

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

August 29, 2025

Laurie Gharis, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

RE: Terrell Timmermann Farms, LP for TPDES Permit No. WQ0016229001
TCEQ Docket No. 2025-1159-MWD

Dear Ms. Gharis:

Enclosed you will find the Executive Director's Response to Hearing Requests and Requests for Reconsideration.

Please do not hesitate to contact me at Harrison.Malley@tceq.texas.gov if you have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "Harrison Cole Malley".

Cole Malley, Staff Attorney - Environmental Law Division

TCEQ DOCKET NO. 2025-1159-MWD

| | | |
|-----------------------------------|----------|------------------------------|
| TERRELL TIMMERMAN FARM, LP | § | BEFORE THE |
| FOR TPDES PERMIT NO. | § | TEXAS COMMISSION ON |
| WQ0016229001 | § | ENVIRONMENTAL QUALITY |

EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Requests on an application by Terrell Timmermann Farms, LP (Applicant) for a new TPDES Permit No. WQ0016229001. The Office of the Chief Clerk received a contested case hearing request from Jonah Water Special Utility District (Jonah SUD or District).

The Executive Director recommends that the Commission deny the District's hearing request.

Attached for Commission consideration is a satellite map of the area showing the locations of the facility, discharge route, and the sole requestor.

II. FACILITY DESCRIPTION

The applicant has applied to TCEQ for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.25 million gallons per day (MGD) in the Interim I phase, 0.50 MGD in the Interim II phase, 0.75 MGD in the Interim III phase, and a daily average flow not to exceed 0.975 MGD in the Final phase. The proposed wastewater treatment facility will serve the Greenview Development.

The Kelly Farm Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units in the Interim I phase will include a bar screen, an aeration basin, a final clarifier, a sludge holding tank, cloth filters, and a chlorine contact chamber. Treatment units in the Interim II phase will include a bar screen, two aeration basins, two final clarifiers, two sludge holding tanks, cloth filters, two chlorine contact chambers, and a dechlorination chamber. Treatment units in the Interim III phase will include a bar screen, three aeration basins, two final clarifiers, three sludge holding tanks, cloth filters, three chlorine contact chambers, and a dechlorination chamber. Treatment units in the Final phase will include a bar screen, four aeration basins, two final clarifiers, four sludge holding tanks, cloth filters, four chlorine contact chambers, and a dechlorination chamber. The facility has not been constructed. The plant site will be located at 12995 East State Highway 29, in the City of Georgetown, Williamson County, Texas 78626.

The treated effluent will be discharged to Pecan Branch, thence to San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The unclassified receiving water uses are minimal aquatic life use for Pecan Branch

(Upstream of the confluence with an unnamed tributary approximately one mile downstream of FM 341) and presumed high aquatic life use for Pecan Branch (Downstream of the confluence with an unnamed tributary approximately one mile downstream of FM 341). The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code § 307.5 and the TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Pecan Branch, which has been identified as having a presumed high aquatic life use in the downstream reaches. Existing uses will be maintained and protected.

III. PROCEDURAL BACKGROUND

The TCEQ received the application on September 28, 2022, and declared it administratively complete on October 13, 2022. The Applicant published the Notice Of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) in English in the *Austin American-Statesman* on October 19, 2022, and in Spanish in the *El Mundo* Newspaper on October 20, 2022. The ED completed the technical review of the application on February 23, 2023, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant next published the Notice of Application and Preliminary Decision for TPDES Permit For Municipal Wastewater (NAPD) in English in the *Austin American-Statesman* on April 5, 2023, and in Spanish in the *El Mundo* Newspaper on April 6, 2023.

The public comment period ended on May 8, 2023. The hearing request period ended April 22, 2025. This application was filed after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

IV. THE EVALUATION PROCESS FOR HEARING REQUESTS

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. SB 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

A. Response to Requests

The ED, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.¹

Responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.²

B. Hearing Request Requirements

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requestor prior to the filing of the ED's Response to Comment.³

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (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 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

¹ 30 Texas Administrative Code (TAC) Section (§) 55.209(d).

² 30 TAC § 55.209(e).

³ 30 TAC § 55.201(c).

- the extent possible, specify any of the ED's responses to comments that the requestor disputes and 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.⁴

C. Requirement that Requestor be an Affected Person/"Affected Person" Status

To grant a contested case hearing, the Commission must determine that a requestor is an "affected" person by conducting the following analysis:

- (a) For any application, 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.
- (b) Except as provided by § 55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (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.
- (d) In determining 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 commission's administrative record, including whether the application meets the requirements for permit issuance;
 - (2) the analysis and opinions of the ED; and
 - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.

