

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



Garrett T. Arthur, *Public Interest Counsel*

## 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 (MC-105)  
P.O. Box 13087  
Austin, Texas 78711-3087

RE: **IN THE MATTER OF THE PETITION FOR CREATION OF HARRIS  
COUNTY MUNICIPAL UTILITY DISTRICT NO. 584  
TCEQ DOCKET NO. 2025-0542-DIS**

Dear Ms. Gharis:

Enclosed for filing is the Office of Public Interest Counsel's Response to Hearing Request in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Jessica M. Anderson".

Jessica M. Anderson, Attorney  
Assistant Public Interest Counsel

cc: Mailing List

**DOCKET NO. 2025-0542-DIS**

**PETITION FOR THE CREATION  
OF HARRIS COUNTY  
MUNICIPAL UTILITY DISTRICT  
NO. 584**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**OFFICE OF PUBLIC INTEREST COUNSEL'S  
RESPONSE TO HEARING REQUEST**

**To the Members of the Texas Commission on Environmental Quality:**

The Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (TCEQ or the Commission) files this Response to Hearing Request in the above-entitled matter.

**I. INTRODUCTION**

**A. Summary of Position**

The Commission received a request for a contested case hearing from Harris County (the County) regarding the application for the creation of Harris County Municipal Utility District No. 584 (MUD 584 or District). For the reasons discussed herein, OPIC respectfully recommends that the Commission grant the hearing request of Harris County.

**B. Background**

Bissonnet 136, LLC, a Texas limited liability company, filed a petition for creation of Harris County Municipal Utility District No. 584 with the TCEQ pursuant to Article XVI, Section 59 of the Texas Constitution; Chapters 49 and 54 of the Texas Water Code (TWC); Title 30 of the Texas Administrative Code (TAC), Chapter 293; and the procedural rules of the TCEQ. 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 136.82 acres of land located within Harris County; (4) the land to be included in the proposed District is within the corporate limits of the City of Houston; 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 Texas Water Code Section 54.016.

The petition was declared administratively complete on January 23, 2024, and the Notice of District Petition was published on May 15, 2024. According to the notice, 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 the all of the purposes for which the District is created. The comment period ended on June 14, 2024.

## II. APPLICABLE LAW

A municipal utility district may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution. Chapters 49 and 54 of the TWC and the Commission's administrative rules found at Title 30, Chapter 293, of the TAC govern petitions to create a MUD. A district shall 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.

TWC § 54.012.

To create a MUD, a petition requesting creation shall be filed with the Commission. TWC § 54.014. The petition shall be signed by a majority in value of the holders of title of the land within the proposed district, as indicated by the tax rolls of the central appraisal district. *Id.* Among other things, the petition shall: (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number; (2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition; and (3) include a name of the district which shall be

generally descriptive of the locale of the district. TWC § 54.015. *See also* 30 TAC § 293.11(a) and (d).

If all of the district is proposed to be located outside corporate limits of a municipality, the commissioners court of the county in which the district is to be located may review the petition for creation and other evidence and information relating to the proposed district that the commissioners consider necessary. TWC § 54.0161(a). If the commissioners court votes to make a recommendation to the Commission, the commissioners court shall submit to the Commission, at least 10 days before the date set for the hearing on the petition, a written opinion stating whether or not the county would recommend the creation of the proposed district and stating any findings, conclusions, and other information that the commissioners court thinks would assist the Commission in making a final determination on the petition. TWC § 54.0161(b). The Commission shall consider the written opinion submitted by the county commissioners. TWC § 54.0161(c).

The Commission shall grant the petition if it conforms to the requirements of § 54.015 and the project is feasible, practicable, necessary, and further, would be a benefit to the land to be included in the district. TWC § 54.021(a). In determining if the project is feasible, practicable, necessary, and beneficial 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.

TWC § 54.021(b).

If the Commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, it shall exclude all land not benefited and redefine the proposed district's boundaries accordingly. TWC § 54.021(c). If the petition does not conform to the requirements of TWC § 54.015 or the project is not feasible, practicable, necessary, or a benefit to the land in the district, the Commission shall deny the petition. TWC § 54.021(d). The rights, powers, privileges, authority, and functions of a district shall be subject to the continuing right of supervision by the Commission. TWC § 54.024.

