

TCEQ DOCKET NO. 2025-1059-MWD

TPDES PERMIT NO. WQ0016229001

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

**JONAH WATER SPECIAL UTILITY DISTRICT’S REPLY TO THE EXECUTIVE
DIRECTOR’S AND THE OFFICE OF PUBLIC INTEREST COUNSEL’S RESPONSES
TO HEARING REQUEST**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

COMES NOW, Jonah Water Special Utility District (“Jonah” or the “District”) and files
this its Reply to the Executive Director’s (“ED”) and the Office of Public Interest Counsel’s
 (“OPIC”) Responses to Hearing Request and, in support thereof, would respectfully show the
following:

I. INTRODUCTION

The District filed a timely request for contested case hearing and public comments with the Texas
Commission on Environmental Quality (“TCEQ”) on May 8, 2023. On March 21, 2024, the ED
filed its final decision letter along with responses to the public comments. The ED and OPIC each
filed responses to hearing requests on August 15, 2025. The District must file its reply to the ED’s
and OPIC’s responses at least nine days before the meeting. The meeting is scheduled for
September 24, 2025, so the deadline for the District to file its reply is September 15, 2025.
Therefore, this reply is timely. The District agrees with the conclusion reached by OPIC regarding
the District’s status as an affected person under applicable TCEQ rules and the list of issues
identified for consideration as a contested case. The District disagrees with the ED’s response
in its entirety.

II. REPLY TO OFFICE OF PUBLIC INTEREST COUNSEL

A. Affected Person Status

Jonah agrees with OPIC's conclusions that Jonah is an affected person under 30 Texas Admin. Code ("TAC") § 55.203.

B. Disputed Issues In OPIC's Response

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; and

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to the State Office of Administrative Hearings ("SOAH") for a contested case hearing under 30 TAC § 50.115(c).

2. Whether the application and draft permit comply with TCEQ's regionalization policy.

Jonah agrees with OPIC's conclusion that this is a disputed issue of fact, raised during the comment period and not withdrawn, is relevant and material to the decision on the application, and is thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

III. REPLY TO EXECUTIVE DIRECTOR

Jonah disagrees with the ED's conclusion in its entirety for two reasons. First, the ED's response fails to analyze the statutory elements for determining whether Jonah is an affected person pursuant to 30 TAC § 55.203. Second, the ED's response misconstrues both fact and law with regards to the concerns raised by Jonah.

A. Affected Person Status

The ED's concludes, "*the District has not established that it is an affected person based on the factors specified under 30 TAC § 55.203(c).*"¹ However, the ED's conclusion is not substantiated

¹ Executive Director's Response to Hearing Request at page 6.

by an analysis of the factors specified under 30 TAC § 55.203(c) by citing actual facts about the District. The ED's response reiterates that the District requested a hearing based on concerns that the proposed facility's discharge would degrade the water quality downstream; that the draft permit does not comply with TCEQ's regionalization policy; and that the Jonah has not consented to the Applicant providing utility services within the District's CCN boundaries, but fails to justify why the District as an affected person.²

Below is the District's analysis establishing Jonah is an affected person in accordance with TCEQ Rules. The concerns raised by the District demonstrate it is an affected person because of the substantial interest such as Jonah's obligation to protect the quality of water sources used to serve its customers, and Jonah's right to determine who provides service within its District boundaries.

To grant a Contest Case Hearing the request must demonstrate that all applicable legal requirements are satisfied, as such this request contains the following:

- Name: Jonah Water Special Utility District c/o The Carlton Law Firm, John Carlton, General Counsel
- Address: 4301 Westbank Drive, Suite B-130, Austin, Texas 78746
- Daytime Phone Number: (512) 614-0901
- Fax Number: (512) 900-2855
- Name of Applicant: Terrell Timmermann Farms, LP
- Permit Number: WQ0016229001
- **"I request a contested case hearing."**

Commission Rule 55.203 lists the criteria the Commission must evaluate when determining whether to grant a Request for Contested Case Hearing.³

To grant a contested case hearing, the commission must determine, pursuant to 30 TAC § 55.203, that a requestor is an affected person based on the following criteria:

- (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 public does not qualify as a personal justiciable interest.*
- (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.*

² *Id.*

³ 30 TAC § 55.203.

