

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 23, 2025

Laurie Gharis, Chief Clerk
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Office of the Chief Clerk
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

**Re: Bissonet 136, LLC's Petition for the Creation of Harris County Municipal
Utility District No. 584; TCEQ Docket No. 2025-0542-DIS**

Dear Ms. Gharis,

Enclosed for filing is the "Executive Director's Response to Hearing Requests"
regarding the above-referenced matter. Please contact me if you have any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Fernando Salazar Martinez".

Fernando Salazar Martinez,
Staff Attorney
Environmental Law Division
Office of Legal Services
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Email: fernando.martinez@tceq.texas.gov
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Enclosure

cc: Mailing List

TCEQ DOCKET NO. 2025-0542-DIS

**PETITION OF BISSONET 136, LLC
FOR THE CREATION OF
HARRIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 584**

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**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. SUMMARY

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests on the Petition by Bissonnet 136, LLC (Petitioner) for the Creation of Harris County Municipal Utility District No. 584 (District). The Executive Director recommends that the Commission find that Harris County is an affected person and grant its request for a contested case hearing.

Attached for the Commission's consideration is a satellite map depicting the proposed district's boundaries and location of the hearing requestor.

II. INTRODUCTION

The Texas Commission on Environmental Quality received Bissonet 136, LLC's Petition within the application requesting approval for the creation of Harris County Municipal Utility District No. 584. The Petition was signed by John Quinlan, President of Dublin, Inc., a general partner of the Ireland Family Limited Partnership and member of Bissonnet 136, LLC. The Petition states that the Petitioner holds title to a majority in value of the land in the proposed District. The application includes a certificate confirming that International Interests, LP, the lienholder of the land to be included in the proposed District, consents to the creation of the proposed District. The Petitioner also submitted a request for the approval of road powers under Tex. Water Code § 54.234 within the application.

The Petition states that: (1) the Petitioner is the owner of a majority of the assessed value of the land to be included in the proposed District; (2) there is one lienholder on the property to be included in the proposed District, International Interests, LP, and evidence was provided that the lienholder has consented to creation of and inclusion of the land in the proposed District; (3) the proposed District will contain approximately 136.892 acres of land, located within Harris County, Texas;

(4) the land to be included in the proposed District is within the corporate limits of the City of Houston, Texas; and (5) by Resolution No. 2023-1109, passed and adopted on December 13, 2023, the City gave its consent to the creation of the proposed District, pursuant to Tex. Water Code § 54.016.

The Petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters; and (3) such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, parks and recreation facilities, systems, plants and enterprises as shall be consistent with all of the purposes for which the District is created.

The Petitioner submitted evidence of filing the Petition with the Harris County Clerk's Office, the offices of the Texas state representative and state senator, and TCEQ's Houston regional office as required by Tex. Water Code § 54.0161.

The proposed District is located entirely within the corporate limits of the City of Houston, Texas. The proposed District is physically located west-southwest of the central business district of the City, near the intersection of Bissonnet Street and Cook Road. Access to the proposed District will be by Bissonnet Street, Cook Road, and South Kirkwood Road.

The proposed District will be considered a "developer project" as defined by 30 Tex. Admin. Code § 293.44(a). Therefore, developer cost participation will be required pursuant to 30 Tex. Admin. Code § 293.47.

III. PROCEDURAL HISTORY

The Executive Director's staff declared the Petitioner's application administratively complete on January 23, 2024. The Notice of District Petition was published in the *Houston Chronicle*, a newspaper regularly published and circulated in Harris County, on May 8 and May 15, 2024. The Notice of District Petition was also

posted on the bulletin board used for posting legal notices in the Harris County Courthouse on May 10, 2024.

TCEQ received three requests for a contested case hearing from Harris County on June 14, June 17, and June 20, 2024. The period to request a contested case hearing for this application ended on June 14, 2024. The Office of the Chief Clerk sent notice of the agenda setting for the Commission's consideration of the hearing requests on May 9, 2025.

IV. CREATION OF MUNICIPAL UTILITY DISTRICTS

A. District Purpose

A municipal utility district (MUD) may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution.¹ The District in this case is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Tex. Water Code.

