

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 7, 2025

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

**Re: Application by Carland, LLC for New TPDES Permit No. WQ006449001;
TCEQ Docket No. 2025-0289-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 "Ryan Rakowitz", with a horizontal line drawn through the signature.

Ryan Rakowitz
Staff Attorney
Environmental Law Division

Enclosure

CC: Mailing List

TCEQ DOCKET NO. 2025-0289-MWD

APPLICATION BY	§	BEFORE THE
CARLAND INC.	§	
FOR TPDES PERMIT	§	TEXAS COMMISSION ON
NO. WQ0016449001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Requests and Requests for Reconsideration on an application by Carland Inc. (Applicant) for a new TPDES Permit No. WQ0016449001. The Office of the Chief Clerk received contested case hearing requests from the following individuals: Steve Horstman, Terri Baze, Mary Cecelia McGill, and John Kyle McGill.

The ED recommends that the Commission deny all hearing requests.

Attached for the Commission consideration are satellite maps of the area showing the locations of the facility, discharge route, and requestors.

II. FACILITY DESCRIPTION

The applicant has applied for a new TPDES permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.25 million gallons per day (MGD). The proposed wastewater treatment facility will serve the Grayson Meadows Village. The Grayson Meadows Village Wastewater Treatment Facility (WWTF, Facility) is an activated sludge process plant operated in the complete mix mode. Treatment units in all phases include an on-site lift station, a bar screen, two aeration basins, a final clarifier, two sludge digesters, a sludge box for dewatering, and a chlorine contact chamber. The facility has not been constructed. The draft permit authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

The treated effluent will be discharged to an unnamed tributary, thence to Deaver Creek, thence to Big Mineral Creek, thence to Lake Texoma in Segment No. 0203 of the Red River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and limited aquatic life use for Deaver Creek. The designated uses for Segment No. 0203 are primary contact recreation, public water supply, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code § 307.5 and TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected.

The effluent limitations in the Interim phase of the draft permit, based on a 30-day average, are 10 mg/l CBOD5, 15 mg/l total suspended solids (TSS), 3 mg/l NH3-N, and 126 CFU or MPN of *E. coli* per 100 ml. The permittee shall not exceed a daily average *E. coli* limit of 126 CFU or MPN per 100 ml.

The waste load allocation (WLA) for wastewater treatment facilities (WWTFs) was established as the final permitted flow for each facility multiplied by the geometric mean criterion for bacteria multiplied by a conversion factor (to get to units per day). The allocated loads were calculated for *Escherichia coli* (*E. coli*) and *Enterococcus*. The two indicators allow flexibility in establishing permit limits so the WWTFs are subject to the limits for the chosen indicator bacteria in their permits. Future growth from existing or new permitted sources is not limited by these TMDLs as long as the sources do not exceed the limits provided.

To ensure that effluent limitations for this discharge are consistent with the WLAs provided in the TMDL, a concentration-based effluent limitation of 35 most probable number (MPN) per 100 mL for *Enterococcus* has been included in the draft permit.

III. PROCEDURAL BACKGROUND

The permit application was received on November 27, 2023, and declared administratively complete on January 12, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on January 26, 2024, in the *Harold Democrat* and published on February 2, 2024, in the *Tex Mex News*. The Notice of Application and Preliminary Decision (NAPD) was published on July 18, 2024, in the *Herald Democrat* and published on July 15, 2024, in the *Tex Mex News*.

The public comment period ended on August 19, 2024. 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 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

IV. THE EVALUATION PROCESS FOR 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 ED, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.¹

Responses to hearing requests must specifically address:

(1) whether the requestor is an affected person;

¹ 30 Texas Administrative Code (TAC) Section (§) 55.209(d).

- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of 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 in writing by filing a 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.²

B. Hearing Requests Requirements

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

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requestor prior to the filing of the ED's Response to Comment.³

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime 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 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, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed 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 proposed 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.⁴

² 30 TAC § 55.209(e).

³ 30 TAC § 55.201(c).

⁴ 30 TAC § 55.201(d).

C. Requirement that Requestor be an Affected Person/“Affected Person” Status

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 general public does not qualify as a personal justiciable interest.
- (b) Except as provided by § 55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
 - (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely 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.
- (d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also consider the following:
 - (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.
- (e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.

