

Brooke T. Paup, *Chairwoman*
Catarina R. Gonzales, *Commissioner*
Tonya R. Miller, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 27, 2025

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

Re: Application For Northwest Williamson County MUD No. 3;
TCEQ Docket No. 2025-1188-DIS

Dear Ms. Gharis:

I have enclosed for filing the "Executive Director's Response to a Hearing Request."
Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kayla Murray".

Kayla Murray Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TCEQ DOCKET NO. 2025-1188-DIS

APPLICATION FOR THE CREATION OF NORTHWEST WILLIAMSON COUNTY MUNICIPAL UTILITY DISTRICT NO. 3	§ § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
---	----------------------------	---

EXECUTIVE DIRECTOR’S RESPONSE TO A HEARING REQUEST

INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality (“TCEQ” or “Commission”) files this Response to a Hearing Request on the Petition by Florence FM 970 Ventures, LLC (“Petitioner”) for the creation of Northwest Williamson County Municipal Utility District No. 3 (“District”).

The Petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, JLE Investments, LP, which has consented to the petition; (3) the proposed District will contain approximately 161.67 acres located within Williamson County, Texas, west of State Highway (SH) 195 and south of Farm-to-Market Road (FM) 970 and approximately one mile southwest of the City of Florence; and (4) the land is partially within the extraterritorial jurisdiction of the City of Florence and within unincorporated Williamson County.

The Petition further states that the general nature of the proposed work to be done by the District is: (1) the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system for residential and commercial purposes; (2) the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, all as more particularly described in an engineer's report filed simultaneously with the filing of this petition, to which reference is hereby made for more detailed description; and (3) such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, park and recreational facilities, systems, plants and enterprises as shall be consistent with all of the purposes for which the District is created.

The Petition goes on to state that the District’s area will be developed for residential and commercial purposes, and there is not currently adequate water and sewer facilities and services, drainage facilities, park and recreation facilities, or road facilities.

Included with the ED’s Response to a Hearing Request is a map of the proposed District.

PROCEDURAL HISTORY

The Petitioner filed an application for the creation of the District on March 28, 2025, and the application was declared administratively complete on April 7, 2025.

The Petitioner published a Notice of District Petition in the *Williamson County Sun*, a newspaper generally circulated in Williamson County, where the district is proposed to be located, on June 1, 2025, and June 8, 2025. On June 4, 2025, proper notice of the application was posted at the place for posting legal notices at the Williamson County Courthouse. The TCEQ received one letter on July 1, 2025, opposing the creation of the district. The period to request a contested case hearing ended on July 8, 2025.

The Office of the Chief Clerk sent notice of the agenda setting for the Commission's consideration of the hearing request on November 19, 2025.

CREATION OF MUNICIPAL UTILITY DISTRICTS

District Purpose

A municipal utility district (MUD) may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution. Tex. Water Code § 54.011. The District in this case is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code.

A MUD may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

Tex. Water Code § 54.012. The Commission has jurisdiction to hear this case and create the District. Tex. Water Code § 54.014.

Required Findings

The Commission must grant or deny a MUD creation application in accordance with Tex. Water Code § 54.021. In order to grant an application, the Commission must find

that organization of the district as requested is feasible and practicable and is necessary and would be a benefit to the land to be included in the district. Tex. Water Code § 54.021(a); 30 Tex. Admin. Code § 293.13(b)(1). If the Commission fails to make these findings, it shall refuse to grant the petition. Tex. Water Code § 54.021(d); 30 Tex. Admin. Code § 293.13(a).

In determining if a project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the Commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;
 - (D) recharge capability of a groundwater source;
 - (E) natural run-off rates and drainage;
 - (F) water quality; and
 - (G) total tax assessments on all land located within a district.

Tex. Water Code § 54.021(b).

