

DOCKET NO. 2025-0467-MWD

APPLICATION BY
CITY OF VENUS
FOR TPDES PERMIT
NO. WQ0010883002

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Request (Response) on the application by City of Venus (Applicant) for renewal to Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010883002 and the Executive Director's preliminary decision. The Office of the Chief Clerk received a timely contested case hearing request from Martha Johnson. The Chief Clerk also received a timely Request for Reconsideration (RFR) from Robyn Farrell.

Attached for Commission consideration is the following:

Exhibit A - Compliance History Report

Exhibit B - Executive Director's satellite map of the area.

II. Description of Facility

The City of Venus (Applicant) submitted an application for a renewal permit, TPDES Permit No. WQ0010883002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 180,000 gallons per day. The Applicant proposes to operate the City of Venus Wastewater Treatment Facility. The proposed wastewater treatment facility will serve a proposed residential subdivision with a total of 800 single family homes in the City of Venus. The authorization was initially issued on March 22, 2019. The facility has not been constructed.

The City of Venus Wastewater Treatment Facility will be an activated sludge process plant operated in the conventional mode. Treatment units in the Interim I phase will include an equalization basin, a bar screen, two aeration basins, a final clarifier, two sludge digesters, and a chlorine contact chamber. Treatment units in the Interim II phase will include an equalization basin, two bar screens, four aeration basins, two final clarifiers, four sludge digesters, and two chlorine contact chambers. Treatment units in the Final phase will include an equalization basin, four bar screens, eight aeration basins, four final clarifiers, eight sludge digesters, and four chlorine contact chambers.

The facility will be located approximately 0.5 miles southwest of the intersection of Farm-to-Market Road 157 and Farm-to-Market Road 2258, in the City of Venus, Ellis County, Texas 76084.

If the draft permit is issued, the treated effluent will be discharged to an unnamed tributary, thence to Armstrong Creek, thence to Cottonwood Creek, thence to North Fork Chambers Creek, thence to Chambers Creek Above Richland-Chambers

Reservoir in Segment No. 0814 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and limited aquatic life use for Armstrong Creek and Cottonwood Creek. The designated uses for Segment No. 0814 are primary contact recreation, public water supply, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses.

III. Procedural Background

The permit application was received on June 26, 2023, and declared administratively complete on August 9, 2023. The first Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on August 22, 2023, in the *Galveston County Daily News*. The combined NORI and Notice of Application and Preliminary Decision (NAPD) was published on April 19, 2024, in English in the *Galveston County Daily News* and was published in Spanish in *La Prensa De Houston* on April 28, 2024.

The public comment period ended on May 28, 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 Senate Bill 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

House Bill 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. Senate Bill 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 hearing requests. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- whether the requestor is an affected person;
- which issues raised in the hearing request are disputed;
- whether the dispute involves questions of fact or of law;
- whether the issues were raised during the public comment period;
- 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 Executive Director's Response to Comment;

whether the issues are relevant and material to the decision on the application; and

a maximum expected duration for the contested case hearing.

30 TAC § 55.209(c).

B. Hearing Request Requirements

In order 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 Executive Director's Response to Comment.

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- I. give the name, 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;
- II. 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;
- III. request a contested case hearing; and
- IV. 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 Executive Director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

C. Requirement that Requestor be an Affected Person/"Affected Person" Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected" person. 30 TAC § 55.203 sets out who may be considered an affected person. 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. Except as provided by 30 TAC § 55.103, governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.

In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:

- whether the interest claimed is one protected by the law under which the application will be considered;
- distance restrictions or other limitations imposed by law on the affected interest;
- whether a reasonable relationship exists between the interest claimed and the activity regulated;
- likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- likely impact of the regulated activity on use of the impacted natural resource by the person;
- whether the requestor timely submitted comments on the application which were not withdrawn; and
- for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

In making affected person determinations, the commission may also consider, to the extent consistent with case law:

- 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;
- the analysis and opinions of the Executive Director; and
- any other expert reports, affidavits, opinions, or data submitted by the Executive Director, the applicant, or hearing requestor.

