

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 16, 2024

To: Persons on the Attached Mailing List (via e-mail)

Re: Prairie Crossing Wastewater LLC; **Motion for Leave to File** and **Request(s)** filed on Permit No. WQ001585001; TCEQ Docket No. 2024-1260-MWD

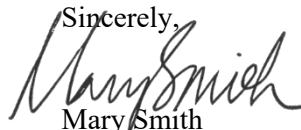
The above-referenced Motion for Leave to File (Motion), filed by David Tuckfield on behalf of Taylor Meadows 712, L.P., (Movant-Requester) on August 15, 2024, as well as all timely hearing requests and requests for reconsideration filed on the application referenced above, will be considered by commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **September 25, 2024**. The meeting will begin at 9:30 a.m. Due to an ongoing construction project, **the agenda meeting will be held in Room 244 of the Texas Workforce Commission** located at 101 East 15th Street in Austin, Texas. The agenda meeting may be held in person, virtually, or both in person and virtually. To confirm 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 the Commission rules, copies of the request(s) have been forward to the Applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. They may file written responses to these requests and the Motion on **August 30, 2024**. Movant-Hearing Requester may file a written reply to the responses on **September 16, 2024**. All responses and replies must be filed with the Chief Clerk of the TCEQ and sent on the same day to all individuals on the attached mailing list. Responses and replies may be filed with the Chief Clerk electronically at: <https://www.tceq.texas.gov/goto/efilings> or by filing an original with the Chief Clerk of the TCEQ. The mailing address of the Chief Clerk's Office is: Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 (Fax 512/239-3311).

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-.256 and 30 TAC §§ 1.10-.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, Movant-Requester, or staff. The Commissioners will make their decision based on the Motion, requests, written responses to the Motion and requests, written replies to those responses, and any responses to questions.

If you have any questions about the briefing schedule or related matters, please contact Todd Burkey, Assistant General Counsel, at Todd.Burkey@tceq.texas.gov.

Sincerely,

Mary Smith
General Counsel

Enclosures: Copies of Movant-Requester correspondence; mailing list

Mailing List
Prairie Crossing Wastewater LLC
TCEQ Docket No. 2024-1260-MWD

PARTIES

For the Applicant:

Nathan Vassar
Lloyd Gosselink
816 Congress Ave., Suite 1900
Austin, Texas 78701
512/322-5867 FAX 512/472-0532
nvassar@lglawfirm.com

For the Movant-Requester:

David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, Texas 78738
512/576-2481 FAX 512/366-9949
David@allawgp.com

For the Executive Director:

Allie Soileau
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0606
Allie.Soileau@tceq.texas.gov

For the Office of Public Interest Counsel:

Garrett Arthur
Eli Martinez
TCEQ Office of Public Interest Counsel MC 103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 FAX 512/239-6377
Garrett.arthur@tceq.texas.gov
Eli.martinez@tceq.texas.gov

OTHERS

For the TCEQ Office of Chief Clerk:

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311
<https://www14.tceq.texas.gov/epic/efiling/>

For TCEQ External Relations:

Ryan Vise
TCEQ External Relations Division MC 118
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0010 FAX 512/239-5000
pep@tceq.texas.gov

For TCEQ Alternative Dispute Resolution:

Kyle Lucas
TCEQ Alternative Dispute Resolution MC 222
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0687 FAX 512-239-4015
Kyle.lucas@tceq.texas.gov

Individuals on the Mailing List:

Eric Allmon
Perales, Allmon & Lee
1206 San Antonio St.
Austin, Texas 78701-1834
512/469-6000 FAX 512/482-9346
eallmon@txenvirolaw.com
gwyneth@txenvirolaw.com

Danny G. Worrell
Baker Botts LLP
401 S 1st St.
Austin, Texas 78704-1209
512/322-2500 FAX 512/322-2501
austinesg@bakerbotts.com

Vijay Kasireddy, Group Tx.
8505 Freeport Pkwy.
Irving, Texas 75063-2548
vijay@mangogroup.com