The Commission, however, must exclude the areas that it finds would not be benefited by the creation of the district and must redefine the boundaries of the proposed district according to its findings. 30 Tex. Admin. Code § 293.13(b)(2); Tex. Water Code § 54.021(c).

If the commission issues an order approving the petition for a district creation, the district may undertake a road project if the municipality or county with platting jurisdiction has approved the plans and specifications of the road project, or if the Texas Transportation Commission has approved the plans and specifications of the road project, if the state is to operate and maintain the road. Tex. Water Code § 54.234(d).

City Consent

TCEQ regulations require all district creation applications to contain “a certified copy of the action of the governing body of any municipality in whose extraterritorial jurisdiction the proposed district is located, consenting to the creation of the proposed district, under Local Government Code, § 42.042.” 30 TEX. ADMIN. CODE § 293.11(a)(2). Commission Rules further state that “[i]f the governing body of any such municipality fails or refuses to grant consent, the petitioners must show that the provisions of Local Government Code, § 42.042, have been followed.” *Id.*

MUDs are also subject to the city consent requirements of TEX. WATER CODE § 54.016, which states that “[n]o land within the corporate limits of a city or within the

extraterritorial jurisdiction of a city, shall be included in a district unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district in accordance with Section 42.042, Local Government Code, and this section.” TEX. WATER CODE 54.016(a); LOC. GOVT. CODE § 42.042(a). If the city fails or refuses to give consent within 90 days after receipt of a written request, the land owners in the area “may petition the governing body of the city and request the city to make available to the land the water or sanitary sewer service contemplated to be provided by the district.” TEX. WATER CODE § 54.016(b); LOC. GOVT. CODE, § 42.042(b). If the landowners and the city then fail to execute a “mutually agreeable contract” for the provisions of the requested services within 120 days after receipt of the petition, “the failure shall constitute authorization for the inclusion of the land in the district under the provisions of this section.” TEX. WATER CODE § 54.016(c); LOC. GOVT. CODE § 42.042(c). The Texas Water Code goes on to state that: If the city fails or refuses to grant permission for the inclusion of land in a district or to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within the time limits contained within Subsection (b) or (c) of this section, the applicant may petition the commission for creation of the district or inclusion of the land in a district. The commission shall allow creation or inclusion of the land in a proposed district upon a finding that the city either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment shall provide that construction of the facilities necessary to serve the land shall be commenced within two years and shall be substantially complete within four and one-half years from the date the petition was filed with the city.

TEX. WATER CODE § 54.016(d).¹

THE EVALUATION PROCESS FOR HEARING REQUESTS

As the application was declared administratively complete after September 1, 1999, it is subject to the requirements of Title 30, Chapter 55, Subchapter G, Sections 55.250-55.256 of the Texas Administrative Code. The Commission, the Executive Director, the applicant or affected persons may request a contested case hearing on this application. *30 Tex. Admin. Code § 55.251(a)*. The Commission must evaluate the hearing requests and may take one of the following actions:

- (1) determine that the hearing requests do not meet the rule requirements and act on the application;
- (2) determine that the hearing requests do not meet the rule requirements and refer the application to a public meeting to develop public comment before acting on the application;
- (3) determine that the hearing requests meet the rule requirements and refer the application to the State Office of Administrative Hearings (“SOAH”) for a hearing; or
- (4) refer the hearing requests to SOAH for a hearing on whether the hearing requests meet the rule requirements.

¹ The City of Florence consented to the creation of the proposed District via Resolution No. 2025-04.

30 Tex. Admin. Code § 55.255(a). The regulations provide that a hearing request made by an affected person must be in writing and must be filed with the Office of the Chief Clerk within the time provided in the Notice Of District Petition. *30 Tex. Admin. Code § 55.251(b) and (d)*. These two requirements are mandatory. The affected person's hearing request must also substantially comply with the following:

- (1) give the name, address, and daytime telephone 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 activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.

