

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

September 15, 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 APPLICATION BY BL 374 LLC FOR
TPDES PERMIT NO. WQ0016411001
TCEQ DOCKET NO. 2025-0960-MWD**

Dear Ms. Gharis:

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

Sincerely,

A handwritten signature in black ink that reads "Eli Martinez".

Eli Martinez, Senior Attorney
Assistant Public Interest Counsel

A handwritten signature in black ink that reads "Jessica M. Anderson".

Jessica M. Anderson, Attorney
Assistant Public Interest Counsel

cc: Mailing List

DOCKET NO. 2025-0906-MWD

APPLICATION BY BL 374 LLC	§	BEFORE THE
FOR TPDES PERMIT NO.	§	TEXAS COMMISSION ON
WQ0016411001	§	ENVIRONMENTAL QUALITY

**THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE
TO REQUESTS FOR HEARING AND REQUESTS FOR RECONSIDERATION**

To the Members of the Texas Commission on Environmental Quality:

The Office of Public Interest Counsel (OPIC) at the Texas Commission on Environmental Quality (TCEQ) files this Response to Requests for Hearing and Requests for Reconsideration on the application in the above-captioned matter and respectfully submits the following.

I. INTRODUCTION

A. Summary of Position

Before the Commission is an application by BL 374 LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016411001. The Commission received timely comments, hearing requests, and requests for reconsideration from numerous individuals. For the reasons stated herein, OPIC respectfully recommends that the Commission find that Chasity Cooper, Charles Crook, Anthony William Evangelista, Carol Ann Everhart, Truman Goodman, Maryln Hammond, Jan Hurlbut, Roger L. Hurlbut, Patrick Seth Lewis, Keith Meister, Fayneshia Nunn, Daren and Kerry Smith, Paul and Leanne Smith, Wren Tidwell, Will Turner, Seth turner, Althea Emma Turner, and Kathleen Voelkel are affected persons, and further recommends that the Commission

grant their hearing requests. OPIC recommends denial of all requests for reconsideration.

B. Description of Application and Facility

BL 374 LLC applied to the TCEQ for a new TPDES permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 245,000 gallons per day (gpd) in the Interim phase and a daily average flow not to exceed 490,000 gpd in the Final phase. The proposed facility would be an activated sludge process plant operated in the conventional mode with single stage nitrification. Treatment units in the Interim phase would include a bar screen, an aeration basin, a final clarifier, an aerobic sludge digester, and a chlorine contact chamber. Treatment units in the Final phase would include a bar screen, two aeration basins, a final clarifier, two aerobic sludge digesters, and a chlorine contact chamber.

The proposed treatment plant would be located approximately 0.6 miles northeast of the intersection of Bennett Lawson Road and Gibson Cemetery Road in Tarrant County. The treated effluent would be discharged to an unnamed tributary, then to Willow Branch, then to Walnut Creek, then to Joe Pool Lake in Segment No. 0838 of the Trinity River Basin. The designated uses for Segment No. 0838 are primary contact recreation, public water supply, and high aquatic life use.

C. Procedural Background

The application was received on September 14, 2023, and declared administratively complete on October 23, 2023. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published in English on November 8, 2023 in the *Fort Worth Star Telegram* and in Spanish on November 7, 2023 in *La Prensa Comunidad*. The Notice of Application and Preliminary Decision was published in English on May 5, 2024 in the *Fort Worth Star Telegram* and in Spanish on May 7, 2024 in *La Prensa Comunidad*. The notice of public meeting was published on August 12, 2024 in the *Fort Worth Star Telegram*. A public meeting was held on September 23, 2024, and the public comment period ended at the close of that public meeting. The Executive Director's (ED) Response to Comments (RTC) was mailed on April 3, 2025. The deadline for filing requests for a contested case hearing and requests for reconsideration of the ED's decision was May 3, 2025.

II. APPLICABLE LAW

A. Hearing Requests

The application was filed after September 1, 2015, and is therefore subject to the procedural rules adopted pursuant to Senate Bill 709. Tex. S.B. 709, 84th Leg., R.S. (2015). Under 30 Texas Administrative Code (TAC) § 55.201(c), a hearing request by an affected person must be in writing, must be timely filed, may not be based on an issue raised solely in a public comment which has been withdrawn, and, for applications filed on or after September 1, 2015, must be based only on the affected person's timely comments.

Section 55.201(d) states that a hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the requestor'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;
- (3) request a contested case hearing;
- (4) 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 ED'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.