Kamalakar Poonuru
2904 Shady Creek Dr.
Flower Mound, Texas 75022-5359
kamalakar@mangogroup.com

Copies of Movant-Requester Correspondence

TPDES PERMIT WQ0015850001

**APPLICATION BY
PRAIRIE CROSSING
WASTEWATER LLC
FOR TPDES PERMIT
NO. WQ0015850001**

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**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY**

**REQUEST FOR HEARING
AND
REQUEST FOR RECONSIDERATION**

TO THE HONORABLE COMMISSIONERS:

COMES NOW, the 05 Ranch Investments LLC (“Landowner”) and files this Request for Hearing and Request for Reconsideration in the above-referenced matter, and would respectfully show as follows:

1. The Applicant in this case, Prairie Crossing Wastewater, LLC (“Applicant”) is proposing to build a TPDES wastewater treatment plant on property to serve property under the jurisdiction of Prairie Crossing Municipal Utility Districts 1 & 2 (“Prairie Crossing MUDs”).
2. The Prairie Crossing MUDs have submitted a request for a Contested Case Hearing in the matter of the Cielo Ranch WWTP (TPDES Permit No. WQ0016146001). The Cielo Ranch WWTP will be constructed on land owned by the Landowner. A copy of the Hearing Request is attached at Exhibit A.
3. In their request for a contested case hearing for the Cielo Ranch permit, the Prairie Crossing MUDs assert that “the appropriate antidegradation analysis to determine [that there will not be an impairment of water quality greater than a de minimis amount] has not been included in the permit application.” See Exhibit A at page 4. For applications for new/amended discharges, the TCEQ Standards Team performs an antidegradation analysis

of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ's IPs, an antidegradation review of the receiving waters is performed that includes nutrient screenings. The antidegradation analysis is conducted by the Agency. It is not part of the application. If the Prairie Crossing MUDs are correct, however, that the application must include this analysis, then this application (which applies to the service area for the Prairie Crossing MUDs is also found wanting and the permit should not be granted without a contested case hearing. The question of whether this permit complies with TCEQ's antidegradation policy was raised during the comment period and addressed in the Response to Comments (Response No. 6). The Executive Director, however, did not address the issue of whether, as alleged by the Prairie Crossing MUDs, that the antidegradation review must be included in the application. In this case, the antidegradation review was not included in the application. The permit, therefore, should be referred for a contested case hearing or the Agency should reconsider its decision and reject the permit.

4. In their request for a contested case hearing for the Cielo Ranch permit, the Prairie Crossing MUDs assert that the failure to include a noise and odor abatement plan in the application should result in the denial of the permit. Exhibit A at 4. In this case, no noise and odor abatement plan was included in the application. The permit, therefore, should be referred for a contested case hearing or the Agency should reconsider its decision and reject the permit.
5. Landowner is an affected person in this case. Landowner owns land that is immediately adjacent to the development that will be built under the jurisdiction of Prairie Crossing Municipal Utility Districts. Landowner's property is less than one mile west of the

wastewater plant and the discharge point. To the extent that Applicant has not adequately addressed a noise and odor abatement plan, Landowner is affected differently from members of the general public because it will affect the use of enjoyment of the Landowner's property. Furthermore, the receiving stream for the discharge (Boggy Creek) runs through Landowner's land. To the extent that this Applicant fails to comply with antidegradation requirements for Boggy Creek, Landowner will be prevented from utilizing the stream for its own uses. This also is an interest protected under the law the is different from members of the general public.

6. Landowner asked to be placed on the mailing list for the Applicant's permit by having through its representatives David Tuckfield, Kamalakar Poonuru, and Vijay Kasireddy placed on the mailing list, yet these individuals did not receive any correspondence regarding the Applicant's permit after having asked to be placed on the mailing list.
7. Landowner should not be penalized for Applicant's business settlement with other hearing requesters (resulting in their withdrawal of their hearing requests), thus depriving Applicant the opportunity to intervene in a contested case hearing, so Landowner seeks its own contested case hearing.

