

TCEQ DOCKET NO. 2025-0541-MWD

TPDES PERMIT NO. WQ0016446001

APPLICATION BY COUPLAND	§	BEFORE THE TEXAS COMMISSION
UTILITIES, LLC, LANDCROWD	§	
DEVELOPERS, LLC FOR TPDES	§	ON ENVIRONMENTAL QUALITY
PERMIT NO. WQ0016446001		

**JONAH WATER SPECIAL UTILITY DISTRICT’S REPLY TO THE EXECUTIVE
DIRECTOR’S AND THE OFFICE OF PUBLIC INTEREST COUNSEL’S RESPONSES
TO HEARING REQUEST**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

COMES NOW, Jonah Water Special Utility District (“Jonah” or the “District”) and files
this its Reply to the Executive Director’s (“ED”) and the Office of Public Interest Counsel’s
(“OPIC”) Responses to Hearing Request and, in support thereof, would respectfully show the
following:

I. INTRODUCTION

The District filed a timely request for contested case hearing and public comments with the Texas
Commission on Environmental Quality (“TCEQ”) on June 19, 2024. On February 4, 2025, the ED
filed its final decision letter along with responses to the public comments. The District filed its
reply to the ED’s response to public comments on March 6, 2025, which was timely. The ED and
OPIC each filed responses to hearing requests on May 23, 2025. The District must file its reply to
the ED’s and OPIC’s responses at least nine days before the meeting. The meeting is scheduled
for June 18, 2025, so the deadline for the District to file its reply is June 9, 2025. Therefore, this
reply is timely. The District agrees with the OPIC’s response and the ED’s response in most
respects.

II. REPLY TO THE EXECUTIVE DIRECTOR AND OFFICE OF PUBLIC INTEREST COUNSEL

A. Affected Person Status

Jonah agrees with ED's and OPIC's conclusions that Jonah is an affected person under 30 Texas Admin. Code ("TAC") § 55.203.

B. Disputed Issues In OPIC's Response

1. Whether the draft permit is adequately protective of water quality including algal growth, and recreational use and enjoyment of Requestors' properties;

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to the State Office of Administrative Hearings ("SOAH") for a contested case hearing under 30 TAC § 50.115(c).

2. Whether the proposed discharge will adversely impact animal life, including aquatic life;

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

3. Whether the draft permit contains sufficient monitoring requirements and complies with applicable regulations;

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application. While OPIC's conclusion does not include an explicit recommendation that this issue be referred to SOAH, the issue is none the less appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

4. Whether the Applicant provided proper notice;

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

5. Whether the draft permit should be modified or denied in consideration of the Applicant's compliance history;

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

6. Whether the representations contained in the application are accurate and complete; and

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

7. Whether the draft permit is consistent with TCEQ's regionalization policy and Texas Water Code §§ 26.081 and 26.0282, including consideration of need and regional treatment options.

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

C. Disputed Issues in ED's Response

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)

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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)

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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)

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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)

Jonah agrees with ED's conclusion that this issue involves a disputed question of mixed fact and law, was raised during the comment period and not withdrawn, is relevant and material to the decision on the application and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

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

Jonah agrees with ED's opinion that this issue does involve a disputed question of fact, is relevant and material to the issuance of the draft permit, was raised during the comment period and not withdrawn; however, Jonah disagrees with the ED's conclusion that it is not relevant or material to the decision on the application as TCEQ does not have jurisdiction to consider flooding in the TPDES permitting process, and is thus not appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c). Section 5 of the Domestic Wastewater Permit Application Technical Report 1.1 specifically regarding the location of the proposed facility in relation to 100-year floodplains¹, and therefore *is in fact* relevant and material to the decision on the application. Further, TCEQ's jurisdiction to consider flooding in the TPDES permitting process is vested in 30 TAC Chapter 309, Subchapter B (Location Standards), specifically, 30 TAC § 309.13(a) states, "a wastewater treatment plant unit may not be location in 100-floorplain unless the plant unit is

¹ TCEQ-10054 (10/17/2024) Domestic Wastewater Permit Application Technical Report 1.1.

protected from inundation and damage that may occur during that floor event.”² Therefore, this issue is appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

III. CORRECTIONS

Upon review of the responses from the ED and OPIC, Jonah respectfully addresses the following factual inaccuracies presented in those Response.

1. ED states “the proposed facility is located within its [Jonah] *wastewater* CCN”

Jonah has a Water CCN but does not currently have a Wastewater CCN. Jonah respectfully requests the ED’s response be revised to reflect this correction.

2. OPIC states under Procedural Background “TCEQ received Coupland’s application on December 21, 2022”

Jonah stipulates that the application was received by TCEQ on November 21, 2023, and respectfully requests OPIC’s response be revised to this correction.³

IV. CONCLUSION AND PRAYER

Jonah submitted timely comments and a timely hearing request and has not withdrawn any comments making Jonah’s pending hearing request valid. Given the proximity of the proposed facility to Jonah’s water CCN territory, its district boundaries, and its wastewater master plan study area, the probable impact of this proposed facility on water quality and water bodies used by Jonah in its provision of water service, and the State’s policy regarding regionalization, Jonah has demonstrated that it is an affected person under TCEQ rules and that the addressed issues in this response are issues involving disputed questions of fact or disputed questions of mixed fact and law, were raised during the comment period and were not withdrawn, are relevant and material to the decision on the application, and are thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

WHEREFORE, PREMISES CONSIDERED, Jonah Water Special Utility District hereby prays that the Texas Commission on Environmental Quality grants the District’s hearing request,

² 30 TAC § 309.13(a).

³ See TCEQ Commissioners’ Integrated Database, https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.detail&item_id=571514232024033&detail=action&StartRow=1&EndRow=1&Step=5.

determine the District is an affected person, determine that all issues involve disputed questions of fact or disputed questions of mixed fact and law, were raised during the comment period and were not withdrawn, are relevant and material to the decision on the application, and are thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

Respectfully submitted,



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**ATTORNEYS FOR JONAH WATER SPECIAL
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CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document on all parties of record on this 6th day of June 2025, as follows:

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