

TCEQ DOCKET NO. 2023-0529-SLG

APPLICATION  
BY NORTH TEXAS  
MUNICIPAL WATER DISTRICT FOR  
TCEQ PERMIT NO. WQ0005323000

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BEFORE  
THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY

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EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality files this Response to Hearing Requests on the application by North Texas Municipal Water District for new permit No. WQ0005323000, authorizing the the processing, storage, and disposal of Water Treatment Plant Residuals at the Wylie Disposal Monofil. Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, Russell Coons, Neha King, Dianna Lawrence, Jane Ridgway, Charles Ruple, and Michael Stubbe, filed timely requests for a Contested Case Hearing. Linsey Futrell, Preston Nutt, and Bethanie Wallgren filed timely Requests for Reconsideration.

A. ATTACHMENTS FOR COMMISSION CONSIDERATION

- Attachment A - The ED's Geographic Information System Maps and Appendix

B. TERMS, ACRONYMS, OR ABBREVIATIONS USED IN THIS RESPONSE TO HEARING REQUESTS

- **§:** Section
- **ED:** Executive Director
- **HB:** House Bill
- **SB:** Senate Bill
- **GIS:** Geographic Information Systems
- **OCC:** Office of the Chief Clerk
- **RFR:** Request for Reconsideration:
- **RTC:** Response to Comment
- **WTP:** Water Treatment Plant
- **PFAS:** Per-and Polyfluoroalkyl substances
- **NAPD:** Notice of Application & Preliminary Decision
- **NORI:** Notice of Receipt & Intent to Obtain a Water Quality Permit
- **SOAH:** State Office of Administrative Hearings
- **TCEQ:** Texas Commission on Environmental Quality
- **30 TAC:** Title 30 of the Texas Administrative Code
- **Hearing:** Contested Case Hearing
- **Monofil:** Landfill meant solely for disposal of a single type of waste
- **Requests:** Request for a Contested Case Hearing
- **Applicant:** North Texas Municipal Water District
- **TCEQ Rules:** Title 30 of the Texas Administrative Code
- **Commission:** Texas Commission on Environmental Quality
- **WTP Residuals:** Material generated treating water for drinkable uses
- **Proposed permit:** Draft-TCEQ permit No. WQ0005323000
- **Proposed facility:** The Wylie WTP and Disposal Monofil

## II. DESCRIPTION OF THE FACILITY

The proposed facility is a 310-acre monofil authorized for the disposal of only dewatered WTP residuals at a max rate of 100,000 dry tons per year and will be located approximately 0.25 mile north of the intersection of County Road 644 and Farm-to-Market Road 547, in Collin County, Texas 75442. The location of the proposed facility will be within the drainage basin of Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. However, there will not be a discharge from the proposed facility and the proposed permit does not authorize a discharge of pollutants into water in the state.

The proposed permit authorizes the Applicant to process, store, and dispose of WTP residuals in accordance with the limitations, requirements, and other conditions of the proposed permit, which is granted subject to the TCEQ rules and other Orders of the Commission and the laws of Texas. Nothing in the proposed permit exempts the Applicant from compliance with applicable TCEQ rules and regulations. The Applicant must handle and dispose of all WTP residuals in accordance with all applicable state and federal regulations to protect public health and the environment. Additionally, the proposed permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations.

## III. PROCEDURAL HISTORY

The TCEQ received the application on May 19, 2021, and declared it administratively complete on September 15, 2021. The Applicant published the NORI in Collin County, Texas on September 29, 2021, in English in the *Dallas Morning News*, and in Spanish in *Al Dia*. The ED completed the technical review of the application on February 14, 2022, and prepared an initial draft of the proposed permit that if approved, would establish the conditions under which the proposed facility must operate. To correct inaccuracies in the original NORI, the Applicant published a Combined NAPD & NORI in Collin County, Texas on June 15, 2022, in English in the *Dallas Morning News*, and in Spanish in *Al Dia*. The public comment period ended on July 15, 2022, the ED's RTC was filed on February 13, 2022, and the time for filing Requests for a Hearing or an RFR ended on March 17, 2023.

Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to HB 801, 76th Legislature, 1999, and the procedural requirements of and rules implementing SB 709, 84<sup>th</sup> Legislature, 2015, which both are implemented by the TCEQ rules in 30 TAC, Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for public comments and contested case hearings.

## IV. ACCESS TO RULES, LAWS AND RECORDS

- All administrative rules: Secretary of State Website: [www.sos.state.tx.us](http://www.sos.state.tx.us)
- TCEQ rules: Title 30 of the Texas Administrative Code: [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: [www.statutes.capitol.texas.gov](http://www.statutes.capitol.texas.gov)
- TCEQ website: [www.tceq.texas.gov](http://www.tceq.texas.gov) (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Current TCEQ Rules," then "Download TCEQ Rules")
- Federal rules: Title 40 of the Code of Federal Regulations  
[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl)
- Federal environmental laws: <http://www.epa.gov/lawsregs/>

- Environmental or citizen complaints may be filed electronically at: <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html> (select “use our online form”) or by sending an email to the following address: [complaint@TCEQ.texas.gov](mailto:complaint@TCEQ.texas.gov)

Commission records for the proposed facility are available for viewing and copying at TCEQ’s OCC at the main office in Austin, Texas at 12100 Park 35 Circle, Building F, 1st Floor, for the current application until final action is taken. Some documents located at the OCC may also be located in the TCEQ Commissioners’ Integrated Database at [www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid). The permit application has been available for viewing and copying at the Charles J. Rike Memorial Library located at 203 Orange Street, Farmersville, Texas 75442, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision are available for viewing and copying at the same location since publication of the Combined NAPD/NORI. The ED determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, animal life, vegetation, and human health.

