

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 21, 2024

TO: Persons on Attached Mailing List

RE: Theon Ranches Municipal Utility District No. 3; Requests filed regarding Creation; TCEQ Docket No. 2023-1666-DIS; Internal Control No. D-07112023-012

The above-referenced application and all timely filed hearing requests on the above-referenced application will be considered by the Commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **March 28, 2024**. The meeting will begin at 1:30 p.m. Due to an ongoing construction project, the agenda meeting may be held in Room 201S of Building E at the Commission's offices located at 12100 Park 35 Circle in Austin, Texas or in an alternate location. The agenda meeting may be held in person, virtually, or both in person and virtually. To confirm where and how the meeting will be held, please visit the Commissioners' Agenda webpage at <https://www.tceq.texas.gov/goto/agendas> eight days before the Agenda.

In accordance with commission rules, copies of the timely hearing requests/requests for reconsideration have been forwarded to the Applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. Each of these persons is entitled to file a formal written response to the hearing requests/requests for reconsideration on **March 4, 2024**. Persons who have filed timely hearing requests/requests for reconsideration may file a formal written reply to these responses on **March 18, 2024**.

All responses and replies must be filed with the Chief Clerk of the TCEQ. Responses and replies may be filed with the Chief Clerk electronically at [www.tceq.texas.gov/goto/efilings](http://www.tceq.texas.gov/goto/efilings) or by filing an original and 7 copies with the Chief Clerk of the TCEQ. The mailing address of the Chief Clerk is: Office of Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 [Fax number (512) 239-3311]. On the same day any response is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Applicant, and the requesters at their addresses listed on the attached mailing list. On the same day any reply is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, other requesters, and the Applicant at their addresses listed on the attached mailing list.

The procedures for evaluating hearing requests and for filing and serving responses and replies are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter G (§§55.250-55.256) and 30 TAC §§1.10-1.11. The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h).

The Commissioners will not take oral argument or public comment on this matter, but may wish to ask questions of the Applicant, Requesters, or staff. The Commissioners will make their decision based on the requests, written responses to the requests, any written replies to those responses, and any response to questions. Copies of all requests have also been referred to the Alternative Dispute Resolution Program, where they will be evaluated to determine if informal, voluntary mediation might help resolve any dispute.

The attachment to this letter is intended to help you better understand public participation and the processing of requests. Individual members of the public may seek further information concerning the application, public participation, the processing of requests, copies of Commission rules, or the attachment, by calling the Public Education Program toll free, 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis  
Chief Clerk

Enclosures: Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, and Alternative Dispute Resolution

## ATTACHMENT

### Public Participation in TCEQ Proceedings

The Commission encourages public participation. The Commission's Public Education Program provides individual members of the public information on applications, and on Commission procedures. The Public Education Program may respond to your inquiries in writing and provide you with information. They may be reached, toll free, at 1-800-687-4040.

The formal way for public participation is through the contested case hearing. The law allows for holding contested case hearings on certain types of applications; the remainder of this document provides an overview of the processing of requests for a contested case hearing. It describes the requirements for a hearing request and how the Commission processes hearing requests.

A hearing request must:

- (1) give the name, address, and daytime telephone 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 shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application;
- (3) request a contested case hearing;
- (4) provide any other information specified in the public notice of application;
- (5) be timely filed with the Chief Clerk, as set out in the public notice; and
- (6) be pursuant to a right to hearing authorized by law.

The three Commissioners determine the validity of hearing requests, and vote to approve or deny the hearing requests during a public meeting, which are usually held every other Wednesday in Austin. Leading up to the meeting, the following occurs:

- (1) the written hearing requests are distributed to the Executive Director, the Public Interest Counsel, and the Applicant; these persons may file a response to the hearing requests 23 days before the meeting;
- (2) the hearing requester may then file a reply to the responses nine days before the meeting; this is the hearing requester's opportunity to correct any deficiencies in the hearing request that have been identified by TCEQ staff or the applicant. The hearing requester should be sure to submit any information (for example, maps or diagrams showing the requester's location relative to the applicant's proposed activities) by this deadline he or she wishes the Commissioners to consider; and
- (3) the Commissioners read the hearing requests, the responses to the hearing requests, and the replies, before the public meeting. Then during the public meeting the Commissioners discuss the application and the hearing requests, and vote to grant or deny the hearing requests.