Respectfully submitted,

THE AL LAW GROUP, PLLC

/s/ David J. Tuckfield
DAVID J. TUCKFIELD
State Bar Number: 00795996
12400 Highway 71 West
Suite 350-150
Austin, TX 78738
(512) 576-2481
(512) 366-9949 Facsimile
david@allawgp.com

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of March 1, 2024 a true and correct copy of the foregoing document was filed with the Office of the Chief Clerk at www.tceq.texas.gov/goto/efilings and was served on the following by email (where indicated) and first-class mail (where indicated) as follows:

FOR THE APPLICANT via electronic mail and first class mail:

Nathan Vassar
Lloyd Gosselink
816 Congress Ave., Suite 1900
Austin, TX 78701
nvassar@lglawfirm.com

FOR THE EXECUTIVE DIRECTOR via electronic mail and first class mail:

Allie Soileau, Staff Attorney
Environmental Law Division
State Bar No. 24137200
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239-6033
Facsimile No. 512-239-0626
Allie.soileau@tceq.texas.gov

FOR PUBLIC INTEREST COUNSEL via electronic mail and first class mail:

Garrett T. Arthur
Public Interest Counsel
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087 Austin, Texas 78711
Tel: (512) 239-6363
Fax: (512) 239-6377
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
Tel: (512) 239-0687
Fax: (512) 239-4015
kyle.lucas@tceq.texas.gov

/s/ David J. Tuckfield

EXHIBIT A

April 7, 2023

Ms. Laurie Gharis
Office of the Chief Clerk, MC 105
Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711-3087

**VIA FIRST-CLASS MAIL
AND ELECTRONIC FILING**

RE: Public Comments, Request for Public Meeting, and Hearing Request for
Application for Proposed TPDES Permit No. WQ0016146001
Applicant: Wilco MUD 45 WWTP LLC
Site Name: Cielo Ranch WWTP

Dear Ms. Gharis:

We hereby submit this letter on behalf of Prairie Crossing Municipal Utility Districts 1 & 2 ("Prairie Crossing MUDs") to the Texas Commission on Environmental Quality ("TCEQ"), providing formal public comments and requesting a public meeting and a contested case hearing regarding the above-referenced application ("Application") of Wilco MUD 45 WWTP LLC ("Wilco MUD" or the "Applicant") for a new Texas Pollutant Discharge Elimination System ("TPDES") permit, and the proposed draft permit for such Application ("Draft Permit"). These comments are timely filed.

Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information as follows:

Mr. Nathan E. Vassar
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Phone: 512-322-5867
Fax: 512-472-0532

I. BACKGROUND

The Prairie Crossing MUDs are political subdivisions of the State of Texas authorized by the TCEQ to provide services within an area of Williamson County. Prairie Crossing Wastewater, LLC ("Prairie Crossing") is the holder of existing TPDES Permit No. WQ0015850001 (the "PC Permit") which authorizes the building of a wastewater treatment plant within the area of the Prairie Crossing MUDs. The PC Permit authorizes Prairie Crossing to treat and discharge wastewater 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, Texas. Its discharge route runs via pipe to Boggy Creek, then to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The PC Permit allows for a daily average flow of effluent not

to exceed 0.990 MGD. On January 6, 2023, Prairie Crossing submitted an application for an Amendment to the PC Permit to expand its capacity in order to have greater ability to provide regional wastewater treatment service.

The Applicant originally applied to TCEQ for proposed TPDES Permit No. WQ0016146001 to authorize the discharge of treated wastewater at a volume not to exceed an annual average flow of 3,000,000 gallons per day from the Cielo Ranch Wastewater Treatment Plant (“CRWWTP”). The TCEQ received the application on April 11, 2022. On March 17, 2023, a combined Noticed of Receipt of Application and Intent to Obtain a Water Quality Permit and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater was issued to correct the annual average flow authorization to a volume not to exceed an annual average flow of 2,000,000 gallons per day from CRWWTP. The proposed CRWWTP 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. The discharge route will be from the CRWWTP site to Boggy Creek; thence to Brushy Creek. As noted below, the Applicant’s proposed discharge is less than two miles from Prairie Crossing’s permitted outfall.