⁴ 30 TAC § 55.201(d).

- (e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.

D. Referral to the State Office of Administrative Hearings

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.”⁵ The Commission may not refer an issue to the State Office of Administrative Hearings (SOAH) for a contested case hearing unless the Commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person whose hearing request is granted; and
- (3) is relevant and material to the decision on the application.⁶

V. ANALYSIS OF THE REQUESTS

The ED has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestors qualify as affected persons, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

A. Whether the Requestor Complied With 30 TAC §§ 55.201(c) and (d) and 55.203

1. Parties the Executive Director recommends the Commission not find Affected Persons

- Jonah Water Special Utility District (Jonah SUD or District).
 - Through its attorney, Jonah SUD submitted timely comments and hearing requests which contained the pertinent contact information pursuant to 30 TAC § 55.201(d).

In its request, the District explained that it is a special utility district and a political subdivision of the State of Texas operating under Texas Water Code Chapter 65. Through its Certificate of Convenience and Necessity (CCN), the District provides water utility services to its customers.

According to the hearing request, the proposed facility is located entirely within the boundaries of the District’s CCN. The District requested a hearing based on concerns it had about potential algae blooms and concerns that the proposed facility’s discharge would degrade the water quality downstream. According to the hearing request, the district uses wells and surface water downstream of the discharge, including Lake Granger, to provide water to its customers. The District also argued that the draft permit does not comply with TCEQ’s regionalization requirements and that it has not consented to the Applicant providing

⁵ 30 TAC § 50.115(b).

⁶ 30 TAC § 50.115(c).

utility services within the District's CCN boundaries. Based on these issues, the hearing request should be denied.

Pursuant to 30 TAC § 55.203(c)(7), the Commission's determination as to affectedness for governmental entities shall include the entity's statutory authority over or interest in the issues relevant to the application. While Jonah SUD referenced their statutory and regulatory authority as a utility provider under TWC § 13.244(c) and 16 TAC § 24.225(c), it was only in the context of their right to provide exclusive retail service as a CCN holder. These statutes and rules are not relevant to the TCEQ's consideration of a TPDES application and do not provide the District the authority to regulate water quality in its CCN. Furthermore, it is unclear from its hearing request whether the District has a wastewater CCN.

The District's arguments regarding water quality issues and regionalization are also unpersuasive. The District's concerns for downstream water quality impacts are too attenuated as Lake Granger is located approximately 8.12 river miles downstream of the discharge point. The District also failed to identify the specific location of its infrastructure that could be affected and failed to explain how the specific effluent limits were not protective of water quality. The District's arguments about regionalization are also unpersuasive because it failed to identify any facility or wastewater infrastructure it has near the proposed facility that could provide wastewater services. Without this information, the District has not demonstrated how it qualifies as an affected person.

The ED recommends that Jonah SUD's hearing request be denied as the District has not established that it is an affected person based on the factors specified under 30 TAC § 55.203(c).

VII. CONCLUSION

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission deny Jonah Water Special Utility District's hearing request.
2. The Executive Director recommends that the Commission issue the draft permit as drafted by the Executive Director.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,
Executive Director

Phillip Ledbetter, Deputy Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Harrison Cole Malley
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REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on August 29, 2025, the “Executive Director’s Response to Hearing Request” for TPDES Permit WQ0016229001 for Terrell Timmermann Farms LP. was filed with the TCEQ’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



Harrison Cole Malley
Staff Attorney

MAILING LIST
Terrell Timmermann Farms, LP
TCEQ Docket No./TCEQ Expediente N.º 2025-1159-MWD;
Permit No./ Permiso N.º WQ0016229001

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FOR THE EXECUTIVE DIRECTOR/PARA LA DIRECTOR EJECUTIVA

via electronic mail/vía correo electrónico:

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via eFilings:

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<https://www.tceq.texas.gov/goto/efilings>