- (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; and*
 - (6) *whether the requester timely submitted comments on the application which were not withdrawn; and*
 - (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*
- (d) *In making this determination, the commission may also consider, to the extent consistent with case law:*
- (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.*
- (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.*

The Contested Case Hearing and Public Comments was timely filed on May 3, 2023, prior to the end of the comment period, by Ms. Erin Selvera.⁴

Jonah is a special utility district, a political subdivision of the State of Texas operating under Texas Water Code (“TWC”) Chapter 65 with the authority under state law over issues raised by the Application, as the holder of water CCN No. 10970, in Williamson County, Texas.⁵ 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.⁶ The health and safety of Jonah’s 13,500 customers and 35,000 people within its service area directly impacted by Jonah’s ability provide fresh, clean, potable water meeting all of

⁴ 30 TAC § 55.203(c)(6).

⁵ 30 TAC § 55.203(b).

⁶ 30 TAC § 55.203(a).

the state and federal water quality standards.⁷ One of the likely impacted natural resources, Lake Granger, is the source of raw water Jonah uses to serve its customers. Lake Granger is fed by the San Gabriel River, one of the tributaries that will receive effluent from the proposed facility.⁸ Jonah's concern about algae blooms and concerns that the proposed facility's discharge will degrade the water quality downstream is directly tied to its obligation to provide fresh, clean, potable water to its customers. Therefore, Jonah has a substantial interest in the quality of source waters within its boundaries that are not common to the general public. As such Jonah qualifies as an affected person under 30 TAC § 55.203.

Jonah's interest in providing services within its CCN and special district boundaries is an interest protected by the Texas Water Code under which the Application will be considered.⁹ Jonah's authority to provide services within its water CCN and special district boundaries is prescribed by law¹⁰, and as such evidences a reasonable relationship the District's interest in providing water services and the activity being regulated.¹¹ The proposed facility is the middle of the District's Water Certificate of Convenience and Necessity ("CCN") territory and Wastewater Mater Pan Study Area (see **Exhibit A**) and if the permit is approved, effluent will flow through Jonah's district boundaries.¹² Jonah's concerns about failure to secure consent to serve within a special district and regionalization requirements directly tie to its right to determine who provides utility services within its district boundaries. Therefore, Jonah has a substantial interest in regionalization that is not common to the general public. As such Jonah qualifies as an affected person under 30 TAC § 55.203.

Jonah has demonstrated based on the criteria above that it is an affected person, with an interest not common to members of the public, that the permit effects issues over which Jonah has legal authority, and Jonah has a substantial interest in issues relevant to the application. The ED's concludes, "*the District has not established that it is an affected person*"¹³, but the ED failed provide any analysis based on the factors specified under 30 TAC § 55.203(c) to justify its

⁷ 30 TAC § 55.203(c)(4).

⁸ 30 TAC § 55.203(c)(5).

⁹ 30 TAC § 55.203(c)(1).

¹⁰ 30 TAC § 55.203(c)(2).

¹¹ 30 TAC § 55.203(c)(3).

¹² 30 TAC § 55.203(a); 30 TAC § 55.203(c)(7).

¹³ Executive Director's Response to Hearing Request at page 6.

conclusion. In contrast OPIC's conclusion that Jonah qualifies as an affected person¹⁴ justified based on the factors under 30 TAC § 55.203(c).

B. Issues Raised in the Hearing Request

The ED's response not only fails to provide a substantive analysis regarding Jonah's status as an affected person but misconstrues facts and law with regards to the concerns raised by the District. The District raises concerns about the proposed facility's discharge degrading the water quality of source waters, that the draft permit does not comply with TCEQ's regionalization policy, and that Jonah has not consented to the Applicant providing services within the District's boundaries.

The ED's states, "*according to the hearing request, the proposed facility is located entirely within the boundaries of the District's CCN.*"¹⁵ This is a misrepresentation of fact, as the District's hearing request actually states, "***the proposed facility is located entirely within Jonah's district boundary and water CCN territory***"¹⁶, as shown in **Exhibit A**.

The ED's proceeds to use this misconstrued fact in connection with Jonah's statutory and regulatory authority as a utility provider under TWC § 13.244(c) and 16 TAC § 24.225(c), in which the ED's states, "*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.*"¹⁷

First, regarding the District's authority under TWC § 13.244(c) and 16 TAC § 24.225(c), in which the ED incorrectly states are not relevant to the TCEQ's consideration of this application, the ED uses a misconstrued fact to draw an incorrect conclusion about the applicability of 30 TAC § 55.203(c)(7). The ED appears to conclude the District's statutory and regulatory authority under TWC § 13.244(c) and 16 TAC § 24.225(c) are irrelevant to considering the District's status as an affected person because "*these statutes and rules are not relevant to the TCEQ's consideration of*

¹⁴ Office of Public Interest Counsel's Response to Request for Hearing at page 6.

