TEXAS HEALTH and ENVIRONMENT ALLIANCE, INC.

December 8, 2016

Mr. Gary Miller
Remedial Project Manager
U.S. EPA Region 6 (6SF-RA)
1445 Ross Avenue
Dallas, Texas 75202-2733
Via Priority Mail and e-mail to miller.garyg@epa.gov

Re: Fraudulent Representation by Mr. Knickerbocker; San Jacinto River Waste Pits Superfund Site Administrative Record

Dear Mr. Miller:

This letter seeks the removal from the administrative record of Mr. Thomas Knickerbocker's letter of October 13, 2016, Attachment A, and any other documents in which he might fraudulently claim to be the attorney for the San Jacinto River Coalition. We also request that EPA explicitly and publicly state what action it is taking with respect to that letter because of its fraudulent content.

Mr. Knickerbocker actually represents a group that is taking public positions that are very inconsistent with those of the San Jacinto River Coalition. Mr. Knickerbocker's deceptive letter appears to be submitted for the purpose of creating confusion, to our detriment.

The San Jacinto River Coalition (SJRC) is an organization that has been in existence for several years. I have been actively involved with it since 2011. During that time, the SJRC has been a project of the Texans Together Education Fund, a 501(c)(3) non-profit corporation, and the more recently-established Texas Health and Environment Alliance (THEA), also a non-profit organization incorporated in Texas that has 501(c)(3) status.

I have been the project manager for the SJRC since September 2013 and am the Executive Director of THEA. In that role, I have been communicating regularly with EPA and others in recent years about our organization's concerns with the San Jacinto River Waste Pits Superfund Site and other environmental issues in the vicinity of the San Jacinto River. We have held regular and open community meetings in the area of Highlands and Baytown for years, some of which have been attended by over 100 local citizens. We have a core group of many supporters who are openly identified in the community. In the last couple of years, the SJRC has been a community representative on the Community Advisory Committee that EPA created as part of its public outreach related to this Superfund site.

9843424

The SJRC and THEA have not and never will be represented by Mr. Knickerbocker. His assertion in the attached letter that he represents this organization is blatantly false and deceptive.

The San Jacinto River Coalition generally agrees with EPA's proposed remedy to remove the source pulp and paper mill wastes from the San Jacinto River Waste Pits Superfund site. As the EPA states, this preferred alternative "is the only one that will reliably result in no catastrophic future release of waste material upon completion of construction." (EPA Proposed Plan at p.2) "The containment alternatives, while costing less, cannot be shown to reliably contain the waste material long-term." (EPA Proposed Remedy at p. 3) The SJRC supports remedial action that removes the waste, prevents long-term releases from the former waste impoundments, and reduces human exposure to dioxins.

As evidenced by Attachment B to this letter, Mr. Knickerbocker appears to represent an unincorporated group known as the San Jacinto Citizens Against Pollution, which also goes by the name Keep-it-Capped. Mr. Knickerbocker's apparent client group is advocating for positions that are very different from those of the San Jacinto River Coalition. As this attachment shows, his client commissioned a report by consultant Dr. Tim Barber that advocates leaving the source waste in this high-energy river. They have a website and an anonymous Facebook page that also advocate for "capping" the waste and keeping it in this river. As far as we can determine, this "group" is not incorporated, and has no DBA or assumed name registration on record. While it claims to consist of concerned "citizens", these citizens seem afraid to be publically identified with the "group" and its positions. Mr. Knickerbocker and Dr. Barber, the attorney and consultant paid by the well-funded "group," are its limited "live" public face.

Mr. Knickerbocker's false representation could have very negative consequences for the San Jacinto River Coalition. Media sources and others, assuming that attorneys will be honest about who they represent, would rely on the untrue information created by Mr. Knickerbocker's letter, and believe that the SJRC requested an extension of the comment period.

A potentially more serious matter is that supporters, or potential supporters, intending to contact the San Jacinto River Coalition, instead unwittingly would be contacting an organization whose interests are very different from that of the SJRC. This is not a hypothetical problem. Years ago, the public relations representative for the responsible parties at the Brio Superfund site distributed documents that gave the impression that people would be contacting the EPA by calling a specific number, when in reality they were contacting her office. Even another federal agency was fooled!

This letter is not a harmless error. This appears to be intentional.
Mr. Knickerbocker uses the full name of our organization and states his representation in the first line of the letter, and later signs the letter as "Attorney for San Jacinto River Coalition." He refers to the "Coalition" multiple times. The letter states that it is a "REVISED REQUEST" indicating that this isn't a quick first draft.

Please feel free contact me at jyoung@txhea.org or (281)315-5242 to address this critical issue.

