

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 1, 2024

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, Texas 78711-3087

**Re: Wilco MUD 45 WWTP LLC for New TPDES Permit No. WQ0016146001;  
TCEQ Docket No. 2024-0131-MWD**

Dear Ms. Gharis,

I have enclosed for filing the "Executive Director's Response to Hearing Requests."  
Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Fernando Salazar Martinez".

Fernando Salazar Martinez,  
Staff Attorney  
Environmental Law Division

Enclosure

CC: Mailing List

**TCEQ DOCKET NO. 2024-0131-MWD**

**APPLICATION BY  
WILCO MUD 45 WWTP LLC  
FOR NEW TPDES PERMIT  
NO. WQ0016146001**

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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 (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests on the application by Wilco MUD 45 WWTP LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016146001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 2,000,000 gallons per day.

The Office of the Chief Clerk received timely contested case hearing requests from the following entities and individuals: Jonah Water Special Utility District, Prairie Crossing Municipal Utility District Nos. 1 and 2, Prairie Crossing Wastewater LLC, and 05 Ranch Investments LLC.

The Executive Director recommends that the Commission find that Prairie Crossing Wastewater LLC is an affected person and grant its hearing request. The Executive Director further recommends denying the remaining hearing requests.

Attached for Commission consideration is a satellite map of the area and appendix showing the locations of the facility and requestors.

**II. FACILITY DESCRIPTION**

Wilco MUD 45 WWTP, LLC has applied to TCEQ for a new TPDES Permit No. WQ0016146001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 2,000,000 gallons per day.

The Cielo Ranch Wastewater Treatment Plant (proposed WWTF) will be located approximately 1.56 miles southeast of the intersection of Farm-to-Market Road 3349 and County Road 404, in Williamson County, Texas 76574. The treated effluent will be discharged to Boggy Creek, thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The unclassified receiving water use is limited aquatic life use for Boggy Creek. The designated uses for Segment No. 1244 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use.

The Cielo Ranch WWTP will be an activated sludge process plant operated in the conventional mode. Treatment units in the Interim I phase include a bar screen, an aeration basin, a final clarifier, a sludge holding basin, a tertiary effluent filter, and either a UV disinfection system or a chlorine contact chamber. Treatment units in the Interim II phase include a bar screen, three aeration basins, two final clarifiers, two

sludge holding basins, a tertiary effluent filter, and either a UV disinfection system or two chlorine contact chambers and a dechlorination system. Treatment units in the Final phase include two bar screens, six aeration basins, three final clarifiers, four sludge holding basins, two tertiary effluent filters, and either a UV disinfection system or two chlorine contact chambers and a dechlorination system. The facility has not been constructed.

The draft permit authorizes a discharge of treated domestic wastewater at a daily average flow not to exceed 0.30 million gallons per day (MGD) in the Interim I phase, an annual average flow not to exceed 1 MGD in the Interim II phase, and an annual average flow not to exceed 2 MGD in the Final phase.

The effluent limitations in all phases of the draft permit, based on a 30-day average, are 5 mg/L Five-Day Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>), 5 mg/L total suspended solids (TSS), 2 mg/L Ammonia-Nitrogen (NH<sub>3</sub>-N), 1 mg/L Total Phosphorus (TP), 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 mL, and 4.0 mg/L minimum dissolved oxygen (DO). The permittee shall either utilize an Ultraviolet Light (UV) system for disinfection purposes or shall achieve disinfection by chlorination. If the permittee uses chlorination in the Interim I phase, the effluent shall contain a total chlorine residual of at least 1.0 mg/L and shall not exceed a total chlorine residual of 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow). If the permittee uses chlorination in the Interim II and Final phase, the effluent shall contain a total chlorine residual of at least 1.0 mg/L after a detention time of at least 20 minutes (based on peak flow) and the permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/L total chlorine residual.