As the political subdivisions of the State of Texas authorized by the TCEQ to provide wastewater services within an area of Williamson County, the Prairie Crossing MUDs adopt Prairie Crossing’s concerns submitted separately and restated below in regard to proposed TPDES Permit No. WQ0016146001. Below are Prairie Crossing MUDs’ timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and represent the basis for Prairie Crossing MUDs’ request for a public meeting and a contested case hearing, should the Application not be remanded back to technical review and/or denied.

Prairie Crossing MUDs request that the TCEQ deny the Application and corresponding Draft Permit because it fails to: (1) meet the TCEQ’s regionalization policy; (2) satisfy water quality and antidegradation standards; and (3) include all of the information required in TCEQ application forms. Accordingly, Prairie Crossing MUDs hereby request a contested case hearing.

II. PUBLIC COMMENTS

As provided in further detail below, Prairie Crossing MUDs assert that the 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 Texas Water Code, Chapter 26; (3) fails to meet the TCEQ’s regionalization policy for wastewater treatment plants; and (4) fails to adequately protect against CRWWTP’s probable negative impacts on water quality and comply with TCEQ antidegradation policy.

A. The Application fails to comply with the State’s Regionalization Policy

The statutory State Regionalization Policy exists to “encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems

to serve the waste disposal needs of citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.”¹ In order to implement this Policy, Section 1.B of the TCEQ’s TPDES permit application form (Domestic Technical Report 1.1) contains three questions related to the potential for regionalization of wastewater treatment plants, tailored to the identification of permitted nearby wastewater treatment facilities and/or collection systems that could provide service to the service area proposed in the TPDES permit application.² The third regionalization question in Section 1.B is relevant to Wilco MUD’s Application, and Wilco MUD has failed to complete the regionalization analysis and process.

Specifically, Section 1.B.3 concerns the existence of *permitted* domestic wastewater treatment plants or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.³ If such permittees exist, then the applicant is required to identify them, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.⁴ The applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.⁵ In its Application, Wilco MUD indicated that no such permitted facilities which “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed” are located within three miles. This statement is incorrect, as Prairie Crossing’s permitted facility is to be located less than two miles from the CRWWTP site. As such, Wilco MUD should have provided the mandatory notification to Prairie Crossing regarding their need for wastewater service in the area. This notification was not provided and at no point has Prairie Crossing stated it was not willing or able to provide service to meet projected needs, nor did Prairie Crossing ever consent to Wilco MUD constructing its own separate wastewater treatment plant. Prairie Crossing’s ability to provide service is further evidenced by its own Amendment, submitted on January 6, 2023, to expand its capacity in order to provide regional wastewater treatment service, including for the area covered pursuant to the Application. Because this Application cannot meet the standard required by Section 1.B.3 and is contrary to TCEQ regionalization policy, the Application and corresponding Draft Permit should be denied.

B. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As stated above, the Application proposes the discharge of treated domestic wastewater from the proposed CRWWTP to Boggy Creek, thence to the classified segment of Brushy Creek (Segment ID 1244). A review of this discharge route reveals two ponds: Pond #1, about 2,000 ft from the proposed outfall, and Pond #2, about 1 mile downstream from the proposed outfall. It is likely that the discharge of treated domestic wastewater will impair water quality in these ponds greater than a *de minimus* amount and cause dissolved oxygen levels

¹ Tex. Water Code § 26.081-.087.

² Application for a Domestic Wastewater Permit Technical Report 1.1 at 21-22.

³ Domestic Technical Report 1.1 at 22.

⁴ Domestic Technical Report 1.1 at 22.

⁵ Domestic Technical Report 1.1 at 22.

to fall below minimum levels to sustain aquatic life due to the proposed CRWWTP's organic loading from BOD, TSS, ammonia-nitrogen, and phosphorus,⁶ but the appropriate antidegradation analysis to determine this outcome has not been included in the permit application. Without this analysis, the Application cannot demonstrate that the two ponds-Pond can sustain aquatic life as effluent dominated ponds without eutrophication. To meet TCEQ antidegradation policy, such analysis should be required. Because the Application, as proposed, is not in compliance with the TCEQ's antidegradation policy, the Application and corresponding Draft Permit should be denied.