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 SOAH for a hearing.”⁵ The Commission may not refer an issue to the State Office of Administrative Hearings (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 whose hearing request is granted; and
- (3) is relevant and material to the decision on the application.⁶

V. ANALYSIS OF THE REQUESTS

The ED has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestors qualify as affected persons, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

A. Whether the Requestors Complied With 30 TAC §§ 55.201(c) and (d) and 55.203

1. *Individuals the Executive Director recommends the Commission not find Affected Persons*

- Steve Horstman
 - Steve Horstman submitted a timely request for a contested case hearing raising the concern of proximity to “existing and future homesites.” The request states that Mr. Horstman owns land “immediately to the north [and] is planned for a future homesite.” The requestor suggests the current proposed location should be rejected and that only applications located further east should be considered.

Mr. Horstman provided an address that is located approximately 34.78 miles from the discharge route. The hearing request did not provide the address of the property that is “immediately north” of the discharge point. Steve Horstman is not listed on the Adjacent Landowner List.

Based on the information provided in the request, Mr. Horstman has not demonstrated how he would be affected by the application in a manner different from the general public. He failed to identify a specific concern with the application or adequately describe a property interest located in proximity to the proposed facility. Therefore, Mr. Horstman is not an affected person under 30 TAC § 55.203(c)(2).

The ED therefore recommends the Commission find the Requestor did not substantially comply with the requirements of 30 TAC § 55.203(c)(2) and that Steve Horstman is not an affected person under 30 TAC § 55.203; and deny his Request.

- Terri Baze
 - Terri Baze submitted timely comments. On January 22, 2025, she submitted a timely contested case hearing request (Request). Ms. Baze

⁵ 30 TAC § 50.115(b).

⁶ 30 TAC § 50.115(c).

provided an address approximately 0.67 miles from the outfall; however, she did not provide a justiciable issue based on 30 TAC § 55.201 (d)(2).

Terri Baze submitted an initial comment on February 13, 2024, and submitted a final comment on July 18, 2024. Both comments solely brought up the issue of flooding, an issue that is not within TCEQ's jurisdiction.

Terri Baze submitted an additional comment on July 16, 2024, which was an adoption of the comment she signed onto from John Kyle McGill. This comment raises the issues of flooding, having a negative impact on the land and livestock, resale value, and future development. The issue of flooding is brought up within her hearing request; however, this is an issue outside of TCEQ's jurisdiction. The additional issues were not raised within her hearing request. 30 TAC § 55.201(d)(2) requires that these issues be raised within the hearing request.

The Request raised several issues, none of which fall within TCEQ's jurisdiction. Terri Baze stated, "My main concern is, its not safe for the environment." This statement is vague and does not raise a specific concern. Additionally, she stated her concerns for the volume of water that will be flowing, and the erosion it may cause.

The issue of flooding does not fall within the jurisdiction of the TCEQ according to Chapter 26 of the Texas Water Code and our Rules. The Requestor failed to satisfy the requirement of 30 Tex. Admin. Code § 55.201 (d)(2).

Therefore, the Executive Director recommends the Commission find that the Request did not substantially comply with the requirement of 30 TAC § 55.201(d)(2); and that Terri Baze is not an affected person under 30 TAC § 55.203 and deny her hearing request.

- Mary Cecelia McGill

- Mary Cecelia McGill submitted timely comments. On January 21, 2025, she submitted a timely contested case hearing request (Request). Ms. McGill provided an address approximately 0.75 miles from the outfall; however, she did not provide a justiciable issue based on 30 Tex. Admin. Code § 55.201 (d)(2).

The comments on February 13, July 7, and July 9 all raise the concern of flooding, which is not within TCEQ's jurisdiction. The comment on February 13, 2024, also brought up the concern of whether the water is safe for her cattle to drink. However, this issue was not raised in her hearing request. 30 TAC § 55.201(d)(2) requires the issues be raised within the hearing request. The hearing request instead raises the concern of flooding, specifically, whether "[She] will be able to safely run [her] cattle or check [her] cattle in that area.

Mary Cecelia McGill submitted an additional comment on July 16, 2024, which is an adoption of the comment she signed onto from John Kyle McGill. This comment raises the issues of flooding, having a negative impact on the land and livestock, resale value and future development. The

issue of flooding was raised within her hearing request however this is an issue outside of TCEQ's+ jurisdiction. The additional issues were not raised within her hearing request. 30 TAC § 55.201(d)(2) requires that these issues be brought up within the hearing request.

The Request raised several issues, none of which fall within our jurisdiction. Ms. McGill owns the land on both sides of Deaver creek and believes she will no longer be able to safely cross. Ms. McGill is concerned about erosion and running water that she believes will make her land unusable.