¹⁵ Executive Director's Response to Hearing Request at page 5.

¹⁶ 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 at page 1.

¹⁷ Executive Director's Response to Hearing Request at page 6.

a TPDES application.”¹⁸ The District disagrees with the ED’s conclusion that TWC § 13.244(c) and 16 TAC § 24.225(c) are only relevant in the context of Jonah’s right to provide exclusive retail service as a CCN holder and thus irrelevant to the consideration of TPDES applications. The District argues that TWC § 13.244(c) requires that “[e]ach applicant for a certificate or for an amendment shall file with the utility commission evidence required by the utility commission to show that the applicant has received the required consent, franchise, or permit of the proper municipality or other public authority.” The ED fails to consider Jonah as the “other public authority” under this the statute. While the requirement in 13.244(c) is applicable to the Public Utility Commission (“PUC”), the TCEQ has woven the statutory requirements regarding CCNs and consent into its wastewater permit application and cannot absolve itself of the obligation to analyze and enforce this requirement simply because Jonah is not a municipality but is an “other public authority” as described in statute.

Second, regarding the District’s authority under TWC § 13.244(c) and 16 TAC § 24.225(c), in which the ED incorrectly states these “do not provide the District the authority to regulate water quality in its CCN.”¹⁹ The ED is conflating the rights under TWC § 13.244(c) and 16 TAC § 24.225(c) with the District’s obligation to protect water quality in connection with providing water services and Jonah’s status as an affected person under 30 TAC § 55.203. At no point does the District assert any authority to regulate water quality. This is another instance of the ED misconstruing fact. The District did assert in its hearing request that “*Jonah has a substantial interest in maintaining its services area and protecting the investments that Jonah has made in its infrastructure, and the quality of water sources to serve its customer.*”²⁰

Lastly, with regarding the concern that Jonah has not consented to the Applicant providing services within the District’s boundaries, the ED misconstrues facts by referring the “*District’s CCN boundaries*” when the District’s hearing request state, “*Jonah has not consented to Terrell Timmermann Farms, LP’s provision of sewer service within Jonah’s district boundary.*”²¹

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 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 at page 1.

²¹ *Id.* at page 2.

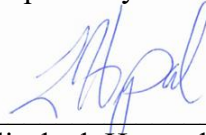
Jonah is a special utility district, a political subdivision of the State of Texas operating under TWC Chapter 65, and thus has all of the rights, powers, privileges, authority and functions conferred by, and shall be subject to all duties imposed by, the rules and regulations of the TCEQ and the general laws of the State of Texas relating to special utility districts. This includes the power to provide wastewater service throughout its services area. Jonah, as a special utility district, is akin to a municipality for purposes of providing water and wastewater service within its legal boundaries. Like municipalities, Jonah has the authority to provide water and wastewater service to its customers without a CCN and thus the Commission should evaluate the Application in terms of consent as if Jonah were a municipality, requiring documentation of consent, justification for the proposed facility, and where appropriate, a cost analysis of expenditures that includes the cost of connecting to the district versus the proposed facility or expansion. Without Jonah's consent, the Applicant will be legally barred from providing service within its district boundaries. The Executive Director has failed to properly apply this standard.

IV. CONCLUSION AND PRAYER

Jonah submitted timely comments and a timely hearing request and has not withdrawn any comments making Jonah's pending hearing request valid. Given the proximity of the proposed facility to Jonah's water CCN territory, its district boundaries, and its wastewater master plan study area, the probable impact of this proposed facility on water quality and water bodies used by Jonah in its provision of water service, and the State's policy regarding regionalization, Jonah has demonstrated that it is an affected person under TCEQ rules and that the addressed issues in this response are issues involving disputed questions of fact or disputed questions of mixed fact and law, were raised during the comment period and were not withdrawn, are relevant and material to the decision on the application, and are thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

WHEREFORE, PREMISES CONSIDERED, Jonah Water Special Utility District hereby prays that the Texas Commission on Environmental Quality grants the District's hearing request, determine the District is an affected person, determine that all issues involve disputed questions of fact or disputed questions of mixed fact and law, were raised during the comment period and were not withdrawn, are relevant and material to the decision on the application, and are thus appropriate to refer to SOAH for a contested case hearing under 30 TAC § 50.115(c).