30 TAC § 55.20(d).

Under 30 TAC § 55.203(a), 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. As provided by § 55.203(b), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons. Relevant factors to be considered in determining whether a person is affected include:

- (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;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and
- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203(c).

Under § 55.203(d), to determine whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the Commission may also consider the following:

- (1) the merits of the underlying application and supporting documentation in the 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 hearing requestor.

30 TAC § 55.203(d).

For applications filed on or after September 1, 2015, § 55.205(b) states that a hearing request by a group or association may not be granted unless all of the following requirements are met:

- (1) comments on the application are timely submitted by the group or association;
- (2) the request identifies, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right;
- (3) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (4) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

Under 30 TAC § 55.211(c)(2)(A)(ii), for an application filed on or after September 1, 2015, the Commission must grant a hearing request made by an affected person if the request raises disputed issues of fact that were raised by the affected person during the comment period, that were not withdrawn by filing a withdrawal letter with the Chief Clerk prior to the filing of the ED's RTC, and that are relevant and material to the Commission's decision on the application.

Under § 55.211(c)(2)(B)–(D), the hearing request, to be granted, must also be timely filed with the Chief Clerk, pursuant to a right to hearing authorized by law, and comply with the requirements of § 55.201.

B. Requests for Reconsideration

Any person may file a request for reconsideration of the ED's decision under 30 TAC § 55.201(e). The request must be in writing and filed with the Chief

Clerk no later than 30 days after the Chief Clerk mails the ED's decision and RTC. The request must expressly state that the person is requesting reconsideration of the ED's decision and give reasons why the decision should be reconsidered.

III. ANALYSIS OF HEARING REQUESTS

A. Whether the requestor is an affected person

Individual Requestors Residing in Close Proximity to the Proposed Facility

The Commission received timely comments and hearing requests from Chasity Cooper, Charles Crook, Anthony William Evangelista, Carol Ann Everhart, Truman Goodman, Maryln Hammond, Jan Hurlbut, Roger L. Hurlbut, Patrick Seth Lewis, Keith Meister, Fayneshia Nunn, Daren and Kerry Smith, Paul and Leanne Smith, Wren Tidwell, Will Turner, Seth Turner, Althea Emma Turner, and Kathleen Voelkel. According to the map created by ED staff, each of these individuals resides less than one mile from the proposed outfall point. Many of these requestors live in close proximity to the proposed discharge route, and all reside near the proposed outfall point. These requestors expressed concerns about water quality, human health, plant and animal life, recreational use, wetlands, effluent volume and quality, suitability of the discharge route, odors, modeling, regionalization, nutrient overload and algal blooms, site selection, air quality, PFAS, flooding and erosion, traffic, and property values. Some of these interests are protected by the law under which this application will be considered. *See* 30 TAC § 55.203(c)(1).

Because of these requestors' proximity to the proposed facility, OPIC finds that a reasonable relationship exists between the interests they seek to protect

and the Applicant's regulated activity—a relevant factor under 30 TAC § 55.201(c)(3). Further, the requestors' proximity increases the likelihood that the regulated activity will impact their health, safety, use of property, and use of impacted natural resources. *See* 30 TAC § 55.203(c)(4)-(5). Given their relevant concerns and proximity, OPIC finds that these requestors would be affected by the application in a way not common to members of the general public as required by 30 TAC § 55.203(a). Therefore, OPIC recommends that the Commission find that these requestors are affected persons.

Bent Trail Homeowner's Association

The Commission received timely comments and a hearing request from Paul Smith on behalf of Bent Trail Homeowner's Association. In order for a group or association's hearing request to be granted, the request must identify one or more members, by name and physical address, that would otherwise have standing to request a hearing in their own right. 30 TAC § 55.205(b)(2). Paul Smith's address is 7457 Bent Trail, Mansfield—located 0.49 miles from the proposed facility according to the map created by the ED's staff. The request raised concerns related to the suitability of the discharge route. However, the request does not provide any discussion of the organization's purpose or how that purpose relates to the interests it seeks to protect. *See* 30 TAC § 55.205(b)(3). Additionally, the request does not indicate that neither the claim asserted nor the relief requested would require the participation of the individual members in the case. *See* 30 TAC § 55.205(b)(4). Given the omission of this information, OPIC finds that Bent Trail Homeowner's Association has not shown that it possesses a

personal justiciable interest in this matter and does not qualify as an affected person.

