

**SOAH DOCKET NO. 582-22-0585
TCEQ DOCKET NO. 2021-1001-MWD**

**IN THE MATTER OF THE
APPLICATION BY THE CITY OF
GRANBURY FOR
TPDES PERMIT NO.
WQ0015821001**

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**BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS**

**DIRECT EXAMINATION OF LUCI DUNN, P.E.
BY THE CITY OF GRANBURY**

FEBRUARY 18, 2022

DIRECT EXAMINATION OF
LUCI DUNN, P.E.

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1 **I. INTRODUCTION**

2 **Q. Ms. Dunn, please state your full name and professional designation.**

3 A. Luci Dunn. I am a licensed professional engineer in the State of Texas.

4 **Q. How long have you practiced as a professional engineer?**

5 A. I have practiced as a professional engineer since January 21, 1993.

6 **Q. Where do you practice?**

7 A. I'm a Senior Project Manager at enprotec / Hibbs & Todd, Inc. The firm is also
8 commonly known as eHT.

9 **Q. What are your duties as a Senior Project Manager at eHT?**

10 A. I prepare municipal and industrial Texas Pollutant Discharge Elimination
11 System (TPDES) permit applications for wastewater discharges and Texas
12 Land Application Permit (TLAP) applications, for land disposal via irrigation
13 and evaporation. I also prepare environmental assessments to comply with the
14 National Environmental Policy Act (NEPA).

15 **Q. Describe your professional history before joining eHT.**

16 A. I graduated from Texas Tech University with a Master's degree in Chemical
17 Engineering in 1987. I started my professional career in 1987 as a chemical
18 process engineer at the 3M Brownwood Plant. The product lines I helped to
19 produce included both coatings and reflective sheeting. I worked at the
20 manufacturing plant for four years until 1991. In 1991, I began working at
21 Dyess Air Force Base (AFB) as a chemical engineer in the Environmental
22 Support Section. My responsibilities included hazardous water management
23 and regulatory compliance coordination with the Environmental Protection

1 Agency (EPA). I transferred from Dyess AFB to the EPA in 1993 where I worked
2 for a year as the EPA Region 6's first Regional Watershed Coordinator. In 1994,
3 I became an EPA Hazardous Water Enforcement Officer where I worked for a
4 year. I took a work break for two years and began working again in 1997 as a
5 chemical engineer for Regulatory Compliance Services where I assisted metals
6 plating facilities in Fort Worth with hazardous waste management. I joined
7 eHT in 1998 and have been working for eHT for twenty-four years.

8 **Q. What, if any, professional organizations or associations do you have**
9 **involvement with in connection with your engineering practice, or**
10 **otherwise with your work in the engineering industry?**

11 A. I am a voting member of the Brazos G Regional Water Planning Group (RWPG)
12 as a representative of the environmental interest category. The Brazos G
13 RWPG is one of 16 RWPGs that assist the Texas Water Development Board with
14 preparing the State Water Plan. I have been a voting member of the Brazos G
15 RWPG since November 2017. The Brazos G RWPG's area includes Lake
16 Granbury, the City of Granbury, and Hood County.

17 **Q. Have you attended any seminars, conferences, classes, or courses**
18 **that relate to your work as a professional engineer?**

19 A. Yes, I have attended numerous seminars and conferences in engineering, water
20 resources, environmental compliance, risk assessment, environmental site
21 assessment, and nutrient management.

1 **Q. I'm handing you a document that has been marked as COG Exhibit**
2 **201. Can you please describe this document?**

3 A. This is my professional resume.

4 **Q. Is COG Exhibit 201 a true and correct copy of your professional**
5 **resume?**

6 A. It is.

7 **Q. Does COG Exhibit 201 fairly and accurately summarize your**
8 **professional and educational experiences that you just described in**
9 **your testimony?**

10 A. It does, yes.

11 **Q. Describe your areas of focus as an engineer, particularly with**
12 **respect to projects like the wastewater treatment plant development**
13 **project that is the subject of the application.**

14 A. For projects like the wastewater treatment plant that is the subject of the
15 application, my main areas of focus are on the NEPA review and on the
16 permitting process. I typically become involved with a project in the planning
17 stages with a NEPA review considering environmental impacts and at
18 alternatives. Then once the NEPA review is finished, I focus on the proposed
19 facility permitting. In this case, it is a TPDES discharge permit.