### **III. PROCEDURAL BACKGROUND**

The permit application was received on April 11, 2022, and declared administratively complete on June 21, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Austin American-Statesman* on June 27, 2022, and in Spanish in the *El Mundo Newspaper* on June 30, 2022. The ED completed the technical review of the application on March 1, 2023. A Combined NORI and Notice of Application and Preliminary Decision (Combined NORI and NAPD) was published in English in the *Austin American-Statesman* on March 23, 2023, and in Spanish in the *El Mundo Newspaper* on March 23, 2023. The Combined NORI and NAPD was issued to correct the requested annual average flow authorization. The public comment period ended on April 24, 2023. Additionally, the Executive Director forwarded the Wilco MUD 45 WWTP, LLC draft permit to the U.S. Environmental Protection Agency (EPA) on March 13, 2023. EPA approved the Wilco MUD 45 WWTP, LLC draft permit on April 25, 2023. The ED's Response to Public Comment (RTC) was filed on October 6, 2023, and the time for filing Requests for a Hearing or a Request for Reconsideration (RFR) ended on November 13, 2023.

This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill

(HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 Texas Administrative Code Chapters 39, 50, and 55. This application is subject to those changes in the law.

#### **IV. 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 hearing requests. SB 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

##### **A. Response to Requests**

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.<sup>1</sup>

Responses to hearing requests must specifically address:

- (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;
- (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**

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

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:

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<sup>1</sup> 30 TEXAS ADMINISTRATIVE CODE § 55.209(d).

<sup>2</sup> 30 TEX. ADMIN. CODE § 55.209(e).

<sup>3</sup> 30 TEX. ADMIN. CODE § 55.201(c).

- (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) list all relevant and material disputed issues of fact that were raised 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 comments that the requestor disputes and the factual basis of the dispute and 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 that a requestor is an "affected person" by conducting the following analysis:

- (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.
- (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;

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<sup>4</sup> 30 TEX. ADMIN. CODE § 55.201(d).

- (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.
- (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>5</sup>

Under 30 Tex. Admin. Code § 55.205(a), a group or association may request a contested case hearing only if the group or association meets the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.<sup>6</sup>

Additionally, for applications filed on or after September 1, 2015, a hearing request by a group or association for a contested case may not be granted unless all of the following requirements are met:

- (1) comments on the application are timely submitted by the group or association;
- (2) the request identifies, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right;
- (3) the interests the group or association seeks to protect are germane to the organization's purpose; and

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<sup>5</sup> 30 TEX. ADMIN. CODE § 55.203(a)-(d).

<sup>6</sup> 30 TEX. ADMIN. CODE § 55.205(a)(1)-(3)

- (4) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.<sup>7</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 (SOAH) for a hearing.<sup>8</sup> The Commission may not refer an issue to SOAH 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>9</sup>

**V. ANALYSIS OF THE HEARING REQUESTS**

For this permit application, the public comment period ended on April 24, 2023, and the time for filing Requests for a Hearing or a Request for Reconsideration (RFR) ended on November 13, 2023. The Executive Director's analyses determined whether the Requests followed TCEQ rules, if the requestors qualify as affected persons, what issues may be referred for a possible hearing, and the length of that hearing.

**A. Whether the Request Complied with 30 Tex. Admin. Code §§ 55.201(c) and (d)**

Jonah Water Special Utility District, Prairie Crossing Wastewater, LLC, Prairie Crossing Municipal Utility District Nos. 1 and 2, and 05 Ranch Investments LLC submitted timely hearing requests that raised issues presented during the public comment period that have not been withdrawn. They provided their name, address, email address, and requested a public hearing. They identified themselves as persons with what they believed to be personal justiciable interests affected by the application, which will be discussed in greater detail below, and provided a list of disputed issues of fact raised during the public comment period.

The Executive Director concludes that the hearing requests of Jonah Water Special Utility District, Prairie Crossing Wastewater, LLC, Prairie Crossing Municipal Utility District Nos. 1 and 2, and 05 Ranch Investments LLC substantially comply with the 30 Tex. Admin. Code § 55.201(c) and (d) requirements.

**B. Whether the Requestor meets the Affected Person Requirements**

***1. Requestors the Executive Director recommends the Commission find to be Affected Persons***

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<sup>7</sup> 30 TEX. ADMIN. CODE § 55.205(b)(1)-(4).

<sup>8</sup> 30 TEX. ADMIN. CODE § 50.115(b).

<sup>9</sup> 30 TEX. ADMIN. CODE § 55.203(d).

## Prairie Crossing Wastewater LLC

In its Comments, Prairie Crossing Wastewater LLC contends that that the Wilco MUD Application and Draft Permit should be denied because: (1) the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application; (2) the Draft Permit fails to meet the requirements of Tex. Water Code Chapter 26; (3) fails to meet TCEQ's regionalization policy for wastewater treatment plants; and (4) fails to adequately protect against the proposed Cielo Ranch Wastewater Treatment Facility's probable negative impacts on water quality and comply with TCEQ's antidegradation policy.

