

TCEQ DOCKET NO. 2025-0468-MSW

APPLICATION BY PC-II, LLC FOR  
MSW PERMIT NO. 2406

§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**HOUSTON SAN JACINTO RANCH, LLC'S  
REPLY TO RESPONSES TO HEARING REQUESTS**

Houston San Jacinto Ranch, LLC (“*Houston San Jacinto Ranch*”) files this reply to the responses to the Houston San Jacinto Ranch’s requests for a contested case hearing (the “*Hearing Requests*”) on the application filed with the Texas Commission on Environmental Quality (“*TCEQ*”) by PC-II, LLC (“*Applicant*”) for Proposed Municipal Solid Waste (“*MSW*”) Permit No. 2406 (“*Application*”). Houston San Jacinto Ranch submitted to TCEQ comments and a Hearing Request via letter dated January 14, 2022 which was signed by Ms. Jennifer Lee, and a follow-up Hearing Requests on February 21, 2025 and on February 24, 2025, which are attached as *Exhibit A*.<sup>1</sup>

As explained in Houston San Jacinto Ranch’s previous comments and Hearing Requests, Houston San Jacinto Ranch is an “affected person” pursuant to 30 Tex. Admin. Code §55.203. Houston San Jacinto Ranch owns property located within one mile of the permit boundary of the proposed MSW landfill (“*MSW Permit Boundary*”),<sup>2</sup> and will be adversely affected by the proposed MSW landfill in a manner not common to the general public as specifically described in

---

<sup>1</sup> Houston San Jacinto Ranch filed a corrected Hearing Request letter on February 25, 2025 which was exactly the same as the Hearing Request letter filed on February 21, 2025, with the header “Attorney Work Product Privileged and Confidential” removed which had been included in error.

<sup>2</sup> The property is identified through San Jacinto County Appraisal District records as Property ID#46683 and Property ID#46471. Houston San Jacinto Ranch reserves the right to transfer portions of its property to other affiliated entities or to other third parties in connection with the development of the property, but Houston San Jacinto Ranch intends to maintain ownership of significant portions of the property that are located within and in close proximity to a one-mile radius of the MSW Permit boundary.

Houston San Jacinto Ranch's Hearing Requests. Houston San Jacinto Ranch has plans to develop this property into a residential, mixed-use and commercial development. As shown in *Exhibit B* which is attached, the property is located partially within one mile of the MSW Permit Boundary.<sup>3</sup>

Applicant, the TCEQ Executive Director ("*Executive Director*") and TCEQ's Office of Public Interest Counsel ("*OPIC*") each filed responses to Houston San Jacinto's Hearing Requests. None of the responses dispute that Houston San Jacinto Ranch: (i) timely filed comments, (ii) timely filed its Hearing Requests listing disputed issues, (iii) owns property very near to one mile of the MSW Permit Boundary.

Although Applicant recommends that Houston San Jacinto Ranch's Hearing Requests be denied, the only pretext offered by Applicant for denying a hearing is that Houston San Jacinto Ranch's property is located slightly farther than one mile from the MSW Permit Boundary - 389 feet farther than one mile, according to Applicant. The Executive Director's sole basis for recommending that Houston San Jacinto Ranch's Hearing Request not be granted is based on the notion that the Hearing Request did not provide a detailed description of how Houston San Jacinto Ranch would be affected differently than the general public or describe a personal justiciable interest, despite the explicit language in the Hearing Requests.

Contrary to the suggestions by Applicant and the Executive Director, OPIC recommends that the Commission find that as a landowner in close proximity to the MSW Permit Boundary, Houston San Jacinto Ranch has a personal justiciable interest in the Application and will be adversely affected by the proposed MSW landfill in a manner not common to the general public,

---

<sup>3</sup> The mapping was prepared based on land ownership records and mapping available in the San Jacinto County Appraisal District website, mapping prepared by Applicant and submitted to TCEQ, and land ownership records submitted by Applicant to TCEQ as part of the application process. As explained in the Hearing Requests, The Woodlands San Jacinto Ranch, LLC which is reflected in the mapping changed its name to Houston San Jacinto Ranch.

and has more than sufficiently articulated a personal justiciable interest that is different from the general public.

Houston San Jacinto Ranch respectfully requests that the Commission grant its Hearing Requests. In the alternative, Houston San Jacinto Ranch respectfully requests that the Commission refer Houston San Jacinto Ranch's Hearing Requests to the State Office of Administrative Hearings (“*SOAH*”) for a determination pursuant to 30 Tex. Admin. Code § 55.211(b)(4).

#### I. APPLICABLE LAW FOR HEARING REQUESTS<sup>4</sup>

A hearing request must be granted if several specific administrative, procedural, and substantive requirements are met.

First, the hearing request must be in writing, must be timely filed no later than 30 days after mailing of the Executive Director's decision and Response to Comments, and must be based on the requestor's own timely comments.<sup>5</sup> There is no dispute that Houston San Jacinto Ranch's Hearing Requests meet this first requirement.

Second, the hearing request must “*substantially comply*” with the following requirements:

- (1) Give the name, address, daytime telephone number, and, where possible, a fax number;
- (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;*” (emphasis added)
- (3) Request a contested case hearing; and
- (4) For applications filed:  
...

---

<sup>4</sup> Hearing Requests for the Application are governed primarily by statutory provisions in TEX. GOV'T CODE § 2003.047 and TEX. WATER CODE §§ 5.115 and 5.556 which are implemented by various provisions in 30 TEX. ADMIN. CODE, CHAPTER 50, SUBCHAPTER F and CHAPTER 55, SUBCHAPTER F. In the interest of efficiency and since TCEQ's rules comprehensively encompass all relevant statutory provisions, and because various provisions of such TCEQ's rules overlap and are duplicative but consistent, citations herein may not include every applicable TCEQ rule.

<sup>5</sup> See 30 TEX. ADMIN. CODE § 55.201(c).

(B) On or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor 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 the requestor's comments that the requestor disputes, 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>6</sup>

It is not disputed that Houston San Jacinto Ranch's Hearing Requests meet every element of the second requirement with one small exception offered by the Executive Director. The Executive Director seems to suggest that Houston Jacinto Ranch has not "substantially complied" with the rule by providing a "brief but specific" statement in "plain language" regarding how Houston San Jacinto Ranch will be affected in a manner not common to the general public or described a "personal justiciable interest" that would likely be impacted. As explained below, contrary to the Executive Director's passing suggestion, Houston San Jacinto Ranch's Hearing Requests meet the plain language of the rule.

Third, a Hearing Request must be granted if the Commission determines the requestor is an "affected person."<sup>7</sup> An "affected person" is:

[O]ne 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."<sup>8</sup>

In determining whether a requestor is an affected person, the Commissioners must consider the following factors:

---

<sup>6</sup> *Id.* § 55.201(d).

<sup>7</sup> *Id.* §§ 55.201(b), 55.211(c)(2). The Commission, the Executive Director, or the applicant may also request a contested case hearing.

<sup>8</sup> *Id.* § 55.203(a).

- (1) Whether the requestor's 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 wastewater treatment plant on the health and safety of the requestor, and on the use of property of the requestor;
- (5) Likely impact of the regulated activity on use of the impacted natural resource by the requestor;
- (6) Whether the requestor timely submitted comments on the Application that were not withdrawn; and
- (7) For a local government, whether the local government has statutory authority over or interest in the issues relevant to the Application.<sup>9</sup>

In addition, for applications filed after September 1, 2015, the Commission may consider the following additional factors in determining whether a requestor is an affected person:

- (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 Executive Director; and
- (3) Any other expert reports, affidavits, opinions, or data submitted by the Executive Director, the Applicant or by Houston San Jacinto Ranch.<sup>10</sup>

With regard to the third requirement, Applicant readily admits and there is no dispute that property ownership within one mile has always been sufficient to establish a personal justiciable interest for a MSW application such as the one in this case. The only question raised by Applicant is whether the location of Houston San Jacinto Ranch's property which Applicant avers is a mere 389 feet further than one mile is close enough. As explained in the declaration of Mr. Wade Wheatley, P.E. attached as *Exhibit C* which serves as an expert report, data or opinion submitted pursuant to 30 Tex. Admin. Code §50.203(d)(3), Houston San Jacinto Ranch's is an affected person based on property ownership, regardless of whether the property is located within a one-

---

<sup>9</sup> *Id.* § 55.203(c).

<sup>10</sup> *Id.* § 55.203(d).

mile radius or is located in close proximity to a one-mile radius from the MSW Permit Boundary – exactly where Applicant claims the property to be located.