1 **Q. Over the course of your career, have you developed the ability to**
2 **review, interpret, and apply federal, state, and local statutes, rules,**
3 **and regulations?**

4 A. Yes. My ability to review, interpret, and apply regulations was honed while
5 working at EPA where I worked closely with technical staff and attorneys on
6 hazardous waste enforcement cases, as well as on rule implementation.
7 Throughout my career after EPA, I have dealt with various state and federal
8 statues, codes and rules that are relevant to wastewater treatment plant siting,
9 including the environmental impacts as related to the NEPA process, and
10 permitting.

11 **Q. Over the course of your career, have you developed an**
12 **understanding of environmental permitting such as TPDES**
13 **permitting?**

14 A. Yes.

15 **CITY OF GRANBURY OFFERS COG EXHIBIT 201 FOR ADMISSION INTO**
16 **EVIDENCE.**

17 **II. PURPOSE OF TESTIMONY**

18 **Q. Please explain your role in the project?**

19 A. I've been involved as a consulting engineer for the City of Granbury with this
20 project since the early summer of 2019. I conducted the NEPA review of the
21 project by preparing the Texas Water Development Board's Environmental
22 Information Document form with required attachments. After conducting the
23 EID Public Meeting on August 1, 2019, and subsequent submittal of the EID to
24 the TWDB on August 29, 2019, I continued by work on this project as the lead

1 permitting consultant. I prepared the permit application and associated
2 attachments and assisted the City of Granbury with submitting the permit
3 application. The application was transmitted to the Texas Commission on
4 Environmental Quality on September 16, 2019. After submittal of the
5 application, I worked with TCEQ staff and other eHT consultants, promptly
6 addressed TCEQ's request for information or clarification, and oversaw public
7 notices. The Executive Director issued the draft permit on May 4, 2020. Since
8 that time I've served largely as a resource to the city as a consultant and now a
9 witness in this contested case.

10 **Q. Take a look at COG Exhibit 102. Is this the draft permit you're**
11 **referring to?**

12 A. Yes.

13 **Q. Staying in Admin Record Exhibit A, turn to Tab D, which begins on**
14 **the page labeled Admin Record 0209. Is this, and the pages that**
15 **follow, the application you're referring to?**

16 A. Yes.

17 **Q. Are you familiar with the interim order issued by the TCEQ**
18 **Commissioners relating to the City's application?**

19 A. I've seen it and reviewed it, yes.

20 **Q. Including the referred issues?**

21 A. Yes.

22 **Q. You understand that you are a designated expert witness who has**
23 **formed opinions, and who is prepared to testify about those**

1 **opinions, regarding several of the referred issues in the**
2 **Commissioners' interim order?**

3 A. I am.

4 **Q. Which issues are you prepared to offer your expert testimony on**
5 **today?**

6 A. Specifically, I'm prepared to explain how the wastewater treatment plant is
7 designed so that it will meet the setback requirements that TCEQ has
8 determined are necessary to protect public health and safety, the 100-year flood
9 plain, and wetlands. The draft permit would require the proposed treatment
10 units to meet those distance requirements. I'm prepared to discuss my
11 opinions about how this aspect of the Executive Director's draft permit is
12 protective of public health, the 100-year flood plain, and wetlands. I'm also
13 prepared to discuss my opinions regarding how the application substantially
14 complied with public notice requirements and that the application is accurate
15 and complete.

16 **Q. Let's take those in order. You've developed expert opinions**
17 **regarding whether the draft permit is protective of public health,**
18 **including the requestors and their families?**

19 A. From the standpoint of distance requirements, yes. TCEQ rules require certain
20 components of the treatment facility to be separated from various public
21 drinking water facilities. That's the subject I'm prepared to testify about.

22 **Q. Before we talk about what those opinions are, first describe what**
23 **you did and what you've experienced that led you to form your**

1 **opinions about whether the draft permit is protective of public**
2 **health, including the requestors and their families.**

3 A. With regard to a public drinking water facility, I completed the permit
4 application form TCEQ-10054, Domestic Technical Report Worksheet 2.0,
5 Section 1 related to the presence of the domestic surface water intake for the
6 City of Granbury that is located approximately 3 miles downstream of the
7 proposed outfall. I prepared a map that identified the location of the intake
8 and include it as an attachment to the permit application. I determined that
9 the requirement in the TCEQ rule title 30, Section 309.13(c)(5) that a
10 wastewater treatment plant unit be located a minimum horizontal distance of
11 500 feet from a surface water treatment plant is met.