Respectfully submitted,



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**ATTORNEYS FOR JONAH WATER SPECIAL
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CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document on all parties of record on this 15th day of September 2025, as follows:

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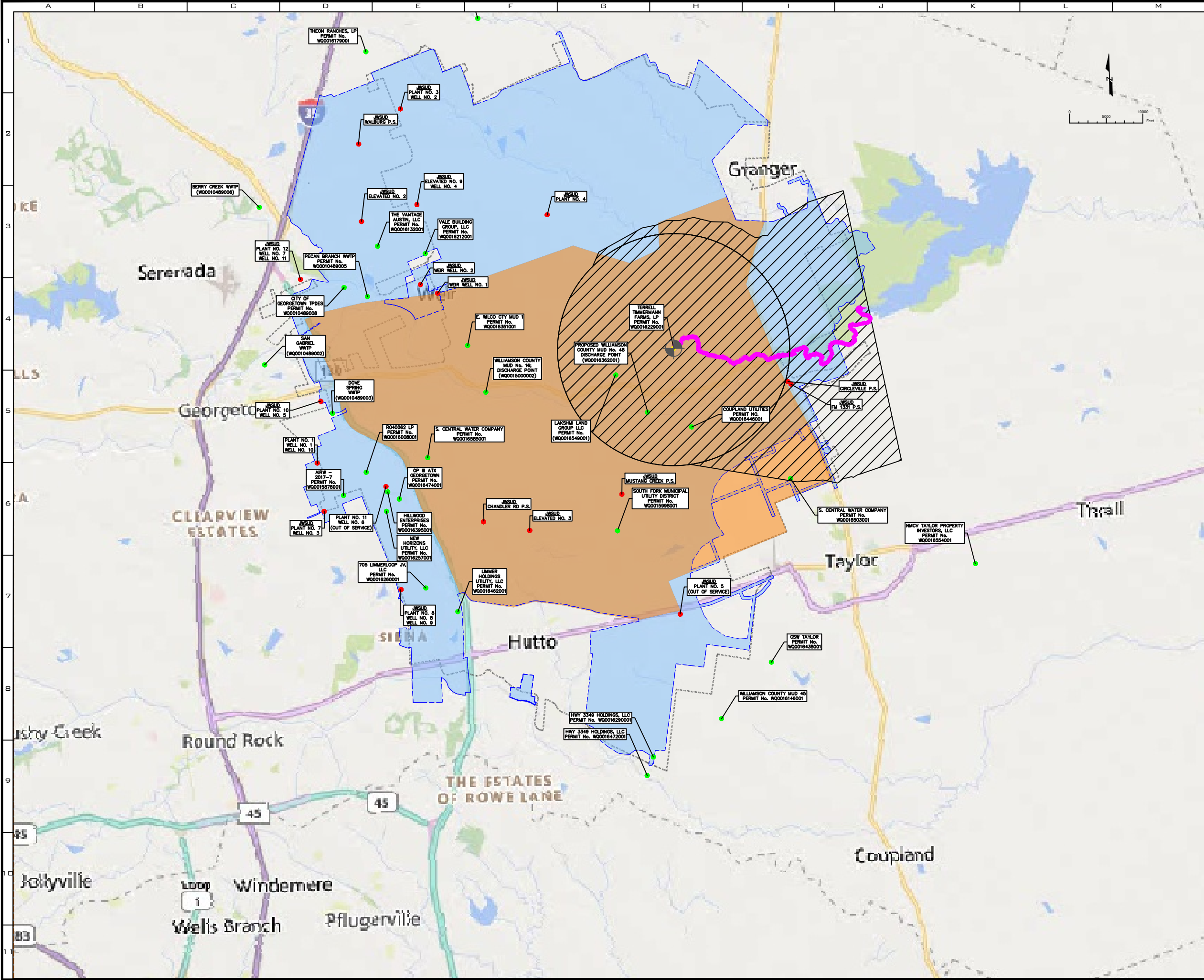
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Via Electronic Filing with TCEQ



Elizabeth Humpal

Exhibit A



JONAH CCN:
(AREA: 110,766.04 ACRES
OR 173.07 SQUARE MILES)

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

EXISTING JONAH S.U.D.
PLANTS

PROPOSED
TERREL TIMMERMANN
FARMS, LP
WWTP SITE

PROPOSED ROUTE
(DISTANCE: 8.52 MILES)

AREA WITHIN 3 MILES OF
PROPOSED WWTP &
ROUTE

JWSUD WASTE WATER
MASTER PLAN STUDY
AREA

APPROVED WWTP
PERMITS

PENDING WWTP
PERMITS

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.

DESIGN: MWW

DRAWN: JMS

CKD: MWW

SEAL:

APPROVED:

DATE:
09/15/2025

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