Fourth, after determining that a hearing requester is an affected person, the Commission must refer to SOAH disputed questions of fact or a mixed questions of law or fact raised by a requestor during the public comment period whose request is granted.<sup>11</sup> With regard to the fourth requirement, there is no dispute that Houston San Jacinto Ranch's Hearing Request timely identified multiple issues eligible for referral to SOAH upon a finding that Houston San Jacinto Ranch is an affected person whose Hearing Request should be granted.

## **II. HOUSTON SAN JACINTO RANCH'S HEARING REQUESTS MEET ALL APPLICABLE REQUIREMENTS**

As explained above, there are only two pretexts which have been offered as to why Houston San Jacinto Ranch's Hearing Requests might not be granted. The Executive Director implies that Houston San Jacinto Ranch did not say enough in its Hearing Requests. And Applicant believes that Houston San Jacinto Ranch would be entitled to a contested case hearing but for Houston San Jacinto Ranch's property being located too far from the MSW Permit Boundary – but only 389 feet too far. For the reasons explained below, neither excuse provides grounds to deny Houston San Jacinto's Hearing Request.

### **A. HOUSTON SAN JACINTO RANCH'S THE HEARING REQUESTS MORE THAN SUFFICIENTLY ARTICULATE HOUSTON SAN JACINTO RANCH'S PERSONAL JUSTICIABLE INTEREST**

The Executive Director mentions Houston San Jacinto Ranch's Hearing Requests only once in the text of its briefing, and even then Houston San Jacinto Ranch is lumped-in with 68

---

<sup>11</sup> See 30 TEX. ADMIN. CODE §§ 50.115(c), (f)-(g); 55.211(c)(2)(A)(ii).

other hearing requests.<sup>12</sup> The Executive Director ignores the specific language in the Hearing Requests and summarily states the following regarding the 69 hearing requests with which Houston San Jacinto’s Hearing Request is lumped-in:

[N]one of these requestors *adequately articulated* how they would be affected in a manner not common to the general public or described a personal justiciable interest that would likely be impacted by the proposed facility under the factors listed in 30 Tex. Admin. Code § 55.203(c). (emphasis added)<sup>13</sup>

However, the Executive Director does not offer any other reasoning, and there is no evaluation of the text or language of Houston San Jacinto Ranch’s Hearing Requests, which expressly state in relevant part as follows:

Houston San Jacinto Ranch is an “affected person” pursuant to 30 Tex. Admin. Code §§ 55.103 and 55.203. Houston San Jacinto Ranch *owns property located within or very near to a one-mile radius of the permit boundary of the proposed MSW landfill footprint*. The property is identified through San Jacinto County Appraisal District records as Property ID#46683 and Property ID#46471. *As landowner in close proximity to the proposed landfill footprint*, Houston San Jacinto Ranch has a *personal justiciable interest* in the Application and will be adversely affected by the proposed MSW landfill in a *manner not common to the general public*. *The Application would cause adverse health and environmental effects due to contaminants and pollutants from the landfill, and the landfill would negatively impact public safety and the environment, and would specifically impact to nearby property such as the property owned by Houston San Jacinto Ranch*. This includes a *variety of impacts* from the issues identified in the January 14, 2022 letter, including but not limited to *negative impacts to groundwater, surface water, implications of odor generated from the activities, vectors resulting from the activities, increased traffic, etc.* on the property owned by Houston San Jacinto Ranch.<sup>14</sup>

As explained above, 30 Tex. Admin. Code §§ 55.201(d)(2) *only requires* that a hearing requester “*substantially comply*” as follows:

---

<sup>12</sup> See Executive Director’s Response to Hearing Requests and Requests for Reconsideration, p. 7. The only other mention of Houston San Jacinto Ranch by the Executive Director is in the service list and in Appendix A in which the Executive Director lists the hearing requesters, their addresses, and distance to the facility boundary.

<sup>13</sup> *Id.*

<sup>14</sup> See Houston San Jacinto Ranch’s Hearing Request letter, at 1 (February 21, 2025).

[I]dentify 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;*"

Houston San Jacinto Ranch's Hearing Request *substantially complies* with every facet of the rule, and *specifically articulates* in a *brief, but specific* statement, why Houston San Jacinto Ranch *believes* it will be impacted by the proposed MSW landfill in a manner *not common to members of the general public*:

- The *personal justiciable interest* is expressly identified as property ownership in close proximity to the *permit boundary of the proposed MSW landfill footprint*.
- A *brief but specific* written statement about why Houston San Jacinto Ranch *believes it will be adversely affected* in a *manner not common to the general public* is clearly described by listing the *variety of impacts* to the property, including *negative impacts to groundwater, surface water, implications of odor generated from the activities, vectors resulting from the activities, increased traffic, etc.*

Although OPIC identified several hearing requesters in close proximity to the proposed facility which OPIC determined had failed to articulate how they would be uniquely affected, *OPIC did not include Houston San Jacinto Ranch in this group.*<sup>15</sup> Instead, OPIC found Houston San Jacinto Ranch to *be among the hearing requesters who raised sufficient concerns and personal justiciable interests.*<sup>16</sup>

In addition, Houston San Jacinto Ranch's Hearing Requests identified 16 separate issues with the Application which should be addressed in a contested case hearing, each of which articulate concerns and identify how Houston San Jacinto Ranch would have an interest not common to the general public. For example, the following 2 issues listed in the Hearing Requests

---

<sup>15</sup> See OPIC's Response to Hearing Requests and Requests for Reconsideration, p. 9.

<sup>16</sup> *Id.* at pp. 7-8.

clearly show that Houston San Jacinto Ranch has identified very specific likely impacts that would impact Houston San Jacinto Ranch's property given proximity:

**10. Odor, Dust, and Nuisance Abatement, and the Site Operating Plan**

Per Part III, Attachment D, Sections 2 and 3 of the Application, and supporting documentation, the Application Materials do not demonstrate that the landfill would not produce nuisance odors, including dust from roads, or that the Site Operating Plan includes adequate odor control measures.

**11. Birds, Buzzards, and other Disease and Vector Control**

Per Part III, Attachment D, Sections 2 and 3 of the Application, and supporting documentation, Application Materials do not demonstrate that the landfill will not create health and environmental hazards by providing food or harborage for birds or buzzards, or that the landfill will not attract other vectors and vermin, especially given the presence of wildlife in the adjacent Sam Houston National Forest.

Further, Applicant has not suggested that Houston San Jacinto Ranch's articulation of its personal justiciable interest was not enough. Indeed, ownership of property in close enough proximity is by itself enough to articulate a personal justiciable interest based on the one-mile test espoused by Applicant.

Thus, San Jacinto Ranch has more than sufficiently articulated its personal justiciable interest in its Hearing Request.

**B. THE PROXIMATE LOCATION OF HOUSTON SAN JACINTO RANCH'S PROPERTY ESTABLISHES HOUSTON SAN JACINTO RANCH'S PERSONAL JUSTICIABLE INTEREST**

Applicant's own survey shows the location of Houston San Jacinto Ranch's property as being located within 5,569 feet or 1.07 miles from the MSW Permit Boundary.<sup>17</sup> Applicant's sole reasoning for its position that Houston San Jacinto Ranch's Hearing Requests should not be granted is because Houston San Jacinto Ranch's property is purportedly located more than one mile from the MSW Permit Boundary. Applicant summarizes its position as follows:

---

<sup>17</sup> See Applicant's Response to Hearing Requests and Requests for Reconsideration, at 12-13, mapping at Attachment 5 and survey in Attachment 11.

In the context of municipal solid waste landfill permit applications, the Executive Director and Commissioners have, for many years, interpreted and applied these provisions to require that, in order to be considered an “affected person”, an individual or private entity requesting a contested case hearing based in whole or in part on proximity to a facility must own property or reside within one mile of the permit boundary or proposed permit boundary of the facility.<sup>18</sup>

Applicant’s assertion is not correct. Neither the statute, any applicable rule, nor the TCEQ require a one-mile limit. Based on the position taken by Applicant, if any hearing requester’s property were: (i) within one mile (5,280 feet) then the hearing requester would automatically have a personal justiciable interest and be legally entitled to a hearing, but (ii) if the hearing requester’s property were any further – even by one foot (5,281 feet) – then a personal justiciable interest could never be established. One foot would make a difference if there were a one-mile limit established in rule or in statute, but there is no such rule or statute.