If you would like to file a complaint about the proposed facility concerning its compliance with TCEQ rules or to address potential permit violations, you may contact the TCEQ Regional Office (Region 4) in Fort Worth, TX at (817) 588-5800 or the statewide toll-free number at 1-888-777-3186. Complaints may also be filed electronically by using the methods described above at the seventh bullet point under, “Access to Rules, Laws, and Records.” If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

## V. EVALUATION OF HEARING REQUESTS

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission’s consideration of Requests. The Commission implemented HB 801 by adopting procedural rules in 30 TAC chapters 39, 50, and 55. SB 709 revised the requirements for submitting public comment and the Commission’s consideration of Requests. This application was declared administratively complete on September 15, 2021; therefore, it is subject to the procedural requirements adopted pursuant to both HB 801 and SB 709

### A. *LEGAL AUTHORITY TO RESPOND TO HEARING REQUESTS*

“The executive director, the public interest counsel, and applicant may submit written responses to [hearing] requests . . . .”<sup>1</sup>

1. whether the requestor is an affected person,
2. whether issues raised in the hearing request are disputed,
3. whether the dispute involves questions of fact or law,
4. whether the issues were raised during the public comment period,
5. whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter by filing a written withdrawal letter with the chief clerk prior to the filing of the ED’s Response to Comment,

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<sup>1</sup> 30 TAC § 55.209(d).

6. whether the issues are relevant and material to the decision on the application, and
7. a maximum expected duration for the contested case hearing.<sup>2</sup>

**B. HEARING REQUEST REQUIREMENTS**

To consider a Request, the Commission must first conclude that the requirements in 30 TAC §§ 55.201 and 55.203, are met as follows.

A request for a contested case hearing by an affected person must be in writing, filed with the chief clerk within the time provided . . ., based only on the requester's timely comments, and not based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment.<sup>3</sup>

A hearing request must substantially comply with the following:

- (1) give the name, address, telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who is responsible for receiving all official communications and documents for the group,
- (2) identify the person's 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 facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing,
- (4) for applications filed,
  - (B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.<sup>4</sup>

**C. REQUIREMENT THAT REQUESTOR BE AN AFFECTED PERSON**

To grant a contested case hearing, the commission must determine, pursuant to 30 TAC § 55.203, that a requestor is an affected person.

- (a) For any application, 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 public does not qualify as a personal justiciable interest.

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<sup>2</sup> *Id.* at § 55.209(e).

<sup>3</sup> 30 TAC § 55.201(c).

<sup>4</sup> *Id.* at § 55.201(d).

- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application, may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - (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 and safety of the person, and on the 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) whether the requester timely submitted comments on the application which were not withdrawn; and
  - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.<sup>5</sup>
- (d) In making this determination, the commission may also consider, to the extent consistent with case law:
  - (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance,
  - (2) the analysis and opinions of the ED; and
  - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.<sup>6</sup>

**D. REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to State Office of Administrative Hearing for a hearing.”<sup>7</sup> “The commission may not refer an issue to State Office of Administrative Hearing for a contested case hearing unless the commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact,
- (2) was raised during the public comment period by an affected person, and
- (3) is relevant and material to the decision on the application.”<sup>8</sup>

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<sup>5</sup> 30 TAC § 55.203(a)-(c).

<sup>6</sup> *Id.* at § 55.203(d).

<sup>7</sup> 30 TAC § 50.115(b).

<sup>8</sup> *Id.* at § 55.203(d).

## VI. ANALYSIS OF THE HEARING REQUESTS

For this permit application the relevant public comment period ended on July 15, 2022, and the time for filing Requests or RFRs ended on March 17, 2023. The ED's analyses determined whether the Requests followed TCEQ rules, if the requestors qualify as affected persons; what issues may be referred for a hearing, and the length of that hearing.

### A. *WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(C) AND (D).*

1. **Scott and Jennifer Daffts (the Daffts)** filed timely, written Requests that provided the requisite contact information, raised relevant issues that form the basis of their Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

The Daffts' Requests complied with 30 TAC §§ 55.201(c), and (d) because they effectively identified a personal justiciable interest in a written explanation plainly describing why the Daffts believe they will be affected by the application differently than the public. The Daffts' Requests stated they own property in proximity to the proposed facility and raised issues relevant to a decision on the application, such as silt running off the site and on to their property.

The ED recommends finding that the Requests of the Daffts' substantially complied with 30 TAC §§ 55.201(c) and (d).