A MUD may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.²

The Commission has jurisdiction to hear this case and create the District.³

¹ TEX. WATER CODE § 54.011.

² TEX. WATER CODE § 54.012.

³ TEX. WATER CODE § 54.014.

B. Required Findings

The Commission must grant or deny a MUD creation application in accordance with Tex. Water Code § 54.021. In order to grant an application, the Commission must find that organization of the district as requested is feasible and practicable and is necessary and would be a benefit to the land to be included in the district.⁴ If the Commission fails to make these findings, it shall refuse to grant the petition.⁵

In determining if a project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the Commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - a. land elevation;
 - b. subsidence;
 - c. groundwater level within the region;
 - d. recharge capability of a groundwater source;
 - e. natural run-off rates and drainage;
 - f. water quality; and
 - g. total tax assessments on all land located within a district.⁶

The Commission, however, must exclude the areas that it finds would not be benefited by the creation of the district and must redefine the boundaries of the proposed district according to its findings.⁷

V. EVALUATION PROCESS FOR HEARING REQUESTS

As the application was declared administratively complete after September 1, 1999, it is subject to the requirements of 30 Tex. Admin. Code §§ 55.250 – 55.256. The Commission, the Executive Director, the Petitioner, or affected persons may request a

⁴ TEX. WATER CODE § 54.021(a); 30 TEX. ADMIN. CODE § 293.13(b)(1).

⁵ TEX. WATER CODE § 54.021(d); 30 TEX. ADMIN. CODE § 293.13(a).

⁶ TEX. WATER CODE § 54.021(b).

⁷ 30 TEX. ADMIN. CODE § 293.13(b)(2); TEX. WATER CODE § 54.021(c).

contested case hearing on this application.⁸ The Commission must evaluate the hearing requests and may take one of the following actions:

- (1) determine that the hearing requests do not meet the rule requirements and act on the application;
- (2) determine that the hearing requests do not meet the rule requirements and refer the application to a public meeting to develop public comment before acting on the application;
- (3) determine that the hearing requests meet the rule requirements and refer the application to the State Office of Administrative Hearings (“SOAH”) for a hearing; or
- (4) refer the hearing requests to SOAH for a hearing on whether the hearing requests meet the rule requirements.⁹

The regulations provide that a hearing request made by an affected person must be in writing and must be filed with the Office of the Chief Clerk within the time provided in the Notice of District Petition.¹⁰ The affected person’s hearing request must also substantially comply with the following:

- (1) give the name, address, and daytime telephone number of the person who files the request;
- (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 activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.¹¹

An affected person’s personal justiciable interest must be related to a legal right, duty, privilege, power, or economic interest affected by the application belonging to the requestor and not an interest common to members of the general public.¹² The regulations give the Commission flexibility to determine affected person status by considering any relevant factor, including the following:

⁸ 30 TEX. ADMIN. CODE § 55.251(a).

⁹ 30 TEX. ADMIN. CODE § 55.255(a).

¹⁰ 30 TEX. ADMIN. CODE § 55.251(b) and (d).

¹¹ 30 TEX. ADMIN. CODE § 55.251(c).

¹² 30 TEX. ADMIN. CODE § 55.256(a).

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person; and
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person.
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.¹³

VI. HEARING REQUESTS

A. Harris County's Request

On June 14, 2024, Sarah Jane Utey, Environmental Division Director, and Adrianna Ivory, Assistant County Attorney submitted public comments and a request for a contested case hearing on behalf of Harris County (County). The County's request contained the requisite contact information and a request for a hearing pursuant to 30 Tex. Admin. Code § 55.251(c)(1) and (3). The submission also included the internal control number from the public notice pursuant to 30 Tex. Admin. Code § 55.251(c)(4).

In its request, the County states its concerns that the proposed District "will have a negative impact on drainage and water quality and questions whether the Petition adequately addresses projected costs given the potential impacts on water quality, vapor migration, and post closure care obligations." These concerns appear to be primarily related to the Doty Sand Pit Venture (Doty Landfill) site within the proposed District's boundaries.¹⁴ The request claims that the Doty Landfill was converted to a golf course without TCEQ authorization in 2000 prior to the Petitioner acquiring the land in 2019.