C. The Application contains a number of additional deficiencies.

After a careful review of the Application, Prairie Crossing MUDs believe that the Application contains the following additional deficiencies, and that due to these deficiencies, the Application and corresponding Draft Permit should be denied:

- 1. Nuisance Odors.** A noise and odor abatement plan has not been prepared. An additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken at the proposed CRWWTP. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available.
- 2. Description of Immediate Receiving Waters.** Section 4 of Domestic Technical Report Worksheet 2.0 requires the applicant to identify the appropriate description of the receiving waters.⁷ The information listed by Wilco MUD under this section is incomplete as it does not identify two existing ponds downstream of the proposed outfall. Moreover, it fails to identify that in previous drought conditions, Pond #1 ran dry and Pond #2 decreased in size. As noted, the existing ponds may drive water quality impairments.
- 3. Description of Stream Physical Characteristics.** Domestic Worksheet 2.1 requires a description of general characteristics of the waterbody, including stream physical characteristics. This worksheet was not included in the Application. It is required by the TCEQ for a new discharge permit application, including the associated discharge route map where creek cross sections were taken for a minimum of one-half of a mile downstream from the proposed outfall locations. Wilco MUD should be required to perform field work to collect and submit this data to the TCEQ.

⁶ Application for a Domestic Wastewater Permit Administrative Report 1.0 at 9.

⁷ Application for a Domestic Wastewater Permit Technical Report Worksheet 2.0 at 29-31.

4. **Buffer Zone.** Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to show how the buffer zone requirements of 30 TAC § 309.13(e) will be met.⁸ The instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units, . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or variance to the buffer zone.”⁹ The map provided by Wilco MUD in Attachment B to the Application is unclear and does not show that these buffer zone requirements have been met.¹⁰ Additionally, the easement documents provided by Wilco MUD in Attachment B do not show that legal restrictions preventing residential structures within the buffer zone are in place.¹¹

III. REQUEST FOR PUBLIC MEETING

Prairie Crossing MUDs request a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ’s regulations in 30 TAC § 55.154(c) provide that “[a]t any time, the executive director or the Office of the Chief Clerk may hold a public meeting,” and that “[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application.” Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, Prairie Crossing MUDs, as political subdivisions of the State of Texas authorized by the TCEQ to provide services within an area of Williamson County, have a substantial and significant degree of public interest in the Application. Prairie Crossing MUDs are willing to work with the TCEQ and Wilco MUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

Prairie Crossing MUDs also request a contested case hearing regarding the Application and each and every issue raised in Prairie Crossing MUDs’ public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, Prairie Crossing MUDs are affected persons, as defined by 30 TAC § 55.203. Prairie Crossing MUDs have a personal justiciable interest to a legal right, duty privilege, power or economic interest that is not common to the general public that would be adversely affected should the Application be approved. In determining whether a person is an affected person, the TCEQ may consider, among other factors, “(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) the likely impact of the regulated activity on the health, safety, and use of property of the person; (5) the likely impact of the regulated activity on use of the impacted natural

⁸ Application for a Domestic Wastewater Permit Administrative Report 1.1 at 15.

⁹ Instructions for Completing Domestic Wastewater Permit Applications at 46.

¹⁰ Application Attachment B.

¹¹ Application Attachment B.

resource by the person; (6) whether the requestor submitted comments on the Application that were not withdrawn; and, (7) for governmental entities, their statutory authority over or interest in the issues relevant to the Application.” The TCEQ may also consider “the merits of the underlying application and supporting documentation . . . , including whether the application meets the requirements for permit issuance.” Prairie Crossing MUDs are affected persons, as defined by 30 Tex. Admin. Code § 55.103 and 55.203 and the Application is serviceable within the area Prairie Crossing MUDs provide services within Williamson County. Prairie Crossing MUDs contend the Application is contrary to TCEQ regionalization policy for the reasons outlined above. Additionally, 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 meet TCEQ’s buffer zone requirements likely will adversely affect the quality of life of nearby residents and the public.