2. **Peter Koelsch** filed a timely, written Request that provided the requisite contact information, raised relevant issues that form the basis of his Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Koelsch's Request complied with 30 TAC §§ 55.201(c), and (d) because it effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Koelsch believes he will be affected by the application differently than the public. Mr. Koelsch's Request stated he and his family both operate a small business and live in proximity to the proposed facility and raised issues relevant to a decision on the application, such as adverse impacts on human health and the environment from the proposed facility being so close to his home.

The ED recommends finding that the Request of Peter Koelsch substantially complied with 30 TAC §§ 55.201(c) and (d).

3. **Wilson Lee** filed timely, written Requests that provided the requisite contact information, raised relevant issues that form the basis of the Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Lee's Requests complied with 30 TAC §§ 55.201(c), and (d) because they effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Lee believes he will be affected by the application differently than the public. Mr. Lee's Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as silt and debris improperly leaving the site because of wind gusts.

The ED recommends finding that the Requests of Wilson Lee substantially complied with 30 TAC §§ 55.201(c) and (d).

4. **Michael Lorra** filed a timely, written Request that provided the requisite contact information, raised relevant issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Lorra's Request complied with 30 TAC §§ 55.201(c), and (d) because it effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Lorra believes he will be affected by the application differently than the public. Mr. Lorra's Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as foul odors and adverse impacts on human health and the environment from the proposed facility being so close to his home.

The ED recommends finding that the Request of Michael Lorra substantially complied with 30 TAC §§ 55.201(c) and (d).

5. **Jim Wall** filed timely, written Requests that provided the requisite contact information, raised relevant issues that form the basis of the Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Wall's Requests complied with 30 TAC §§ 55.201(c), and (d) because they effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Wall believes he will be affected by the application differently than the public. Mr. Wall's Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as runoff leaving the site and contaminating his stock pond and adverse impacts on his livestock and wildlife health from the proposed facility being so close.

The ED recommends finding that the Request of Jim Wall substantially complied with 30 TAC §§ 55.201(c) and (d).

6. **Robert Williams** filed a timely, written Request that provided the requisite contact information, raised relevant issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Williams' Request complied with 30 TAC §§ 55.201(c), and (d) because it effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Williams believes he will be affected by the application differently than the public. Mr. Williams' Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as foul odors and adverse impacts on human health and the environment from the proposed facility being so close to his home.

The ED recommends finding that the Request of Robert Williams substantially complied with 30 TAC §§ 55.201(c) and (d).

7. **Russell Coons** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Mr. Coons' Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application, including the necessary, brief but specific statement explaining in plain language why Mr. Coons believes he will be adversely affected by the application in a manner uncommon to the public.

Mr. Coons' Request stated that he lives in proximity to the proposed facility; however, Mr. Coons' Request did not raise any relevant issues nor explain why he believes he will be affected by this application in a manner uncommon to the public. Mr. Coons' Request raised PFAS contamination concerns, but PFAS is not authorized by the proposed permit to be disposed of at the proposed facility. Therefore, Mr. Coons' Request lacked a brief but specific statement describing a relevant basis for how and why Mr. Coons believes he will be adversely affected by the proposed facility in a manner uncommon to the public.

The ED recommends finding that the Request of Russell Coons failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

8. **Neha King** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Ms. King's Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application, including the necessary, brief but specific statement explaining in plain language why Ms. King believes she will be adversely affected by this application in a manner uncommon to the public.

Ms. King's Request stated she does not yet live in proximity to the proposed facility, did not raise any relevant issues, nor explain why she believes she will be affected by this application in a manner uncommon to the public. Ms. King's Request raised odor concerns; however, it did not explain how odors from the proposed facility would affect her personally, or uncommon to the public, as she stated that she does not yet live in Josephine, Texas, a nearby city in Collin County, Texas. Therefore, Ms. King's Request lacked a brief, specific, statement describing a relevant basis for how and why Ms. King believes she will be adversely affected by the proposed facility in a manner uncommon to the public.

The ED recommends finding that the Request of Neha King failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

9. **Dianna Lawrence** filed a timely, written Request that provided the requisite contact information, requested a hearing, but was based on irrelevant or vague comments timely made and not withdrawn before the RTC was filed.

Ms. Lawrence's Request failed to comply with the requirements of 30 TAC §§ 55.201(c) and (d), as it failed to identify a personal justiciable interest affected by the application.

Ms. Lawrence's Request did not state she is in anyway within proximity to the proposed facility, did not raise any relevant issues, nor explain why she believes she will be adversely affected by this application in a manner uncommon to the public. Ms. Lawrence's Request mentioned the proposed facility's "lasting effect" on residents in Josephine, Texas, but failed to provide any further specificity.

Ms. Lawrence's Request did not explain how proposed facility would affect her in a manner not common to members of the public. Therefore, Ms. Lawrence's Request lacked a brief but specific statement describing a relevant basis for how and why Ms. Lawrence believes she will be adversely affected by the proposed facility in a manner uncommon to the public.



The ED recommends finding that the Request of Dianna Lawrence failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

- 10. Jane Ridgway** filed a timely, written Request that provided the requisite contact information, requested a hearing, but was based on irrelevant or vague comments timely made and not withdrawn before the RTC was filed.

Ms. Ridgway's Request failed to comply with the requirements of 30 TAC §§ 55.201(c) and (d), as it failed to identify a personal justiciable interest affected by the application.