In its Requests, Prairie Crossing Wastewater LLC claimed it is an affected person with a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by the Wilco MUD application and Draft Permit. Prairie Crossing Wastewater LLC states it is the holder of existing TPDES Permit No. WQ0015850001, which authorizes the treatment and discharge of wastewater for a daily average flow not to exceed 0.990 MGD from the Prairie Crossing Wastewater Treatment Facility, located approximately one mile northeast of the intersection of County Road 485 and Farm-to-Market Road 9 in Williamson County. Prairie Crossing Wastewater states that it submitted an application on January 6, 2023, for a major amendment of its existing permit to expand its capacity to have a greater ability to provide regional wastewater treatment service.<sup>10</sup>

In its comments and Requests, Prairie Crossing Wastewater LLC expressed several concerns related to the Draft Permit and proposed discharge as required by 30 Tex. Admin. Code § 55.201(d)(4)(B). Prairie Crossing Wastewater LLC claims that Wilco MUD's Application: (1) contains inaccurate information and does not comply with TCEQ's regionalization requirements; (2) will likely impair water quality in two ponds, both located 2,000 ft and one mile from the proposed outfall, greater than a *de minimis* amount, and cause dissolved oxygen levels to fall below minimum levels due to the proposed facility's organic loading from BOD, TSS, ammonia-nitrogen, and phosphorus; (3) lacks the appropriate antidegradation analysis; (4) lacks a noise and odor abatement plan required under 30 Tex. Admin. Code § 309.13(3); and contains insufficient information to demonstrate compliance with the buffer zone requirements of 30 Tex. Admin. Code § 309.13(e) since the submitted map and easement documents does not adequately demonstrate these requirements are met.

In its Requests, Prairie Crossing Wastewater LLC claims it is an affected person because the proposed discharge is located within Prairie Crossing's proposed service area and therefore contrary to TCEQ's regionalization policy. Prairie Crossing MUDs contend that Wilco MUD's failure to provide an adequate noise and odor abatement plan, failure to adequately assess stream quality and characteristics, and failure to

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<sup>10</sup> Prairie Crossing Wastewater LLC's application for a major amendment to TPDES No. WQ0015850001 is currently pending. On February 13, 2024, the Executive Director's Response to Comments for Prairie Crossing's application was filed.



meet TCEQ's buffer zone requirements that will adversely affect the quality of life of nearby residents and the public.

Based on the information provided in their Requests, the location of Prairie Crossing Wastewater LLC's permitted WWTF is shown on the attached satellite map prepared by the Executive Director's staff. The location of the WWTF is approximately 1.56 miles away from the proposed facility and located downstream of the proposed discharge route.

Here, Prairie Crossing Wastewater LLC's Requests raised concerns relevant to the Application, such as compliance with TCEQ's regionalization rules and policy, rules applicable to odors, and the Texas Surface Water Quality Standards, which are referable issues. Moreover, Prairie Crossing Wastewater LLC's Requests articulate how these concerns would affect its permitted facility, the Prairie Crossing WWTP, and a major amendment to its current TPDES permit to increase capacity to serve this area is currently pending. In conjunction with the concerns raised in its Requests and the location of its permitted wastewater treatment facility relative to the proposed facility and discharge route, Prairie Crossing Wastewater LLC's Requests demonstrated that it has a personal justiciable interest that would likely be affected by the proposed facility. Therefore, the Executive Director recommends the Commission find that Prairie Crossing Wastewater LLC is an affected person under 30 Tex. Admin. Code § 55.203 and further recommends the Commission grant its request.

***2. Parties the Executive Director recommends the Commission find to not be Affected Persons***

**Jonah Special Utility District (Jonah SUD)**

In its Comments and Request, Jonah SUD states that Jonah is a political subdivision of the State of Texas operating under Tex. Water Code Chapter 65 and the holder of water CCN No. 10970, in Williamson County, Texas. Jonah SUD states that it provides water service for approximately 9,000 customers and 30,000 people in its service area and wholesale sewer service within its district boundaries. Additionally, Jonah SUD states it has developed a wastewater master plan for expansion of its wastewater service within its district boundary. Jonah SUD claims the proposed facility is located just outside of Jonah's certificated territory and district boundary and will have a negative impact on the local community within Jonah SUD's CCN. Jonah SUD claims it has an interest in protecting its investments in its infrastructure and the quality of water sources used to serve its customers that may be adversely affected by the outcome of this Application.

