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

Garrett T. Arthur, Public Interest Counsel

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 27, 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 PETITION FOR CREATION OF NORTHWEST WILLIAMSON COUNTY MUNICIPAL UTILITY DISTRICT NO. 3**
TCEQ DOCKET NO. 2025-1188-DIS

Dear Ms. Gharis:

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

Sincerely,

Jessica M. Anderson

Jessica M. Anderson, Attorney
Assistant Public Interest Counsel

cc: Mailing List

DOCKET NO. 2025-1188-DIS

PETITION FOR THE CREATION OF NORTHWEST WILLIAMSON COUNTY MUNCIPAL UTILITY DISTRICT NO. 3	**§**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

OFFICE OF PUBLIC INTEREST COUNSEL'S
RESPONSE TO HEARING REQUEST

To the Members of the Texas Commission on Environmental Quality:

The Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (TCEQ or the Commission) files this Response to Hearing Request in the above-entitled matter.

I. INTRODUCTION

A. Summary of Position

The Commission received a request for a contested case hearing from Williamson County regarding the application for the creation of Northwest Williamson County Municipal Utility District No. 3 (NW WilCo MUD No. 3 or District). For the reasons discussed herein, OPIC respectfully recommends that the Commission grant the hearing request of Williamson County.

B. Background

Florence FM 970 Ventures, LLC, a Texas limited liability company (Petitioner), filed a petition for creation of Northwest Williamson County Utility District No. 3 with the TCEQ pursuant to Article XVI, Section 59 of the Texas Constitution; Chapters 49 and 54 of the Texas Water Code (TWC); Title 30 of the Texas Administrative Code (TAC), Chapter 293; and the procedural rules of the TCEQ. 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, L.P., on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 161.67 acres located within Williamson County; and (4) the land within the proposed District is within the extraterritorial jurisdiction (ETJ) of the City of Florence. By resolution No. 2025-04, passed and approved on January 7, 2025, the City of Florence gave its consent to the creation of the proposed District, pursuant to TWC § 54.016.

The petition was declared administratively complete on April 7, 2025, and the Notice of District Petition was published on June 8, 2025. According to the notice, the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend such additional facilities, including roads, park and recreational facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. The comment period ended on July 8, 2025.

II. APPLICABLE LAW

A municipal utility district may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution. Chapters 49 and 54 of the TWC and the Commission's administrative rules found at Title 30, Chapter 293, of the TAC govern petitions to create a MUD. A district shall 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.

TWC § 54.012.

To create a MUD, a petition requesting creation shall be filed with the Commission. TWC § 54.014. The petition shall be signed by a majority in value of the holders of title of the land within the proposed district, as indicated by the tax rolls of the central appraisal district. *Id.* Among other things, the petition shall: (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number; (2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition; and (3) include a name of the district which shall be

generally descriptive of the locale of the district. TWC § 54.015. *See also* 30 TAC § 293.11(a) and (d).

If all of the district is proposed to be located outside corporate limits of a municipality, the commissioners court of the county in which the district is to be located may review the petition for creation and other evidence and information relating to the proposed district that the commissioners consider necessary. TWC § 54.0161(a). If the commissioners court votes to make a recommendation to the Commission, the commissioners court shall submit to the Commission, at least 10 days before the date set for the hearing on the petition, a written opinion stating whether or not the county would recommend the creation of the proposed district and stating any findings, conclusions, and other information that the commissioners court thinks would assist the Commission in making a final determination on the petition. TWC § 54.0161(b). The Commission shall consider the written opinion submitted by the county commissioners. TWC § 54.0161(c).

The Commission shall grant the petition if it conforms to the requirements of § 54.015 and the project is feasible, practicable, necessary, and further, would be a benefit to the land to be included in the district. TWC § 54.021(a). In determining if the project is feasible, practicable, necessary, and beneficial 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.

TWC § 54.021(b).

If the Commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, it shall exclude all land not benefited and redefine the proposed district's boundaries accordingly. TWC § 54.021(c). If the petition does not conform to the requirements of TWC § 54.015 or the project is not feasible, practicable, necessary, or a benefit to the land in the district, the Commission shall deny the petition. TWC § 54.021(d). The rights, powers, privileges, authority, and functions of a district shall be subject to the continuing right of supervision by the Commission. TWC § 54.024.

