

DOCKET NO. 2025-0541-MWD

APPLICATION BY
COUPLAND UTILITIES, LLC AND
LANDCROWD DEVELOPERS, LLC
FOR TPDES PERMIT
NO. WQ0016446001

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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 Coupland Utilities, LLC and LandCrowd Developers, LLC (Applicants) for new Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0016446001 and the Executive Director's preliminary decision. The Office of the Chief clerk received contested case hearing requests from Julie Van Zandt and Jonah Water Special Utility District (JWSUD), and a request for reconsideration from Jonah Water Special Utility District (JWSUD).

Attached for Commission consideration is a satellite map of the area.

II. Description of Facility

Coupland Utilities, LLC and LandCrowd Developers, LLC (Applicants) submitted an application to TCEQ for a new permit, TPDES Permit No. WQ0016446001 to authorize the discharge of treated domestic wastewater at a daily average volume not to exceed 200,000 gallons per day. The applicant proposes to operate Coupland Utilities Wastewater Treatment Facility (WWTF), the proposed facility, which will serve the Coupland Utilities, LLC and LandCrowd Developers, LLC residential development.

The Coupland Utilities Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units will include one bar screen, one equalization basin, six aeration basins with Membrane Bio Reactors, an ultra-violet light (UV) chamber, one sludge holding tank, and a belt filter press. The facility has not been constructed.

If the draft permit is issued, the treated effluent will be discharged to an unnamed reservoir, thence to a second unnamed reservoir, thence to an unnamed tributary, thence to a third unnamed reservoir, thence to an unnamed tributary, thence to the San Gabriel River in Segment No. 1248 of the Brazos River Basin. The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

III. Procedural Background

The permit application was received on November 21, 2023, and declared administratively complete on February 2, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on February 11, 2024, in the *Williamson County Sun* and on February 8, 2024, in *El Mundo* Newspaper. The combined NORI and Notice of Application and Preliminary Decision (NAPD) was published on May 22, 2024, in the *Williamson County Sun* and on May 23, 2024, in *El Mundo* Newspaper. The public comment period ended on June 24, 2024. The Response to Comment (RTC) was mailed on February 4, 2025, and the Hearing Request period ended on March 6, 2025.

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

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:

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;

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;

Request a contested case hearing; and

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).

V. Analysis of Hearing Requests

The Executive Director has analyzed the hearing request to determine whether it complies with Commission rules, if the requestor qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

A. Whether the Hearing Requests Complied with Section 55.201(c) and (d).

1. Julie Van Zandt

Ms. Van Zandt submitted timely hearing requests with the proper identifying information and timely comments. In her requests, Ms. Van Zandt stated that she owns two properties abutting both the proposed facility and the proposed discharge route. According to the GIS map prepared by the ED's staff, the addresses for Ms. Van Zandt's properties as provided in her hearing requests are located 0.17 and 0.26 miles away from the proposed facility.

Ms. Van Zandt commented that she is concerned about impacts to human health, algae blooms, impacts to the use of her property, impacts on wildlife, and nuisance odor. Due to her proximity to the proposed facility and her concerns, the Executive Director has determined that Ms. Van Zandt has demonstrated that she has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to members of the general public.

The Executive Director recommends the Commission find that Ms. Van Zandt is an affected person under 30 TAC § 55.203 and grant her request.

2. Jonah Water Special Utility District (JWSUD)

JWSUD submitted timely hearing requests with the proper identifying information and timely comments. In its requests, JWSUD stated that the proposed facility is located within its wastewater CCN and that it is willing to provide wastewater service to the applicant under its existing tariff. JWSUD is a political subdivision of the State of Texas under TWC Chapter 65 and mentions its authority over state law issues raised by the application within its CCN. According to the GIS Map prepared by the ED's staff, the proposed facility is located within JWSUD's CCN.

JWSUD commented that it is concerned about the proposed effluent's impact on water quality in Lake Granger, which Jonah SUD uses to supply water to its customers, water quality within its district boundaries as a whole, effluent flowing through its district boundaries, and about regionalization. Due to the proposed facility being within JWSUD's CCN and JWSUD's concern regarding regionalization, the Executive Director has determined that Jonah SUD has demonstrated that it has a personable justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to members of the general public.