In its Request, Jonah SUD contends the proposed facility does not comply with TCEQ's regionalization policy and disputes that Applicant has demonstrated that obtaining wastewater service from Jonah SUD would be cost prohibitive. Jonah SUD also states it has developed a wastewater master plan and studied the area adjacent to this proposed facility with the focus on developing regional wastewater services for the area.

Based on the information provided in their Requests, the location of Jonah SUD's CCN is shown on the attached satellite map prepared by the Executive Director's staff. Jonah SUD's CCN is approximately 1.39 miles away from the proposed facility and located upstream of the proposed discharge route.

Here, Jonah SUD's Request raises concerns relating to regionalization, which is a referable issue. However, the location and distance of its water Certificate of Convenience and Necessity (CCN) area relative to the proposed Facility demonstrate that Jonah SUD's concerns and interests raised in its Request are not likely to be adversely affected. While Jonah SUD's CCN is for water service and its Request does not mention whether it has a sewer CCN that is affected, SUDs do not need a CCN to provide water or wastewater service within their boundaries under Tex. Water Code Chapter 65. Also, the Request does not mention whether Jonah SUD has any existing facilities that could accept wastewater from the Applicant when the application was filed. Since the Applicant is not proposing to provide service within Jonah SUD's district boundaries, in conjunction with Jonah SUD's location relative to the proposed facility, Jonah SUD has not demonstrated how it would be adversely affected by Wilco MUD's Application in a manner not common to the general public.

Accordingly, Jonah SUD's concerns related to regionalization and interests it raises in its Request do not demonstrate that it has a personable justiciable interest that would likely be affected by the proposed Facility. Therefore, the Executive Director recommends the Commission find that Jonah SUD is not an affected person under 30 Tex. Admin. Code § 55.203 and further recommends that the Commission deny its request.

#### **Prairie Crossing Municipal Utility Districts Nos. 1 and 2 (Prairie Crossing MUDs)**

In its Comments and Requests, Prairie Crossing MUDs raise identical arguments and concerns as Prairie Crossing Wastewater LLC. In their Request, Prairie Crossing MUDs claimed they are affected persons with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the Wilco MUD application and Draft Permit. Prairie Crossing MUDs stated that they are political subdivisions authorized by TCEQ to provide services within an area of Williamson County. Prairie Crossing MUDs also claim the proposed discharge is within the area Prairie Crossing MUDs are to serve within Williamson County and therefore contrary to TCEQ's regionalization policy. Prairie Crossing MUDs also contend that Wilco MUD's failure to provide an adequate noise and odor abatement plan, failure to adequately assess stream quality and characteristics, and failure to meet TCEQ's buffer zone requirements will adversely affect the MUDs.

Based on the information provided in their Requests, the locations of Prairie Crossing MUDs are shown on the attached satellite map prepared by the Executive Director's staff. The boundaries of Prairie Crossing MUD No. 1 are approximately 0.75 miles away from the proposed facility and located downstream of the proposed discharge route. The boundaries of Prairie Crossing MUD No. 2 are approximately 0.01

miles away from the proposed facility and located downstream of the proposed discharge route.

One of the factors for determining affectedness under 30 Tex. Admin. Code § 55.203(c) is a governmental entity's statutory authority over or interest in the issues relevant to the application. Here, Prairie Crossing MUDs' Requests identified their statutory authority, as municipal utility districts, over and interest in providing wastewater services in their districts, which are relevant to the Wilco MUD application. Further, Prairie Crossing MUDs' Request raised several issues that are referable related to the Wilco MUD Application, such as the Application's compliance with the TCEQ's regionalization policy and requirements, the Draft Permit's compliance with the TCEQ's antidegradation rules, and the accuracy and completeness of the Wilco MUD Application. While the location of the boundaries of both Prairie Crossing MUDs are within 0.75 miles from the proposed facility, the proposed facility does not appear within the boundaries of the MUDs. Moreover, Prairie Crossing MUDs Requests do not state whether the proposed facility is within their jurisdiction other than their contention that the proposed facility would be within the Prairie Crossing WWTP's proposed service area.