30 Tex. Admin. Code § 55.251(c). An affected person's personal justiciable interest must be related to a legal right, duty, privilege, power, or economic interest affected by the application belonging to the requestor and not an interest common to members of the general public. *30 Tex. Admin. Code § 55.256(a)*. The regulations give the Commission flexibility to determine affected person status by considering any relevant factor, including 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) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 Tex. Admin. Code § 55.256(c). Government entities, including local governments, may be affected persons if they have authority under state law over issues contemplated by the application. *30 Tex. Admin. Code § 55.256(b)*.

THE HEARING REQUEST AND ANALYSIS

Williamson County, through its representative Steven Snell, submitted a timely request which contained the name, address, and phone number of the person filing the request pursuant to 30 TAC § 55.251(c)(1). According to the petition, the proposed District will be located within Williamson County. Williamson County requested a contested case

hearing pursuant to 30 TAC § 55.251(c)(3) and included the internal control number in its request, as required in the notice pursuant to 30 TAC § 55.251(c)(4).

In its request, Williamson County discussed its statutory authority over road construction in subdivisions,² order and rulemaking authority over roads,³ authority over the fire code in unincorporated areas,⁴ authority over infrastructure planning,⁵ authority over building and setback lines,⁶ authority over emergency management,⁷ general control over roads, highways, and bridges,⁸ and authority over drainage on public roads.⁹

Under both 30 TAC §§ 55.256(b) & (c)(6), governmental entities with authority over issues relevant to the application may be considered affected persons.¹⁰ Thus, in order for a governmental entity to be an affected person, that entity's statutory authority must be relevant to at least one of the issues the Commission may consider as part of the review of the application.

In this instance, the County cites to its general powers under the Transportation Code and Local Government Code to regulate roads, drainage, and public infrastructure as the basis for its interest in the application. Notably, the County has made four nearly identical requests for other MUD applications within the county over the past calendar year. The frequency of these requests, their similarity, and concerns expressed at past agendas and briefings about the use of hearing requests for delay have made the Executive Director take a fresh look at the County's request and stated interest.

In light of discussion from past agendas, a review of the County's actions on other MUD creation applications in 2025, and most importantly a close look at the instant request, the Executive Director does not believe that the County has demonstrated that it is an affected person.

Page 6 of the applicant's preliminary engineering report states:

"All streets and associated improvements will be designed in accordance with criteria established by Williamson County and TXDOT, as applicable. The roadway system will consist of public streets to be owned and maintained by the District, until such time as Williamson County requests public conveyance. Internal roadways will be generally designed and constructed to Williamson County subdivision standards."

Thus, even if the Commission were to ultimately approve the application at hand, it appears that the District would still have to comply with county platting and road regulations. Pursuant to TWC § 54.234(d)(1), if the commission issues an order approving the petition and grants road powers to the district, the district may undertake a road project if the municipality or county with platting jurisdiction has

² Tex. Local Gov't Code §§ 232.001-.011.

³ Tex. Local Gov't Code § 251.003.

⁴ Tex. Local Gov't Code, Ch. 233, Subchapter C; *see also* Tex. Local Gov't Code, Ch. 233, Subchapter E.

⁵ Tex. Local Gov't Code, Ch. 232, Subchapter E.

⁶ Tex. Local Gov't Code, Ch. 233, Subchapter B.

⁷ Tex. Local Gov't Code, Ch. 418.

⁸ Tex. Transp. Code § 251.016.

⁹ Tex. Transp. Code, Ch. 254.

¹⁰ Notably the authority in 30 TAC § 55.256(b) is permissive: "...governmental entities...with authority under state law over issues contemplated by the application **may** be considered affected persons." (emphasis added).

approved the plans and specifications of the road project. Accordingly, the approval of a MUD application does not take away the MUD's obligation to maintain the proposed roads. Nor does the MUD application or a hearing there-on provide an opportunity for litigating this obligation.

