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To: Kristin DeBone
Water Quality Planning Division
Texas Commission on Environmental Quality
MC 203, P.O. Box 13087
Austin, Texas 78711-3087

Re: Public Comments on the Draft 2027 Texas Nonpoint Source Management Program

The Big Thicket Natural Heritage Trust submits the following comments to the Texas Commission on Environmental Quality (TCEQ) and Texas State Soil and Water Conservation Board (TSSWCB) in response to the request for public comment regarding the [Draft 2027 Texas Nonpoint Source Management Program](#).

The Big Thicket Natural Heritage Trust is a local land trust serving the Big Thicket, Southeast Texas area with a mission to grow, protect and advocate for the integrity of our unique natural resources including the Big Thicket National Preserve, a Unit of the National Park Service. The Big Thicket area was formed by and is known for its creeks, rivers and forests. We receive an average of 55 to 60 inches of rainfall a year, have extensive rainfall events and are in the hurricane zone.

The Nonpoint Source Management Program should establish stronger priorities, accountability measures, and implementation strategies to protect our ground and surface waters. We appreciate the opportunity to comment.

The forests of southeast Texas provide clean water, water quantity and flood control for citizens and industry. Our Southeast Texas area continues to see buildout of pipelines, transmission lines and highways, all using eminent domain for easements and/or acquisitions. These projects clearcut a swath through forests anywhere between 200 to 400 feet wide for miles and crossing many creeks and rivers. The clearcut may go all the way to the creek/river banks, leading to erosion and sedimentation. Storm Water Pollution Prevention Plans (SW3P), on these sites have proven inadequate or nonexistent to prevent erosion/sedimentation. The citizens of the State of Texas should be compensated for loss of ecosystem services - water quality, water quantity, carbon storage and flood control from entities utilizing eminent domain. Affected landowners receive a one-time payment for an easement or acquisition but the State carries the

loss of ecosystem services forever. With a changing climate and a looming water crisis, the Non Point Program should outline mitigation ecosystem service lost.

State and private entities using eminent domain should be required to replant disturbed areas in native grasses and wildflowers. These entities should be required to only use natural/biodegradable erosion control and vegetation restoration products. The Texas Department of Transportation (TxDOT) utilizes a vegetation restoration mat product that is enclosed in degradable plastic and is not wildlife friendly. The plastic will degrade and enter our ground water and/or surface water. These products should be outlawed for state and private entities.

For over ten years The Big Thicket Natural Heritage Trust has collaborated with TxDOT on highway projects throughout the Big Thicket area. We have spent hours on the planning stage and construction of the *Highway 69, Gateway to the Big Thicket* project. The project crosses 77 wetlands and 29 water crossings in 13 miles. All streams are tributaries of Village Creek which is a tributary of the Neches River.

In the Draft 2027 Texas Nonpoint Source Management Program, Chapter 5. Agency Program Descriptions Supporting Nonpoint Source Management, Texas Department of Transportation, the narrative states: "TxDOT oversees the construction and maintenance of the state's roadway network, including managing potential pollution from road and highway operations throughout the state. TxDOT maintains compliance with several TPDES regulatory requirements through a variety of stringent work practices, programs, and policies..." "Structural Controls – Construction and Post-construction: TxDOT designs structural stormwater controls in ways to minimize pollutant discharges."

It has been our experience that TxDOT's SW3P in our area has not been designed for the amount of rainfall received and pollutant discharges have not been minimized. For two and a half years we have pointed out to TxDOT the inadequacies of their erosion control devices and resulting erosion and therefore sedimentation into streams on Highway 69. We have also had to point out the lack of repairing/replacement of deficient devices in a timely manner and lack of housekeeping by the contractor. Concrete washout procedures are not to permit leading to contamination. These deficiencies are documented in the Form 2118, Field Inspection and Maintenance Reports but the contractor and TxDOT are slow to respond, if at all. Official complaints have been made to TCEQ regarding 401 Permit noncompliance. Pictures of permit noncompliance are included that were submitted to TCEQ.

The actions above constitute Section 401 permit violations, specifically regarding the prevention of erosion, sedimentation, and the discharge of pollutants into navigable waters. The cumulative impacts threaten local aquatic ecosystems, degrade water quality and quantity, and result in loss of private property. Continued non-compliance undermines the regulatory framework intended to protect the environment and public interests.

Take this one project and multiply it by the hundreds of TxDOT projects around the state.

"TxDOT Litter Pick Up: TxDOT contracts private companies to collect litter along rights of way. This helps prevent floatable debris from clogging storm drains and polluting surface waters." TxDOT picks up trash in our Big Thicket area a couple of times a year and that is after they mow. All that trash, including plastic, is cut into many pieces and ends up in our ground or surface waters. TxDOT should have a once a month trash pickup on all roads and especially before mowing.

TxDOT and Entergy, our local electricity provider, use mulching to maintain their right of ways. Right of ways are mulched down to bare earth. Both will mulch right up to creek banks. Both have driven heavy mulching equipment through wetlands and streams. This leads to erosion, sedimentation and stream degradation. We cannot find any entity that monitors this behavior.

Thank you for your time and effort in developing this draft program. Please continue to work to make it stronger and to hold entities accountable to the citizens of the State of Texas.

Much appreciated.



Ellen Buchanan, President
Big Thicket Natural Heritage Trust