30 TAC § 55.203(d).

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.” 30 TAC § 50.115(b). The Commission may not refer an issue to SOAH for a contested case hearing unless the Commission determines that the issue:

- involves a disputed question of fact or a mixed question of law and fact;

was raised during the public comment period by an affected person whose hearing request is granted; and

is relevant and material to the decision on the application.

30 TAC § 50.115(c).

E. Permit Applications When There is No Right to a Contested Case Hearing

30 TAC § 55.201(i)(5) outlines when a renewal or amended permit application proposed to be issued under the Texas Water Code, Chapter 26, is not subject to a contested case hearing. A permit renewal or amendment is not subject to a contested case hearing when:

- A. The applicant is not applying to:
 - (i). increase significantly the quantity of waste authorized to be discharged; or
 - (ii). change materially the pattern or place of discharge;
- B. the activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged;
- C. any required opportunity for public meeting has been given;
- D. consultation and response to all timely received and significant public comment has been given; and
- E. the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit.

30 TAC § 55.201(i)(5).

V. Analysis of Hearing Requests

The Executive Director 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. There is No Right to a Contested Case Hearing on this Renewal Application

This is an application for a renewal to an existing Texas Pollutant Discharge Elimination System Permit No. WQ0010883002 and the Commission must determine whether there is a right to a contested case hearing. The contested case hearing request in this case should be denied under TWC § 26.028(d) and 30 TAC § 55.201(i)(5), because there is no right to a contested case hearing for this permit renewal.

According to TCEQ rules, 30 TAC § 55.201(i)(5), there is no right to a contested case hearing for applications that seek to renew or amend a permit under Texas Water Code, Chapter 26, if: (1) the applicant is not applying to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge, (2) the activity to be authorized by the renewal or amended permit

will maintain or improve the quality of waste authorized to be discharged, (3) any required opportunity for public meeting has been given, (4) consultation and response to all timely received and significant public comment was done, and (5) the Applicant's compliance history for the previous five years raises no issues regarding the Applicant's ability to comply with a material term of the permit.

The City of Venus application seeks to renew Texas Pollutant Discharge Elimination System Permit No. WQ0010883002. The City of Venus permit was previously renewed in 2019. Effluent limitations and monitoring requirements in the draft permit remain the same as the existing permit effluent limitations and monitoring requirements. This permit renewal would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 180,000 gallons per day. The City of Venus is not applying to increase the quantity of wastewater authorized to be disposed of. Therefore, the ED recommends finding that the application does not materially change the place or pattern of wastewater disposal from the existing permit and that the permit will maintain the quality of waste authorized to be discharged. Required opportunity for a public meeting has been given, public comments were received, and a response was prepared. The Applicant has an unclassified compliance history rating. See Attachment A.

The Executive Director recommends finding that this permit renewal application meets all of the conditions in 30 TAC § 55.201(i)(5) and that there is no right to a contested case hearing in this case.

B. Whether the Hearing Request Complied with Section 55.201(c) and (d).

In the event the Commissioners find that there is a right to a hearing on the City's renewal application, the Executive Director offers the following analysis of the hearing request. Martha Johnson submitted a timely hearing request. She included her name, address, and telephone number in her hearing request. Additionally, she identified personal justiciable interests affected by the application, demonstrating how she believes she was affected in a manner not common to the general public.

The Executive Director concludes that Martha Johnson submitted a hearing request that complies with 30 TAC § 55.201(c) and (d).

C. Whether the Requestor Meets the Affected Person Requirements.

1. Martha Johnson

According to the information provided by Martha Johnson, her property is 5.3 miles from the proposed facility. Martha Johnson is not listed as an owner of property on the affected landowners list provided by the Applicant with the application. Martha Johnson raised issues during the comment period regarding her agricultural land on both sides of Cottonwood Creek that is used for livestock and hay production, flooding, and the fact that the Applicant does not own the land on which the proposed facility is to be located. Due to her distance from the proposed facility and discharge route, Martha Johnson has not demonstrated that she is affected in a manner not common to the general public and is not an affected person.