Ms. Ridgway's Request did not state she is in anyway within proximity to the proposed facility, did not raise any relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Ms. Ridgway's Request mentioned runoff from the proposed facility could cause flooding and affect existing homes and present and future development in the City of Josephine but failed to provide any further specificity. Ms. Ridgway's Request did not explain how the proposed facility would affect her. Therefore, Ms. Ridgway's Request did not contain a brief, specific, statement describing a relevant basis for how and why Ms. Ridgway believes she will be adversely affected by the facility in a manner uncommon to the public.

The ED recommends finding that the Request of Jane Ridgway failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

- 11. Charles Ruple** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Mr. Ruple's Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application, including the necessary, brief but specific, statement explaining in plain language why Mr. Ruple believes he will be adversely affected by this application in a manner not common to members of the public.

Mr. Ruple's Request stated that he lives in proximity to the proposed facility; however, Mr. Ruple's Request did not raise any relevant issues nor explain why he believes he will be affected by this application in a manner not common to members of the public. Mr. Ruple's Request raised PFAS contamination concerns, but PFAS is not authorized by the proposed permit to be disposed of at the proposed facility. Therefore, Mr. Ruple's Request did not contain a brief, specific, statement describing a relevant basis for how and why Mr. Ruple believes he will be adversely affected by the proposed permit or facility in a manner not common to the public.

The ED recommends finding that the Request of Charles Ruple failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

- 12. Michael Stubbe** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Mr. Stubbe's Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal

justiciable interest affected by the application, including the necessary, brief but specific, statement explaining in plain language why Mr. Stubbe believes he will be adversely affected by this application in a manner not common to members of the public.

Mr. Stubbe's Request stated that he lives in proximity to the proposed facility; however, Mr. Stubbe's Request did not raise any relevant issues nor explain why he believes he will be affected by this application in a manner not common to members of the public. Mr. Stubbe's Request raised operation concerns for the proposed facility and PFAS contamination concerns, but PFAS is not authorized by the proposed permit to be disposed of at the proposed facility. Therefore, Mr. Stubbe's Request did not contain a brief, specific, statement describing a relevant basis for how and why Mr. Stubbe believes he will be adversely affected by the proposed permit or facility in a manner not common to the public.

The ED recommends finding that the Request of Michael Stubbe failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

**B. *WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.***

1. **Scott and Jennifer Daffts (the Daffts)** filed Requests that effectively identified a personal, justiciable interest affected by the application.

The Daffts' Requests stated that the proposed facility is in proximity to their home, which according to the GIS map prepared by the ED's staff is only 0.01-0.02 linear miles from the proposed facility. The Daffts also are identified on the Adjacent Landowners' Map List (Property Nos. 25, 27a, 27b, & 28). Both facts increase the likelihood that the Daffts will be affected in a way not common to the public.

The Daffts' proximity, which was explained briefly and specifically, in plain language in their Requests, and the relevant issues to a decision on the application that they raised, whether silt and other debris from the proposed facility will be prevented from running off the site, and on to the Daffts' property, is an issue related to the interests of the requesters, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood the Daffts may be affected in a way not common to the public.

The ED recommends that the Commission find that Scott and Jennifer Dafft are Affected Persons under 30 TAC § 55.203.

2. **Peter Koelsch** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Koelsch's Request stated he and his family both live and operate a small apiary business that relies on uncontaminated soil for selling his product within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.00 linear miles from the proposed facility. Mr. Koelsch is also identified on the Adjacent Landowners' Map List (Property No. 58). All these facts increase the likelihood that Mr. Koelsch may be affected differently than the public.

Mr. Koelsch's home's and business' proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as the environmental and health impacts of the proposed facility being in proximity, and

specifically that his business relies on uncontaminated soil for selling his product, is an issue related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that Mr. Koelsch may be affected in a way not common to the general public.

The ED recommends that the Commission find that Peter Koelsch is an Affected Person under 30 TAC § 55.203.

3. **Wilson Lee** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Lee's Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.39 linear miles from the proposed facility. Mr. Lee is also identified on the Adjacent Landowners' Map List (Property No. 45). These facts increase the likelihood that Mr. Lee may be affected differently than the public.

Mr. Lee's proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as silt and debris improperly leaving the site because of wind gusts and ending up on his property, is an issue related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that Mr. Lee may be affected in a way not common to the general public.

The ED recommends that the Commission find that Wilson Lee is an Affected Person under 30 TAC § 55.203.

4. **Michael Lorra** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Lorra's Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.19 linear miles from the proposed facility. Mr. Lorra is also identified on the Adjacent Landowners' Map List (Property No. 72). Both facts increase the likelihood that Mr. Lorra may be affected differently than the public.

Mr. Lorra's proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as foul odors and negative impacts to the environment and human health from the proposed facility, are issues related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that Mr. Lorra may be affected in a way not common to the general public.

The ED recommends that the Commission find that Michael Lorra is an Affected Person under 30 TAC § 55.203.

5. **Jim Wall** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Wall's Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.02 linear miles from the proposed facility. Mr. Wall is also identified on the Adjacent Landowners' Map

List (Property No. 68). Both facts increase the likelihood that Mr. Wall may be affected differently than the public.