Had the legislature wanted to establish a one-mile limit, they could have done so. Neither has TCEQ attempted to impose a one-mile limit by rule. But instead, the determination is made on a case-by-case basis as required by the factors in 30 Tex. Admin. Code §§ 55.203(c) and (d). The deliberate, thoughtful, and detailed case-by-case Commission evaluation of personal justiciable interest determination was recently emphasized during a recent Commission discussion of air permit application for Max Midstream, LLC. In particular, the discussion explained that:

It’s worth stating here . . . the Commission has not created a one-mile standard to determine affectedness. The affected person status of a hearing requester is based on the factors established in our rules.<sup>19</sup>

---

<sup>18</sup> *Id.* at 4.

<sup>19</sup> See *Application by Max Midstream of Texas, LLC for Air Quality Permit No. 162941 for the Seahawk Crude Condensate Terminal in Calhoun County Texas*, TCEQ Docket No. 2022-0157-AIR, TCEQ Open Meeting Recording for Wednesday, March 30, 2022, New Business Item 1, available at <https://www.youtube.com/watch?v=-F8wR0ZJH-g&list=PLwzfZK5z8LrHUGDFJkoH6FJ4xpbT9bgKK&index=6>, at 8:15-9:02 (emphasis added).

The Texas 15<sup>th</sup> Court of Appeals just this week affirmed the Commission’s evaluation of the hearing requests in the Max Midstream case on a case-by-case basis and in the complete absence of a one-mile test for hearing requests for air permits - which are evaluated under the very same, exact rules that Houston San Jacinto Ranch’s Hearing Request must be evaluated.<sup>20</sup>

The absence of a rigid one-mile test is further emphasized by the Executive Director’s recommendations in this very case. According to the Executive Director’s analysis, Ruby Kelley has established a personal justiciable interest in the Application “Based on the location of her property and the issues she raised.”<sup>21</sup> According to the Executive Director’s evaluation, the distance between Ms. Kelley’s property and the MSW Permit Boundary is 1.17 miles.<sup>22</sup> Thus, contrary to Applicant’s assertion, the Executive Director does not employ an uncompromising one-mile limit when assessing whether a hearing requester has a personal justiciable interest.

Further, OPIC’s recommendation that persons who own properties or residences within three miles of Applicant’s proposed MSW landfill have a personal justiciable interest based on proximity of their interests completely contradicts Applicant’s assertion that a hearing request should never be granted based on property ownership further than one mile.<sup>23</sup> If there were a one-mile test, then OPIC would not have made its recommendation.

But even if there were a one-mile test, Houston San Jacinto Ranch would be granted a hearing since, as shown in the mapping in *Exhibit B*, part of the property is located within one mile. For the reasons explained in Houston San Jacinto Ranch’s Hearing Request and as

---

<sup>20</sup> *TCEQ and Max Midstream, LLC v. San Antonio Bay Estuarine Waterkeeper, et. al*, No. 15-24-00036-CV (Tex. App.—15th Court of Appeals, May 20, 2025)(*motion for rehearing timeframe pending*).

<sup>21</sup> See Executive Director’s Response to Hearing Requests and Requests for Reconsideration, p. 6.

<sup>22</sup> *Id.* Appendix A.

<sup>23</sup> See OPIC’s Response to Hearing Requests and Requests for Reconsideration, pp. 7-8.

corroborated in Mr. Wheatley's declaration, Houston San Jacinto Ranch has established a personal justiciable interest in the Application based on proximity, regardless of whether the property is strictly within one mile. In short, Applicant's proposed MSW landfill would affect Houston San Jacinto Ranch's property, and the future development of the property as a residential, mixed-use and commercial development, differently than the general public.

### **III. ALTERNATIVE FOR REFERRAL TO SOAH FOR A DETERMINATION OF THE HEARING REQUEST**

According to the TCEQ Executive Director's evaluation, the distance between Houston San Jacinto Ranch's and the MSW Permit Boundary is 1.28 miles for one parcel and 1.62 miles for another parcel.<sup>24</sup> However, the location of Houston San Jacinto Ranch's property as stated in the Executive Director's evaluation is "Alsobrooks Road" but nothing more.<sup>25</sup> The mapping available electronically from the San Jacinto County Appraisal District which is attached as *Exhibit D* shows "Alsobrooks Road" in the vicinity of the Houston San Jacinto Ranch's property (shown on the map as The Woodlands of San Jacinto Ranch, LLC which was prior to a name change). However, the mapping in *Exhibit D* shows that "Alsobrooks Road" is on the opposite side of Houston San Jacinto Ranch's property than the MSW Permit Boundary. This clearly shows that Houston San Jacinto Ranch's property is much closer than the 1.28 miles or 1.62 miles as stated by the Executive Director.

---

<sup>24</sup> *Id.* Appendix A.

<sup>25</sup> *Id.* Appendix A.

Applicant's own evaluation indicates that Houston San Jacinto Ranch's property is located 5,569 feet or 1.07 miles from the MSW Permit Boundary.<sup>26</sup> And Houston San Jacinto Ranch's mapping shows the property to be within one mile.

Given that Executive Director recommended approval of Ms. Kelley's hearing request based on a distance from her property to the MSW Permit Boundary of 1.17 miles,<sup>27</sup> if the true distance between the MSW Permit Boundary and Houston San Jacinto Ranch's property is less than 1.17 miles – as stated by Applicant as 1.07 miles, and as shown by Houston San Jacinto Ranch's mapping in *Exhibit B* as being within one mile - it would be logical for the Executive Director to determine that Houston San Jacinto Ranch is entitled to a contested case hearing based on proximity.

Although Houston San Jacinto Ranch's position is that its property is in close enough proximity to establish that Houston San Jacinto Ranch is an affected person, if the Commission does not grant Houston San Jacinto Ranch's Hearing Request, in light of the discrepancies regarding distances as determined by Applicant and the Executive Director, in the alternative, Houston San Jacinto Ranch requests that the Commission refer to SOAH the issue of whether Houston San Jacinto Ranch has a personal justiciable interest pursuant to 30 Tex. Admin. Code § 55.211(b)(4).

#### **IV. CONCLUSION**

For the foregoing reasons, Houston San Jacinto Ranch respectfully requests that the Commission:

- (i) grant Houston San Jacinto Ranch's Hearing Requests; and

---

<sup>26</sup> See Applicant's Response to Hearing Requests and Requests for Reconsideration, at 12-13, mapping at Attachment 5 and survey in Attachment 11.

<sup>27</sup> See Executive Director's Response to Hearing Requests and Requests for Reconsideration, p. 6 and Appendix A.

- (ii) refer to SOAH the 14 issues raised in San Jacinto Ranch's Hearing Requests.

Alternatively, Houston San Jacinto Ranch respectfully requests that the Commission refer Houston San Jacinto Ranch's Hearing Requests to SOAH for a determination pursuant to 30 Tex. Admin. Code § 55.211(b)(4).

Respectfully Submitted,



---

Derek L. Seal  
State Bar No. 00797404  
McGinnis Lochridge  
1111 w. 6<sup>TH</sup> St., Ste. 400  
Austin, Texas 78703  
Tel. 512.495.6000  
Facsimile. 512.505.6375  
[dseal@mcginnislaw.com](mailto:dseal@mcginnislaw.com)

**COUNSEL FOR  
HOUSTON SAN JACINTO RANCH, LLC**

## CERTIFICATE OF SERVICE

I hereby certify that pursuant to 30 Tex. Admin. Code §55.209(g), on May 23, 2025 a true and correct copy of Houston San Jacinto Ranch, LLC's foregoing Reply to Response to Hearing Requests has been provided to the TCEQ Executive Director, TCEQ's Office of Public Interest Counsel, and to the Applicant as identified in the service list below, via deposit in the U.S. Mail, postage prepaid, and by email. The same has been provided via deposit in the U.S. Mail to the list of requesters included in the TCEQ Executive Director's mailing list.