These issues do not fall within the jurisdiction of the TCEQ according to Chapter 26 of the Texas Water Code and our Rules. Therefore, the Requestor failed to satisfy the requirement of 30 Tex. Admin. Code § 55.201 (d)(2). Therefore, the Executive Director recommends the Commission find the Request did not substantially comply with the requirement of 30 TAC § 55.201(d)(2); and that Mary Cecelia McGill is not an affected person under 30 TAC § 55.203 and deny her hearing request.

- John Kyle McGill
 - John Kyle McGill submitted two timely comments and later that day submitted a contested case hearing request (Request). John Kyle McGill provided an address approximately 0.75 miles from the outfall; however, he did not provide a justiciable issue based on 30 Tex. Admin. Code § 55.201 (d)(2).

John Kyle McGill submitted an initial comment on July 16, 2024. This comment raises the issues of flooding, having a negative impact on the land and livestock, resale value, and future development. These issues, however, were not raised within his hearing request. 30 TAC § 55.201(d)(2) requires that these issues be brought up within the hearing request.

The Request only states that he requests “a public hearing on behalf of the citizens of Southmayd and landowners that will be directly effected.” The Request does not comply with 30 TAC § 55.201(d)(2) because the request does not identify the person's justiciable interest affected by the application. Nor does the request provide specifically how and why he will be adversely affected by the proposed facility.

Therefore, the Executive Director recommends the Commission find the Request did not substantially comply with the requirement of 30 TAC § 55.201(d)(2); and that John Kyle McGill is not an affected person under 30 TAC § 55.203 and deny his hearing request.

B. Whether the Issues the Requestors Raised are Referable to the State Office of Administrative Hearings (SOAH).

The Executive Director does not recommend granting any of the hearing requests in this matter. Therefore, the Executive Director does not recommend referring any issues to SOAH.

VI. CONCLUSION

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission deny all hearing requests and issue the draft permit as prepared by the Executive Director.

Respectfully submitted,

Texas Commission on Environmental
Quality

Kelly Keel,
Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Ryan Rakowitz
Staff Attorney
Environmental Law Division
State Bar of Texas No. 24143317
MC-173, P.O. Box 13087
Austin, Texas 78711-3087
Phone: (512) 239-5422
Fax: (512) 239-0606
ryan.rakowitz@tceq.texas.gov

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on April 7, 2025, the "Executive Director's Response to Hearing Request" for TPDES Permit WQ0016449001 for Carland Inc. was filed with the TCEQ's Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.

A handwritten signature in black ink, appearing to read "Ryan Rakowitz", with a horizontal line extending to the right.

Ryan Rakowitz
Staff Attorney
Environmental Law Division

MAILING LIST
Carland, Inc.
TCEQ Docket No./TCEQ Expediente N.º 2025-0289-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0016449001

FOR THE APPLICANT/PARA EL SOLICITANTE

Chad Elkin, Vice President
Carland, Inc.
575 Sutter Street, Suite 300
San Francisco, California 94102

Christopher Connolly, P.E., Professional Engineer
Kimley-Horn and Associates, Inc.
260 East Davis Street, Suite 100
McKinney, Texas 75069

FOR THE EXECUTIVE DIRECTOR/PARA EL DIRECTOR EJECUTIVA

via electronic mail/vía correo electrónico:

Ryan Rakowitz, Staff Attorney
Texas Commission on
Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711

Garrison Layne, Technical Staff
Texas Commission on
Environmental Quality
Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711

Ryan Vise, Deputy Director
Texas Commission on
Environmental Quality
External Relations Division
Public Education Program, MC-108
P.O. Box 13087
Austin, Texas 78711

FOR PUBLIC INTEREST COUNSEL/PARA ABOGADOS DE INTERÉS PÚBLICO

via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on
Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE RESOLUTION/PARA LA RESOLUCIÓN ALTERNATIVA DE DISPUTAS

via electronic mail/vía correo electrónico:

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

FOR THE CHIEF CLERK/PARA EL SECRETARIO OFICIAL

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>

REQUESTER(S) SOLICITANTE(S)/

See attached list/Ver listado adjunto.

