

SOAH DOCKET NO. 582-23-01498
TCEQ DOCKET NO. 2022-0533-DIS

APPLICATION FOR THE CREATION OF	§	BEFORE THE TEXAS
COLLIN COUNTY MUNICIPAL UTILITY	§	COMMISSION ON
DISTRICT NO. 7	§	ENVIRONMENTAL QUALITY

APPLICANTS' RESPONSE TO HEARING REQUESTS

TO THE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Restore the Grasslands, LLC, Applicant for the Creation of Collin County Municipal Utility District No. 7 ("Applicant" or "RTG") files its Response to Hearing Requests and shows as follows:

I. Introduction and Procedural History

The proposed Collin County Municipal Utility District No. 7 (the "District") contains 101.829 acres located in Collin County (the "Property"). The proposed District is located within the extra territorial jurisdiction of the City of Parker and also borders the City of Murphy.

After substantial discovery and preparation for hearing on the merits, this matter was remanded to the Texas Commission on Environmental Quality (the "Commission") by the State Office of Administrative Hearings ("SOAH") presiding Administrative Law Judge for additional notice to be provided by the Applicant, relating to ownership of the Property.¹ Applicant published the Notice of District Petition in the Collin County Commercial Record on June 11, 2024 and June 18, 2024, a newspaper generally circulated in Collin County. On June 7, 2024, notice of the Petition was also posted in the Collin County Courthouse. Subsequently, the Commission received a number of additional requests for a contested case hearing ("CCH").

¹ The remand occurred on February 13, 2024.

The Office of the Chief Clerk sent notice of the agenda setting for the Commission's consideration of the hearing requests and setting the hearing on the requests for May 22, 2025. As more fully set forth below, Applicant objects to the individual requests for a CCH.

II. Applicable Law

A municipal utility district ("MUD" or "district") may be created under and subject to the authority, of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, and the Commission's administrative. A district may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

TEX. WATER CODE § 54.012.

To create a MUD, a petition requesting creation shall be filed with the Commission. *See* TEX. WATER CODE § 54.014. The petition shall be signed by a majority in value of the holders of title of the land within the proposed district, as indicated by the tax rolls of the central appraisal district. *See id.* The petition shall: (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number; (2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated

by those filing the petition; and (3) include a name of the district which shall be generally descriptive of the locale of the district. *See* TEX. WATER CODE § 54.015, 30 TEX. ADMIN. CODE § 293.11(a) and (d).

The Commission shall grant the petition if it conforms to the requirements of section 54.015 and the project is feasible, practicable, necessary, and further, would be a benefit to the land to be included in the district. *See* TEX. WATER CODE § 54.021(a). In determining if the project is feasible, practicable, necessary, and beneficial to the land to be included in the district, the Commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;
 - (D) recharge capability of a groundwater source;
 - (E) natural run-off rates and drainage;
 - (F) water quality; and
 - (G) total tax assessments on all land located within a district.

TEX. WATER CODE § 54.021(b).

The applicant must publish notice of the petition to create a district once a week for two consecutive weeks in a newspaper regularly published or circulated in the county where the district is proposed to be located not later than the 30th day before the date of the Commission's decision on the application. *See* TEX. WATER CODE §§ 49.011(b), 54.018. Additionally, the applicant must post notice of the petition on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located. *See* 30 TEX. ADMIN. CODE § 293.12(b)(2). The Commission shall hold a public hearing if requested by the

Commission, Executive Director, or an “affected person” under the factors in 30 Texas Administrative Code, Chapter 55 and Texas Water Code section 49.011(c).

A hearing requestor must make the request in writing within the time period specified in the notice and such request must substantially comply with the following requirements:

- (1) give the name, address, and daytime telephone number of the person who files the request....;
- (2) identify the person’s personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor’s location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of the application.

30 TEX. ADMIN. CODE § 55.251(b)—(d).

An affected person is “one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.” 30 TEX. ADMIN. CODE § 55.256(a). Governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. *See* 30 TEX. ADMIN. CODE § 55.256(b). Relevant factors to be considered in determining whether a person is affected include, but are not limited to:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and

- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TEX. ADMIN. CODE § 55.256(c).