Very truly yours,

Jacquelyn Young

Jacquelyn Young
San Jacinto River Coalition / Texas Health and Environment Alliance

cc:
Mr. Thomas C. Knickerbocker
The Knickerbocker Law Firm, PLLC
2503 Dauphin Court
Nassau Bay, Texas 77058
Via Priority Mail and e-mail to Thomas@klawtexas.com

Lisa Gossett, J.D.
San Jacinto River Coalition / THEA
lisa.gossett@sbcglobal.net

Anne Foster
USEPA
Foster.Anne@epa.gov

San Jacinto River Waste Pits Superfund Site Comments
R6_San_Jacinto_Waste_Pits_Comments@epa.gov

The Knickerbocker Law Firm, PLLC

REAL ESTATE, LAND USE & CONDEMNATION LAW

October 13, 2016

RECEIVED
16 OCT 21 AM 10:59
REMEDIAL BRANCH
6SF-RL

Mr. Gary Miller
Superfund Remedial Project Manager
Region 6
1445 Ross Ave.
Dallas, Texas 75202

RE: San Jacinto Waste Pits Superfund Site Request for Extension of Proposed Remedial Action Plan Public Comment Period (***REVISED REQUEST***)

Dear Mr. Miller:

I am writing on behalf of the San Jacinto River Coalition/"KeepitCapped.org" ("Coalition") to request that EPA extend the Public Comment Period for the Proposed Remedial Action Plan issued on or about September 28, 2016 (the "PRAP") for sixty days until January 27, 2017. We ask that this request be included in the Administrative Record for the Site. The requested extension is necessary to allow sufficient time for a full and thorough analysis of the PRAP, considering that EPA has chosen to disregard the findings of the U.S. Army Corps of Engineers who were hired to prepare a Feasibility Study on the alternatives under consideration.

EPA's closure of the public comment period on November 28, 2016 falls short of providing the hundreds of stakeholders involved, including all levels of government from the Texas Commission on Environmental Quality; to Harris County; The City of Baytown; the communities of Highlands and Channelview; the Port of Houston, and numerous citizen and environmental interest groups adequate time to collaborate and comment. The analysis of the Feasibility Study, including all the technical evaluations and the PRAP and the evidence disclosed in the trial in 2015 brought by Harris County against the Potentially Responsible Parties will all have to be reviewed by our Experts. Given the length and complexity of the analyses and documents we do not believe it is realistic to expect that interested parties will be able to complete a thorough analysis of the FS and the PRAP and prepare and submit comments by late October.

For the foregoing reasons, the Coalition and its members request that EPA extend the public comment period for the PRAP sixty days to January 27, 2017. Please promptly confirm EPA's response to the Coalition's request.

Very truly yours,

9418477

Thomas C. Knickerbocker
Attorney for San Jacinto River Coalition

2503 Dauphin Court, Nassau Bay, Texas 77058
T 713/818-4155 E thomas@klawtexas.com

Attachment A – Letter Fraudulently Indicating Mr. Knickerbocker Represents SJRC

From: Keep It Capped <keepitcapped@gmail.com>
Date: August 16, 2016 at 5:08:15 PM CDT
To: Keep ItCapped <Keepitcapped@gmail.com>
Subject: SAN JACINTO CITIZENS AGAINST POLLUTION RELEASES TECHNICAL RECOMMENDATION FOR IN PLACE REMEDIATION OF SAN JACINTO WASTE PITS

FOR IMMEDIATE RELEASE
August 16, 2016

Contact: Thomas Knickerbocker
Email: Thomas@klawtexas.com
Phone: 713-818-4155

SAN JACINTO CITIZENS AGAINST POLLUTION RELEASES TECHNICAL RECOMMENDATION FOR IN PLACE REMEDIATION OF SAN JACINTO WASTE PITS

San Jacinto Citizens Against Pollution, (SJCAP) a group of citizens concerned about the upcoming remediation of the San Jacinto River Waste Pits, has released a report that outlines the technical merits of a permanent cap on the waste and the risks of a mass extraction remedy. Dr. Tim Barber, PhD (Univ. of South Florida, Marine Science 1992) of Environmental Resources Management, an expert in the remediation of sediment projects, authored the report.

Dr. Barber's report states, "Perhaps the most significant issue associated with dredging's potential effectiveness is the extent of residual contamination following dredging. No dredging operation can remove every particle of contaminated sediment, and field results to date for completed environmental dredging projects suggest that post-dredging residual levels, expressed as contaminant concentration in surface sediments, have often been greater than the cleanup levels."

Thomas Knickerbocker, Attorney representing the group said, "This report offers strong evidence that an excavation of the pits as an alternative remedy poses significantly greater risk of harm to human health and the environment than capping in place. Excavation of the pits would disturb existing sediments in the river thereby posing a significant risk for outcomes that could damage the river ecosystem for generations. An in-place armored permanent cap remedy avoids those risks and is the remedy most likely to lower the river's overall toxic load. The ultimate remedy, to be determined by the EPA, should be based on sound scientific principles, like Dr. Barber's report shows. Additional scientific and engineering analysis is ongoing at present by SJCAP and will be released in the near future. So far, the studies and experiences across the nation in similar

instances suggests that the best thinking in environmental engineering and best practices leads to an in place remediation."

The report also outlines the significant public support for an in place remedy. SJCAP has generated over 900 letters of support from community members from Galveston to Channelview.

Maya Cantu of Deer Park stated in a letter to the editor published in the Baytown Sun on June 24th, "...if the site is dredged, waste from the pits will inevitably be released and increase the toxicity of the river. The EPA's job is to secure the environmental safety of our community. The EPA should oppose dredging."