The Executive Director recommends the Commission find that Martha Johnson is not an affected person.

D. Issues for a Contested Case Hearing.

The ED does not recommend referral of any issues to SOAH.

VI. Request for Reconsideration/Rehearing

The Chief Clerk received a timely Request for Reconsideration (RFR) from Robyn Farrell. As required by 30 Texas Administrative Code § 55.201(e), Robyn Farrell gave her request in writing, and provided her name, address, and daytime telephone number. Robyn Farrell specifically requested reconsideration of the ED's decision on the City of Venus application.

The issues raised by Robyn Farrell include that the Applicant does not own the land on which the facility will be located (RTC Response No. 10); regionalization (RTC Response No. 9); the Applicant's compliance history, and that the application should have been for a major amendment instead of a renewal without changes.

These issues, to the extent they are within the Commission's jurisdiction to consider on a TPDES application, were considered during the ED's review of the application. The RFRs did not provide any new information that would lead the ED to change her recommendation on the application, therefore, the ED recommends denial of the RFRs.

VII. Contested Case Hearing Duration

If there is a contested case 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.

VIII. Conclusion

The Executive Director recommends the following actions by the Commission:

Find that there is no right to a contested case hearing.

In the event that the Commission finds that there is a right to a hearing:

Deny the hearing request from Martha Johnson.

Deny the request for reconsideration from Robyn Farrell.

Refer no issues to SOAH.

Respectfully submitted,
Texas Commission on Environmental Quality

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REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

MAILING LIST
City of Venus
TCEQ Docket No./TCEQ Expediente N.º 2025-0467-MWD
Permit No./ Permiso N.º WQ0010883002

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<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/ SOLICITANTE(S)

See attached list/Ver listado adjunto.

REQUESTER(S)/ SOLICITANTE(S)

Farrell Jr, Phillip
1605 Bearpath Way
Gunter Texas 75058-4208

Farrell, Robyn
1308 Ozro Rd
Venus Texas 76084-4870

Griffin, Rene
1308 Ozro Rd
Venus Texas 76084-4870

Johnson, Martha
1017 Shady River Ct N
Benbrook Texas 76126-2900

Exhibit A



Compliance History Report

Compliance History Report for CN600636864, RN101612505, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN600636864, City of Venus	Classification:	UNCLASSIFIED	Rating:	-----
Regulated Entity:	RN101612505, CITY OF VENUS WWTP SITE B	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	7	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	LOCATED APPROX 0.5 MI SW OF THE INTEREX FM 157 & FM 2258 JOHNSON, TX, JOHNSON COUNTY				
TCEQ Region:	REGION 04 - DFW METROPLEX				
ID Number(s):					
WASTEWATER PERMIT	WQ0010883002	WASTEWATER EPA ID	TX0138703		
Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year:	2023	Rating Date:	09/01/2023
Date Compliance History Report Prepared:	November 06, 2023				
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.				
Component Period Selected:	September 21, 2018 to November 06, 2023				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	PT	Phone:	(512) 239-3581		

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	09/05/2023	(1916897)		
	Self Report?	NO		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(4) TX0138703 PERMIT WQ0010883002 PERMIT			

Description: Failure to prevent the unauthorized discharge of wastewater. Specifically, on or around June 17, 2023, a spill of diesel and sewage occurred at a lift station located at 1100 FM 1807 along CR 214.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Exhibit B