Individual Requestors Residing in Close Proximity to the Proposed Facility Who Failed to Articulate a Personal Justiciable Interest

Teri Berbel, Cliff Layton, David Ray Owens, and Susan Smart all submitted timely hearing requests that failed to articulate any personal justiciable interests. While their submissions contained requests for hearings on this matter, these individuals either failed to provide any description of how they might be personally affected by the issuance of this permit or included only concerns that are outside of TCEQ's jurisdiction. Given the absence of an articulated personal justiciable interest or lack of material and relevant issues under the jurisdiction of the Commission, OPIC cannot find that Teri Berbel, Cliff Layton, David Ray Owens, or Susan Smart have demonstrated that they are affected persons under the Commission's rules.

Individual Requestors Who Failed to Submit a Timely Comment

Terri Webb Blackmon, Torri K. Dorram Ranier Granberry, John Watkins, and Clint Werner all submitted hearing requests but failed to submit timely comments. By law, for the Commission to find that a hearing requestor qualifies as an affected person, the requestor must have submitted timely comments on the application, and the request must be based only on that affected person's timely comments. *See* Texas Water Code (TWC) § 5.115(a)(a-1)(2)(B); 30 TAC § 55.201(c). Because these requestors have not complied with this requirement,

OPIC is unable to find that these requestors have demonstrated that they qualify as affected persons.¹

Individual Requestors Residing Further from the Proposed Facility

The Commission also received hearing requests from Mary B. and Robert E. Reichardt, Rose Ann Sherman, and Alan “Mack” Taylor. While some of these requestors articulated relevant and material concerns, according to the map created by ED staff all reside further than 2.5 miles from the outfall point. Additionally, while these requestors live generally downstream of the proposed facility, none of them reside along the proposed discharge route. Given these requestors’ lack of proximity to the proposed facility and the discharge route, OPIC cannot find that they would be affected in a manner not common to the general public.

Untimely Hearing Requests

The Commission received an untimely hearing request from Representative David Cook. In accordance with 30 TAC § 55.201(c), a request for a contested case hearing must be filed with the chief clerk no later than 30 days after the Chief Clerk mails the ED’s RTC. In this matter, the RTC was mailed on April 3, 2025 and the deadline for filing contested case hearing requests was May 3, 2025. Representative Cook’s hearing request was not received until May 6,

¹ While OPIC is unable to find that these requestors qualify as affected persons based on the information provided in their requests, we do note that pursuant to 30 TAC § 55.211(e), if any requests for contested case hearing are granted in this matter, and a preliminary hearing is convened at SOAH, any person whose request is denied may attend and seek to be admitted as a party.

2025. Given the untimeliness of Representative Cook's request, OPIC cannot find that he would qualify as an affected person in this matter.

B. Which issues raised in the hearing requests are disputed

The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective of water quality.
2. Whether the draft permit is adequately protective of human health.
3. Whether the draft permit is adequately protective of plant and animal life.
4. Whether the draft permit is adequately protective of recreational uses.
5. Whether the draft permit is adequately protective of wetlands.
6. Whether the draft permit contains adequate requirements for effluent volume and quality.
7. Whether the draft permit depicts a suitable discharge route.
8. Whether the draft permit is adequately protective against odors.
9. Whether the draft permit contains adequate modeling requirements.
10. Whether the application adequately considers regionalization requirements.
11. Whether the draft permit is adequately protective against nutrient overload and algal blooms.
12. Whether the Applicant adequately considered alternative sites.
13. Whether the draft permit is adequately protective of air quality.
14. Whether the draft permit is adequately protective against PFAS.
15. Whether the draft permit is adequately protective against flooding and erosion.

16. Whether the draft permit is adequately protective against excess traffic.

17. Whether the draft permit is adequately protective of property values.

C. Whether the dispute involves questions of fact or of law

If the Commission considers an issue to be one of fact, rather than one of law or policy, it is appropriate for referral to hearing if it meets all other applicable requirements. The issues raised here are issues of fact.

D. Whether the issues were raised during the public comment period

Issues No. 1-17 in Section III.B. were specifically raised by affected requestors during the public comment period.

E. Whether the hearing requests are based on issues raised solely in a withdrawn public comment

No public comments were withdrawn in this matter. Therefore, the hearing requests are not based on issues raised in withdrawn public comments.

F. Whether the issues are relevant and material to the decision on the application

The hearing requests raised some issues that are relevant and material to the Commission's decision under the requirements of 30 TAC §§ 55.201(d)(4)(B) and 55.211(c)(2)(A)(ii). To refer an issue to the State Office of Administrative Hearings (SOAH), the Commission must find that the issue is relevant and material to the Commission's decision to issue or deny the permit. Relevant and material issues are those governed by the substantive law under which the permit is to be issued. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-51 (1986).