The Commission shall grant a request for a CCH if: (1) the request is made by the applicant or the ED; or (2) the request is made by an affected person, complies with the requirements of section 55.251, is timely filed with the chief clerk, and is made pursuant to a right to hearing authorized by law. *See* 30 TEX. ADMIN. CODE § 55.255(b).

III. Analysis of the Hearing Requests

Over 85 individuals submitted requests (the “Requestors”) for a CCH. Applicant objects to all of these requests for failure to substantially comply with Commission requirements, lack of proximity to the proposed District, and failure to establish affected person status. Moreover, none of the requests identify any way in which the proposed District would fail to benefit the land *to be included* in the District. Instead, the Requestors focus solely on land *outside* the proposed District, as well as environmental concerns that relate to construction of a wastewater discharge plant and other matters, which are outside the scope of this proceeding.

The following Requestors fail to substantially comply with each of the Commission’s requirements for a CCH request: Lynnette Ammar, Calvin Arnold, Theresa Chen, Debbie Chisolm, Loc Chu, Patrick Corbett, Cynthia Daugherty, Obinna Emechebe, Uche Emechebe, Bhasker Garlapati, Mohannad Hashem, Alesha Haynes, Brian Hollon, Shorouq Husein, David Johns, Chip Justice, Brad Levy, Candy Levy, Linda Loop, Steve Loop, Sonja Louis, Stephen Louis, Edwin Lundberg, Dianne Lundberg, John Lund, Laura Mawhinney, Ann Stormer McCook, Zachary McCook, Kannan Palaniappan, Lee Pettie, Heather Powell, Nettie Powell, Kathy Pressley, William Michael Pressley, James Reed, Bonnie Shea, Nathan Shea, Josphe Stack, and Kevin Walsh. Specifically these requests did not provide the requestor’s distance

relative to the proposed District or were not submitted within the time period specified in the notice and, therefore, should be denied.

Further, Applicant contests the requests of individuals living beyond a one-mile radius from the proposed boundaries of the proposed District. Although these Requestors have met the necessary legal requirements of a CCH request, their distance of greater than one mile relative to the proposed District precludes them from further consideration as an affected person with a personal justiciable interest that is not common to members of the general public as defined by section 55.256(a). TEXAS WATER CODE § 55.256(a). Such lack of proximity would certainly prevent them from experiencing any claimed negative impacts from the proposed District in a manner not common to the general public. As such, the CCH requests of the following individuals should be denied: Randy Kercho, Stephen Louis, Daniel Maynes, Jackie Rivas, Tracy Stack, Laura Stanford, James Stanford, Jennifer Van der Horn, and Loretta Walther.

Additionally, the Requestors have not clearly identified any personal justiciable interest as required under the Texas Administrative Code. Specifically, the Requestors have not shown that they would be affected by the proposed District in a manner not common to members of the general public or have statutory authority over or an interest in the issues relevant to the Application. Rather than articulate a personal interest in the District's Creation, these individuals argue interests relating traffic, odor, nuisance and other matters that are not considered in a district creation. TEXAS WATER CODE § 55.251(b)-(d). Therefore, Requestors do not meet the definition of an "affected person" under section 55.256(a) and such hearing requests should be denied, including the requests of Ray Hemming, Laura, Hernandez, Ted Lane, Kathy Harvey, Don Wade Cloud, Emily Plummer, Carolyn Moebius, Andrew Malezewski, Angelique Loncar, and Lindy Pilgrim.

IV. Conclusion

Requests for a CCH do not substantially comply with the Commission's requirements and clearly fail to identify any personal justiciable interest as required under the Texas Administrative Code. The Requestors do not identify how they would be affected by the proposed District in a manner not common to members of the general public or have statutory authority over or an interest in the issues relevant to the applications. Accordingly, the Requestors do not meet the definition of an "affected person" and the hearing requests should be denied.

WHEREFORE, Applicant requests that the above identified hearing requests be denied and that the Petition be granted.

Respectfully submitted,

COATS | ROSE

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CERTIFICATE OF SERVICE

I hereby certify that on 28th April 2025, the original of Applicant's Response to Hearing Requests was filed with the Chief Clerk of the TECQ and a copy was served on all person listed on the attached mailing list either via hand delivery, facsimile transmission, electronic mail, and/or by deposit in the U.S. Mail.