Mr. Wall's proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as runoff from the site contaminating his stock pond that is within 75 feet of the proposed facility and the negative impacts to his livestock and other wildlife from the proposed facility, are issues related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that Mr. Wall may be affected in a way not common to the general public.

The ED recommends that the Commission find that Jim Wall is an Affected Person under 30 TAC § 55.203.

6. **Robert Williams** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Williams' Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.09 linear miles from the proposed facility. Mr. Williams is also identified on the Adjacent Landowners' Map List (Property No. 62). Both facts increase the likelihood that Mr. Williams may be affected differently than the public.

Mr. Williams' proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as such as foul odors and negative impacts to the environment and human health from the proposed facility, are issues related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that Mr. Williams may be affected in a way not common to the public.

The ED recommends that the Commission find that Robert Williams is an Affected Person under 30 TAC § 55.203).

7. **Russell Coons** filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Mr. Coons believes he will be adversely affected by the proposed facility in a manner not common to members of the public.

Though the GIS map prepared by the ED's staff locates Mr. Coons' property 0.02 linear miles from the proposed facility, and the Adjacent Landowners' Map List identifies Mr. Coons as Property No. 55, Mr. Coons' Request did not raise any relevant issues, nor explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Mr. Coons' Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Coons may be affected in a way not common to the public.

The ED recommends that the Commission find that Russell Coons is not an Affected Person under 30 TAC § 55.203.

8. **Neha King** filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Ms. King believes she will be adversely affected by the proposed facility in a manner not common to members of the public.

Ms. King's Request failed to provide an address for the ED to map, did not raise relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Ms. King's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. King may be affected in a way not common to the public.

The ED recommends that the Commission find that Neha King is not an Affected Person under 30 TAC § 55.203.

9. **Dianna Lawrence** filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Ms. Lawrence believes she will be adversely affected by the proposed facility in a manner not common to members of the public.

Ms. Lawrence's Request failed to provide an address for the ED to map, did not raise relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Ms. Lawrence's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. Lawrence may be affected in a way not common to the public.

The ED recommends that the Commission find that Dianna Lawrence is not an Affected Person under 30 TAC § 55.203.

10. **Jane Ridgway** filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Ms. Ridgway believes she will be adversely affected by the proposed facility in a manner not common to members of the public.

Ms. Ridgway's Request failed to provide an address for the ED to map, did not raise relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Ms. Ridgway's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. Ridgway may be affected in a way not common to the public.

The ED recommends that the Commission find that Jane Ridgway is not an Affected Person under 30 TAC § 55.203.

11. **Charles Ruple** filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Mr. Ruple believes he will be adversely affected by the proposed facility in a manner not common to members of the public.

Though the GIS map prepared by the ED's staff locates Mr. Ruple's property 0.15 linear miles from the proposed facility, and the Adjacent Landowners' Map List

identifies Mr. Ruple as Property No. 64, Mr. Ruple's Request did not raise any relevant issues, nor explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Mr. Ruple's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Ruple may be affected in a way not common to the public.

The ED recommends that the Commission find that Charles Ruple is not an Affected Person under 30 TAC § 55.203.

- 12. Michael Stubbe** filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Mr. Stubbe believes he will be adversely affected by the proposed facility in a manner not common to members of the public.

Though the GIS map prepared by the ED's staff locates Mr. Stubbe's property 0.01 linear miles from the proposed facility, and the Adjacent Landowners' Map List identifies Mr. Stubbe as Property No. 59, Mr. Stubbe's Request did not raise any relevant issues nor explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Mr. Stubbe's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Stubbe may be affected in a way not common to the public.

The ED recommends that the Commission find that Michael Stubbe is not an Affected Person under 30 TAC § 55.203.

#### VII. ISSUES RAISED IN HEARING REQUESTS:

The Requests of Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, and Jim Wall raised the issues below.

- 1. Whether draft permit adequately protects against runoff of the applied residuals beyond the land application unit or surface disposal site and protects surface water quality in accordance with applicable TCEQ rules.**

(RTC Response No. 2) This is an issue of fact. If it can be shown that the draft permit will not protect against runoff of the applied residuals beyond the land application unit or surface disposal site and surface water quality in according to applicable TCEQ rules, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

- 2. Whether the draft permit has adequate provisions preventing a washout of WTP residuals in accordance with applicable TCEQ rules.**

(RTC Response Nos. 8, 13, 14, 15, 17) This is an issue of fact. If it can be shown that the draft permit does not have adequate provisions preventing a washout of WTP residuals according to applicable TCEQ rules, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

**3. Whether the draft permit has adequate protections to prevent the contamination of underground drinking water sources in accordance with applicable TCEQ rules.**

(RTC Response Nos. 2, 5, 8, 11, 17) This is an issue of fact. If it can be shown that the draft permit does not have adequate protections to prevent the contamination of underground drinking water sources according to applicable TCEQ rules, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

**4. Whether the draft permit has adequate provisions to control odors from the proposed facility in accordance with applicable TCEQ rules.**

(RTC Response No. 4) This is an issue of fact. If it can be shown that the draft permit does not have adequate provisions to control odors, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

**5. Whether the draft permit requires Best Management Practices (BMPs) for the operation of the proposed application site that are regulated by TCEQ rules.**

(RTC Response Nos. 2, 11, 13, 14, 15) This is an issue of fact. If it can be shown that the draft permit does not require BMPs for the operation of the proposed application site that are regulated by TCEQ rules, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

#### VIII. CONTESTED CASE HEARING DURATION

If the Commission grants a hearing on this application, the ED recommends that the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.