V. CONCLUSION

Prairie Crossing MUDs reserve the right to supplement these public comments and this request for a contested case hearing as they learn more about the Application and corresponding Draft Permit—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. Prairie Crossing MUDs appreciate your consideration of these public comments and its requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nathan E. Vassar".

Nathan E. Vassar

NEV/yw

cc: (via electronic mail only)
Mr. Matt Tiemann, Tiemann Land and Cattle Development, Inc
Mr. Darren Strozewski, DCS Engineering
Ms. Michaela Dietrick, Tiemann Land and Cattle Development, Inc.



David J. Tuckfield
12400 W. Highway 71, Suite 350-150
Austin, Texas 78738

Partner
(512) 576-2481
Fax: (512) 366-9949

July 25, 2024

Via electronic delivery

Ms. Mary Smith
General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**VIA ELECTRONIC TRANSMISSION
AND FIRST-CLASS MAIL**

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

Re: First Amended Request for Hearing and Request for Reconsideration on the Major
Amendment Application for Permit No. WQ0015850001—Prairie Crossing Wastewater
Treatment Facility

Dear Ms. Smith and Ms. Gharis:

On March 1, 2024 the undersigned submitted a Request for Hearing and Request for Reconsideration and named as the requester 05 Ranch Investments LLC. This was clearly an error that the undersigned can only ascribe to a computer typographical error that was not caught before the Request was submitted. The requester should have been identified as Taylor Meadows 712, LP. The undersigned apologizes to both the Commission and to 05 Ranch Investments LLC as it was unintentional. This First Amended Request for Hearing and Request for Reconsideration Amends that original filing to include to correct party. The text of the original pleading did identify the requester as the person upon whose land the Cielo Ranch WWTP will be constructed – which is Taylor Meadows 712, LP.

Sincerely,

David Tuckfield
The AL Law Group, PLLC
12400 West Highway 71, Suite 350-150
Austin, TX 78738
(512) 576-2481; david@allawgp.com

TPDES PERMIT WQ0015850001

**APPLICATION BY
PRAIRIE CROSSING
WASTEWATER LLC
FOR TPDES PERMIT
NO. WQ0015850001**

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**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY**

**FIRST AMENDED
REQUEST FOR HEARING
AND
REQUEST FOR RECONSIDERATION**

TO THE HONORABLE COMMISSIONERS:

COMES NOW, the Taylor Meadows 712, LP (“Landowner”) and files this First Amended Request for Hearing and Request for Reconsideration in the above-referenced matter, and would respectfully show as follows:

1. On March 1, 2024 the undersigned submitted a Request for Hearing and Request for Reconsideration and named as the requester 05 Ranch Investments LLC. This was clearly an error that the undersigned can only ascribe to a computer typographical error that was not caught before the Request was submitted. The requester should have been identified as Taylor Meadows 712, LP. The undersigned apologizes to both the Commission and to 05 Ranch Investments LLC as it was unintentional. This First Amended Request for Hearing and Request for Reconsideration Amends that original filing to include to correct party. The text of the original pleading did identify the requester as the person upon whose land the Cielo Ranch WWTP will be constructed – which is Taylor Meadows 712, LP.
2. The Applicant in this case, Prairie Crossing Wastewater, LLC (“Applicant”) is proposing to build a TPDES wastewater treatment plant on property to serve property under the jurisdiction of Prairie Crossing Municipal Utility Districts 1 & 2 (“Prairie Crossing MUDs”).