12 For the other various other criteria related to water wells, I reviewed the
13 TWDB's Groundwater Data Viewer interactive mapping website and viewed the
14 groundwater wells in the vicinity of the proposed WWTP. I ascertained the
15 location and type of water wells within a half-mile of the proposed project site.

16 **Q. Are you familiar with title 30, section 309.13(c) of the Texas**
17 **Administrative Code?**

18 A. I am. It's one of the TCEQ rules I mentioned a moment ago governing facility
19 distance setbacks.

20 **Q. How have you developed familiarity with and used that particular**
21 **rule in your engineering practice?**

22 A. I've reviewed, interpreted, and implemented that particular rule while
23 preparing and reviewing over 100 permit applications during my 24-year

1 career. Elements of these plant siting location standards dovetail into the
2 initial project planning stage during the NEPA process in conjunction with the
3 design engineers during conceptual unit location selection, and then continues
4 in the permitting process in more detail.

5 **Q. You mentioned wastewater treatment plant unit earlier. Can you**
6 **explain what a wastewater treatment plant unit is?**

7 A. Yes, in general terms a wastewater treatment plant unit is a vessel, structure,
8 lagoon, or device that is designed to treat wastewater. The effluent pipe and
9 the related effluent outfall structure for the discharge of treated effluent are not
10 considered wastewater treatment plant units in the context of the TCEQ's
11 regulations. I do not design wastewater treatment plant units but work in
12 conjunction with design engineers whom I rely on to assist me with defining
13 whether a structure, unit, pipe, or device is a wastewater treatment plant unit.

14 **Q. Section 309.13(c) requires that wastewater treatment plant units be**
15 **separated by certain minimum distances from various public water**
16 **facilities. Among the project team working for the City of Granbury**
17 **on the application, who was responsible for determining whether**
18 **the proposed facility design would meet these distance**
19 **requirements?**

20 A. This was a collaborative effort between me as the permit application lead and
21 Josh Berryhill as the eHT design engineer.

1 **Q. Is each wastewater treatment plant unit that would be authorized**
2 **by the draft permit located farther than 500 feet away from the**
3 **nearest public water well?**

4 A. Yes. Based upon my review of the TWDB's Groundwater Data Viewer
5 interactive mapping website, I ascertained that there are no public water wells
6 within 500 feet of any of the wastewater treatment plant units.

7 **Q. Is each wastewater treatment plant unit that would be authorized**
8 **by the draft permit located farther than 250 feet away from the**
9 **nearest private water well?**

10 A. Yes. Based upon my review of the TWDB's Groundwater Data Viewer
11 interactive mapping website, I ascertained that there are no private water wells
12 within 250 feet of any of the wastewater treatment plant units.

13

14 **Q. Is each wastewater treatment plant unit that would be authorized**
15 **by the draft permit located farther than 250 feet away from the**
16 **nearest elevated or ground potable water storage tank, as defined in**
17 **section 290.43(b)(1) of TCEQ rules?**

18 A. Yes. Yes. In consultation with both Chris Hay, PE, and Josh Berryhill, PE, I
19 determined that there is no potable water elevated storage tanks or ground
20 storage tanks within 250 feet from the WWTP site.

21 **Q. Is each wastewater treatment plant unit that would be authorized**
22 **by the draft permit located more than 500 feet away from a public**

1 **water well site, as defined in section 290.41(c)(1)(C) of TCEQ rules,**
2 **a spring, or other similar sources of public drinking water?**

3 A. Yes. Based upon my review of the TWDB's Groundwater Data Viewer
4 interactive mapping website, and the USGS topographic map of the site
5 (included in the permit application), I ascertained that there are public water
6 well sites, springs, or other similar sources of public drinking water within 500
7 feet of any of the wastewater treatment plant units.