### **For the Executive Director:**

Anthony Tatu, Staff Attorney  
Environmental Law Division  
P.O. Box 13087, MC-173  
Austin, Texas 78711-3087  
(512) 239-5778  
Email: [anthony.tatu@tceq.texas.gov](mailto:anthony.tatu@tceq.texas.gov)

### **Public Interest Counsel:**

Josiah T. Mercer  
Assistant Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Email: [josiah.mercer@tceq.texas.gov](mailto:josiah.mercer@tceq.texas.gov)

### **Applicant PC-II, LLC:**

Brent W. Ryan  
McElroy, Sullivan, Miller & Weber, LLP  
P.O. Box 12127  
Austin, Texas 78711  
(512) 327-8111  
Email: [bryan@msmtx.com](mailto:bryan@msmtx.com)

By:



Derek Seal

**TCEQ DOCKET NO. 2025-0468-MSW**

**APPLICATION BY PC-II, LLC FOR  
MSW PERMIT NO. 2406**

§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**EXHIBITS**

**Exhibit A – Houston San Jacinto Ranch Hearing Requests**

Derek Seal  
dseal@mcginnislaw.com  
(512) 495-6175 o  
(512) 505-6375 f

February 21, 2025

Laurie Gharis, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

***Submitted VIA Regular U.S. Mail and Electronically at  
[www.tceq.texas.gov/agency/decisions/cc/comments.html](http://www.tceq.texas.gov/agency/decisions/cc/comments.html)***

Re: PC-II, LLC - Application for Proposed Municipal Solid Waste Permit No. 2406  
Request for a Contested Case Hearing

Dear Ms. Gharis:

On behalf of Houston San Jacinto Ranch, LLC (“Houston San Jacinto Ranch”), this letter is a formal request for a contested case hearing on the above referenced application filed with the Texas Commission on Environmental Quality (“TCEQ”) by PC-II, LLC (“Applicant”) for Proposed Municipal Solid Waste (“MSW”) Permit No. 2406 (“Application”). Houston San Jacinto Ranch submitted to TCEQ comments and a contested case hearing on the Application via letter dated January 14, 2022 which was signed by Ms. Jennifer Lee.

As explained in Houston San Jacinto Ranch’s previous comments and request for contested case hearing in the January 14, 2022 letter, which is attached, reiterated here and incorporated by reference, Houston San Jacinto Ranch is an “affected person” pursuant to 30 Tex. Admin. Code §§ 55.103 and 55.203. Houston San Jacinto Ranch owns property located within or very near to a one-mile radius of the permit boundary of the proposed MSW landfill footprint. The property is identified through San Jacinto County Appraisal District records as Property ID#46683 and Property ID#46471.

As landowner in close proximity to the proposed landfill footprint, Houston San Jacinto Ranch has a personal justiciable interest in the Application and will be adversely affected by the proposed MSW landfill in a manner not common to the general public. The Application would cause adverse health and environmental effects due to contaminants and pollutants from the landfill, and the landfill would negatively impact public safety and the environment, and would specifically impact to nearby property such as the property owned by Houston San Jacinto Ranch. This includes a variety of impacts from the issues identified in the January 14, 2022 letter, including but not limited to negative impacts to groundwater, surface water, implications of odor generated from the activities, vectors resulting from the activities, increased traffic, etc. on the property owned by Houston San Jacinto Ranch.

The issues raised in Houston San Jacinto Ranch’s January 14, 2022 letter which is attached and incorporated herein by reference, were not adequately addressed in the TCEQ Executive Director’s Response to Public Comments, including but not limited to the following responses:

Houston San Jacinto Ranch, LLC  
February 21, 2025  
Page 2

Comment No. 4	Health and Public Safety Will Not Be Protected.
Comment No. 16	Road Conditions and Traffic Have Not Been Adequately Considered.
Comment No. 22	Vector Control is Inadequate.
Comment No. 24	Groundwater (Nonconductive Soil/Gravel at the Site, Insufficient Geologic Assessment).
Comment No. 27	Faulting, Subsidence, and Unstable Conditions Exist at the Site.
Comment No. 32	Surface Water Drainage.
Comment No. 37	Inadequate Consideration of Wetlands and Impacts on Nearby Water Bodies.
Comment No. 39	Location in a Floodplain.
Comment No. 40	Adverse Impact on Endangered Species and Their Habitats.
Comment No. 45	Acceptance of Asbestos Requires Additional Liner Designs and Waste Screening is Inadequate.
Comment No. 47	Inadequate Long-Term Care and Closure Requirements.
Comment No. 51	Certain Activities Encroach on a Buffer Zone.
Comment No. 65	Impacts on Air Quality from Elevated Levels of Landfill Gas and Inadequate Controls.
Comment No. 66	Inadequate Controls to Prevent Nuisance Odors.

All further communication may be directed to my attention at:

Derek Seal  
McGinnis Lochridge, LLP  
1111 West 6<sup>th</sup> Street, Suite 400  
Austin, Texas 78703  
Telephone: (512) 495-6000  
Email: [dseal@mcginnislaw.com](mailto:dseal@mcginnislaw.com)

This request for a contested case hearing substantially complies with the requirements of Tex. Admin. Code §55.201: (i) the name, address and daytime telephone number of counsel for Houston San Jacinto Ranch is provided, (ii) Houston San Jacinto Ranch's personal justiciable interest by virtue of its property ownership in close proximity to the proposed landfill footprint has been identified, (iii) a contested case hearing has expressly been requested, and (iv) relevant and material issues raised in Houston San Jacinto Ranch's comments have been identified and incorporated by reference, and the TCEQ Executive Director's responses have been generally identified.

Houston San Jacinto Ranch, LLC  
February 21, 2025  
Page 3

Please feel free to contact me should you have any questions.

Sincerely,

Derek Seal  
Partner, McGinnis Lochridge, LLP

Cc: Mr. Wade Wheatley, PE, Liberty Engineering

REVIEWED

JAN 18 2022

BY GCW H

COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2022 JAN 18 AM 10:04

CHIEF CLERK'S OFFICE

January 14, 2022

*Via U.S. Mail and electronically filed at <https://www14.tceq.texas.gov/epic/eComment/>*

Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, TX 78711.3087

Re: *Comments and Request for Contested Case Hearing  
Proposed Municipal Solid Waste Permit No. 2406*

Dear Office of Chief Clerk:

Pursuant to the instructions in the Notice of Application and Preliminary Decision for Municipal Solid Waste Proposed Permit No. 2406 ("*Application*") which the Texas Commission on Environmental Quality ("*TCEQ*") Commissioner's Integrated Database indicates was mailed on December 15, 2021, Houston San Jacinto Ranch, LLC<sup>1</sup> submits the comments below on the Application. Based on the comments below, Houston San Jacinto Ranch, LLC also expressly requests a contested case hearing. Contact information for Houston San Jacinto Ranch, LLC is as follows:

Dennis L. Carey  
P.O. Box 579  
Montezuma, GA 31063  
(478) 957-6879

Based on a comparison of mapping included in the Application which reflects a 1-mile radius from the perimeter of the proposed landfill permit boundaries to the property ownership mapping records available electronically from the San Jacinto County Appraisal District ("*CAD Records*"), two parcels of property owned by Houston San Jacinto Ranch, LLC clearly appear to be located within a 1-mile radius of the permit boundary of the proposed landfill. These two

---

<sup>1</sup> Houston San Jacinto Ranch, LLC is an entity created in the State of Delaware, and recently submitted documents to change its name from The Woodlands San Jacinto Ranch, LLC. The name change is not yet reflected in the current San Jacinto County Appraisal District records referenced herein.

parcels of property are located west to northwest of the proposed landfill site and are identified by CAD Records as Property ID#46683 and Property ID#46471.

Based on the proximity of property owned by Houston San Jacinto Ranch, LLC to the proposed landfill site, Houston San Jacinto Ranch, LLC would be adversely affected in a way not common to the general public by the proposed landfill which would be authorized if the Application is granted. A list of disputed issues of fact upon which the hearing request is based are provided in the comments below. The disputed issues are based on a high-level review of documentation relating to the Application ("*Application Materials*") which were made available on the internet, an evaluation of issues raised in other recent TCEQ landfill applications, and a review of information received in comments received by TCEQ on the Application to date. If all relevant information was not made available on the internet, then an additional fact issue arises regarding whether public notice has been proper. Although the Commissioner's Integrated Database indicates notice of the preliminary decision was mailed on December 15, 2021, the notice indicates 30 days after the publication date is the trigger that sets the deadline for comments. The comment deadline should be not be less than 30 days after the date notice was mailed by TCEQ and available in TCEQ's databases. Houston San Jacinto Ranch, LLC reserves the right after issuance of the TCEQ Executive Director's response to comments to provide additional detail regarding its property ownership and regarding the comments below, and also reserves the right to file a request for reconsideration.

### **1. Waste Screening Measures and Waste Acceptance**

Per Part II, Section 2.2 of the Application, and supporting documentation, the Application Materials do not adequately demonstrate that waste will not be screened to prevent the possibility of the landfill accepting unauthorized, hazardous, or toxic wastes.

### **2. Potential Buffer Zone Encroachment**

Per Part II, Section 2.3 of the Application, and supporting documentation, the Citizen's Collection Center and Truck Wheel Wash Area potentially encroach on the 125-foot buffer zone along the eastern side of the facility. Based on the description of this area, solid waste unloading appears to be proposed within the "CCC Traffic" area and within the identified 125-foot buffer zone. Also, the Truck Wheel Wash and the associated sump will contain "contaminated water" and are within 125 feet of the facility boundary, inferring the storage of waste within the buffer zone. Thus, the Application fails to demonstrate that these buffer zone requirements will be met.