The applicant must publish notice of the petition to create a district once a week for two consecutive weeks in a newspaper regularly published or circulated in the county where the district is proposed to be located not later than the 30th day before the date of the Commission's decision on the application. TWC §§ 49.011(b) and 54.018. Additionally, the applicant must post notice of the petition on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located. 30 TAC § 293.12(b)(2). The Commission shall hold a public hearing if requested by the

Commission, Executive Director, or an “affected person” under the factors in 30 TAC, Chapter 55. TWC § 49.011(c). *See also* 30 TAC § 55.250 (applying rules governing contested case hearings to applications declared administratively complete after September 1, 1999). Affected persons must file their hearing requests during the 30 days following the final notice publication date. TWC § 49.011(c); 30 TAC § 293.12(c).

A hearing requestor must make the request in writing within the time period specified in the notice and identify the requestor’s personal justiciable interest affected by the application, specifically explaining 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.” 30 TAC § 55.251(b)–(d).

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.” 30 TAC § 55.256(a). Governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. 30 TAC § 55.256(b). Relevant factors to be considered in determining whether a person is affected include, but are not limited to:

- (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, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.256(c).

The Commission shall grant a request for a contested case hearing if: (1) the request is made by the applicant or the ED; or (2) the request is made by an affected person, complies with the requirements of § 55.251, is timely filed with the chief clerk, and is made pursuant to a right to hearing authorized by law. 30 TAC § 55.255(b).

### **III. ANALYSIS OF HEARING REQUEST**

Harris County was the only party to submit a timely hearing request in this matter. The proposed District would be wholly within Harris County. Under 30 TAC § 55.256(b), governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. A relevant factor for determining whether governmental entities qualify as affected persons is their statutory authority over or interest in the issues relevant to the application. *See* 30 TAC § 55.256(c)(6).

In its request, Harris County asserts that it is a local government with the authority to investigate or pursue enforcement within its jurisdiction, which includes the entirety of the property included in the proposed District, for



compliance with various state environmental statutes and TCEQ rules and orders issued thereunder. *See* Tex. Health & Safety Code §§ 361.032, 382.111; Tex. Water Code § 26.173. Harris County therefore does have statutory authority over and an interest in issues relevant to the application. *See* 30 TAC § 55.256(b) and (c).

In its hearing request, the County raised concerns about the impact of the proposed development on human health and the environment, and whether MUD 584 is feasible, practicable, and necessary. Harris County specifically articulated concerns about the proposed District's negative impacts on runoff rates, drainage, and water quality, as well as whether the Petition adequately addresses the projected costs associated with this development. Additionally, the County described issues related to the accuracy and adequacy of the Petition's market study and developer's financial statement. Further, Harris County raised issues related to stormwater, including the County's role as a co-permittee of a Texas Pollutant Discharge Elimination System Permit which authorizes the discharge of stormwater from all portions of the Storm Water Management Joint Task Force Municipal Separate Storm Sewer System. This permit requires the co-permittees to prohibit non-stormwater discharges, and the County has an interest in ensuring that MUD 584 is prohibited from such discharges.

In its determination as to whether a district creation project is feasible, practicable, necessary, and beneficial to the land to be included in the district, the Commission must consider the reasonableness of projected construction costs, tax rates, and water and sewer rates, as well as whether the district and its system and subsequent development within the district will have an

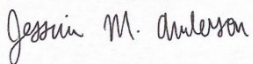
unreasonable effect on runoff rates, drainage, and water quality. *See* TWC § 54.021(b)(2) and § 54.021(b)(3)(E)-(F). As contemplated by 30 TAC § 55.256(b) and (c)(6), Harris County holds statutory authority over and an interest in issues relevant to this application. Therefore, based on Harris County's identified statutory authority over and interest in the aforementioned issues, and the proposed District's location entirely within its boundaries, OPIC finds that Harris County has demonstrated that it qualifies as an affected person in this matter.

#### **IV. CONCLUSION**

For the foregoing reasons, OPIC respectfully recommends the Commission find that Harris County qualifies as an affected person, grant its hearing request, and refer the matter to the State Office of Administrative Hearings for a contested case hearing.

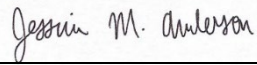
Respectfully submitted,

Garrett T. Arthur  
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By:   
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### CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2025, the original of the Office of Public Interest Counsel's Response to Request for Hearing was filed with the Chief Clerk of the TCEQ and a copy was served on all persons listed on the attached mailing list via electronic mail, and/or by deposit in the U.S. Mail.

A handwritten signature in cursive script that reads "Jessica M. Anderson". The signature is written in black ink on a light-colored background.

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Jessica M. Anderson

**MAILING LIST**  
**HARRIS COUNTY MUD NO. 584**  
**TCEQ DOCKET NO. 2025-0542-DIS**

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FOR ALTERNATIVE DISPUTE

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