8 **Q. Is each wastewater treatment plant unit that would be authorized**
9 **by the draft permit located at least 500 feet away from a surface**
10 **water treatment plant, as defined by section 290.42(a)(2)(A) of**
11 **TCEQ rules?**

12 A. Yes. As stated previously, I completed the permit application form TCEQ-
13 10054, Domestic Technical Report Worksheet 2.0, Section 1 related to the
14 presence of the domestic surface water intake for the City of
15 Granbury that is located approximately 3 miles downstream of the proposed
16 outfall. I prepared a map that identified the location of the intake and include
17 it as an attachment to the permit application. I determined that the
18 requirement in the TCEQ rule title 30, Section 309.13(c)(5) that a wastewater
19 treatment plant unit be located a minimum horizontal distance of 500 feet from
20 a surface water treatment plant is exceeded.

1 **Q. You've developed expert opinions regarding whether the draft**
2 **permit is protective of the 100-year flood plain and wetlands?**

3 A. From the standpoint of distance requirements, yes. As indicated previously, I
4 conducted the NEPA review of the project by preparing the TWDB's
5 Environmental Information Document (EID) form with required attachments.
6 While preparing the EID, I reviewed and determined several of the location
7 standards per title 30, Section 309.13. TCEQ rule title 30, Section 309.13(a)
8 requires certain components of the treatment facility to be separated from the
9 100-year flood plain unless the unit is protected from inundation. TCEQ rule
10 title 30, Section 309.13(b) specifies that a WWTP unit may not be constructed
11 in wetlands. These two location standards are the subjects I'm prepared to
12 testify about.

13 **Q. Before we talk about what those opinions are, first describe what**
14 **you did and what you've experienced that led you to form your**
15 **opinions about whether the draft permit is protective of the 100-**
16 **year floodplain and wetlands.**

17 A. I determined that a portion of the WWTP property is located in the 100-year
18 floodplain. I determined this by overlaying the FEMA floodplain map onto a
19 map with the proposed WWTP unit site layout. I wrote in the EID and showed
20 in EID maps (Proposed East WWTP Site Layout and FEMA) that a portion of
21 the site including the outfall and a portion of the outfall pipe that will be located
22 in the 100-year floodplain. Once I determined this fact, I consulted with Josh
23 Berryhill, PE, the lead design engineer, regarding the unit location and

1 operations and verified that all of the WWTP units located above the would be
2 protected from inundation during flooding. I corresponded with FEMA and
3 the City of Granbury floodplain administrator by presenting the flood plain-
4 related EID sections and the EID maps. I incorporated the recommendations
5 from both FEMA and the local floodplain coordinator into the proposed EID
6 mitigation measures which will also be included in the construction plans.
7 Specific requirements include the need to obtain a flood development permit
8 prior to construction and to comply with Executive Order (EO) 11988 &
9 EO11990. I explained these EOs and certified compliance with both an
10 attachment to the FEMA letter and the local floodplain administrator letter. In
11 addition, I included the information relating to the 100-year flood plain criteria
12 in the permit application, specifically in the TCEQ-10054 form, Domestic
13 Technical Report (DTR) 1.1, Section 5.A, where I indicated that the proposed
14 facilities will be located above the 100-year floodplain and provided the specific
15 FEMA map number. Based on the results of the agency correspondence, from
16 consultation with Josh Berryhill, and through my preparation of the permit
17 application, I determined that the proposed project meets the location standard
18 related to the 100-year floodplain. Thus, in my expert opinion, the draft permit
19 is protective of the 100-year floodplain and the WWTP units are protected from
20 inundation from flooding.

21 I also corresponded with the US Army Corps of Engineers (USACE) and
22 the US Fish and Wildlife Service (USFWS) by presenting the wetlands-related
23 EID sections and the EID maps. No recommendations or mitigation measures

1 related to the wetland were provided by either agency. In addition, I included
2 the information relating to the wetlands criteria in the permit application,
3 specifically in the TCEQ-10054 form, Domestic Technical Report (DTR) 1.1,
4 Section 5.A, where I indicated that no wetlands or part of a wetland will be filled
5 for the proposed new facilities. Therefore in my expert opinion, proposed
6 location for the East Wastewater Treatment Facility complies with the 100-year
7 floodplain and wetland location standards found in 30 TAC section 309.13(a)
8 and (b).