TCEQ rules provide a non-exclusive list of factors to be considered in evaluating hearing requests, including "whether the interest claimed is one protected by the law under which the application will be considered" and "whether a reasonable relationship exists between the interest claimed and the activity regulated."¹¹ These considerations are important in ensuring that contested case hearings, and the added time and effort involved, are limited to cases where a hearing will be meaningful. While the County's hearing request identifies a statutory interest, it does not sufficiently explain how the creation would affect that interest and should therefore be denied.¹² Additionally, the primary concern expressed in the County's hearing request relates to the sharing of costs between the developer and the County, and the financial impact the proposed development may have on the County. The County also mentions that the petitioner has not entered into a Consent and Development Agreement with the County. However, these issues, as well as the other issues raised by the County, are not within the scope of what TCEQ may consider pursuant to TWC § 54.021 when evaluating a MUD creation petition.

RECOMMENDATION

The Executive Director recommends that the Commission find that Williamson County is not an affected person and deny its hearing request.

Should the Commission grant the County's hearing request, the Executive Director recommends the Commission send this matter to SOAH for a contested case hearing.

¹¹ 30 TAC s. 55.256(c)(1) and (3).

¹² The Executive Director also acknowledges concerns expressed from the dais and in related briefings for other applications about the County's hearing requests being used as dilatory tactics or for negotiation leverage. While the Executive Director does not purport to know or assert the County's intent, it is notable that each of the County's prior four hearing requests for MUD creation applications were substantially the same. The County's arguments regarding their affectedness are identical to those in the hearing request considered at the May 22, 2025 agenda. The Executive Director offers this only to suggest that it could be the case that the County's concern lies less with a particular application and more with the statutory structure for MUD creation. Meanwhile, the contested case hearing process is designed for testing the compliance of a particular application to applicable regulatory and statutory requirements, rather than a structural examination of those requirements.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

Kelly Keel, Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division



Kayla Murray, Staff Attorney
Environmental Law Division
State Bar No. 24049282
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-4761
Fax (512) 239-0606

REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

MAILING LIST
NORTHWEST WILLIAMSON COUNTY MUNICIPAL UTILITY DISTRICT NO 3
DOCKET NO. 2025-1188-DIS; INTERNAL CONTROL NO. D-03282025-062

FOR THE APPLICANT

Ryan Harper
Allen Boone Humphries Robinson LLP
919 Congress Avenue, Suite 1500
Austin, Texas 78701

Daniel Ryan
LJA Engineering Inc
7500 Rialto Boulevard, Suite 100
Austin, Texas 78735

REQUESTER(S)

Steve Snell
Judge, Williamson County
710 South Main Street
Georgetown, Texas 78626

INTERESTED PERSON(S)

Adam D. Boatright
Engineer, Williamson County
3151 SE Inner Loop
Georgetown, Texas 78626

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

James Walker, Technical Staff
Texas Commission on
Environmental Quality
Water Supply Division, MC-152
P.O. Box 13087
Austin, Texas 78711

Ryan Vise, Deputy Director
Texas Commission on
Environmental Quality
External Relations Division, MC-108
P.O. Box 13087
Austin, Texas 78711

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Garrett T. Arthur, Public Interest Counsel
Texas Commission on
Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE RESOLUTION
via electronic mail:

Kyle Lucas
Texas Commission on
Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK:

Docket Clerk
Texas Commission on Environmental
Quality Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