### **3. Land Use Compatibility**

Per Part II, Section 7 of the Application, and supporting documentation, inadequate information is provided in the Application Materials to demonstrate that land use, zoning in the vicinity, community growth patterns, water wells, and other factors associated with the public interest will be adequately addressed. The location of the landfill is incompatible with surrounding land use, such as the Wood Duck Farm which produces edible food products for public consumption, and the public's use of the nearby Sam Houston National Forest, which includes designated camping areas. As noted in the letter dated January 7, 2022 from State Representative Ernest Bailes, the proposed landfill would be in close proximity to many private residences. Comparing mapping readily available on Google mapping to CAD Records mapping shows that properties immediately adjacent to and south of the proposed landfill site appears to have been

essentially subdivided into dozens of tracts of property owned by dozens of individuals, many of whom have residences and homes on the properties. Other residences also appear to be nearby.

#### **4. General Health, Public Safety, and Environmental Concerns**

Per Part II, Section 7 of the Application, and supporting documentation, the Application Materials do not demonstrate that the landfill would not cause landowners and members of the surrounding community to suffer adverse health and environmental effects due to contaminants or pollutants from the landfill, or that the landfill would not negatively impact public safety or the environment, including negative impacts on nearby property. This includes a variety of impacts from the issues identified in this letter, including but not limited to negative impacts to groundwater, surface water, implications of odor generated from the activities, vectors resulting from the activities, increased traffic, etc. on the property owned by Houston San Jacinto Ranch, LLC.

#### **5. Inadequate Roadways and Adequacy of Access Roads**

Per Part II, Section 8 of the Application, and supporting documentation, the primary access roadways identified in the Application Materials are FM 1725, Fostoria Tram Road, Jayhawker Road, and Rajak Road; all of which are essentially rural, two lane roads. For the reasons explained in the comment letter dated January 25, 2021 from San Jacinto County Commissioner David Brandon, these roads are not sufficient to accommodate the proposed landfill. The Application fails to demonstrate that the roadways are adequate, or that appropriate coordination with local and state officials regarding adequacy of roadway maintenance or adequacy of roadways has taken place. Local road infrastructure would not be able to handle the road traffic generated by a landfill of this size, which would create traffic congestion and traffic hazards and endanger public safety. Appropriate traffic studies to identify and address traffic impacts on state and local roadways have not been adequately addressed.

#### **6. Faulting and Subsurface Instability**

Per Part II, Sections 9.4 and 9.6 of the Application, and supporting documentation, information included in the Application Materials infer subsurface movement, possibly associated with faulting, subsidence, or otherwise unstable areas. It is noteworthy that the area in close proximity to the proposed landfill facility is experiencing or has experienced withdrawal of crude oil, natural gas, and groundwater. Thus, whether the location of the proposed landfill is appropriate based on potential faulting and subsurface instability has not been demonstrated.

#### **7. Wetlands**

Per Part II, Section 11 of the Application, and supporting documentation, Application Materials do not demonstrate that wetlands, including jurisdictional wetlands, have been adequately considered, especially given the location of the nearby state watercourses such as Jayhawker Creek which appears to traverse the site, Peach Creek, and Gum Branch.

#### **8. Endangered Species**

Per Part II, Section 12 of the Application, and supporting documentation, Application Materials do not adequately identify potential state or federal threatened or endangered species, or to address how the proposed landfill would impact such endangered species and their habitats, especially given the proximate location of the Sam Houston National Forest. Further, Texas Parks

& Wildlife submitted a comment letter to TCEQ on January 12, 2022 incorporating previous comments from that agency and indicating that no Biological Assessment or species protection plan was included with the Application Materials.

#### **9. Inadequate Stormwater Controls, Drainage Controls, Floodplains and Surface Water Quality**

Per Part III, Attachment B of the Application, and supporting documentation, the Application Materials do not appear to adequately address the management of stormwater or surface water during all phases of landfill operation when compared to TCEQ's requirements. This includes the management of stormwater contact with reusable materials or with stockpiles of materials used for landfill operations. Further, drainage and surface water impacts of the landfill from construction and operation on neighboring properties has not been adequately addressed. Further, whether the landfill would be improperly located in a floodplain have not been adequately addressed, nor has an adequate demonstration been made that water contaminated after coming into contact with waste will not negatively impact nearby surface water quality. Protection of surface water quality is paramount given that Jayhawker Creek appears to traverse the site, which as noted by Texas Parks & Wildlife drains into Peach Creek, which drains into Caney Creek, which discharges into Lake Houston 17 miles south of the proposed site.

#### **10. Odor, Dust, and Nuisance Abatement, and the Site Operating Plan**

Per Part III, Attachment D, Sections 2 and 3 of the Application, and supporting documentation, the Application Materials do not demonstrate that the landfill would not produce nuisance odors, including dust from roads, or that the Site Operating Plan includes adequate odor control measures.

#### **11. Birds, Buzzards, and other Disease and Vector Control**

Per Part III, Attachment D, Sections 2 and 3 of the Application, and supporting documentation, Application Materials do not demonstrate that the landfill will not create health and environmental hazards by providing food or harborage for birds or buzzards, or that the landfill will not attract other vectors and vermin, especially given the presence of wildlife in the adjacent Sam Houston National Forest.

#### **12. Inadequate Hydrogeology, Groundwater Monitoring, and Soils**

Per Part III, Attachment D2 of the Application, and supporting documentation, the Application Materials indicate that Class I wastes with asbestos content will be accepted, which should then require that the soils underlying the liner must meet certain standards set forth in the TCEQ's Industrial Solid Waste and Municipal Hazardous Waste rules. Based on the soil boring logs and subsurface descriptions presented in the Application Materials, unacceptable soil types immediately underlie the waste containment structures in several areas, including sands and gravels. Thus, the Application fails to demonstrate that soils underlying the liner would meet the technical requirements. Further, information submitted to TCEQ on August 13, 2021 from H.C. Clark highlights the problems with the hydrogeology due to the presence of gravel at the proposed site and the problems with assumptions utilized in groundwater monitoring.

#### **13. Inadequate Subsurface Characterization and Landfill Design**

Per Part III, Attachment E of the Application, and supporting documentation, only 19 boring logs are presented in the Application Materials. The number, proximity, and location of the boreholes associated with the boring logs has not been demonstrated to be sufficient for the establishment of subsurface stratigraphy across the proposed waste management units. Additionally, the only boring logs presented display a stratigraphic complexity which has not been demonstrated to meet applicable subsurface siting requirements. Without having adequately characterized the subsurface geology, the landfill design, including the design of the liners, has not been demonstrated to be adequate.

#### **14. Inadequate Consideration of Groundwater Impacts**

Per Part III, Attachment E of the Application, and supporting documentation, the Application Materials fail to adequately address the presence of groundwater and to address how groundwater that is present will be protected. For example, many, if not all, of the piezometer completion logs presented in the Application Materials present data that conflicts with the data presented on the associated Driller's Well Reports available through the Texas Water Development Board. Additionally, most of the piezometer completion logs do not illustrate the total depth of each boring or provide sufficient surface completion details to determine if the data from the piezometer wells are reliable. It has not been demonstrated that characterization of subsurface geology and hydrogeology is adequate, including whether sufficient soil borings were taken or whether sufficient piezometer wells were installed, which leads to inadequate consideration of the protection of groundwater resources.

#### **15. Landfill Gas Creation, Migration and Control**

Per Part III, Attachment G of the Application, and supporting documentation, the Application Materials do not demonstrate that the landfill would not produce elevated levels of landfill gas, including methane, or that appropriate provisions are included to monitor and control such landfill gas, or to monitor and ensure that such landfill gas will not migrate off-site to nearby properties.

#### **16. Closure and Post-Closure Care Cost Estimates, and Financial Assurance**

Per Part III, Attachment J of the Application, and supporting documentation, the types and amounts of money proposed for closure and post closure care are not based on reasonable worst-case scenarios with closure by independent third parties, and all potential contingencies have not been addressed. Further, it has not been demonstrated that the applicant has the sufficient financial resources to operate and maintain the proposed landfill, including to address issues relating to surface or subsurface contamination and cleanup, or for appropriate closure and post-closure.

Thank you for your attention to this matter.