#### IX. REQUESTS FOR RECONSIDERATION

Linsey Futrell, Preston Nutt, and Bethanie Wallgren filed timely RFRs, however, all the RFRs failed to raise any new information for the ED to analyze. Therefore, the ED recommends denying all RFRs.

X. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, and Jim Wall, are affected persons under 30 TAC §§ 55.203.
2. Grant the Requests of Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, and Jim Wall, and deny all others.
3. Deny the RFRs filed by Linsey Futrell, Preston Nutt, and Bethanie Wallgren.
4. Should the Commission decide to refer this case to SOAH:
  - a. refer the case to Alternative Dispute Resolution for a reasonable time; and
  - b. refer the identified issues in section VII. 1.- 5. to SOAH for a Hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Erin Chancellor, *Interim Executive Director*

Charmaine Backens, *Acting Director*  
Office of Legal Services

Guy Henry, *Acting Deputy Director*  
Environmental Law Division,



Michael T. Parr II, Staff Attorney  
Environmental Law Division  
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Telephone No. 512-239 0611  
Facsimile No. 512-239-0626  
REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

XI. CERTIFICATE OF SERVICE

I certify that on May 8, 2023, the Executive Director's Response to Hearing Requests for TPDES Permit No. WQ0005323000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



Michael T. Parr II, *Staff Attorney*  
State Bar No. 24062936



**MAILING LIST**

North Texas Municipal Water District  
TCEQ Docket No. 2023-0529-SLG; Permit No. WQ0005323000

**FOR THE APPLICANT:**

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via electronic mail:

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Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program, MC-108  
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**FOR PUBLIC INTEREST COUNSEL**

via electronic mail:

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Texas Commission on Environmental  
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Public Interest Counsel, MC-103  
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Austin, Texas 78711

**FOR ALTERNATIVE DISPUTE RESOLUTION**

via electronic mail:

Kyle Lucas  
Texas Commission on Environmental  
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Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711

**FOR THE CHIEF CLERK'S OFFICE**

via eFilings:

Docket Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711

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Little Elm, TX 75068-2921

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Richardson, TX 75085-1284

Futrell Linsey  
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Dallas, TX 75206-5460

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Josephine, TX 75189-5317

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Caddo Mills, TX 75135-0127

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Farmersville, TX 75442-6775

Michael Stubbe  
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Farmersville, TX 75442-6800

Jim F Wall  
5757 Fm 547  
Farmersville, TX 75442-6921

Bethanie Wallgren  
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Josephine, TX 75173-1211

Robert Williams  
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Farmersville, TX 75442-6801

**INTERESTED PERSON(S)**

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Josephine, TX 75189-3949

Diana Aldana  
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Josephine, TX 75189-3847

Olivia Beaz  
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Garland, TX 75040-8421

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Nevada, TX 75173-7037

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Josephine, TX 75189-5441

Britni Fitzgerald  
414 Silo Cir  
Josephine, TX 75189-5186

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Josephine, TX 75189-3843

Andrea Garcia  
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Josephine, TX 75189-3926

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Kaleb Hamil  
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Sheree Henry  
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Joseph Hooks  
717 Meadow Creek Ln  
Josephine, TX 75189-5279

Dana Huntoon  
LJ Homes LLC  
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Sheila Hurst  
701 Windmill St  
Josephine, TX 75189-5294

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Cecil King  
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Larson Samantha  
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Josephine, TX 75189-3753

Beebe Sharon  
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Josephine, TX 75189-5308

Clarke Trish  
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Josephine, TX 75189-3817