Water Quality, Human Health, Plant Life, Animal Life, Recreation, and Wetlands

Requestors raised concerns about adverse effects to water quality and the consequential impacts on human health, plant life, animal life, recreational uses, and wetlands. The Commission is responsible for the protection of water quality under Texas Water Code Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit “maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state....” 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, “Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.” Additionally, “[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life.” 30 TAC § 307.4(d). Finally, 30 TAC § 307.4(e) requires that nutrients from permitted discharges or other controllable sources shall not cause excessive growth of aquatic vegetation which impairs an existing, designated, presumed, or attainable use. As Chapter 307 designates criteria for the regulation of water quality, the protection of human health and safety, and the protection of animal life, Issues No. 1-5 are relevant and material to the Commission’s decision regarding this application.

Effluent

Wastewater treatment and effluent limitations at wastewater treatment facilities must maintain water quality in accordance with the TCEQ's surface water quality standards. 30 TAC § 309.1(a). Effluent quality for a domestic wastewater treatment plant permit is addressed under the Commission's rules at 30 TAC § 309.4. In addition, under 30 TAC § 309.12 the siting of a facility should minimize possible contamination of both surface water and groundwater. Accordingly, Issue No. 6 is relevant and material to the Commission's decision regarding this application.

Suitability of the Discharge Route

The affected requestors in this matter have concerns that the proposed discharge route has been improperly characterized in the application. Proper functioning of a discharge route as an operational feature of the facility may be addressed under 30 TAC § 309.12, which contains requirements related to site selection in order to minimize possible contamination of water in the state. Further, the Texas Surface Water Quality Standards in 30 TAC Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and economic development of the state." 30 TAC § 307.1. An inaccurate or inadequate representation of the effluent route could prevent ED staff from conducting a complete and accurate analysis. Therefore, Issue No. 7 is relevant and material

to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Odors

TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do not allow the permit holder to create or maintain a nuisance that interferes with a landowner's use and enjoyment of their property. Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 8 is relevant and material to the Commission's decision on this application.

Modeling

Requestors raised concerns about the accuracy and sufficiency of the modeling information included in the application and draft permit. As part of the ED's Technical Review, the Modeling Team used a combination of calibrated and uncalibrated QUAL-TX models to determine effluent levels that will maintain and protect the existing instream uses. *See* ED's RTC Response 25. Accordingly, Issue No. 9 is relevant and material to the Commission's decision.

Regionalization

TCEQ's regionalization policy comes from Section 26.081 of the Texas Water Code, which implements "the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in

the state.” TCEQ’s wastewater permit application requires the applicant for a new permit to provide information concerning other wastewater treatment facilities that exist near the applicant’s proposed treatment facility site. The applicant is required to state whether any portion of the applicant’s proposed service area is located in an incorporated city, whether its proposed service area is located within another utility’s certificate of convenience and necessity area, and whether there is a facility, or any sewer collection lines located within the three-mile area surrounding the proposed facility site. Accordingly, Issue No. 10 is relevant and material to the Commission’s decision on this application.

Nutrient Overload and Algal Blooms

Requestors articulated concerns related to algal blooms as a result of the proposed facility’s discharge. Appropriate phosphorus limits in the treated wastewater greatly reduce the likelihood of the discharge stimulating excessive growth of algae. *See* ED’s RTC Response 27. The Procedures to Implement the Texas Surface Water Quality Standards define the factors considered when determining nutrient limits. Accordingly, Issue No. 11 is relevant and material to the Commission’s decision on this application.

Site Selection

Requestors raised concerns about the site selection for this proposed facility. The Texas Water Code does not include the authority to mandate a different location for a wastewater treatment facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B, which articulates the Location Standards, and 30 TAC § 309.13 pertaining to “Unsuitable Site

Characteristics” for a discharge facility. Therefore, Issue No. 12 is not relevant or material to the Commission’s decision on this application.

Air Quality

Some requestors raised concerns about the proposed facility’s impact on air quality. Regarding air quality and pollution, water treatment facilities have been found by the ED to not make significant contributions of air contaminants to the atmosphere and that human health and the environment will be protected. Therefore, Issue No. 13 is not relevant or material to the Commission’s decision on this application.

PFAS

Neither TCEQ nor EPA has promulgated rules or criteria limiting emerging contaminants, including PFAS, in wastewater. In addition, there are currently no federal or state effluent limits for emerging contaminants. Therefore, Issue No. 14 is not relevant and material to the Commission’s decision on this application.

Flooding and Erosion

TCEQ’s jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding and erosion when making a decision on issuance of this permit. Therefore, Issue No. 15 is not relevant and material to the Commission’s decision on this application.