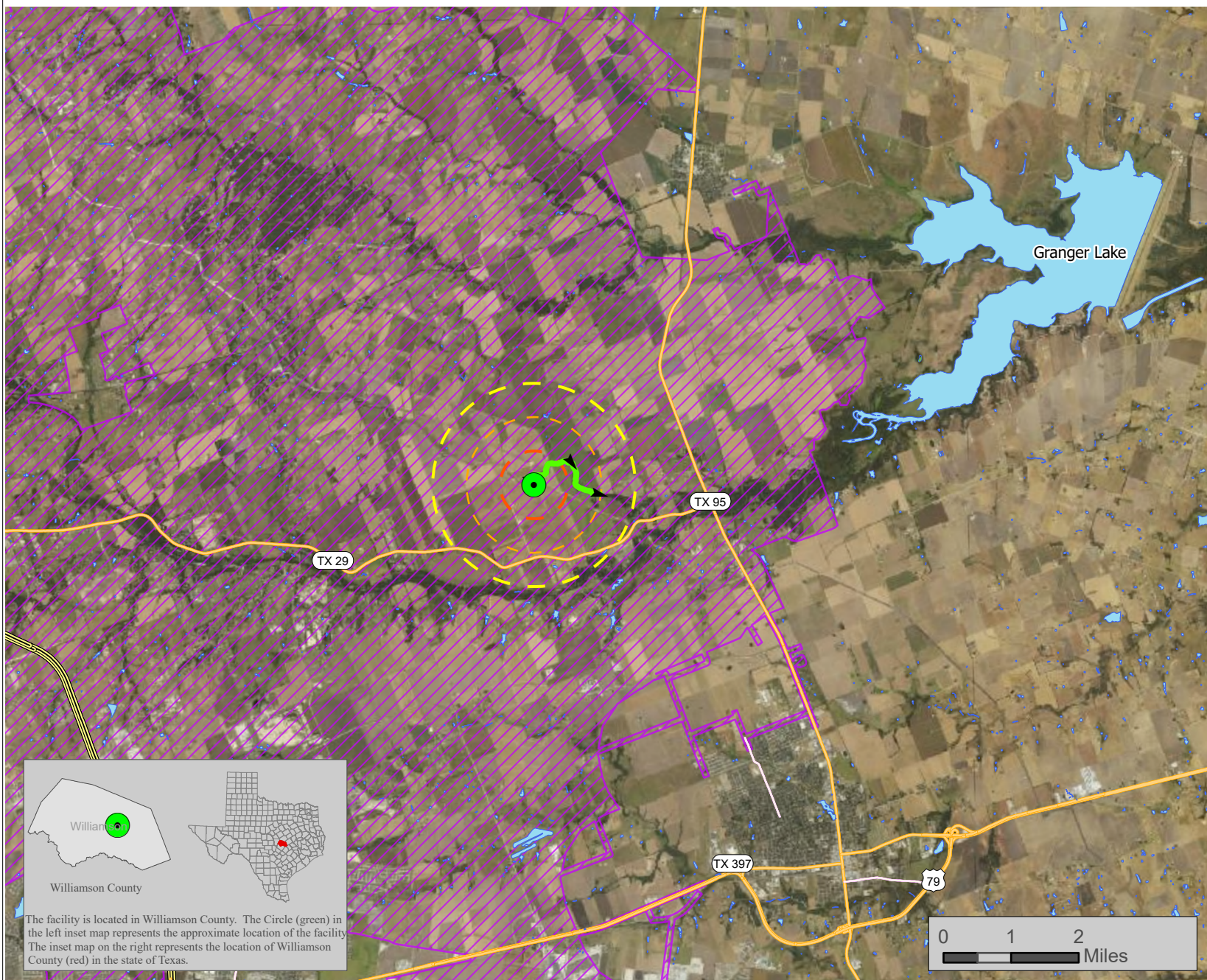
Attachment A

Terrell Timmermann Farms, LP TPDES Permit No. WQ0016229001

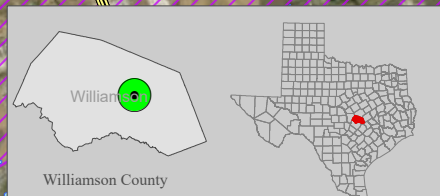


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Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 8/15/2025
CRF 0104691
Cartographer: JBartlin



- Facility
- 0.5 Mile Radius
- 1.0 Mile Radius
- 1.5 Mile Radius
- 1.5 Mile Discharge Route
- Jonah Water SUD



The facility is located in Williamson 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 Williamson County (red) in the state of Texas.

Source: This map was requested by the Office of Legal Services (OLS) and is based on information provided in the application and hearing requests. The applicant provided site location information and the hearing requestors provided physical addresses. The map is a visual representation and approximation.

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.

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