

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Tuesday, May 9, 2023 8:40 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016229001
Attachments: 2023.05.08 Comment Letter and Hearing Request FINAL.pdf

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From: katy@carltonlawaustin.com <katy@carltonlawaustin.com>
Sent: Monday, May 8, 2023 4:05 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016229001

REGULATED ENTY NAME KELLY FARM WWTP

RN NUMBER: RN111579082

PERMIT NUMBER: WQ0016229001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: TERRELL TIMMERMAN FARM LP

CN NUMBER: CN606063709

NAME: Erin R. Selvera

EMAIL: katy@carltonlawaustin.com

COMPANY: The Carlton Law Firm, P.L.L.C.

ADDRESS: 4301 WESTBANK DR Suite B-130
AUSTIN TX 78746-6568

PHONE: 5126140901

FAX: 5129002855

COMMENTS: This office represents Jonah Water Special Utility District, and I am writing on its behalf to provide comments and request a contested case hearing.

The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Phone: (512) 614-0901
Facsimile: (512) 900-2855

Erin Selvera
Erin@carltonlawaustin.com

May 8, 2023

VIA e-file to: www14.tceq.texas.gov/epic/eComment/

Ms. Laurie Gharis, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Jonah Water Special Utility District's Comments on Terrell Timmermann Farms LP's Application for a proposed Texas Pollutant Discharge Elimination System, Permit No. WQ0016229001, to Authorize a Domestic Wastewater Treatment Facility and the Discharge of Treated Domestic Wastewater in Williamson County, Texas.

Dear Ms. Gharis:

On behalf of Jonah Water Special Utility District ("Jonah"), please accept this letter as Jonah's request for a contested case hearing and comments in opposition to the above-referenced permit application submitted by Terrell Timmermann Farms LP ("Application"). Jonah further requests to be placed on the permanent mailing list to receive all future public notices on this Application. This Application's combined Notice of Receipt and Intent and Notice of Preliminary Decision (the "Notice") was filed on March 30, 2023. This hearing request with comments is timely filed.

Jonah is a special utility district, a political subdivision of the State of Texas operating under Texas Water Code Chapter 65 and the holder of water Certificate of Convenience and Necessity ("CCN") No. 10970, in Williamson County, Texas. Jonah provides service for approximately 9,000 customers and 30,000 people in its service area.

The Notice indicates that Applicant intends to discharge its wastewater into Pecan Branch, thence to San Gabriel/North Fork San Gabriel River in segment No. 1248 of the Brazos River Basin. Jonah provides to its customers water obtained from surface water and wells, including water from Lake Granger, which is fed by the San Gabriel River. Jonah is concerned about increases in algal growth and blooms, and other unsanitary or unsafe water quality conditions in these creek beds, tributaries, Pecan Branch, and the San Gabriel River.

The proposed facility is located entirely within Jonah's district boundary and water CCN territory as reflected in the enclosed map, and will have a negative impact on the local community within Jonah. Jonah has a substantial interest in maintaining its service areas and protecting the investments that Jonah has made in its infrastructure, and the quality of water sources used to serve its customers, all of which may be adversely affected by the outcome of this Application.

Moreover, Jonah has not consented to Terrell Timmermann Farms LP's ("Applicant's") provision of sewer service within Jonah's district boundary. Retail public utilities like Applicant are legally barred from providing utility service within the jurisdictional boundaries of other retail public utilities (e.g., Jonah), absent their consent under Texas Water Code § 13.244(c) and 16 TAC § 24. 225(c). Jonah has not and will not provide this consent.

Finally, Jonah believes the proposed facility does not comply with TCEQ's regionalization policy and disputes that Applicant has demonstrated that obtaining wastewater service from Jonah would be cost prohibitive. The TCEQ has adopted a policy of regionalization as a means to safeguard water quality in the state. Texas Water Code ("TWC") § 26.081 provides that the Commission should "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 water in the state."¹ Similarly, TWC § 26.0282 allows the Commission, when considering the issuance of a wastewater permit, to deny a proposed permit based on consideration of need, including "the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems"²

Jonah is willing and able to provide wastewater service to Applicant for future residential customers within the proposed service area and pursuant to Jonah's tariff. Nothing in the Notice indicates that Applicant requested wastewater service from Jonah, nor that Jonah is unable or unwilling to provide such service. Jonah believes the permit application is insufficient for that reason.

Thank you for your attention to this matter. Please contact me at (512) 614-0901 or erin@carltonlawaustin.com if you have any questions regarding this hearing request.

Sincerely,

THE CARLTON LAW FIRM, P.L.L.C.



Erin Selvera
Attorney for Jonah Water Special Utility
District

Enclosure: Map of Jonah's CCN and District boundaries, and approximate location of proposed facility as identified in Notice.

cc: Bill Brown, General Manager, Jonah Water Special Utility District.

¹ TWC § 26.081.

² TWC § 26.0282.

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From: katy@carltonlawaustin.com <katy@carltonlawaustin.com>
Sent: Monday, May 8, 2023 4:16 PM
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Subject: Public comment on Permit Number WQ0016229001

REGULATED ENTY NAME KELLY FARM WWTP

RN NUMBER: RN111579082

PERMIT NUMBER: WQ0016229001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: TERRELL TIMMERMAN FARM LP

CN NUMBER: CN606063709

NAME: Erin R. Selvera

EMAIL: katy@carltonlawaustin.com

COMPANY: The Carlton Law Firm, P.L.L.C.

ADDRESS: 4301 WESTBANK DR Suite B-130
AUSTIN TX 78746-6568

PHONE: 5126140901

FAX: 5129002855

COMMENTS: This office represents Jonah Water Special Utility District; attached please find comments and a request a contested case hearing submitted on its behalf, which also includes a District map.