Sincerely yours,



Jennifer Lee  
Houston San Jacinto Ranch, LLC

Jennifer Lee  
1940 Fountain View Dr #3092  
Houston, TX 77057

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2022 JAN 18 AM 10:04

CHIEF CLERKS OFFICE

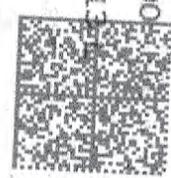
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P. O. Box 13087  
Austin, TX 78711-3087

78711-308787



NEW YORK NY 10011  
14 JAN 2022 PM 11:30

FIRST CLASS



US POSTAGE  
METTNEY BOWERS  
ZIP 10019 \$000.73  
02 4W  
0000378690 JAN 14 2022

RECEIVED

JAN 18 2022

TCEQ MAIL CENTER  
DA

**TCEQ DOCKET NO. 2025-0468-MSW**

**APPLICATION BY PC-II, LLC FOR  
MSW PERMIT NO. 2406**

§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**EXHIBITS**

**Exhibit B – Houston San Jacinto Ranch Mapping**



**TCEQ DOCKET NO. 2025-0468-MSW**

**APPLICATION BY PC-II, LLC FOR  
MSW PERMIT NO. 2406**

§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**EXHIBITS**

**Exhibit C – Declaration of Mr. Wade M. Wheatly, P.E.**

**TCEQ DOCKET NO. 2025-0468-MSW**

**APPLICATION BY PC-II, LLC FOR  
MSW PERMIT NO. 2406**

§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**DECLARATION OF WADE M. WHEATLEY, P.E.**

My name is Wade M. Wheatley. I am more than twenty-one (21) years of age and capable of making this affidavit. I have personal knowledge of the facts stated herein, which are true and correct.

1. I am the founder of Liberty Engineering, which is an engineering and consulting firm specializing in assisting clients with waste management. I am a licensed professional engineer in the State of Texas.

2. As explained in my resume which is attached, I have over 30 years of experience in the field of solid waste management, including from my experience as Director of the Waste Permits Division for the Texas Commission on Environmental Quality (“TCEQ”).

3. I am familiar with and have read various versions of the publicly available information regarding the application filed with TCEQ by PC-II, LLC (“PC-II”) for Proposed Municipal Solid Waste (“MSW”) Permit No. 2406 (“Application”).

4. I am also familiar with the location of property owned by Houston San Jacinto Ranch, LLC (“Houston San Jacinto Ranch”) in proximity to the location where MSW Permit No. 2406 would authorize disposal of municipal solid waste. Mapping of the location of Houston San Jacinto’s property in relation to the site where MSW Permit No. 2406 would authorize activities is reflected in the mapping attached to this affidavit which has been prepared by PC-II and mapping which has been prepared by Houston San Jacinto Ranch.

DECLARATION OF WADE M. WHEATLEY  
TCEQ DOCKET NO. 2025-0468-MWD  
PAGE 1 OF 3

5. Houston San Jacinto Ranch has requested Liberty Engineering to evaluate the potential and likely impacts that issuance of MSW Permit No. 2406 would have on Houston San Jacinto Ranch's property. Based on my experience with MSW landfill permitting, regulatory compliance and enforcement involving MSW landfills, and operations of MSW landfills for more than 30 years, the following are some of the potential and likely impacts that MSW Permit No. 2406 would have on Houston San Jacinto Ranch's property if the permit were to be granted:

a. Impacts to groundwater are likely to be due to the inadequate geologic investigation that includes but not limited to the absence of a detailed fault study to address the evidence consistent with faulting in the vicinity and within the facility boundary as required by TCEQ rule. The Application indicates that there were deviations from the approved soil boring plan for the site, which calls the veracity of the geologic investigation into question. The potential mischaracterization of groundwater flow directions and geologic structures beneath the site are based on logging data interpretations. Groundwater flow directions cannot be adequately determined without proper characterization of the underlying geology. And the failure of the applicant to demonstrate compliance with all the requirements for the acceptance of Class 1 wastes increases the likely and potential impacts on groundwater that will impact Houston San Jacinto Ranch's property.

b. Impacts to surface water are likely due to PC-II's failure to describe in the Application the management of stormwater or surface water during all phases of landfill operation in accordance with 30 Tex. Admin. Code §330.303(a) and 30 Tex. Admin. Code §330.305(d) and (e).

c. Impacts from increased traffic are likely due to the incompleteness of the coordination required by 30 Tex. Admin. Code §330.61(i)(4) which states, "submit

documentation of coordination of all designs of proposed public roadway improvements such as turning lanes, storage lanes, etc., associated with site entrances with the agency exercising maintenance responsibility of the public roadway involved.” The study and the apparent lack of coordination with the Precinct 3 County Commissioner of San Jacinto County who has jurisdiction over some of the roads was not included in the coordination of these improvements.

d. Additionally, there is the potential for impacts from vectors and odors from the landfill’s operation on the Houston San Jacinto Ranch’s property from the operation of the landfill.

6. The potential and likely impacts described above would impact Houston San Jacinto Ranch’s property differently than property located further away from the site where MSW Permit No. 2406 would authorize activities since the impacts diminish with distance. These impacts would occur to Houston San Jacinto Ranch’s property regardless of whether the correct distances from the landfill property to Houston San Jacinto Ranch’s property are reflected in the mapping prepared by PC-II or the mapping prepared by Houston San Jacinto Ranch since the differences in distances are inconsequential to the above described impacts.



Wade M. Wheatley, P.E.  
Liberty Engineering LLC  
Firm F-23820

### PROFESSIONAL EXPERIENCE

#### Facility Permitting, Design, Construction, Compliance, Enforcement, and Litigation

Mr. Wheatley works closely with regulators and owners to permit and build facilities that: (1) comply with the law, (2) make good engineering and economic sense, (3) come in on schedule and (4) maintain regulatory compliance. Listed below is a sample of the permitting remediation and corrective action work that Mr. Wheatley accomplished.

- **Exide (Former GNB) Lead Acid Battery Recycling Facility (Lead Smelter), Frisco, Tx.** Assisted the City of Frisco by providing oversight of the operators and contractors conducting RCRA closure and remediation activities. In addition to providing technical review and comment to the TCEQ and facility operator, Mr. Wheatley also engaged in contract, invoice, and billing review to ensure only reasonable costs were incurred by the city. Provided expert testimony regarding RCRA closure requirements and costs on behalf of the City of Frisco and the State of Texas in federal bankruptcy court in Delaware.
- **Engineer of Record for Permitting and Registration of Municipal Solid Waste Facilities.** Mr. Wheatley was the lead and engineer of record for the permitting of the Post Oak Clean Green Type 1 MSW landfill, Houston Waste Solutions Type V transfer station, Special Waste Management Type V transfer Station, 3 Oncore Technologies Type V medical waste processing facilities, TexMed Consulting Type V medical waste processing facility,
- **Project Oversight for Water Supply Corporation.** Mr. Wheatley assisted Creedmore Maha WSC in obtaining subsidized funding from the Texas Water Development Board through the state revolving fund. Additionally, Mr. Wheatley has made himself available for meetings with regulatory officials as well as for monthly Board Meetings.
- **TCEQ Permits and Registrations.** Mr. Wheatley has been the engineer of record for numerous MSW Permits, Registrations and Amendments for landfill and processing applications. His experience with processing applications includes medical waste facilities, liquid waste facilities and material recovery facilities. Mr. Wheatley has also been the engineer of record for multiple construction stormwater permits and general operating permits for numerous facilities throughout the State of Texas.
- **Assessment of Clean-up Cost at Safe Tire of San Antonio, Texas Abandoned Tire Facility.** The scope of this project required on-site assessment to evaluate the site. Site investigation included water and sediment sampling and aerial survey using drone technology to estimate tire pile volumes. Additionally, coordination with multiple vendors were made to determine overall cost of cleanup at the site.
- **Assessment of Potential Contamination of Property for Collin County Appraisal District.** Readily available reports and TCEQ documentation were reviewed to determine the potential contamination of subject property.

## EXPERT TESTIMONY

- City of Frisco Testimony (Exide bankruptcy case)
- Expert Witness Testimony (SOAH Post Oak)
- Expert Witness Testimony (Collin Co)
- Expert Witness Testimony (NTMWD, RDF-121)
- Expert Witness Testimony (PCCA, TPDES Inland Discharge Permit)

## EXECUTIVE PROFILE

Wade Wheatley, P.E., has over thirty years working in the environmental field and has established relationships with regulators, environmental attorneys, and experts in various environmental disciplines. Because of his experience in government and industry, Mr. Wheatley is able to provide the regulated community with regulatory guidance to allow for the most efficient and cost-effective operations.