3. The Prairie Crossing MUDs have submitted a request for a Contested Case Hearing in the matter of the Cielo Ranch WWTP (TPDES Permit No. WQ0016146001). The Cielo Ranch WWTP will be constructed on land owned by the Landowner. A copy of the Hearing Request is attached at Exhibit A.
4. In their request for a contested case hearing for the Cielo Ranch permit, the Prairie Crossing MUDs assert that “the appropriate antidegradation analysis to determine [that there will not be an impairment of water quality greater than a de minimis amount] has not been included in the permit application.” See Exhibit A at page 4. For applications for new/amended discharges, the TCEQ Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ’s IPs, an antidegradation review of the receiving waters is performed that includes nutrient screenings. The antidegradation analysis is conducted by the Agency. It is not part of the application. If the Prairie Crossing MUDs are correct, however, that the application must include this analysis, then this application (which applies to the service area for the Prairie Crossing MUDs is also found wanting and the permit should not be granted without a contested case hearing. The question of whether this permit complies with TCEQ’s antidegradation policy was raised during the comment period and addressed in the Response to Comments (Response No. 6). The Executive Director, however, did not address the issue of whether, as alleged by the Prairie Crossing MUDs, that the antidegradation review must be included in the application. In this case, the antidegradation review was not included in the application. The permit, therefore, should be referred for a contested case hearing or the Agency should reconsider its decision and reject the permit.

5. In their request for a contested case hearing for the Cielo Ranch permit, the Prairie Crossing MUDs assert that the failure to include a noise and odor abatement plan in the application should result in the denial of the permit. Exhibit A at 4. In this case, no noise and odor abatement plan was included in the application. The permit, therefore, should be referred for a contested case hearing or the Agency should reconsider its decision and reject the permit.
6. Landowner is an affected person in this case. Landowner owns land that is immediately adjacent to the development that will be built under the jurisdiction of Prairie Crossing Municipal Utility Districts. Landowner's property is less than one mile west of the wastewater plant and the discharge point. To the extent that Applicant has not adequately addressed a noise and odor abatement plan, Landowner is affected differently from members of the general public because it will affect the use of enjoyment of the Landowner's property. Furthermore, the receiving stream for the discharge (Boggy Creek) runs through Landowner's land. To the extent that this Applicant fails to comply with antidegradation requirements for Boggy Creek, Landowner will be prevented from utilizing the stream for its own uses. This also is an interest protected under the law the is different from members of the general public.
7. Landowner asked to be placed on the mailing list for the Applicant's permit by having through its representatives David Tuckfield, Kamalakar Poonuru, and Vijay Kasireddy placed on the mailing list, yet these individuals did not receive any correspondence regarding the Applicant's permit after having asked to be placed on the mailing list.
8. Landowner should not be penalized for Applicant's business settlement with other hearing requesters (resulting in their withdrawal of their hearing requests), thus depriving

Applicant the opportunity to intervene in a contested case hearing, so Landowner seeks its own contested case hearing.

Respectfully submitted,

THE AL LAW GROUP, PLLC

/s/ David J. Tuckfield

DAVID J. TUCKFIELD

State Bar Number: 00795996

12400 Highway 71 West

Suite 350-150

Austin, TX 78738

(512) 576-2481

(512) 366-9949 Facsimile

david@allawgp.com

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July 25, 2024 a true and correct copy of the foregoing document was filed with the Office of the Chief Clerk at www.tceq.texas.gov/goto/efilings and was served on the following by email (where indicated) and first-class mail (where indicated) as follows:

FOR THE APPLICANT via electronic mail and first class mail:

Nathan Vassar
Lloyd Gosselink
816 Congress Ave., Suite 1900
Austin, TX 78701
nvassar@lglawfirm.com

FOR THE EXECUTIVE DIRECTOR via electronic mail and first class mail:

Allie Soileau, Staff Attorney
Environmental Law Division
State Bar No. 24137200
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239-6033
Facsimile No. 512-239-0626
Allie.soileau@tceq.texas.gov

FOR PUBLIC INTEREST COUNSEL via electronic mail and first class mail:

Garrett T. Arthur
Public Interest Counsel
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087 Austin, Texas 78711
Tel: (512) 239-6363
Fax: (512) 239-6377
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
Tel: (512) 239-0687
Fax: (512) 239-4015
kyle.lucas@tceq.texas.gov