¹³ 30 TEX. ADMIN. CODE § 55.256(c).

¹⁴ Harris County's Request, 2. According to the Petitioner's Engineering Report (Revised March 4, 2024), the Doty Sand Pit Venture Landfill, "continued to operate as a landfill until it closed in 1999. In 2000, the site was developed as a golf course above the DSPV Landfill and Olshan Demolishing Landfill and was formally known as the Sugar Hills Golf Course. It was open from 2000 to 2005. Since its closure, both landfills have remained developed as a golf course, but have not been routinely maintained. In June 2019, Bissonnet 136, LLC acquired the land and remains the property owner to this day." Engineering Report – Harris County Municipal Utility District No. 584 (Revised March 4, 2024), Section III.D, 1 – 2.

According to the Request, the County has authority and interests in, as a local governmental entity and through Harris County Pollution Control, in regulating environmental impacts from proposed developments within its jurisdiction and interest in protecting the health and safety of its residents.¹⁵ The County states that Pollution Control works with TCEQ's Houston regional office and refers cases to the Harris County Attorney's Office or District Attorney's Office for civil or criminal enforcement. The County claims that "it would have regulatory authority over the proposed District's construction and operation of its wastewater, stormwater and drainage conveyances."

The Request also that Harris County, the Harris County Flood Control District, and the City of Houston are members of the Storm Water Management Joint Task Force (JTF) and co-permittees under a TPDES permit which authorizes the discharge of stormwater from all portions of the JTF Municipal Separate Storm Sewer System (MS4 Permit).¹⁶ According to its request, the County claims stormwater from the proposed District "will discharge into the JTF MS4 and may discharge chemicals of concern ("COCs") into the JTF MS4 operated by the City, which is prohibited under the terms of the JTF MS4 Permit." The County claims that it has an interest in ensuring that the proposed District "is prohibited from discharging into the MS4 because it impacts compliance with the JTF MS4 Permit."

In addition, the Request states that Harris County Pollution Control has reviewed the Petition and provided a list of its concerns with the Petition and "the potential associated impact with any construction or activity over or near Doty Landfill." These concerns include:

(1) Whether the market study accurately reflects the true market conditions, including development over a landfill with inconsistent post-closure care and whether adverse property conditions such as methane exceedances or other landfill gas were fully considered as required by 30 Tex. Admin. Code § 293.11(a)(6);

¹⁵ Harris County's Request, n. 8 - 11. The County cites to TEX. HEALTH & SAFETY CODE §§ 361.003(17), 361.032, 382.003(8), 382.111, TEX. WATER CODE §§ 7.531, 26.001(18), 26.173.

¹⁶ Harris County's Request, 3, n. 13. According to the request, the County's MS4 permit is TPDES Permit No. WQ004658000.

(2) Whether the developer's financial statement is adequate as required by 30 Tex. Admin. Code § 293.11(a)(6);

(3) Whether the proposed recreational area estimated costs and proposed financing adequately identify cost necessary to address concerns related to preventing impacts to the Doty Landfill cap, leachate migration, water quality and landfill gas as required by 30 Tex. Admin. Code § 293.11(a)(10);

(4) Whether the itemized cost estimate of the proposed capital improvements and itemized cost summary for anticipated bond issuance adequately identify all costs that will be associated with infrastructure construction within the Doty Landfill to prevent impacts to water quality and landfill gas migration as required by 30 Tex. Admin. Code § 293.11(d)(5)(E);

(5) Whether the engineering report adequately identifies the effect MUD 584 will have on runoff-rates and drainage as required by 30 Tex. Admin. Code § 293.11(d)(5)(H)(v);

(6) Whether the engineering report adequately identifies the effect MUD 584 will have on water quality as required by 30 Tex. Admin. Code § 293.11(d)(5)(H)(vi); and

(7) Whether creation of MUD 584 is feasible, practicable, and necessary, and will benefit all of the land as required by 30 Tex. Admin. Code § 293.11(d)(5)(J).