9 **Q. You said earlier that you've formed opinions about whether the**
10 **draft permit would protect public health and safety with respect to**
11 **distance requirements. Do I understand that correctly?**

12 A. You do.

13 **Q. Based on your academic and professional training and experience**
14 **that you've developed over your career, and based on your review of**
15 **the information and the analyses of that information that you've just**
16 **discussed, what are your opinions?**

17 A. Section 309.13(c) requires important protections to public drinking water
18 supplies and related facilities through distance restrictions. Those setback
19 requirements provide for added protection of public health and safety. The
20 wastewater treatment plant that the city has proposed in the application, and
21 that would be allowed by the draft permit, is designed so that it will meet the
22 setback requirements that TCEQ has determined are necessary to protect
23 public health and safety. The draft permit would require the proposed

1 treatment plant facilities to meet those distance requirements, which is
2 protective of public health and safety, including the protestants and their
3 families.

4 **Q. Thank you, Ms. Dunn. Let me turn your attention to another subject**
5 **you mentioned earlier with regard to the completeness and**
6 **accuracy of the application. Did you receive any requests for**
7 **information from the TCEQ staff during their review of the**
8 **application for administrative completeness?**

9 A. Yes.

10 **Q. What requests did you receive?**

11 A. I transmitted the permit application to the TCEQ on September 16, 2019. The
12 TCEQ received it on September 16, 2019, per the certified return receipt card I
13 received back from the TCEQ. TCEQ sent a request for information on October
14 3, 2019. This was emailed to me on October 4, 2019 from Adriene McClarron.
15 I requested clarification from Ms. McClarron regarding the landowner
16 notifications via emails on October 8, 2019, and she replied through emails on
17 October 8, 2019. I also received another request for information from Ms.
18 McClarron on November 8, 2019, also via email.

19 **Q. Did you provide the TCEQ with all of the information the agency**
20 **requested during the staff's administrative review?**

21 A. Yes. I replied to the TCEQ's request October 3, 2019, request for information
22 including the clarifications between TCEQ and me on October 25, 2019. I
23 provide a correction to one previously-submitted item on October 28, 2019. I

1 replied to the TCEQ's additional request for information emailed to me on
2 November 8, 2019, via email reply with the revised form on November 8, 2019.

3 **Q. Did you receive any requests for information related to the**
4 **application from the TCEQ staff during the technical review of the**
5 **application?**

6 A. Yes.

7 **Q. Which requests did you receive?**

8 A. eHT (Josh Berryhill and I), TCEQ, and the City corresponded via email and
9 then met to discuss the proposed effluent limits in January, February, and
10 March 2020. The meeting was held at the TCEQ on February 13, 2020. After
11 then meeting, Josh Berryhill and I continued to correspond with the TCEQ
12 regarding the proposed permit limits until the draft acceptance request letter,
13 draft permit, NAPD, and statement of basis/technical summary was provided
14 by the TCEQ via email on April 1, 2020. Then eHT (Josh Berryhill, Chris Hay,
15 and I) and the City reviewed the draft documents and I provided comments on
16 the drafts and subsequent drafts to the TCEQ on April 7, 2020, and April 8,
17 2020. I sent an email to the TCEQ indicating eHT's and the City's approval of
18 the revised draft documents on April 8, 2020.

19 **Q. Did you answer all the questions that TCEQ staff asked of you on the**
20 **city's behalf during the staff's technical review of the application?**

21 A. Yes. The specific correspondence and discussions that I had with the TCEQ are
22 documented in the previous question.

1 **Q. At any time during your work on the application, did the TCEQ staff**
2 **notify you of inaccuracies they discovered in the information you**
3 **provided to them?**

4 A. Yes.

5 **Q. What inaccuracies did TCEQ staff discover in the information you**
6 **provided to them?**

7 A. A few application inaccuracies were identified in the TCEQ's administrative
8 review through the TCEQ letter, dated October 3, 2019, and the TCEQ's email,
9 dated November 8, 2019. There were no inaccuracies noted by the TCEQ
10 during the technical review.