Megan Whitaker  
606 Magnolia Ct  
Josephine, TX 75173-8442

Ricky Whitaker  
606 Magnolia Ct  
Josephine, TX 75173-8442

# Attachment A

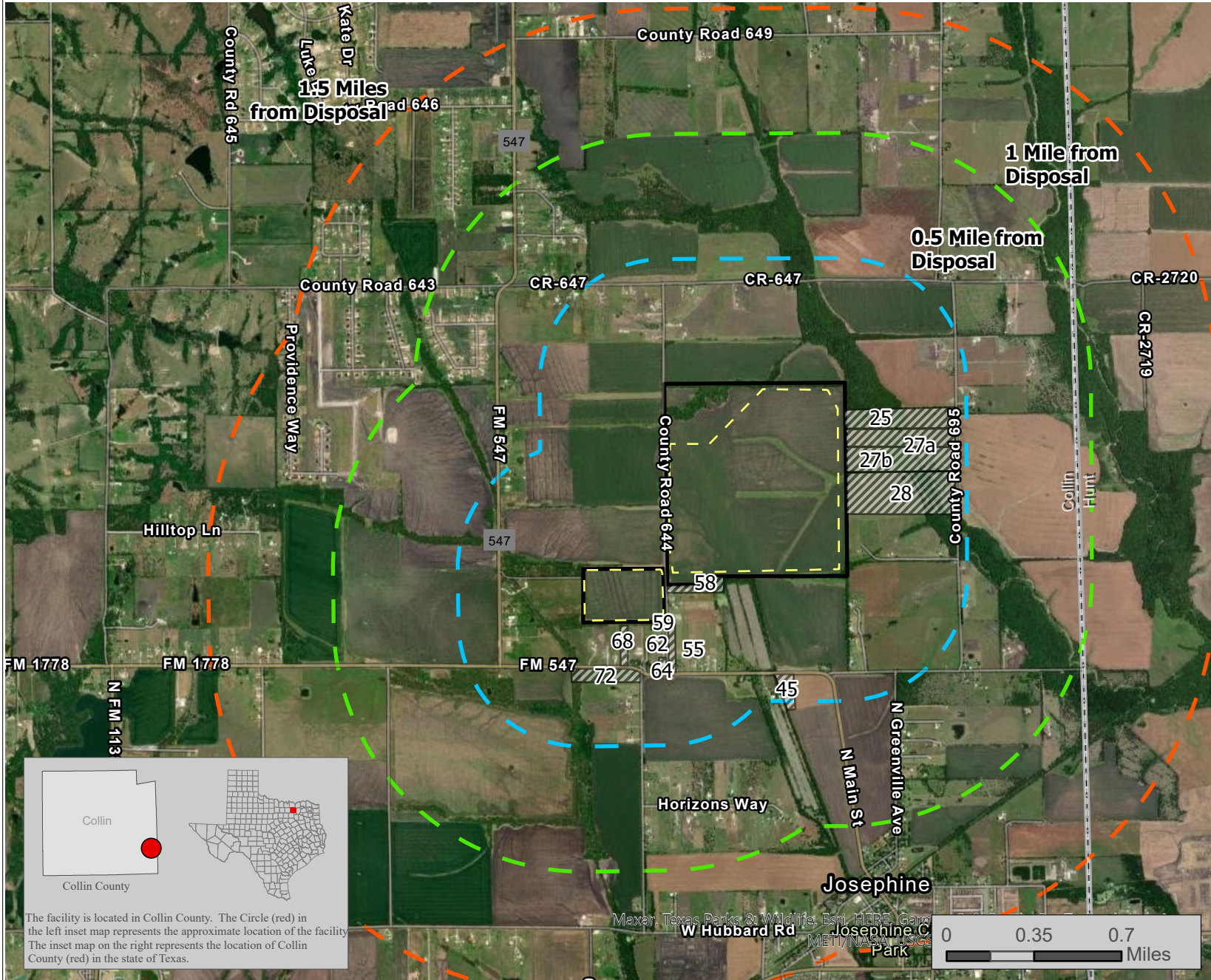
# NTMWD Water Treatment Plant Residuals Disposal Monofill GIS Map

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



Protecting Texas by  
Reducing and  
Preventing Pollution

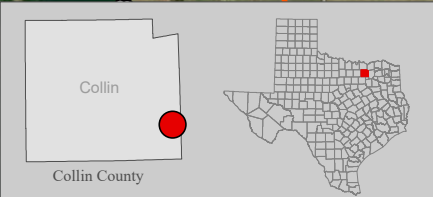
Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 4/24/2023  
CRF 0086504  
Cartographer: AlOrtiz



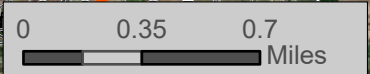
- Disposal Area
- 0.5 Mile from Disposal
- 1 Mile from Disposal
- 1.5 Miles from Disposal
- Property Boundary
- Scott Dafft
  - 25
  - 27a
  - 27b
- Scott & Jennifer Dafft
  - 28
- Wilson Lee
  - 45
- Tammy & Russel Coones
  - 55
- Peter Koelsch & Jenna Doss
  - 58
- Michael & Maryl Stubbe
  - 59
- Robert Williams & Judith Family Trust
  - 62
- Ruple Living Trust
  - 64
- James & Elena Wall
  - 68
- Michael Lorra
  - 72

Distance to disposal site nearest edge calculated in miles in Appendix A  
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in Collin County. The Circle (red) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Collin County (red) in the state of Texas.