If the Commissioners deny the hearing requests then they often will proceed and vote to approve or deny the application. If the Commissioners grant the hearing requests they

will refer the application to the State Office of Administrative Hearings (SOAH), which will conduct a contested case hearing. A SOAH judge will then submit a recommendation to the Commission to approve or deny the application.

The Commission's evaluation of a hearing request is based on Texas Water Code Chapter 5, which provides the Commission need not grant a hearing request if the requester does not have a personal justiciable interest. The Commission's rules on processing hearing requests are at 30 Texas Administrative Code, Chapter 55. The "personal justiciable interest" requirement means that a hearing requester must be impacted personally, not just as a member of the general public, by the Commission's decision on the application. Also, the hearing requester's interest must be "justiciable," meaning the Commission will grant hearing requests only if the requester complains of matters within the Commission's authority. A hearing request complaining of other matters outside the Commission's authority would be denied.

The Alternative Dispute Resolution Program may contact hearing requesters to learn if they would participate in informal discussions with the applicant and a mediator. The Public Interest Counsel may also provide information on the processing of hearing requests.

By necessity this document gives a very general description of Commission procedures. Please call 1-800-687-4040 to get answers about your specific questions.

MAILING LIST

Theon Ranches Municipal Utility District No. 3  
TCEQ Docket No. 2023-1666-DIS; Internal Control No. D-07112023-012

FOR THE APPLICANT

via electronic mail:

Tony Corbett, Attorney  
McLean & Howard LLP  
4301 Bull Creek Road, Suite 150  
Austin, Texas 78731  
[tcorbett@mcleanhowardlaw.com](mailto:tcorbett@mcleanhowardlaw.com)

Joseph Yaklin, P.E.  
BGE, Inc.  
101 West Louis Henna Boulevard  
Suite 400  
Austin, Texas 78728  
[JYaklin@bgeinc.com](mailto:JYaklin@bgeinc.com)

REQUESTER(S)

via electronic mail:

J. Grady Randle, Attorney  
Randle Law Office Ltd., L.L.P.  
820 Gessner Road, Suite 1570  
Houston, Texas 77024  
[grady@jgradyrandlepc.com](mailto:grady@jgradyrandlepc.com)

FOR THE EXECUTIVE DIRECTOR

via electronic mail:

Fernando Salazar Martinez, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711  
[fernando.martinez@tceq.texas.gov](mailto:fernando.martinez@tceq.texas.gov)

Darryl Smith, Technical Staff  
Texas Commission on Environmental  
Quality  
Water Supply Division, MC-152  
P.O. Box 13087  
Austin, Texas 78711  
[darryl.smith@tceq.texas.gov](mailto:darryl.smith@tceq.texas.gov)

Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division, MC-108  
P.O. Box 13087  
Austin, Texas 78711  
[pep@tceq.texas.gov](mailto:pep@tceq.texas.gov)

FOR PUBLIC INTEREST COUNSEL

via electronic mail:

Garrett T. Arthur, Public Interest Counsel  
Texas Commission on Environmental  
Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711  
[garrett.arthur@tceq.texas.gov](mailto:garrett.arthur@tceq.texas.gov)

FOR ALTERNATIVE DISPUTE  
RESOLUTION

via electronic mail:

Kyle Lucas  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711  
[kyle.lucas@tceq.texas.gov](mailto:kyle.lucas@tceq.texas.gov)

FOR THE CHIEF CLERK:

via eFilings:

Docket Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711  
<https://www.tceq.texas.gov/goto/efilings>