The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Phone: (512) 614-0901
Facsimile: (512) 900-2855

Erin Selvera
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Dear Ms. Gharis:

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Page 2

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Sincerely,

THE CARLTON LAW FIRM, P.L.L.C.



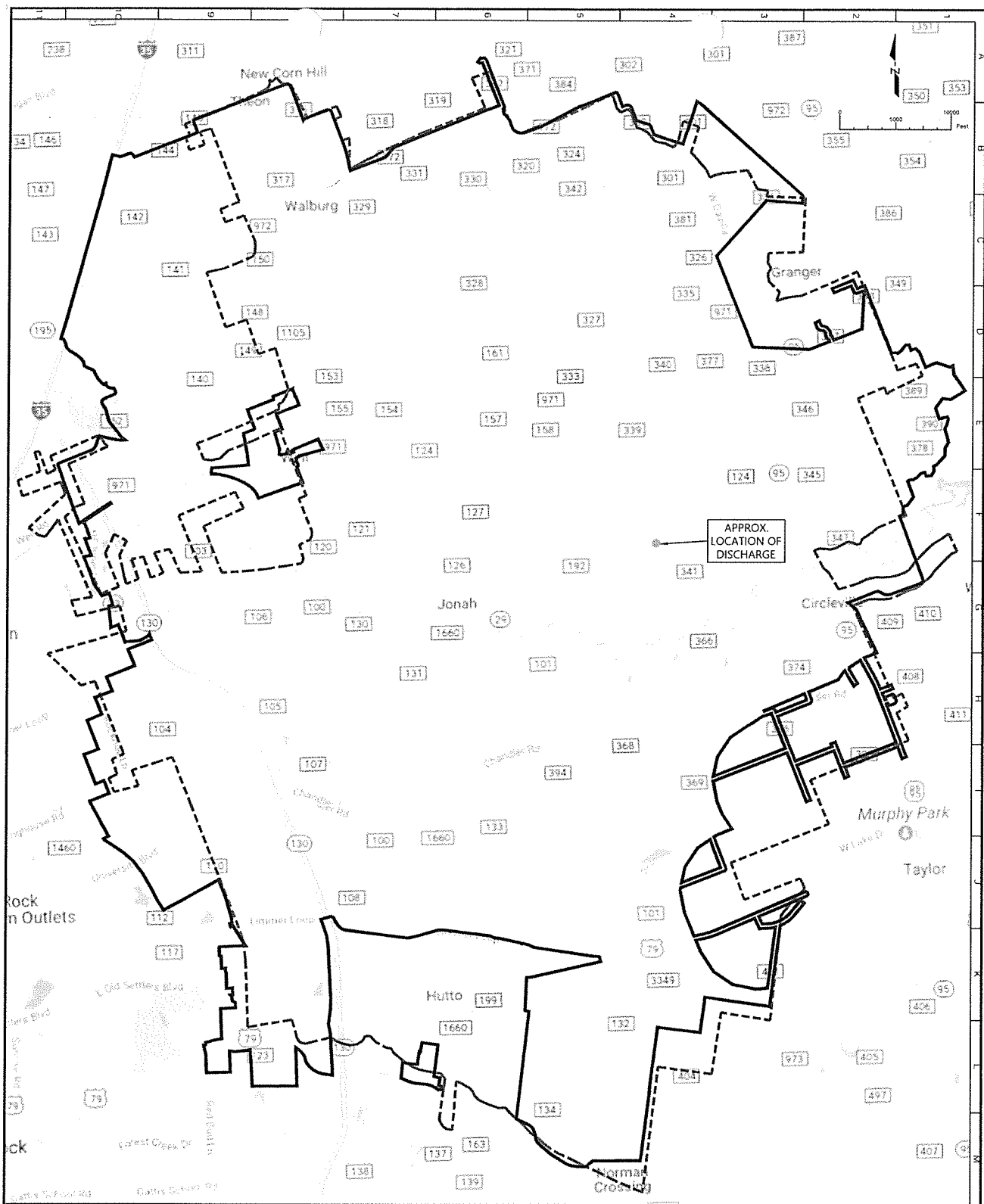
Erin Selvera
Attorney for Jonah Water Special Utility
District

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cc: Bill Brown, General Manager, Jonah Water Special Utility District.

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² TWC § 26.0282.

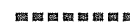


NOTES

- INFORMATION USED TO CREATE JONAH'S CCN BOUNDARY WAS ACQUIRED FROM THE PUBLIC UTILITY COMMISSION OF TEXAS' (P.U.C.) WEBSITE ON APRIL 6, 2022
- INFORMATION USED TO CREATE JONAH'S S.U.D. BOUNDARY WAS ACQUIRED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY'S (T.C.E.Q.) WEBSITE ON APRIL 7, 2022
- LINE LOCATIONS ARE FOR REPRESENTATION ONLY, CONTACT APPLICABLE UTILITY PROVIDER FOR FIELD LOCATIONS
- THIS PRODUCT IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT AN ON-THE-GROUND SURVEY AND REPRESENTS ONLY THE APPROXIMATE RELATIVE LOCATION OF THE INFRASTRUCTURE
- JONAH WATER S.U.D. NOR ITS REPRESENTATIVES SHALL BE LIABLE TO ANY PERSON OR ENTITY WITH RESPECT TO ANY LIABILITY, LOSS, OR DAMAGE CAUSES OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY BY USE OF THIS MAP.



JONAH CCN
(AREA: 112,167 ACRES OR
175.26 SQUARE MILES)



JONAH S.U.D.
(AREA: 108,363 ACRES OR
169,317 SQUARE MILES)



TERRELL TIMMERMAN FARM, LP
(DERIVED FROM INFORMATION FROM
PROPOSED PERMIT NO. WQ0016229001)