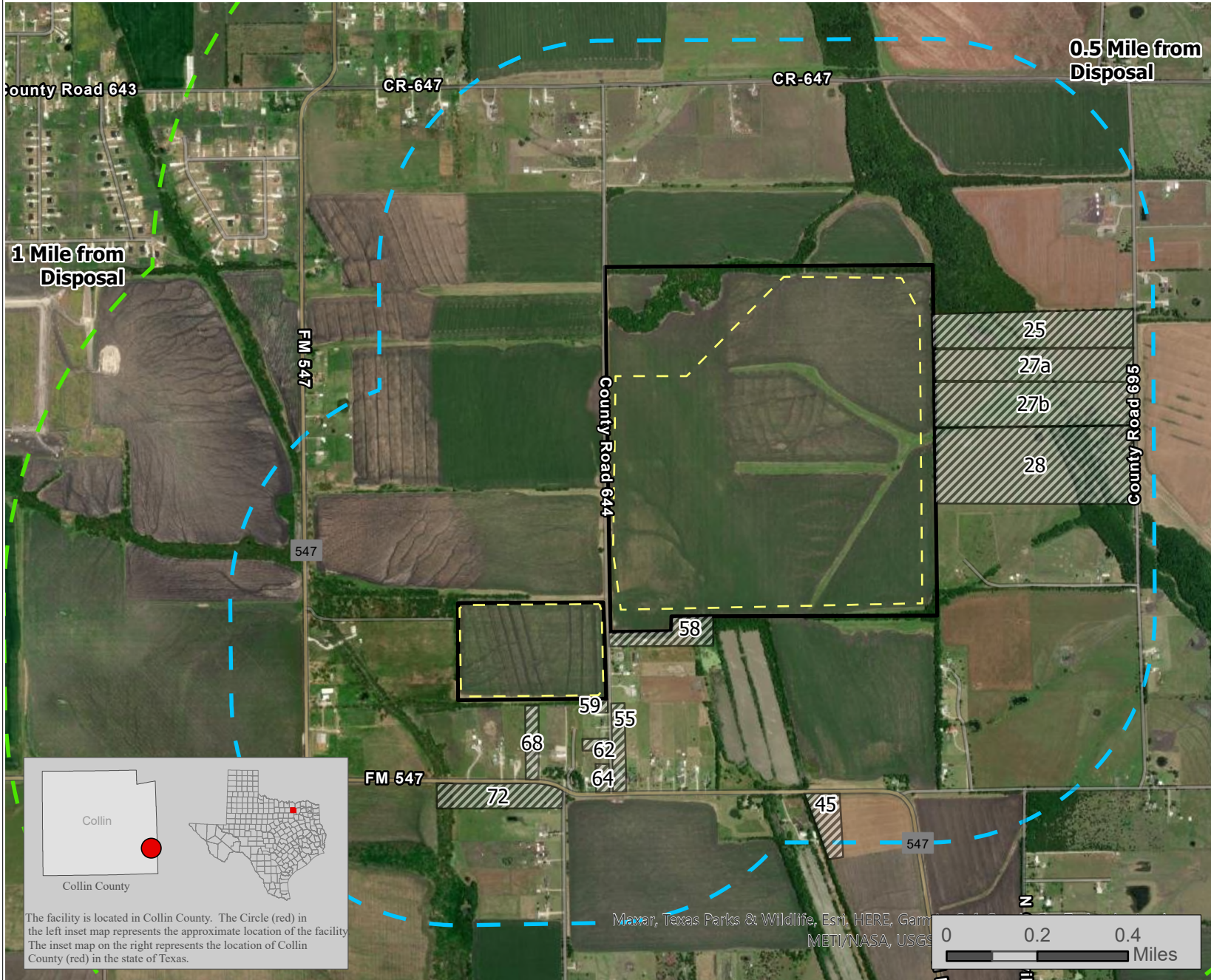
# NTMWD Water Treatment Plant Residuals Disposal Monofill GIS Map



Protecting Texas by  
Reducing and  
Preventing Pollution

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 4/14/2023  
CRF 0086504  
Cartographer: AlOrtiz



- Disposal Area
- 0.5 Mile from Disposal
- 1 Mile from Disposal
- Property Boundary

**Scott Dafft**

- 25
- 27a
- 27b

**Scott & Jennifer Dafft**

- 28

**Wilson Lee**

- 45

**Tammy & Russel Coones**

- 55

**Peter Koelsch & Jenna Doss**

- 58

**Michael & Maryl Stubbe**

- 59

**Robert Williams & Judith Family Trust**

- 62

**Ruple Living Trust**

- 64

**James & Elena Wall**

- 68

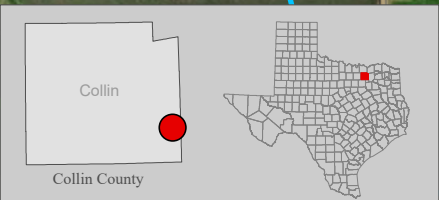
**Michael Lorra**

- 72

Distance to disposal site nearest edge  
calculated in miles in Appendix A

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

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The facility is located in Collin County. The Circle (red) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Collin County (red) in the state of Texas.

Maxar, Texas Parks & Wildlife, Esri, HERE, Garmin, METI/NASA, USGS

## Appendix A for NTMWD Water Treatment Plant Residuals Disposal Monofill GIS Map

| Name                                  | Lot Number | Distance from Lot to Disposal Area in Miles |
|---------------------------------------|------------|---|
| Scott Dafft                           | 25         | 0.01  |
| Scott Dafft                           | 27a        | 0.02  |
| Scott Dafft                           | 27b        | 0.02  |
| Scott & Jennifer Dafft                | 28         | 0.02  |
| Wilson Lee                            | 45         | 0.39  |
| Tammy & Russell Coones                | 55         | 0.02  |
| Peter Koelsch & Jenna Doss            | 58         | 0.00  |
| Michael & Maryl Stubbe                | 59         | 0.01  |
| Robert Williams & Judith Family Trust | 62         | 0.09  |
| Ruple Living Trust                    | 64         | 0.15  |
| James & Elena Wall                    | 68         | 0.02  |
| Michael Lorra                         | 72         | 0.19  |