REQUESTER(S) SOLICITANTE(S)/

Baze, Terri D
809 Dagnan Rd
Howe Tx 75459-1751

Horstman, Steve
108 Hidden Valley Airpark
Shady Shores Tx 76208-7332

McGill, John Kyle
429 Dagnan Rd
Howe Tx 75459-1701

McGill, Mary Cecilia
781 Dagnan Rd
Howe Tx 75459-1703

Attachment A

CARLAND INC - WQ0016449001

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



*Protecting Texas by
Reducing and
Preventing Pollution*

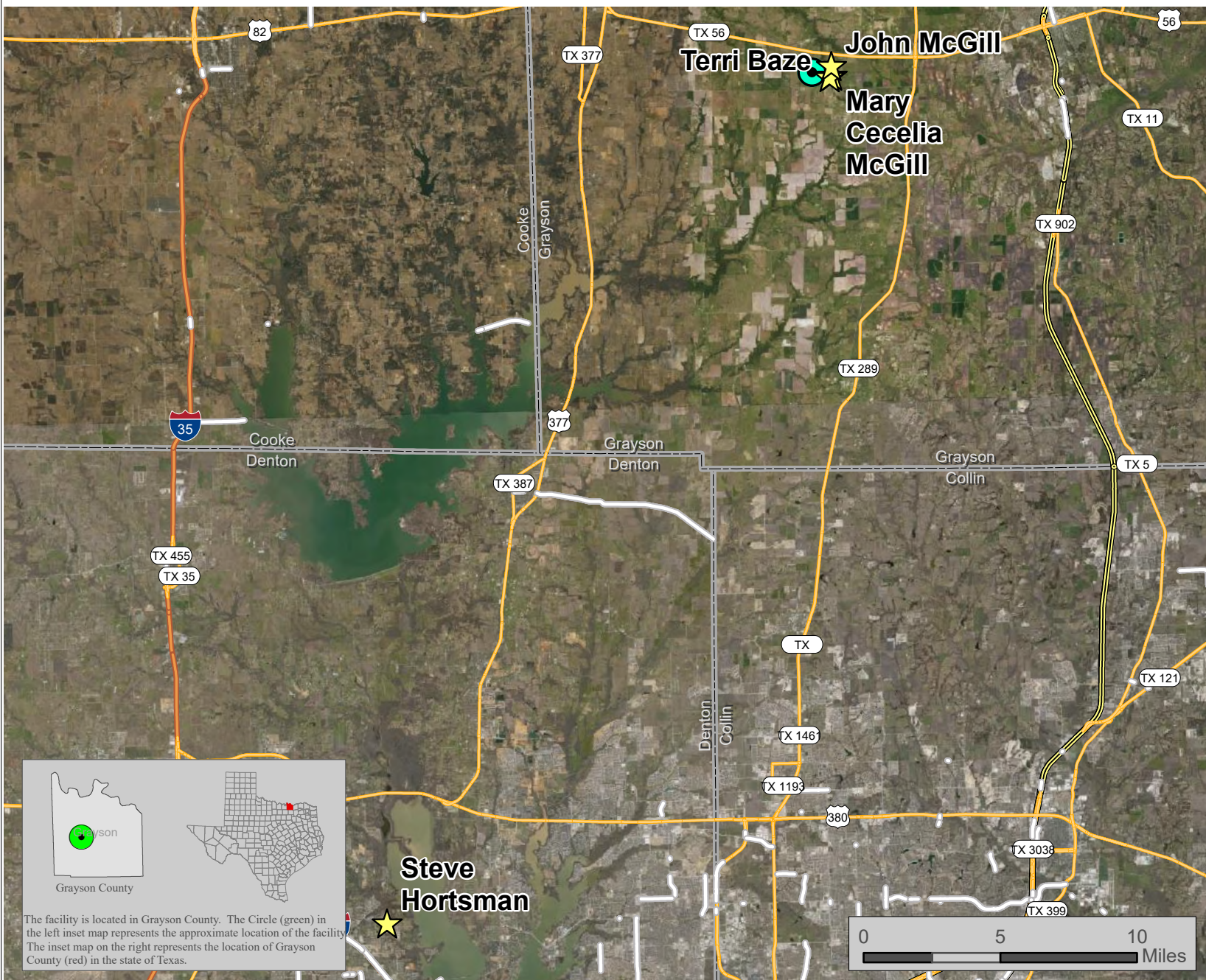
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 2/12/2025
CRF 0118319
Cartographer: RKukushk

- ★ Requestors
- Outfall Location
- Interstate
- Toll Road
- Highway
- Intermediate Roads
- County Boundary

Distance from Outfall:
Hortsman | 34.78 miles
M. McGill | 0.75 miles
Blaze | 0.67 miles
J. McGill | 0.75 miles