Accordingly, the concerns and interests raised in Prairie Crossing MUDs' Requests do not demonstrate that they have a personal justiciable interest not common to the general public that would be adversely affected by the proposed facility. Therefore, the Executive Director recommends the Commission find that Prairie Crossing Municipal Utility Districts Nos. 1 and 2 are not affected persons under 30 Tex. Admin. Code § 55.203 and further recommends that the Commission deny their requests.

## **05 Ranch Investments, LLC (05 Ranch Investments)**

05 Ranch Investments LLC submitted timely comments and filed two timely hearing requests on April 7, 2023, and November 9, 2023, which contained the requisite contact information, identified interests it claims would be adversely affected in a manner not common to the general public, and articulated several issues in its timely comments to form the basis of its requests as required by 30 Tex. Admin. Code §§ 55.201(c), (d), and 55.203(b) and (c).

In its Comments and Requests, 05 Ranch Investments raises identical arguments and concerns as Prairie Crossing Wastewater LLC.<sup>11</sup> 05 Ranch Investments claimed it is an affected person with a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by the Wilco MUD application and Draft Permit. In its Requests, 05 Ranch Investments claims it is an affected person because it is the underlying landowner of Prairie Crossing Wastewater LLC's permitted facility, the permitted Prairie Crossing WWTP, which they state is located approximately one mile northeast of the intersection of County Road 485 and Farm-to-Market Road 9 in

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<sup>11</sup> In its Request, 05 Ranch Investments LLC, as the underlying landowner, stated it adopts the concerns raised in Prairie Crossing Wastewater LLC's Request.

Williamson County. 05 Ranch Investments disputes the need of the proposed facility and claims the proposed discharge is within its proposed service area and contrary to TCEQ's regionalization policy. 05 Ranch Investments contends that Wilco MUD's failure to provide an adequate noise and odor abatement plan, adequately assess stream quality and characteristics, and meet TCEQ's buffer zone requirements will adversely affect the quality of life of nearby residents and the public, including 05 Ranch Investments LLC as a nearby landowner.

Based on the information provided in their Requests, the location of 05 Ranch Investments' property is shown on the attached satellite map prepared by the Executive Director's staff. 05 Ranch Investments' property is approximately 1.56 miles away from the proposed facility and located downstream of the proposed discharge route.

Here, 05 Ranch Investments' Requests raised concerns relevant to the Wilco MUD Application, such as compliance with TCEQ's regionalization rules and policy, rules applicable to odors, and the compliance with the Texas Surface Water Quality Standards. However, while 05 Ranch Investments state that the Prairie Crossing WWTP is located on its property, approximately 1.56 miles away from the proposed facility, the concerns and interests raised in its Requests do not demonstrate how it is affected in a way not common to the general public. Accordingly, 05 Ranch Investments' Requests does not demonstrate it has a personal justiciable interest that would be adversely affected by the proposed facility. Therefore, the Executive Director recommends the Commission find that 05 Ranch Investments LLC is not an affected person under 30 Tex. Admin. Code § 55.203 and deny its requests.

**C. Whether the Issues the Requestor Raised are Referable to the State Office of Administrative Hearings (SOAH).**

The Executive Director has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the Response to Comments. None of the issues were withdrawn. For applications submitted on or after September 1, 2015, only those issues raised in a timely comment by a requester whose request is granted may be referred.<sup>12</sup> The issues raised for this application and the Executive Director's analysis and recommendations follow.

**Issue 1. Whether issuance of the Draft Permit is consistent with TCEQ's regionalization policy and Tex. Water Code §§ 26.081 and 26.0282. (RTC Comment 1)**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the Executive Director recommends the Commission refer this issue to SOAH.

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<sup>12</sup> TEX. GOVT. CODE § 2003.047(e-1); 30 TEX. ADMIN. CODE § 55.211(c)(2)(A)(ii).

**Issue 2. Whether the Draft Permit adequately addresses nuisance odors in accordance with 30 Tex. Admin. Code § 309.13. (RTC Comment 2)**

This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the Executive Director recommends the Commission refer this issue to SOAH.