Further, the County has attached numerous copies of letters containing Harris County Pollution Control Services' comments on applications near the proposed development and landfill (Exhibit A of County's Request).¹⁷ Due to these reasons, the

¹⁷ County's Request, 2, n. 2-4, and 4. According to the County's Request, "various applications have been submitted to TCEQ regarding the proposed Development and Doty Landfill. Applications have included the following: 1) Application to Disturb Final Cover over Closed Municipal Solid Waste Landfill for Non-Enclosed Structures; 2) Application for Development for Proposed Enclosed Structure over Closed Municipal Solid Waste Landfill; and 3) Application for Permit Modification with Public Notice Post-closure Land Use and Access Control Modification. Harris County Pollution Control ("Pollution Control"), the Harris County department designated to inspect facilities in Harris County for compliance with

County claims it has a justiciable interest in the Petition and creation of the Proposed District unique from the interests of the general public.

B. Analysis

The Executive Director reviewed the factors found in 30 Tex. Admin. Code § 55.256 for determination of an affected person. Among the factors of 30 Tex. Admin. Code § 55.256(c) the Commission may consider when determining affectedness is a governmental entity's statutory authority over or interest in the issues relevant to the application.¹⁸ The Request specifies the County's statutory and regulatory authority under state law over issues contemplated by this application that would be affected by creation of the proposed District.¹⁹ In its Request, the County identifies its statutory and regulatory authority relating to inspection of the proposed District for compliance with various state environmental statutes and TCEQ rules within its jurisdiction, to support its argument that it possesses authority under state law contemplated by the application under 30 Tex. Admin. Code § 55.256(b). The County also provided an extensive list of concerns regarding the application, which include citations to the applicable rules under 30 Tex. Admin. Code § 293.11(d) for the information required to accompany applications for creations of Municipal Utility Districts.

As depicted in Attachment 1, the proposed District is located within Harris County's boundaries. The County's statutory and regulatory authority, as well as its existing MS4 permit, are interests unlike those of the general public. Further, the County's concerns, in conjunction with its statutory and regulatory authority as a governmental entity, demonstrates a reasonable relationship exists between these interests and the potential impacts of the proposed District. Therefore, the Executive Director recommends that the Commission finds that Harris County is an affected person pursuant to the criteria found in 30 Tex. Admin. Code § 55.256 and grant its hearing request.

environmental quality laws and regulations (air, water, and waste), and review permit applications, submitted comments to the TCEQ on all applications. Comment letters were submitted to TCEQ on November 17, 2023, February 5, 2024, April 8, 2024 (two separate letters), and May 21, 2024."

¹⁸ 30 TEX. ADMIN. CODE § 55.256(c)(6).

¹⁹ 30 TEX. ADMIN. CODE § 55.256(b).

VII. RECOMMENDATION

The Executive Director recommends that the Commission find that Harris County is an affected person under 30 Tex. Admin. Code § 55.256 and grant its request for a contested case hearing. If the Commission chooses to deny Harris County's hearing requests, then the Executive Director recommends that the Petition be granted.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Kelly Keel,
Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VIII. CERTIFICATE OF SERVICE

I certify that on May 23, 2025, the original of the “Executive Director’s Response to Hearing Requests” for Creation of White Oaks Municipal Utility District of Denton County, Internal Control No. **D-01182024-023**, was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



Fernando Salazar Martinez, Staff Attorney
State Bar No. 24136087

MAILING LIST
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT 584
DOCKET NO. 2025-0542-DIS; INTERNAL CONTROL NO. D-01182024-023

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REQUESTER(S)/INTERESTED PERSON(S)

Sarah Jane Utley, Environmental Division
Director
Adrianna Ivory, Assistant County
Attorney
Harris County Attorney's Office
1019 Congress Street, Floor 15
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Attachment A

