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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*

August 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 EAST WILLIAMSON  
COUNTY MUNICIPAL UTILITY DISTRICT 1 FOR TPDES PERMIT  
NO. WQ0016351001  
TCEQ DOCKET NO. 2025-1048-MWD**

Dear Ms. Gharis:

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

Sincerely,

A handwritten signature in cursive script that reads "Pranjal".

Pranjal M. Mehta, Attorney  
Assistant Public Interest Counsel

cc: Mailing List

**DOCKET NO. 2025-1048-MWD**

|                                   |          |                              |
|-----------------------------------|----------|------------------------------|
| <b>APPLICATION BY EAST</b>        | <b>§</b> | <b>BEFORE THE</b>            |
| <b>WILLIAMSON COUNTY</b>          | <b>§</b> |                              |
| <b>MUNICIPAL UTILITY DISTRICT</b> | <b>§</b> | <b>TEXAS COMMISSION ON</b>   |
| <b>1 FOR TPDES PERMIT NO.</b>     | <b>§</b> |                              |
| <b>WQ0016351001</b>               | <b>§</b> | <b>ENVIRONMENTAL QUALITY</b> |

**OFFICE OF PUBLIC INTEREST COUNSEL’S RESPONSE  
TO REQUESTS FOR HEARING**

To the Members of the Texas Commission on Environmental Quality:

The Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this response to requests for hearing in the above-referenced matter.

**I. Introduction**

**A. Summary of Position**

Before the Commission is an application by the East Williamson County Municipal Utility District 1 (MUD or Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0016351001 to authorize the discharge of treated domestic wastewater at a daily average volume not to exceed 600,000 gallons per day. The Commission received timely comments and hearing requests from Jonah Water Special Utility District (Jonah). For the reasons detailed below, OPIC recommends the Commission grant Jonah’s hearing request. OPIC further recommends the Commission refer the issues specified in Section III.B for a contested case hearing at the State Office of Administrative Hearings (SOAH) with a maximum duration of 180 days.

## **B. Description of Application and Facility**

The Applicant proposes to operate the East Williamson County MUD 1 wastewater treatment plant (facility), an activated sludge process plant operated in the complete mix mode. The facility would be located approximately 1.3 miles southwest of the intersection of County Road 121 and County Road 126, in Williamson County 78626. The treated effluent would be discharged to a channel, then to an unnamed tributary, then to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin.

## **C. Procedural Background**

The TCEQ received the application on June 5, 2023, and declared it administratively complete on August 14, 2023. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published in English on August 23, 2023, in the *Williamson County Sun* and in Spanish on August 24, 2023, in *El Mundo*. The combined Notice of Application and Preliminary Decision (NAPD) and the alternative language NAPD were published on May 1, 2024, in the *Williamson County Sun*. The public comment period ended on May 31, 2024. The Chief Clerk mailed the Executive Director's (ED) preliminary decision and Response to Comments on August 2, 2024. The deadline for filing requests for a contested case hearing and requests for reconsideration of the ED's decision was September 3, 2024.

## **II. Applicable Law**

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 Title 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 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;
- (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 § 55.201(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. Under 30 TAC §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. An interest common to members of the general public does not qualify as a personal justiciable interest. 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).

Under 30 TAC § 55.211(c)(2)(A)(ii), for an application filed on or after September 1, 2015, the Commission shall 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 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.

### **III. Analysis of Hearing Request**

#### **A. Whether the requestor is an affected person**

##### **Jonah Water Special Utility District**

The Commission received timely comments and hearing requests on behalf of Jonah. Jonah holds a Certificate of Convenience and Necessity (CCN) in Williamson County and operates under Texas Water Code (TWC) Chapter 65. The hearing requests raised concerns regarding potential impacts on water quality and water bodies used by Jonah for its water service; failure to demonstrate need for the permit; failure to secure consent to serve within a special district; and

regionalization requirements. The hearing request stated that, because proposed discharge would flow through Jonah's water CCN territory and into the body of water that Jonah uses as its water source, it could negatively impact the water quality of both the River and the Lake, a significant issue over which Jonah has legal authority. The hearing request further stated that Jonah's duty to provide fresh, clean, potable water, meeting all of the state and federal water quality standards, makes Jonah's interest in the quality of its source water an interest that is not common to the general public.

The ED's map shows that the proposed facility is located entirely within Jonah's CCN territory. Based on the proposed facility's location, Jonah has an interest in regionalization that is not common to the general public, and it should be considered under TWC Section 26.0282. Further, as a governmental entity CCN holder, Jonah's water quality concerns are interests protected by the law under which the application will be considered, and a reasonable relationship exists between water quality and the regulation of wastewater discharge. Therefore, OPIC finds that Jonah qualifies as an affected person under 30 TAC § 55.203(a), (b), and (c)(7).

**B. Which issues raised in the hearing request are disputed**

Jonah raised the following disputed issues:

1. Whether the draft permit is protective of water quality and the uses of the receiving waters under the applicable Texas Surface Water Quality Standards;

2. Whether the Applicant has provided sufficient justification for the need for the permit; and

3. Whether the draft permit complies with TCEQ's regionalization policy.

**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. 30 TAC § 55.211(c)(2)(A). The issues listed above are issues of fact.

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

All of the issues were raised by Jonah during the public comment period.

**E. Whether the hearing request is based on issues raised solely in a withdrawn public comment**

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

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

To refer an issue to SOAH, the Commission must find that the issue is relevant and material to the Commission's decision to issue or deny a permit. The Commission can only consider issues within its jurisdiction. Therefore, relevant and material issues include those governed by the substantive law relating to the permit at issue. *Anderson v. Liberty Mutual, Inc.*, 477 U.S. 242, 248-51 (1986).

### Water Quality

The Commission is responsible for the protection of water quality under TWC Chapter 26 and 30 TAC Chapters 307 and 309. 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. The Standards also require that "[a] permit must contain effluent limitations that protect existing uses and preclude degradation of existing water quality." 30 TAC § 307.2(d)(5)(D). Additionally, surface waters must not be toxic to humans from ingestion, consumption of aquatic organisms, or contact with the skin. 30 TAC § 307.4(d). Therefore, Issue No. 1, is relevant and material to the Commission's decision regarding this application.

### Regionalization and Need for the facility

It is state policy to encourage regionalization, and TCEQ must consider regionalization when deciding whether to issue a discharge permit. TWC § 26.081(a). Texas Water Code § 26.0282 authorizes the Commission to alter or deny a wastewater discharge permit based on consideration of need. Therefore, Issue Nos. 2 and 3 are relevant and material to a 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.

#### **V. Conclusion**

For the reasons discussed above, OPIC recommends the Commission grant Jonah's hearing request and refer the issues specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days.

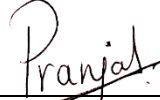
Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2025, the foregoing document was filed with the TCEQ Chief Clerk, and copies were served to all parties on the attached mailing list via hand delivery, facsimile transmission, Inter-Agency Mail, electronic mail, or by deposit in the U.S. Mail.

  
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Pranjal M. Mehta

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**TCEQ DOCKET NO. 2025-1048-MWD**

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