/s/ David J. Tuckfield

**TCEQ DOCKET NO. 2024-1260-MWD
TPDES PERMIT WQ0015850001**

**APPLICATION BY
PRAIRIE CROSSING
WASTEWATER LLC
FOR TPDES PERMIT
NO. WQ0015850001**

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§

**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY**

**MOTION FOR LEAVE TO FILE
FIRST AMENDED REQUEST FOR HEARING AND
REQUEST FOR RECONSIDERATION**

TO THE HONORABLE COMMISSIONERS:

COMES NOW, the Taylor Meadows 712, LP (“Landowner”) and files this Motion for Leave to File First Amended Request for Hearing and Request for Reconsideration in the above-referenced matter, and would respectfully show as follows:

1. On March 1, 2024, the undersigned submitted a Request for Hearing and Request for Reconsideration and named as the requester 05 Ranch Investments LLC. This was clearly an error that the undersigned can only ascribe to a computer typographical error that was not caught before the Request was submitted. The requester should have been identified as Taylor Meadows 712, LP. The undersigned apologizes to both the Commission and to 05 Ranch Investments LLC as it was unintentional.
2. On July 29, 2024, Landowner filed a First Amended Request for Hearing and Request for Reconsideration to correct this mistake.
3. It is well established that the parties’ pleadings speak for themselves and amended pleadings wholly replace the assertions made in prior pleadings. *Elliott v. Methodist Hosp.*, 54 S.W.3d 789, 793 (Tex. App.—Houston [1st Dist.] 2001, pet. denied) (Generally, “[a] plaintiff’s timely filed amended pleading supersedes all previous pleadings and becomes

the controlling petition in the case regarding theories of recovery”); see also *Bos v. Smith*, 556 S.W.3d 293, 306 (Tex. 2018) (Amended pleadings supersede prior pleadings).

4. By amending its Request, Landowner, effectively replaced the original pleading, but the original pleading date is not disregarded. See *Tex. Disposal Sys. Landfill, Inc. v. Waste Mgmt. Holdings, Inc.*, 219 S.W.3d 563, 587 (Tex. App.—Austin 2007, pet. denied) (“Under the relation-back doctrine, an original pleading tolls the statute of limitations for claims asserted in subsequent, amended pleadings as long as the amendments are not based on new, distinct, or different transactions or occurrences”).
5. The attorney for Landowner made an error and corrected that error by amending the pleading. Fairness, equity, and due process dictate that the Commission should allow the filing of the First Amended Request.

Prayer

Landowner requests that the Commission grant its Motion for Leave to File First Amended Request for Hearing and Request for Reconsideration, that the Commission accept and consider the First Amended Request for Hearing and Request for Reconsideration, that the Commission grant the Hearing and reconsider its decision, and for all other such relief to which Landowner may be entitled.

Respectfully submitted,

THE AL LAW GROUP, PLLC

/s/ David J. Tuckfield
DAVID J. TUCKFIELD
State Bar Number: 00795996
12400 Highway 71 West
Suite 350-150
Austin, TX 78738
(512) 576-2481
(512) 366-9949 Facsimile
david@allawgp.com

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of August 2024 a true and correct copy of the foregoing document was filed electronically with the Office of the Chief Clerk and was served on the following by email (where indicated) and first-class mail (where indicated) as follows:

FOR THE APPLICANT via electronic mail and first class mail:

Nathan Vassar
Lloyd Gosselink
816 Congress Ave., Suite 1900
Austin, TX 78701
nvassar@lglawfirm.com

FOR THE EXECUTIVE DIRECTOR via electronic mail and first class mail:

Allie Soileau, Staff Attorney
Environmental Law Division
State Bar No. 24137200
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239-6033
Facsimile No. 512-239-0626
Allie.soileau@tceq.texas.gov

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Garrett T. Arthur
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Tel: (512) 239-6363
Fax: (512) 239-6377
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Austin, Texas 78711
Tel: (512) 239-0687
Fax: (512) 239-4015
kyle.lucas@tceq.texas.gov

/s/ David J. Tuckfield