

Scott Norman

June 25, 2024

Gwen Ricco
Office of Legal Services
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087

Re: Rule Project Number 2024-006-230-OW

Ms. Ricco,

On behalf of the Texas Association of Builders ("TAB"), please accept the following preliminary comments regarding Rule Project Number 2024-006-230-OW (the "Proposed Rules") as proposed by the Texas Commission on Environmental Quality ("TCEQ"). TAB appreciates the opportunity to comment on this important proposal. Specifically, TAB strongly believes that the proposed amendments to Chapter 30 of the Texas Administrative Code should not include a definition for "credible evidence", as that is beyond the scope of Texas statutes.

Founded in 1946, TAB is an affiliate of the National Association of Home Builders and has 26 local associations and nearly 10,000 builder, remodeler, developer and associate members across the state. Representing over 758,000 jobs and more than \$71 billion annually in the Texas economy, the state and local associations play a crucial role in providing housing for Texans. TAB is dedicated to creating a positive business environment for the housing industry by addressing the housing issues of the people of Texas.

During the Texas 88th Regular Legislative Session, TAB worked to help pass SB 2440, as the certification of groundwater availability for residential subdivisions using such a water source is a shared goal of TAB's. An important part of the bill that TAB helped negotiate are the provisions allowing municipalities and counties to waive the certification based on credible evidence of groundwater availability under certain conditions. SB 2440, Sec. 212.0101(a-1), Local Government Code and Sec. 232.0032(a-1), Local Government Code, all clearly give municipalities and counties, and only municipalities and counties, the authority and discretion to determine what constitutes "credible evidence" of groundwater availability. Furthermore, as the background and summary of the Proposed Rules themselves correctly states, under Texas Local Government Code Secs. 212.0101(b) and (c) and Secs. 232.0032(b) and (c), TCEQ is very clearly limited to adopting rules that establish the form and content of a groundwater availability certification and the transmittal of specific information to the Texas Water Development Board and the applicable groundwater conservation district. Creating a definition of "credible evidence" in the Proposed Rules goes well beyond this limitation because such a definition constitutes something more than the certificate's form, content and transmittal requirements. Again, SB 2440, Sec. 212.0101(a-1) and Sec. 232.0032(a-1) plainly provide municipalities and counties (not TCEQ) with the authority and discretion to establish what establishes "credible evidence" of groundwater availability. As such, TAB strongly opposes TCEQ providing a definition of "credible evidence" in the Proposed Rules,

as that goes beyond TCEQ's clearly established legislative authority.

Thank you for your time and efforts, and please accept these comments as TAB's opposition to the inclusion of a definition of "credible evidence" in the Proposed Rules. If you have any questions or comments, please do not hesitate to reach out to me or the TAB offices.

Sincerely,

Scott Norman
Chief Executive Officer
Texas Association of Builders