Traffic

Requestors articulated concerns about increases in traffic associated with the construction of this facility. The TCEQ does not have jurisdiction to consider

effects on traffic when deciding whether to issue a TPDES permit. Therefore, Issue No. 16 is not relevant and material to the Commission's decision on this application.

Property Values

Requestors raised concerns regarding the proposed facility's impact on property value. The TCEQ does not have jurisdiction under the Texas Water Code to address or consider property values or the marketability of adjacent property in its determination of whether to issue a water quality permit. Accordingly, Issue No. 17 is not relevant or material to the Commission's decision on this application.

G. Maximum expected duration for the contested case hearing

Commission rule 30 TAC § 50.115(d) requires that any Commission order referring a case to SOAH specify the maximum expected duration of the hearing by stating a date by which the judge is expected to issue a proposal for decision. The rule further provides that, for applications filed on or after September 1, 2015, the administrative law judge must conclude the hearing and provide a proposal for decision by the 180th day after the first day of the preliminary hearing, or a date specified by the Commission, whichever is earlier. 30 TAC § 50.115(d)(2). To assist the Commission in setting a date by which the judge is expected to issue a proposal for decision, and as required by 30 TAC § 55.209(e)(7), OPIC estimates that the maximum expected duration of a hearing on this application would be 180 days from the first date of the preliminary hearing until the proposal for decision is issued.

IV. REQUESTS FOR RECONSIDERATION

Any person may file a request for reconsideration of the ED's decision under Title 30, Texas Administrative Code (TAC) § 55.201(e). The request must be in writing and filed with the Chief Clerk no later than 30 days after the Chief Clerk mails the ED's decision and RTC. The request must expressly state that the person is requesting reconsideration of the ED's decision and give reasons why the decision should be reconsidered.

The ED's final decision letter was mailed on April 3, 2025, and the period for requests for reconsideration therefore expired on May 3, 2025. As the request from Honorable Representative David L. Cook was received on May 6, 2025, and the request from Roger L. Hurlbut was received on May 5, 2025, OPIC cannot make a recommendation on their merits. However, OPIC notes that many of the concerns raised in these requests were also raised in other requests for reconsideration, addressed in our response below.

Timely requests for reconsideration were submitted by Terri Webb Blackmon, Torri K. Dorram, Ranier Granberry, Marlyne S. Hammond, John Watkins, and Clint Werner. The correspondence submitted by these individuals requested reconsideration of the ED's decision but did not articulate specific concerns. Without specific concerns to analyze, OPIC cannot recommend that these requests be granted.

Timely requests for reconsideration were submitted by Robert E. Reichhardt, Rose Ann Sherman, Susan E. Smart, and Marilyn Whitney. Collectively, these requests raise concerns related to potential negative health

impacts, inadequacy of the proposed discharge route, potential flooding and erosion, potential negative impacts to surface water quality, increased traffic and traffic-associated dangers, potential nuisance conditions, incompatible zoning, inadequate notice, lack of process transparency and outreach, diminished property values, loss of trust in the public process, and increased insurance costs.

While OPIC notes that many of the concerns expressed are relevant and material to the Commission's decision on this application, a record establishing the evidentiary basis for reconsidering the ED's decision based on these issues would be needed to recommend that the request for reconsideration be granted. As no such record exists yet, OPIC cannot recommend the requests be granted at this time. OPIC further notes, however, that we have recommended that many of these issues and parties be referred to SOAH for a contested case hearing so that they may be properly considered by the Commission.

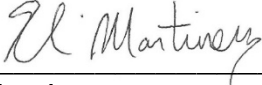
V. CONCLUSION

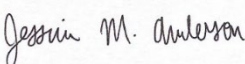
Having found that Chasity Cooper, Charles Crook, Anthony William Evangelista, Carol Ann Everhart, Truman Goodman, Maryln Hammond, Jan Hurlbut, Roger L. Hurlbut, Patrick Seth Lewis, Keith Meister, Fayneshia Nunn, Daren and Kerry Smith, Paul and Leanne Smith, Wren Tidwell, Will Turner, Seth Turner, Althea Emma Turner, and Kathleen Voelkel qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issue Nos. 1-11 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC

further recommends the Commission deny the pending requests for reconsideration.

Respectfully submitted,

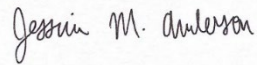
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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2025, the original of the Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration was filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via Inter-Agency Mail, electronic mail, 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.

Jessica M. Anderson

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TCEQ DOCKET NO. 2025-0906-MWD

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