Petition for Creation of Harris County Municipal Utility District No. 584

TCEQ Internal Control No. D-01182024-023

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



*Protecting Texas by
Reducing and
Preventing Pollution*

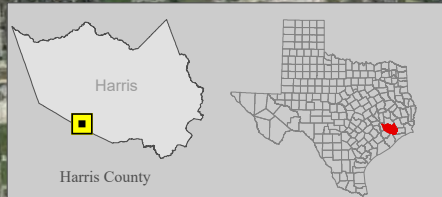
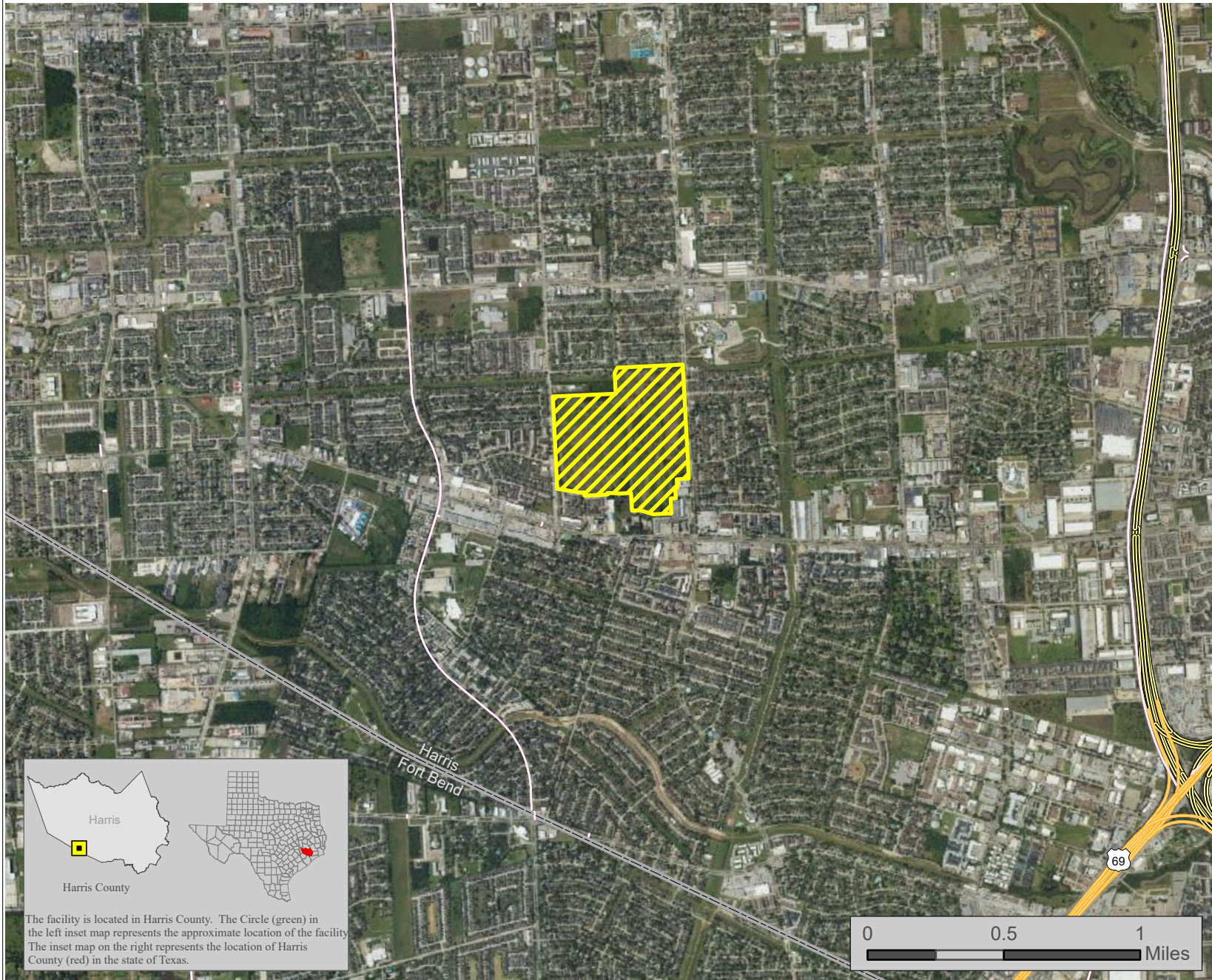
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 7/17/2024
CRF 0108192_FernandoMartinez
Cartographer: rkukushk

Requestor No.1 - Harris County

- MUD Boundary
- County Boundary
- Toll Road
- Highway
- Intermediate Roads

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 Harris County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Harris County (red) in the state of Texas.