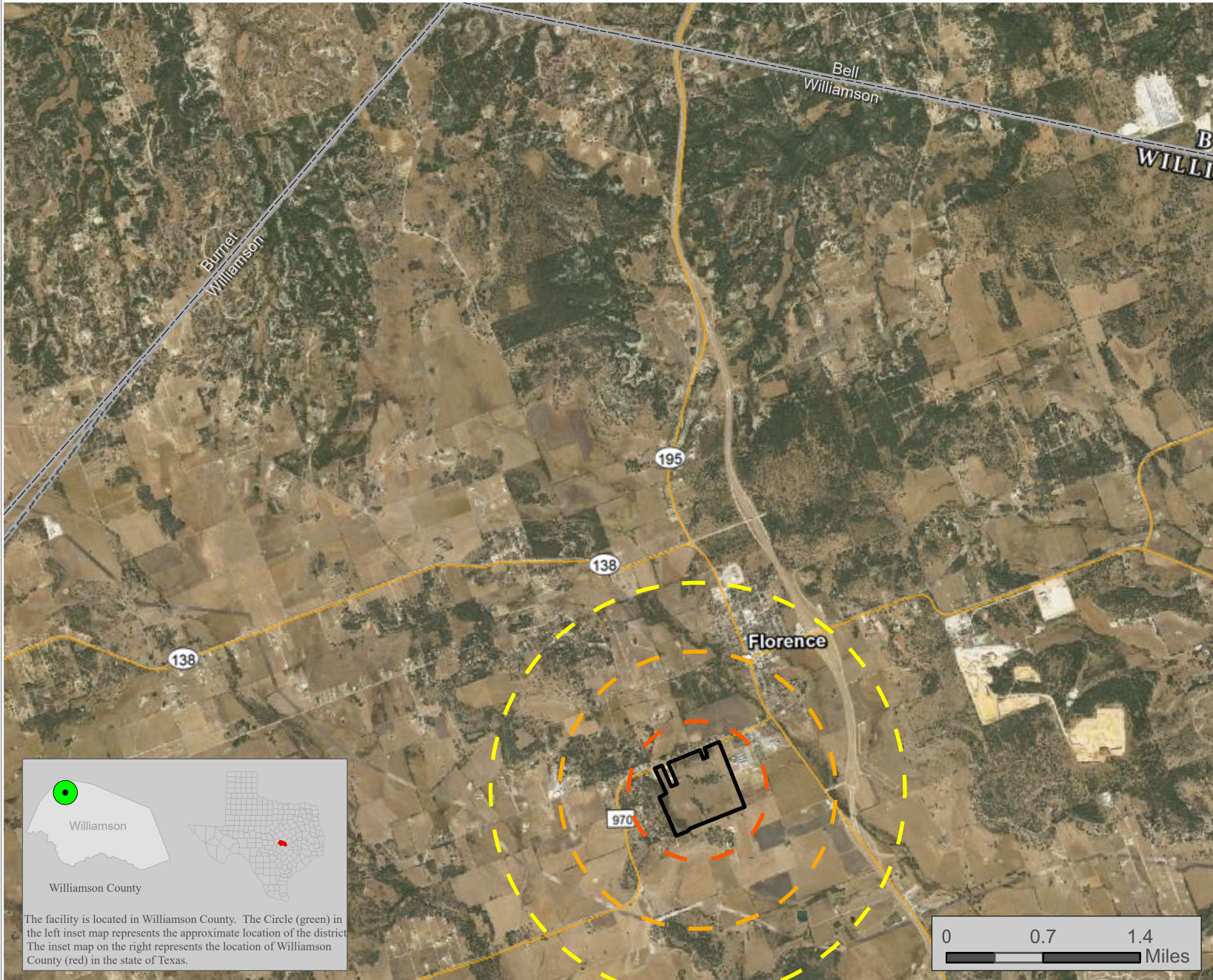
Attachment A

Proposed Northwest Williamson County MUD 3



Protecting Texas by
Reducing and
Preventing Pollution

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 10/13/2025
CRF 0130376
Cartographer: JStalsby

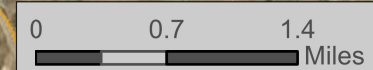


- Northwest Williamson MUD 3
- 0.5 Mile Radius
- 1.0 Mile Radius
- 1.5 Mile Radius

Requestor
Williamson County



The facility is located in Williamson County. The Circle (green) in the left inset map represents the approximate location of the district. 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 provide 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.