Most recently, Mr. Wheatley served as Managing Director of Environmental Engineering Services in the Rates and Utilities Department with GDS Associates, Inc. in Austin, Texas. Prior to joining GDS Associates, Mr. Wheatley was Vice President for Cook-Joyce, Inc in Austin Texas. Cook Joyce provided professional engineering services in environmental engineering and regulatory affairs. Prior to starting with Cook-Joyce, Mr. Wheatley was the Director of Facility Operations and Development for Texas Disposal Systems, Austin, Texas.

From 1992 through 2005 Mr. Wheatley worked for the Texas Natural Resource Conservation Commission (TNRCC, now TCEQ). During his tenure with TCEQ, Mr. Wheatley worked as a Resource Conservation and Recovery Act (RCRA) Permit Coordinator, Combustion Team Leader and Manager for the Industrial and Hazardous Waste Permits Section. He completed his regulatory career as the Director of Waste Permits Division.

Mr. Wheatley served over six years in the United States Marine Corps where his rank and duty upon discharge was Captain, Explosives Ordnance Disposal Officer/Engineering Officer.

## EDUCATION

United States Naval Academy- B.S. in Mechanical Engineering, 1985

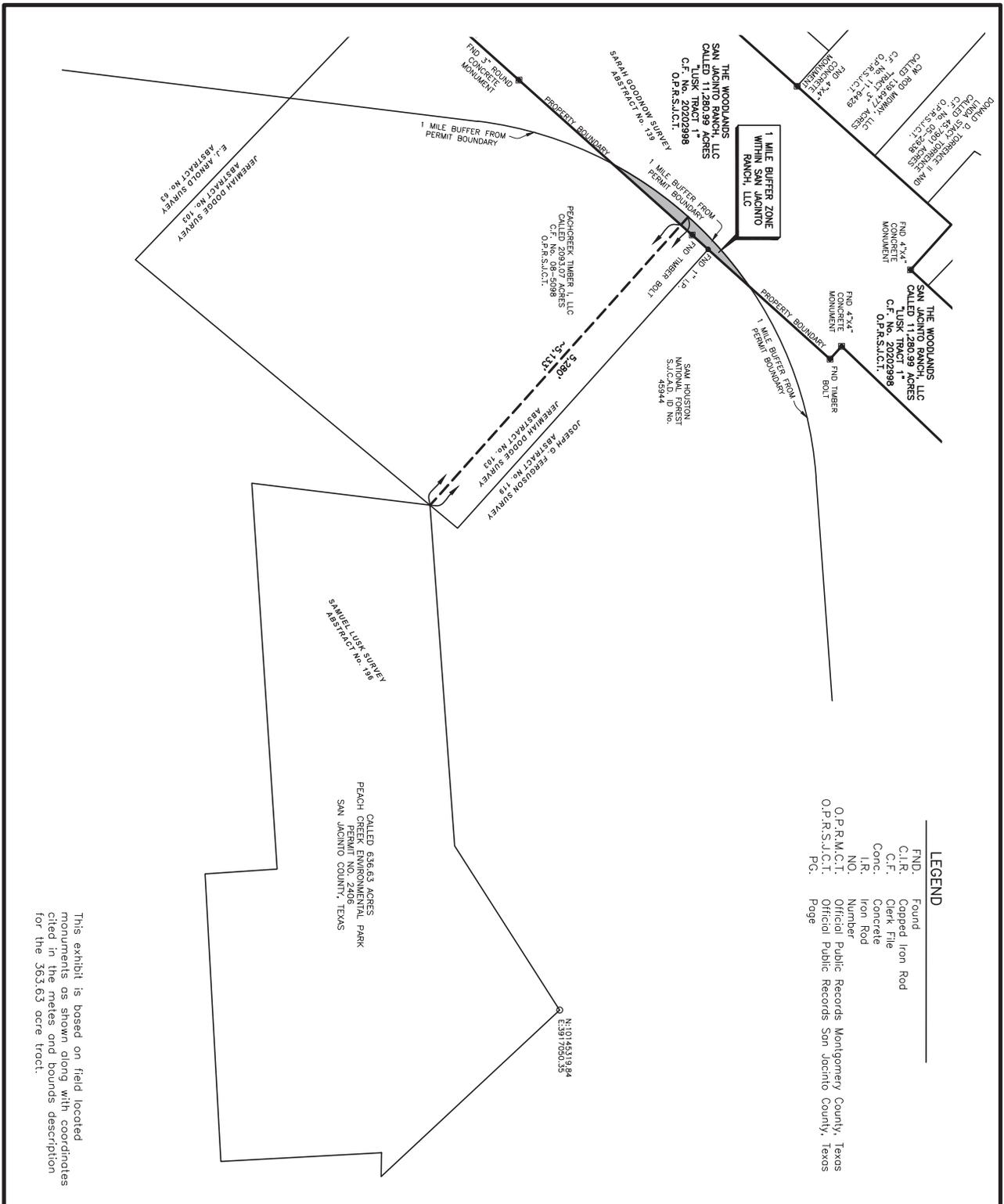
Explosive Ordnance Disposal School and Advanced Coursework

## PROFESSIONAL

Licensed Professional Engineer in the State of Texas

## CERTIFICATIONS

Class A MSW Facility Operator License (June 2010-July 2022)



This exhibit is based on field located monuments as shown along with coordinates cited in the meters and bounds description for the 363.63 acre tract.



**EXHIBIT MAP**

PEACH CREEK ENVIRONMENTAL PARK  
PERMIT NUMBER 2406 IN RELATION  
TOSAN JACINTO RANCH, LLC  
SARAH GOODNOW SURVEY A-139

10011 MEADOWGLEN LN  
HOUSTON, TEXAS 77042  
713-784-4500  
EHRA TEAM  
TBPE No. F-726  
TBPLS No. 10092300

DATE: 05-22-2025    SCALE: 1" = 1/4 MILE    JOB NO.: 24170000

DWG. NAME: R:\2024\241-700-00\Drawing\Exhibit\Permit\_2406\_Exhibit.dwg

-  Peach Creek Environmental Park Permit Boundary
-  Waste Disposal Footprint
-  Buffer Zone
-  1 Mile Radius from Permit Boundary



Requestors Within 1 Mile				
Tract No.	SJCAD Property ID(s)	Requestor(s)	Status	
1	47318, 124729, 131282	Weidton, David Van	W	
1	47318, 124729, 131282	Wood Duck Farms LLC	W	
2	100501	Warren, Timothy Scott	W	
3	100494	Lynskey, Sarah	S	
3	100494	Peterson, Melissa	W	
4	100485	Corbett, Jamie Michelle	S	
5	86118, 136735	Fausett, Jeffrey J	W	
6	74203	McDonald, John David	W	
7	90997	Wright, Shelby Lynn	W	
8	74219	Mundy, Jennifer	D	
W = Request Withdrawn; S = Sold Property and Moved Away; D = Defective Request.				

Requestors Beyond 1 Mile				
Tract No.	SJCAD Property ID(s)	Requestor(s)		
9	46683, 46471	Houston San Jacinto Ranch, LLC		
10	47371	Kelley, Ruby		
11	47363	Cook, Mandy Jo		
12	47400	Burkett, Patricia Doris		
13	98740	Moody, Dana +7		
14	79674	Hensley, Gerald		