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

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



CARLAND INC - WQ0016449001

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



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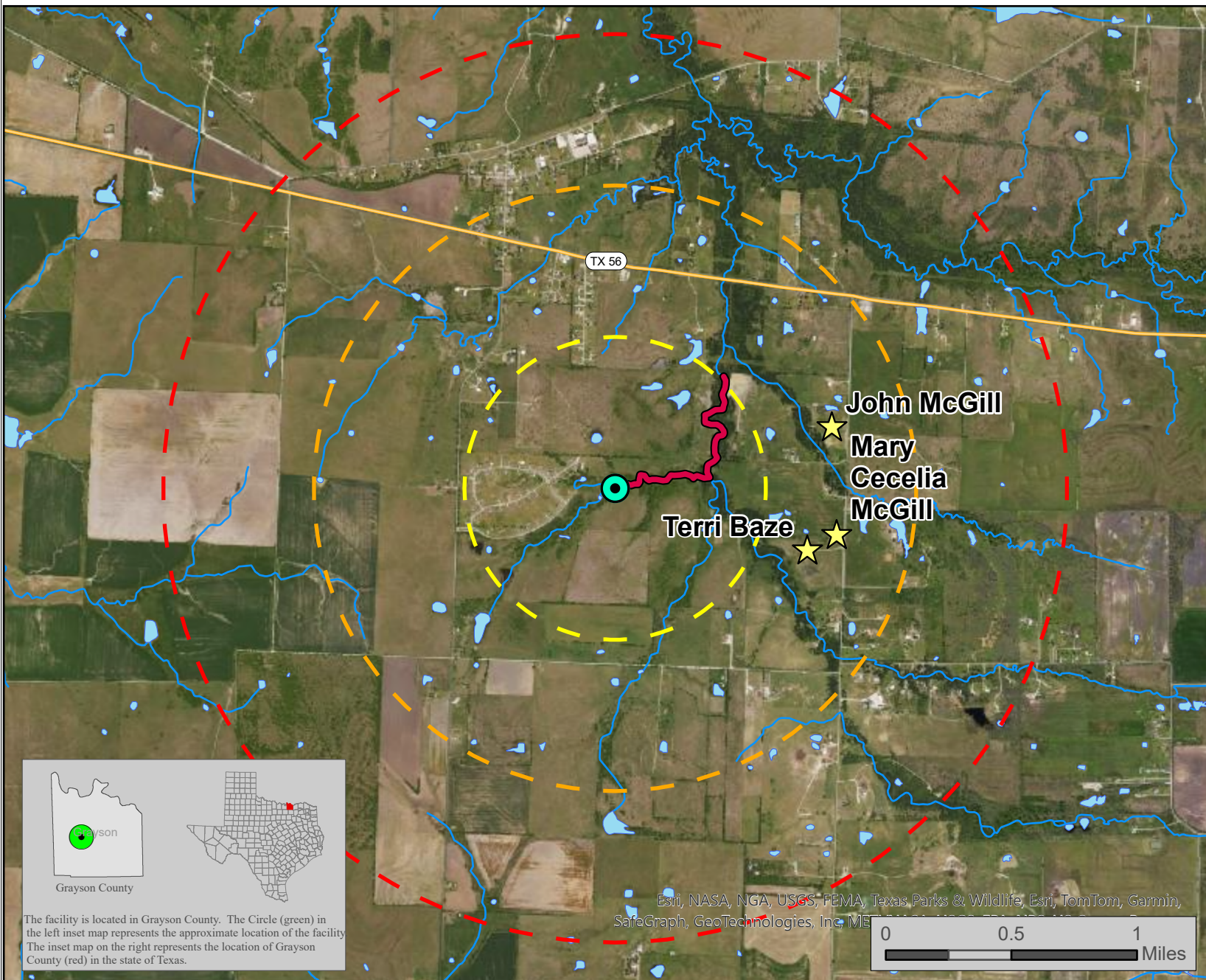
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 2/13/2025
CRF 0118319
Cartographer: RKukushk

- ★ Requestors
- Outfall Location
- Discharge Route
- 0.5 miles
- 1 mile
- 1.5 miles
- Lake/Pond
- Stream/River
- Highway

Distance from Outfall:
Hortsman | 34.78 miles
M. McGill | 0.75 miles
Blaze | 0.67 miles
J. McGill | 0.75 miles

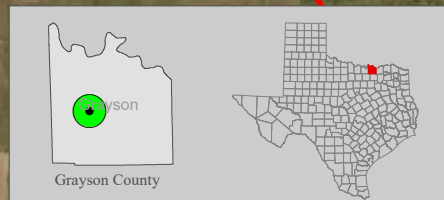
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

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Esri, NASA, NGA, USGS, FEMA, Texas Parks & Wildlife, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc. ME

0 0.5 1
Miles



The facility is located in Grayson 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 Grayson County (red) in the state of Texas.