The Executive Director recommends that the Commission find that JWSUD is an affected person under 30 TAC § 55.203 and grant its request.

B. Whether Issues Raised Are Referable to SOAH for a Contested Case.

The following issues were raised during the public comment period:

1. Whether the draft permit contains adequate provisions to protect water quality, including that of surface water, groundwater, and drinking water wells. (RTC Response Nos. 1, 2, 3)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not provide sufficient controls to protect water quality, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

2. Whether the draft permit is adequately protective of human health. (RTC Response No. 1)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not provide sufficient controls to protect human health, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

3. Whether the draft permit is protective of wildlife and wildlife habitat, in accordance with the Texas Surface Water Quality Standards in 30 TAC Chapter 307. (RTC Response No. 4)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not provide sufficient controls to protect wildlife and wildlife habitat, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

4. Whether Applicants complied with applicable public notice requirements. (RTC Response No. 7)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown Applicants did not comply with applicable public notice requirements, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

5. Whether the draft permit contains adequate licensing requirements. (RTC Response No. 8)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not contain adequate licensing requirements, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

6. Whether the draft permit adequately addresses nuisance odor, in accordance with 30 TAC § 309.13(e). (RTC Response No. 10)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not adequately address nuisance odor, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

7. Whether the Application is accurate, contains all required information, and is substantially complete. (RTC Response No. 7)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the application is not accurate, does not contain all of the required information, or is not substantially complete, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

8. Whether Applicants' compliance history gives cause for additional terms and conditions to be added to the draft permit to ensure compliance. (RTC Response No. 8)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the Applicants' compliance history gives cause for additional terms and conditions to be added to the draft permit to ensure compliance, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

9. Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need, under Texas Water Code § 26.0282 and the general policy to promote regional or area-wide systems, under Texas Water Code § 26.081. (RTC Response No. 6)

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit should be denied or altered to comply with the agency's regionalization policy, that information would be relevant and material to a decision on the application. The Executive Director recommends referring this issue to SOAH.

10. Whether the proposed facility poses additional flooding risks along the discharge route. (RTC Response No. 5)

The issue involves a disputed question of fact, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. However, it is not relevant or material to a decision on the application as TCEQ does not have jurisdiction to consider flooding in the TPDES permitting process. The Executive Director does not recommend referring this issue to SOAH.

VI. 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.

VII. Request for Reconsideration

TCEQ timely received a timely Request for Reconsideration from Jonah Water Special Utility District (JWSUD). JWSUD refutes the ED's responses to comments regarding regionalization and claims that the ED has not provided factual justification for Applicant's demonstration of need, that the ED has improperly considered the weight of the regionalization policy, and that Applicants' answers in the application materials regarding regionalization are insufficient. JWSUD does not, however, provide any new information on which the ED could alter its recommendation on the application. In addition, the issues raised in the RFR were considered by the ED during the review of the application. Therefore, the Executive Director recommends denying JWSUD's Request for Reconsideration.

VIII. Conclusion

The Executive Director recommends the following actions by the Commission:

Grant Julie Van Zandt and Jonah Water Special Utility District's hearing requests.

Deny Jonah Water Special Utility District's Request for Reconsideration.

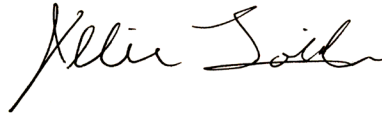
Refer issues 1-9 above to the State Office of Administrative Hearings.

Respectfully submitted,

Texas Commission on Environmental Quality

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TPDES Permit No./TPDES Permiso N.º WQ0016446001