**Hearing Requestors Within 1.5 Miles**

PC II, LLC

Peach Creek Environmental Park

PLSS: N/A

San Jacinto County, Texas



www.headwaters-inc.com

BASEMAP: Google Earth Imagery Basemap

SPATIAL REF: NAD 83 2011 StatePlane Texas Central FIPS 4201 F11S

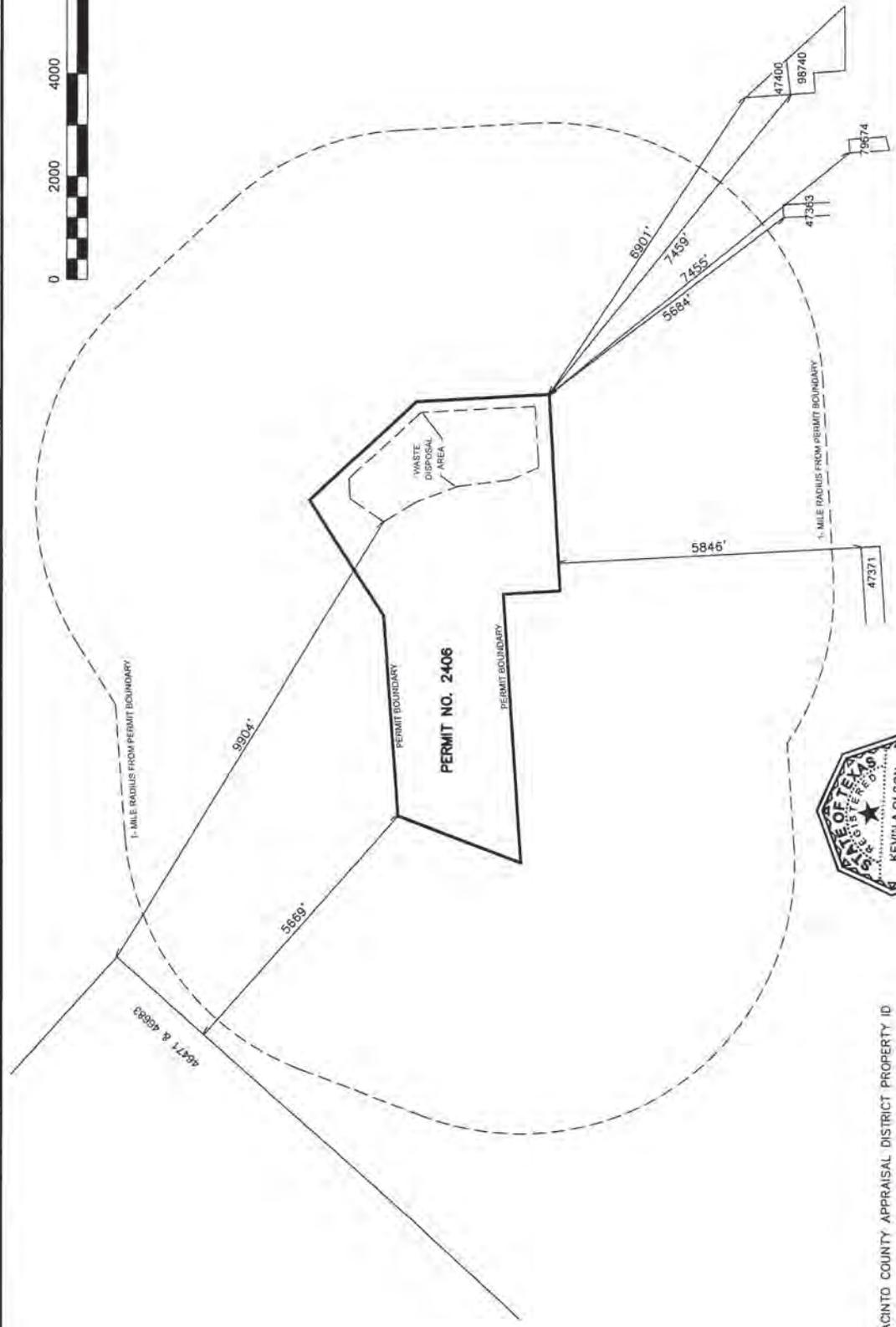
DATE: 5/9/2025

CREATOR: NDK

PROJECT #: 2024-2024

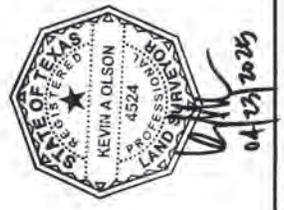


0 2,000 4,000 Feet



LEGEND:  
 47400  
 6901'

SAN JACINTO COUNTY APPRAISAL DISTRICT PROPERTY ID  
 SURVEYED DISTANCE



**PEACH CREEK ENVIRONMENTAL PARK**  
**PERMIT NO. 2406**  
**SAMUEL LUSK SURVEY, A-196**  
 San Jacinto County, TEXAS

FIRM REGISTRATION NO. 10194114  
**MARTIN OLSON SURVEY INC.**  
 PROFESSIONAL SURVEYORS, BOUNDARY  
 CONSTRUCTION & TOPOGRAPHIC SURVEYS  
 227 DERRICK DRIVE  
 HUMBLE, TEXAS 77338  
 PH 281-446-8899  
 MARTIN FILE: PEACHCREEK SELECT ADJ OWNERS.DWG

**TCEQ DOCKET NO. 2025-0468-MSW**

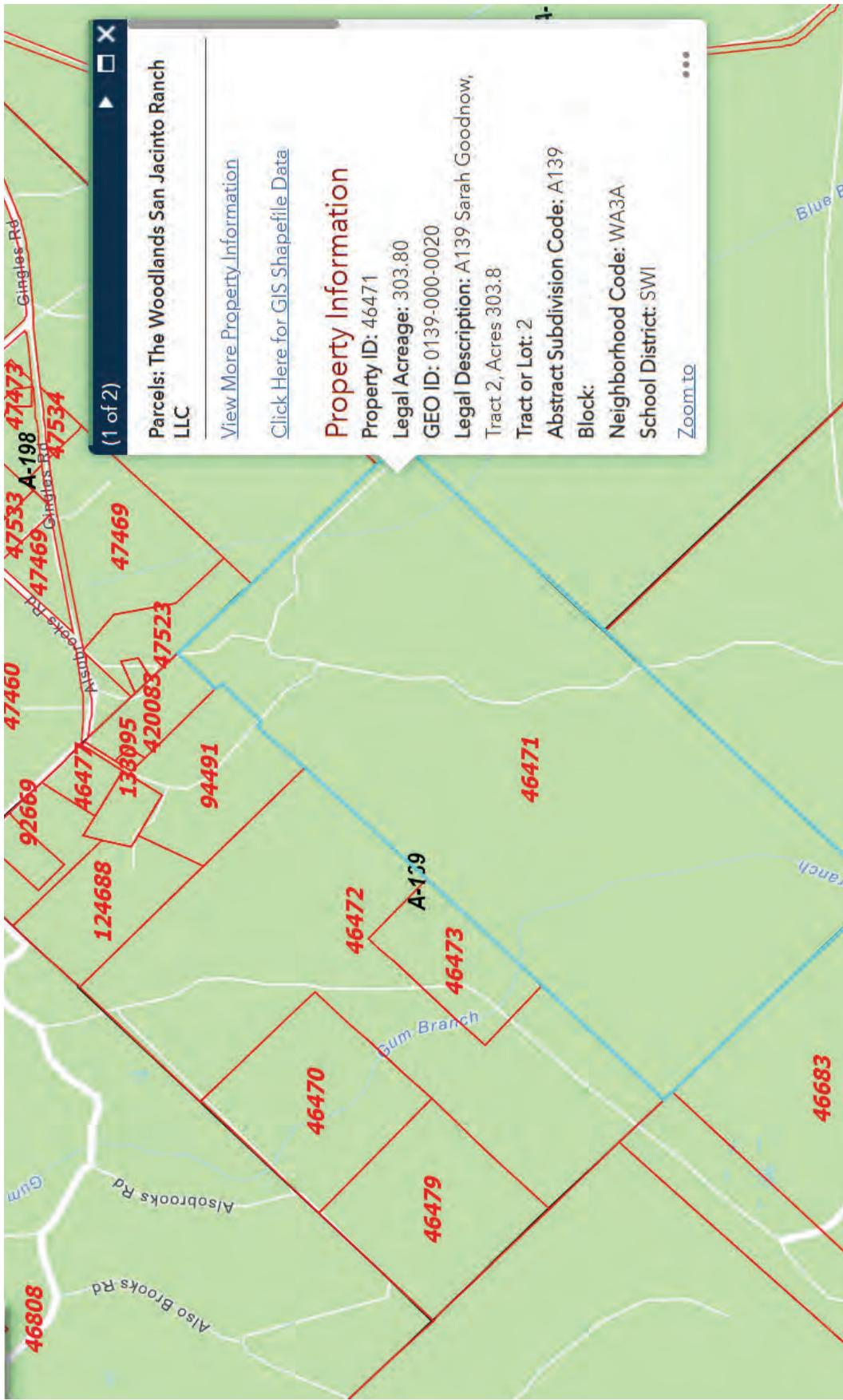
**APPLICATION BY PC-II, LLC FOR  
MSW PERMIT NO. 2406**

§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**EXHIBITS**

**Exhibit D - San Jacinto County Appraisal District Mapping**



(1 of 2)

Parcels: The Woodlands San Jacinto Ranch LLC

[View More Property Information](#)

[Click Here for GIS Shapefile Data](#)

### Property Information

Property ID: 46471  
 Legal Acreage: 303.80  
 GEO ID: 0139-000-0020  
 Legal Description: A139 Sarah Goodnow, Tract 2, Acres 303.8  
 Tract or Lot: 2  
 Abstract Subdivision Code: A139  
 Block:  
 Neighborhood Code: WA3A  
 School District: SWI

[Zoom to](#)