications. Mr. Stultz conducted the GA in accordance with TCEQ-0585, *Instructions for Geologists for Geologic Assessments in the Edwards Aquifer Recharge/Transition Zones* (2004) (the “**GA Instructions**”).” and concluding:

“The GA in Vulcan’s WPAP application prepared by Mr. Stultz is by nature scientific because he is a professional geoscientist.”

It is reasonable to consider the work by Mr. Stultz in light of the GA instructions. TCEQ-0585 directs geologists performing Geological evaluation to follow a sequence of steps. The first is to perform research which includes:

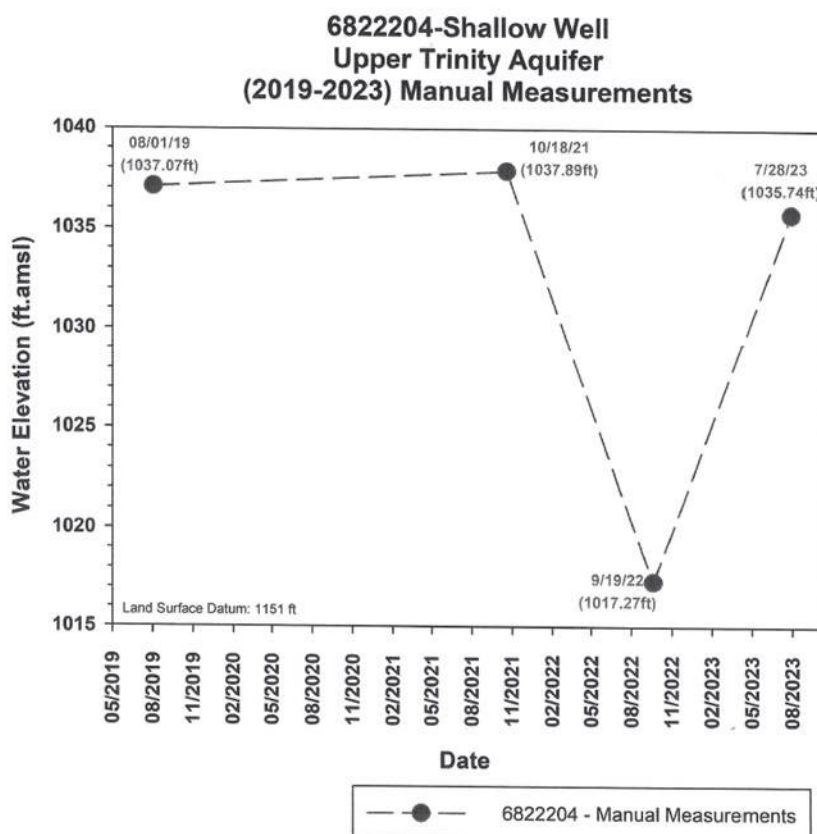


Figure 4. Water level measurements from the upper Trinity in Well 6822204. Measurements were made by the EAA.

“Published reports and maps of area geology should be studied prior to performing the field survey. A literature or database search should be conducted for the presence of documented caves or other *karst features* on the property or in proximity to the property boundary.”

This is the type of information mentioned in the MTO, and there is no indication in the GA that any such review was performed. Much of the information in the MTO comes from public sources. In particular, the data on

the tract across Highway 46 from the Vulcan site comes from a WPAP GA on the Bigbee tract and is publically available.

The second step is to perform a field survey. Among the instructions for this step are:

“The entire subject site must be walked to survey the ground surface for the presence of geologic and manmade *features*. It is recommended that the site be walked systematically in spaced transects 50 feet apart or smaller, paying close attention to streambeds and structural features observed on aerial photographs. The transect pattern should be adapted to insure that the geologist is able to see features and will vary with topography and vegetation on the site.”

“Any features identified should be marked where possible with flagging or stakes, accurately located, preferably using a GPS (see detailed instructions IIIB below), assigned a unique number, the location accurately plotted on the geologic map, data entered in the Geologic Assessment Table, and supplementary interpretative data recorded in the narrative description of site geology.”

“Classify the feature according to type, and collect the data needed to complete the Geologic Assessment Table (see detailed instruction IIIA).”



Figure 5. Drilling rig for the Blue Pine Holdings well drilled from Nov. 2016 to Jan 2017 shows the rig, drill pad and cuttings.

The six wells drilled for Mr. White in 2007 and the Blue Pine Holdings well (drilled beginning Nov. 2016 and completed in Jan. 2017) provide the only independent and objective measure to evaluate the quality of Mr. Stultz's work. The website of the Comal County Engineer's office maintains satellite images for each year beginning in 2005. Jonathan Gullick discovered that these are a good way to quality check the location of the wells. Since the

satellite image caught the drilling rig for the Blue Pine well, it illustrates how (Figure 5) by showing the drill pad and cuttings. For the White wells drilled in 2007, three of the locations logged in the field were correct. However, three were not as indicated by the absence of cuttings at the sites logged by Mr. Stultz (Figure 6-8). If identifying wells in the field is an indicator, Mr. Stultz's work is no better than 57% accurate.

On April 11, 2024, Jonathan Gullick supplied the correct locations for WR1, WR2 and WR4 to the TCEQ in an email. Subsequently, in a letter dated June 11 (2024.06.28 NOD 2 Addl Info Requested.pdf), TCEQ directed Pape Dawson to change the GA table (apparently from the info Jonathan provided) or explain the discrepancy. Pape Dawson merely replied:

“The locations found in the well report are correct. The Geologic Assessment Table has been updated and is included with these responses.”

Pape Dawson gives no indication that the change resulted from a new visit to the field. TCEQ-0585 entries on the GA table are field-based, and there is no provision for a sealed GA document to have a change made at the direction of an outside agency.

Mr. Stultz described the White wells, WR1-6 as:

“Features WR-1 through WR-6 were 8.75” diameter pilot holes that were drilled for a water availability study in 2007. Very little water was found, therefore the wells were plugged and abandoned. As the wells were plugged according to State of Texas regulations, the probability for rapid infiltration is low. The well reports are attached.”

Mr. Stultz saw fit to place that description under his seal. While it’s a good thing that the White wells are now correctly located, it would be useful to know whether or not the GA table expanded by 3 features (additional wells?) or if those features just evaporated. If the total number of features is unchanged, it would be another useful indicator of the quality of Mr. Stultz’s work. Unfortunately, their reply to TCEQ only had page 1 of the geologic assessment table. We’d have to obtain page 2 to assess if the number of features expanded.

WR1 2008 at the driller’s coordinates



WR1 2023 at the coordinates logged in the GA



Figure 6. A 2008 satellite view of WR1 at the location specified by the driller and the location logged for that well in the Geological Assessment table in the year the field work was done.

WR2 2008 at the driller's coordinates

WR2 2023 at the coordinates logged in the GA



Figure 7. A 2008 satellite view of WR2 at the location specified by the driller and the location logged for that well in the Geological Assessment table in the year the field work was done.

WR4 2008 at the driller's coordinates

WR4 2023 at the coordinates logged in the GA



Figure 8. A 2008 satellite view of WR4 at the location specified by the driller and the location logged for that well in the Geological Assessment table in the year the field work was done.