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

Attachment A

Coupland Utilities, LLC and LandCrowd Developers, LLC

Coupland Utilities WWTP

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



*Protecting Texas by
Reducing and
Preventing Pollution*

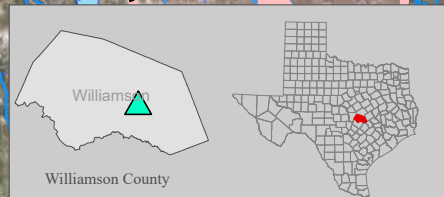
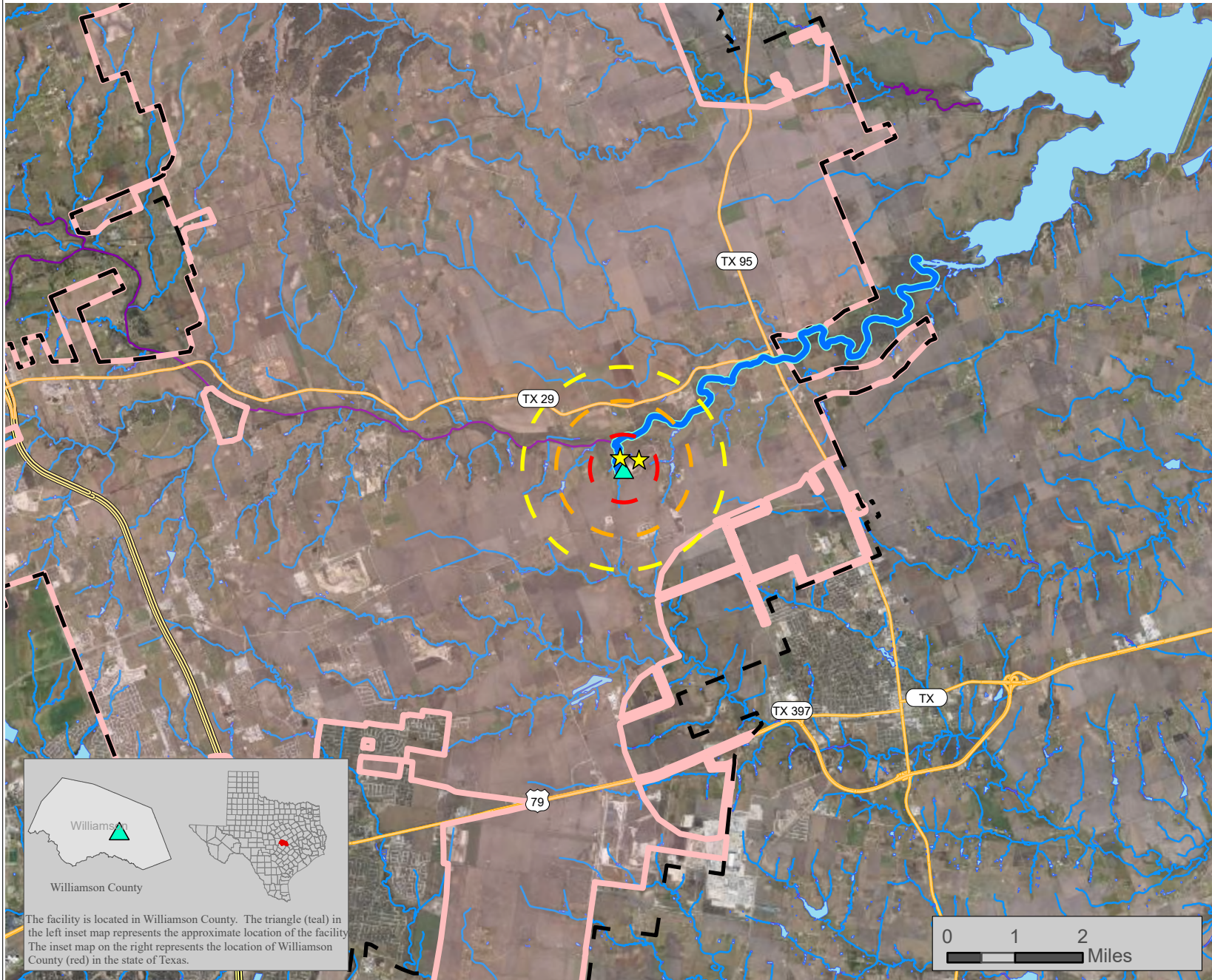
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 3/26/2025
CRF 0120584
Cartographer: RKukushk

- ★ Julie Van Zandt
- ▲ Facility Point
- 1.5 miles
- 0.5 miles
- 1 mile
- Discharge Route
- Jonah Water SUD
- Jonah CCN Service Area
- Lake/Pond
- Reservoir
- Toll Road
- Highway
- Stream/River
- Artificial Path

Julie Van Zandt's properties
are 0.17 and 0.26 miles from
the facility point.

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.



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