**Issue 3. Whether the Draft Permit complies with the applicable buffer zone rules under 30 Tex. Admin. Code § 309.13. (RTC Comment 2)**

This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the Executive Director recommends the Commission refer this issue to SOAH.

**Issue 4. Whether the Application is accurate and contains all required information. (RTC Comment 3, 4)**

This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the Executive Director recommends the Commission refer this issue to SOAH.

**Issue 5. Whether the Draft Permit is protective of water quality and the receiving waters in accordance with the applicable regulations, including the Texas Surface Water Quality Standards. (RTC Comment 5)**

This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the Executive Director recommends referring this issue to SOAH.

**Issue 6. Whether the antidegradation review complies with applicable regulations and the draft permit includes adequate nutrient limits. (RTC Comment 5)**

This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the Executive Director recommends the Commission refer this issue to SOAH.

**VI. CONTESTED CASE HEARING DURATION**

If the Commission grants a hearing on this application, the Executive Director 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.

**VII. EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends the following actions by the Commission:

1. Find that Prairie Crossing Wastewater LLC is an affected person and grant its hearing request.

2. Deny the hearing requests of Jonah Water Special Utility District, Prairie Crossing Municipal Utility Districts Nos. 1 and 2, and 05 Ranch Investments LLC.
3. 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 above in Section V.C.1-6 to SOAH for a contested case hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Erin Chancellor, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



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REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

#### **VIII. CERTIFICATE OF SERVICE**

I certify that on April 1, 2024, the Executive Director's Response to Hearing Requests for TPDES Permit No. WQ0016146001 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.



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Fernando Salazar Martinez, Staff Attorney  
State Bar No. 24136087

MAILING LIST/LISTA DE CORREO  
Wilco Municipal Utility District 45 WWTP, LLC  
TCEQ Docket No./TCEQ Expediente N.º 2024-0131-MWD  
TPDES Permit No./TPDES Permiso N.º WQ0016146001

FOR THE APPLICANT/PARA EL  
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EL DIRECTOR EJECUTIVO

via electronic mail/vía correo  
electrónico:

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FOR ALTERNATIVE DISPUTE  
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ALTERNATIVA DE DISPUTAS

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FOR THE CHIEF CLERK/PARA EL  
SECRETARIO OFICIAL

via eFilings/vía eFilings:

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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>

REQUESTER(S)/SOLICITANTE(S)/  
INTERESTED PERSON(S)/PERSONA(S)  
INTERESADA(S):

See attached list / Ver lista adjunta

REQUESTER(S)/SOLICITANTE(S)

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# Attachment A

# Wilco MUD 45 WWTP, LLC

## Cielo Ranch WWTP

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: 12/19/2023  
CRF 0098679  
Cartographer: jbartlin



- Requestors
- Prairie Crossing MUD No. 1's Boundary
- Prairie Crossing MUD No. 2's Boundary
- Jonah SUD Boundary
- Facility
- 0.5 Mile Radius
- 1.0 Mile Radius
- 1.5 Mile Radius
- 1.0 Mile Discharge Route

The facility is 1.61 miles from 05 Ranch Investments, LLC (Requestor #1) and Prairie Crossing Wastewater, LLC (Requestor #2).

*Requestor #1 (05 Investments LLC (Requestor #1) and Prairie Crossing LLC (Requestor #2) both identified the permitted Prairie Crossing WWTF as their affected interest.*