City of Venus

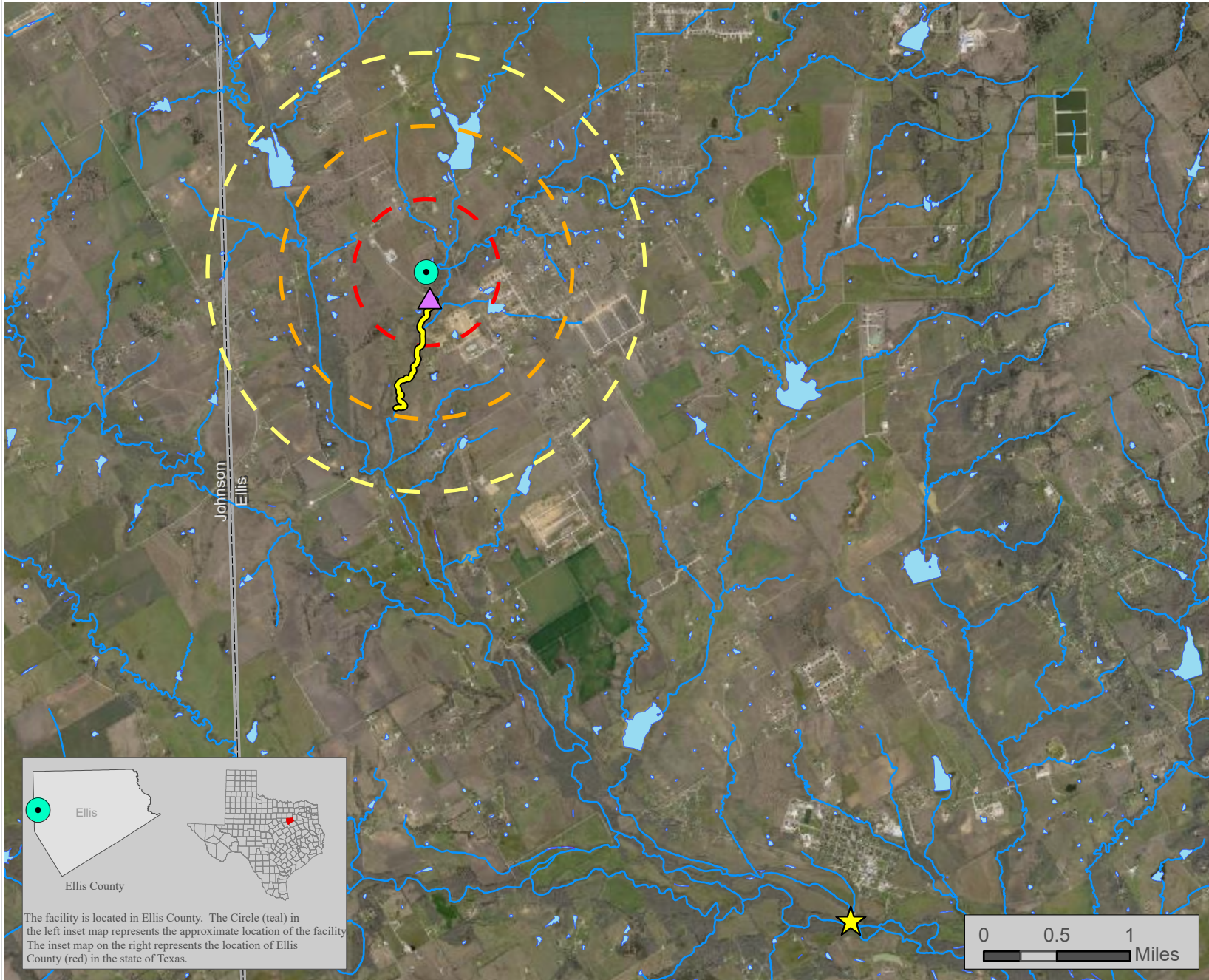
WQ0010883002

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: 3/5/2025
CRF 0118878
Cartographer: RKukushk



- Facility Point
- Requestor
- Outfall001
- Discharge Route
- 1.5 miles
- 1 mile
- 0.5 miles
- Lake/Pond
- Stream/River
- Artificial Path
- County Boundary

The requestor, Martha Johnson, is 5.3 miles from the facility point.



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

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.