11 **Q. Did you correct that information, in each instance?**

12 A. Yes. The TCEQ's request for information, dated October 3, 2019, related to
13 administrative items. Specifically, I updated the zip code on the Core Data form
14 and I provided the new 911 address for the project site. On the application
15 topographic map, I lightened the opacity of the highlight along the discharge
16 route for the 3-miles downstream such that the features were visible. I
17 provided the complete landowner address for Landowner 1 as requested. I also
18 modified the landowner map and list in accordance with the directions
19 provided by the TCEQ in the emails exchanged between Ms. McClarron, TCEQ,
20 and me, on October 8, 2019. I noted an error on the landowner map and list
21 provided on October 25, 2019, so I provided a revision or each to the TCEQ on
22 October 28, 2019. Also, the TCEQ's email, dated November 8, 2019, requested
23 that the change of address to the new 911 address that I provided in the

1 application response, dated October 25, 2019, be included on the Supplemental
2 Permit Information form (SPIF), as well. I updated the address and sent the
3 SPIF to the TCEQ on the same day as the request was received.

4 **Q. Based on your extensive work on TPDES permits throughout your**
5 **career, your professional and academic training, and the work you**
6 **have done on the City of Granbury's application, do you have an**
7 **opinion regarding whether the application is accurate and**
8 **complete?**

9 A. I do. The application is accurate, and the application is complete.

10 **Q. During your work on the application, who was responsible for**
11 **ensuring that all public notice requirements were met?**

12 A. I was.

13 **Q. Describe generally the process you followed for the public notice of**
14 **receipt of the application.**

15 A. Upon the TCEQ declaring an application administratively complete, a public
16 notice (Notice of Receipt of Application and Intent to Obtain a Water Quality
17 Permit (NORI) is published in the local newspaper within 30 days of the
18 declaration date. In some cases, the notice is also published in a primarily
19 Spanish newspaper. I personally handled the published notices required for
20 this application, both in the local newspaper and also in a local Spanish
21 newspaper. The TCEQ declared the application administratively complete on
22 November 12, 2019. I managed the publications such that the NORI was
23 published within 30 days after issuance in the required newspapers.

1 **Q. Did you provide the Chief Clerk’s office with all required affidavits,**
2 **verifications, and tear sheets?**

3 A. Yes. The NORI was published in the Hood County News on November 16, 2019,
4 and in La Prensa Comunidad on November 25, 2019. I submitted the proof of
5 publication to the TCEQ on December 6, 2019.

6 **Q. Generally describe the process you followed for the public notice of**
7 **application and preliminary decision.**

8 A. Upon the TCEQ issuing the Executive Director’s preliminary decision, draft
9 permit, the Notice of Application and Preliminary Decision (NAPD), the NAPD
10 is published in the local newspaper within 30 days of the issuance date. As with
11 the NORI, I personally handled the NAPD publication in the local newspaper
12 and in a local Spanish newspaper. The TCEQ issued the NAPD on May 4, 2020.

13 **Q. Did you provide the agency with the required affidavits,**
14 **verifications, and tear sheets?**

15 A. Yes. The NAPD was published in the Hood County News on May 9, 2020, and
16 in La Prensa Comunidad on May 11, 2020. I submitted the proof of publication
17 to the TCEQ on May 11, 2020.

18 **Q. There was a public meeting on the application, as well, is that**
19 **correct?**

20 A. Yes. A public meeting was held on September 10, 2020.

1 **Q. Did you meet all notice requirements imposed on the city for the**
2 **public meeting?**

3 A. Yes. The public meeting notice was published in the Hood County news at least
4 30 days prior to the public meeting date, which was on September 10, 2020. I
5 personally handled the public meeting notice publication in the in the local
6 newspaper. The notice was published on August 5, 2020. I submitted the proof
7 of publication to the TCEQ on August 6, 2020, which was within 10 days of the
8 publication, exactly as required by TCEQ rules. No publication in the primarily
9 Spanish newspaper was required by the TCEQ.

10 **Q. Given your first-hand knowledge of the notice requirements and the**
11 **steps you took to ensure that the city complied with all applicable**
12 **public notice requirements, do you have an opinion on whether the**
13 **city substantially complied with applicable notice requirements?**

14 A. I do. The city undoubtedly substantially complied with applicable public notice
15 requirements.

16 **THANK YOU, MS. DUNN. I HAVE NO FURTHER QUESTIONS OF MS. DUNN AT**
17 **THIS TIME.**