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DOCKET NO. 2022-0533-DIS; INTERNAL CONTROL NO. D-04122021-017

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SOAH DOCKET NO. 582-23-01498
TCEQ DOCKET NO. 2022-0533-DIS

APPLICATION FOR THE CREATION OF	§	BEFORE THE TEXAS
COLLIN COUNTY MUNICIPAL UTILITY	§	COMMISSION ON
DISTRICT NO. 7	§	ENVIRONMENTAL QUALITY

APPLICANTS' RESPONSE TO HEARING REQUESTS

TO THE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Restore the Grasslands, LLC, Applicant for the Creation of Collin County Municipal Utility District No. 7 (“Applicant” or “RTG”) files its Response to Hearing Requests and shows as follows:

I. Introduction and Procedural History

The proposed Collin County Municipal Utility District No. 7 (the “District”) contains 101.829 acres located in Collin County (the “Property”). The proposed District is located within the extra territorial jurisdiction of the City of Parker and also borders the City of Murphy.

After substantial discovery and preparation for hearing on the merits, this matter was remanded to the Texas Commission on Environmental Quality (the “Commission”) by the State Office of Administrative Hearings (“SOAH”) presiding Administrative Law Judge for additional notice to be provided by the Applicant, relating to ownership of the Property.¹ Applicant published the Notice of District Petition in the Collin County Commercial Record on June 11, 2024 and June 18, 2024, a newspaper generally circulated in Collin County. On June 7, 2024, notice of the Petition was also posted in the Collin County Courthouse. Subsequently, the Commission received a number of additional requests for a contested case hearing (“CCH”).

¹ The remand occurred on February 13, 2024.

The Office of the Chief Clerk sent notice of the agenda setting for the Commission's consideration of the hearing requests and setting the hearing on the requests for May 22, 2025. As more fully set forth below, Applicant objects to the individual requests for a CCH.

II. Applicable Law

A municipal utility district ("MUD" or "district") may be created under and subject to the authority, of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, and the Commission's administrative. A district may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

TEX. WATER CODE § 54.012.

To create a MUD, a petition requesting creation shall be filed with the Commission. *See* TEX. WATER CODE § 54.014. The petition shall be signed by a majority in value of the holders of title of the land within the proposed district, as indicated by the tax rolls of the central appraisal district. *See id.* The petition shall: (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number; (2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated

by those filing the petition; and (3) include a name of the district which shall be generally descriptive of the locale of the district. *See* TEX. WATER CODE § 54.015, 30 TEX. ADMIN. CODE § 293.11(a) and (d).

The Commission shall grant the petition if it conforms to the requirements of section 54.015 and the project is feasible, practicable, necessary, and further, would be a benefit to the land to be included in the district. *See* TEX. WATER CODE § 54.021(a). In determining if the project is feasible, practicable, necessary, and beneficial to the land to be included in the district, the Commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;
 - (D) recharge capability of a groundwater source;
 - (E) natural run-off rates and drainage;
 - (F) water quality; and
 - (G) total tax assessments on all land located within a district.

TEX. WATER CODE § 54.021(b).

The applicant must publish notice of the petition to create a district once a week for two consecutive weeks in a newspaper regularly published or circulated in the county where the district is proposed to be located not later than the 30th day before the date of the Commission's decision on the application. *See* TEX. WATER CODE §§ 49.011(b), 54.018. Additionally, the applicant must post notice of the petition on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located. *See* 30 TEX. ADMIN. CODE § 293.12(b)(2). The Commission shall hold a public hearing if requested by the

Commission, Executive Director, or an “affected person” under the factors in 30 Texas Administrative Code, Chapter 55 and Texas Water Code section 49.011(c).

A hearing requestor must make the request in writing within the time period specified in the notice and such request must substantially comply with the following requirements:

- (1) give the name, address, and daytime telephone number of the person who files the request....;
- (2) identify the person’s personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor’s location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of the application.

30 TEX. ADMIN. CODE § 55.251(b)—(d).

An affected person is “one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.” 30 TEX. ADMIN. CODE § 55.256(a). Governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. *See* 30 TEX. ADMIN. CODE § 55.256(b). Relevant factors to be considered in determining whether a person is affected include, but are not limited to:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and

- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TEX. ADMIN. CODE § 55.256(c).