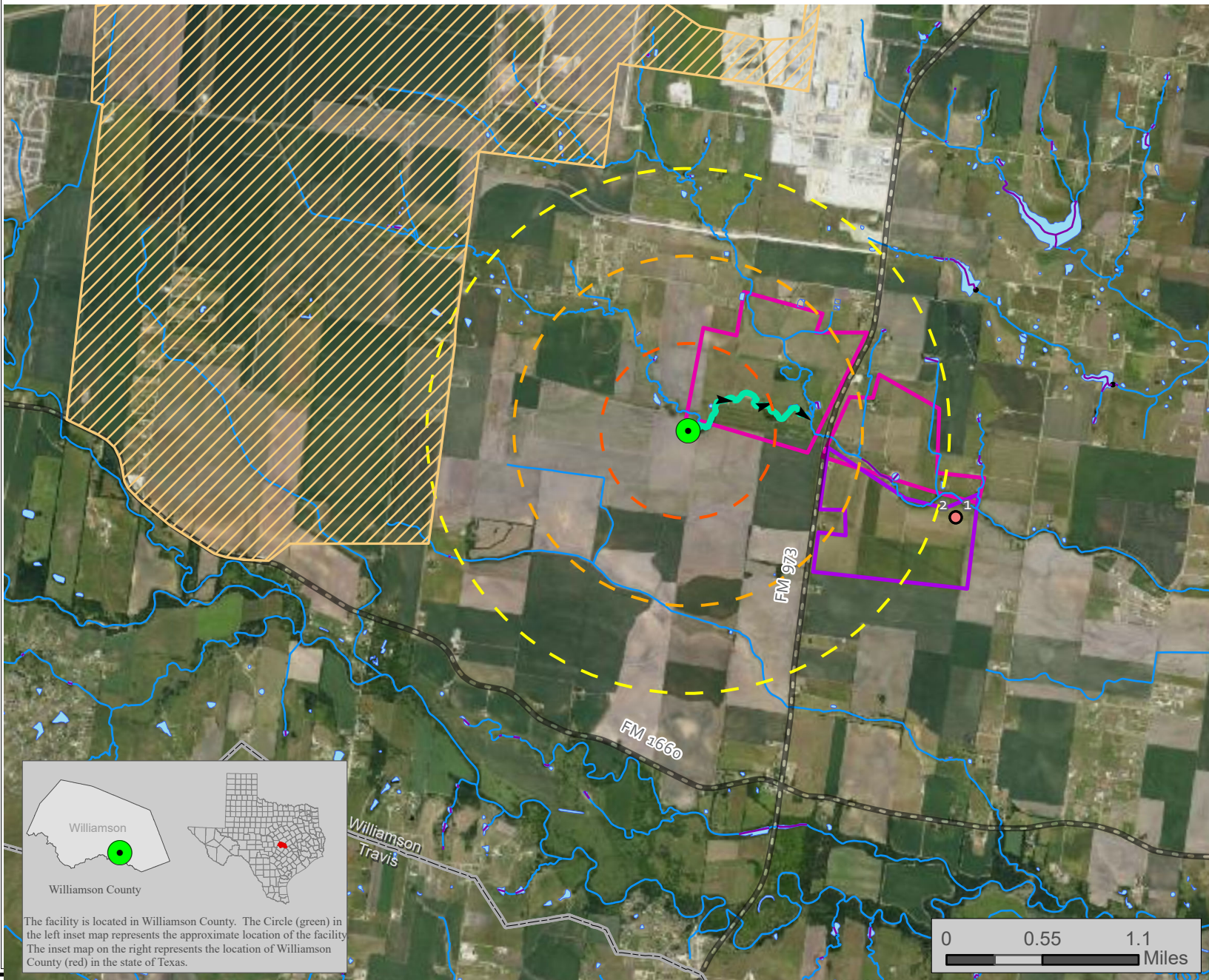
The facility is 0.81 miles from the Prairie Crossing MUD No. 1 (Requestor #3) boundary.

The facility is 0.01 miles from the Prairie Crossing MUD No. 2 (Requestor #4) boundary.

The facility is 1.39 miles from the Jonah Water SUD (Requestor #5) boundary.

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 Resources Division at (512) 261-0000.



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

# Attachment B

## Appendix A for Wilco MUD 45 WWTP, LLC - Cielo Ranch WWTP

| <b>Name</b>                      | <b>Lat</b> | <b>Long</b> | <b>State</b> | <b>Distance To<br/>Facility Point</b> | <b>Distance To<br/>Outfall 001</b> |
|----------------------------------|------------|-------------|--------------|---------------------------------------|------------------------------------|
| 05 Ranch Investments, LLC        | 30.502222  | -97.441666  | TX           | 1.61 Miles                            | 1.56 Miles                         |
| Prairie Crossing Wastewater, LLC | 30.502222  | -97.441666  | TX           | 1.61 Miles                            | 1.56 Miles                         |
| Prairie Crossing MUD 1           | 30.506     | -97.44      | TX           | 0.81 Miles                            | 0.75 Miles                         |
| Prairie Crossing MUD 2           | 30.506     | -97.44      | TX           | 0.01 Miles                            | 0.02 Miles                         |
| Jonah Water SUD                  | 30.661     | -97.224     | TX           | 1.39 Miles                            | 1.45 Miles                         |