The Commission shall grant a request for a CCH if: (1) the request is made by the applicant or the ED; or (2) the request is made by an affected person, complies with the requirements of section 55.251, is timely filed with the chief clerk, and is made pursuant to a right to hearing authorized by law. *See* 30 TEX. ADMIN. CODE § 55.255(b).

III. Analysis of the Hearing Requests

Over 85 individuals submitted requests (the “Requestors”) for a CCH. Applicant objects to all of these requests for failure to substantially comply with Commission requirements, lack of proximity to the proposed District, and failure to establish affected person status. Moreover, none of the requests identify any way in which the proposed District would fail to benefit the land *to be included* in the District. Instead, the Requestors focus solely on land *outside* the proposed District, as well as environmental concerns that relate to construction of a wastewater discharge plant and other matters, which are outside the scope of this proceeding.

The following Requestors fail to substantially comply with each of the Commission’s requirements for a CCH request: Lynnette Ammar, Calvin Arnold, Theresa Chen, Debbie Chisolm, Loc Chu, Patrick Corbett, Cynthia Daugherty, Obinna Emechebe, Uche Emechebe, Bhasker Garlapati, Mohannad Hashem, Alesha Haynes, Brian Hollon, Shorouq Husein, David Johns, Chip Justice, Brad Levy, Candy Levy, Linda Loop, Steve Loop, Sonja Louis, Stephen Louis, Edwin Lundberg, Dianne Lundberg, John Lund, Laura Mawhinney, Ann Stormer McCook, Zachary McCook, Kannan Palaniappan, Lee Pettie, Heather Powell, Nettie Powell, Kathy Pressley, William Michael Pressley, James Reed, Bonnie Shea, Nathan Shea, Josphe Stack, and Kevin Walsh. Specifically these requests did not provide the requestor’s distance

relative to the proposed District or were not submitted within the time period specified in the notice and, therefore, should be denied.

Further, Applicant contests the requests of individuals living beyond a one-mile radius from the proposed boundaries of the proposed District. Although these Requestors have met the necessary legal requirements of a CCH request, their distance of greater than one mile relative to the proposed District precludes them from further consideration as an affected person with a personal justiciable interest that is not common to members of the general public as defined by section 55.256(a). TEXAS WATER CODE § 55.256(a). Such lack of proximity would certainly prevent them from experiencing any claimed negative impacts from the proposed District in a manner not common to the general public. As such, the CCH requests of the following individuals should be denied: Randy Kercho, Stephen Louis, Daniel Maynes, Jackie Rivas, Tracy Stack, Laura Stanford, James Stanford, Jennifer Van der Horn, and Loretta Walther.

Additionally, the Requestors have not clearly identified any personal justiciable interest as required under the Texas Administrative Code. Specifically, the Requestors have not shown that they would be affected by the proposed District in a manner not common to members of the general public or have statutory authority over or an interest in the issues relevant to the Application. Rather than articulate a personal interest in the District's Creation, these individuals argue interests relating traffic, odor, nuisance and other matters that are not considered in a district creation. TEXAS WATER CODE § 55.251(b)-(d). Therefore, Requestors do not meet the definition of an "affected person" under section 55.256(a) and such hearing requests should be denied, including the requests of Ray Hemming, Laura, Hernandez, Ted Lane, Kathy Harvey, Don Wade Cloud, Emily Plummer, Carrolyn Moebius, Andrew Malezewski, Angelique Loncar, and Lindy Pilgrim.

IV. Conclusion

Requests for a CCH do not substantially comply with the Commission's requirements and clearly fail to identify any personal justiciable interest as required under the Texas Administrative Code. The Requestors do not identify how they would be affected by the proposed District in a manner not common to members of the general public or have statutory authority over or an interest in the issues relevant to the applications. Accordingly, the Requestors do not meet the definition of an "affected person" and the hearing requests should be denied.

WHEREFORE, Applicant requests that the above identified hearing requests be denied and that the Petition be granted.

Respectfully submitted,

COATS | ROSE

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CERTIFICATE OF SERVICE

I hereby certify that on 28th April 2025, the original of Applicant's Response to Hearing Requests was filed with the Chief Clerk of the TECQ and a copy was served on all person listed on the attached mailing list either via hand delivery, facsimile transmission, electronic mail, and/or by deposit in the U.S. Mail.



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DOCKET NO. 2022-0533-DIS; INTERNAL CONTROL NO. D-04122021-017

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