Any district or any petitioner seeking the creation of a district may petition the commission to acquire the power under the authority of Article III, Section 52, Texas Constitution, to design, acquire, construct, finance, issue bonds for, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance, a road or any improvement in aid of the road. TWC § 54.234.

The applicant must publish notice of the petition to create a district once a week for two consecutive weeks in a newspaper regularly published or

circulated in the county where the district is proposed to be located not later than the 30th day before the date of the Commission's decision on the application. TWC §§ 49.011(b) and 54.018. Additionally, the applicant must post notice of the petition on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located. 30 TAC § 293.12(b)(2). The Commission shall hold a public hearing if requested by the Commission, Executive Director, or an "affected person" under the factors in 30 TAC, Chapter 55. TWC § 49.011(c). *See also* 30 TAC § 55.250 (applying rules governing contested case hearings to applications declared administratively complete after September 1, 1999). Affected persons must file their hearing requests during the 30 days following the final notice publication date. TWC § 49.011(c); 30 TAC § 293.12(c).

A hearing requestor must make the request in writing within the time period specified in the notice and identify the requestor's personal justiciable interest affected by the application, specifically explaining 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." 30 TAC § 55.251(b)–(d).

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." 30 TAC § 55.256(a). Governmental

entities with authority under state law over issues contemplated by the application may be considered affected persons. 30 TAC § 55.256(b). Relevant factors to be considered in determining whether a person is affected include, but are not limited to:

(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, safety, and 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 TAC § 55.256(c).

The Commission shall grant a request for a contested case hearing if: (1) the request is made by the applicant or the ED; or (2) the request is made by an affected person, complies with the requirements of § 55.251, is timely filed with the chief clerk, and is made pursuant to a right to hearing authorized by law. 30 TAC § 55.255(b).

III. ANALYSIS OF HEARING REQUEST

Williamson County was the only party to submit a timely hearing request in this matter. The County did so through Williamson County Judge Steve Snell. The proposed District would be located wholly within Williamson County. Under 30 TAC § 55.256(b), governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. A

relevant factor for determining whether governmental entities qualify as affected persons is their statutory authority over or interest in the issues relevant to the application. *See* 30 TAC § 55.256(c)(6).

In its request, Williamson County claims statutory authority over various functions, including transportation, emergency services, and health and safety.[1] Williamson County therefore does have statutory authority over and an interest in issues relevant to the application. *See* 30 TAC § 55.256(b) and (c). In its hearing request, the County articulates concerns that the creation of the proposed District would negatively affect the County's ability to provide services effectively. The County is specifically concerned about the proposed District's effect on roads, law enforcement, animal control, fire, and emergency medical services. Some of these concerns about provision of services are relevant to the Commission's final determination on the application. *See* TWC § 52.234

Additionally, as stated in its hearing request, Williamson County has statutory authority over various functions that may be affected by the creation of the proposed District, including drainage on public roads. *See* Tex. Transp. Code, Chapter 254. In its determination as to whether a District creation project is feasible, practicable, necessary, and beneficial to the land included in the district, the Commission must consider whether the district and its system and

[1] Williamson County cites: Tex. Local Gov't Code §§ 232.001-.011; Tex. Local Gov't Code § 251.003; Tex. Local Gov't Code, Chapter 233, Subchapter C; Tex. Local Gov't Code, Chapter 232, Subchapter E; Tex. Local Gov't Code, Chapter 233, Subchapter B; Tex. Local Gov't Code, Chapter 233, Subchapter E; Tex. Local Gov't Code, Chapter 418; Tex. Transp. Code § 251.016; Tex. Transp. Code, Chapter 254.

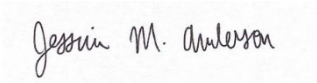
subsequent development within the district will have an unreasonable effect on natural run-off rates and drainage. TWC § 54.021(B)(3)(e). As contemplated by 30 TAC § 55.256(b) and (c)(6), Williamson County holds statutory authority over and an interest in an issue relevant to this application—drainage. Therefore, based on Williamson County's identified interest in drainage issues and the proposed District's location entirely within its boundaries, OPIC finds that Williamson County has demonstrated that it qualifies as an affected person in this matter.

IV. CONCLUSION

For the foregoing reasons, OPIC respectfully recommends the Commission find that Williamson County qualifies as an affected person, grant its hearing request, and refer the matter to the State Office of Administrative Hearings for a contested case hearing.

Respectfully submitted,

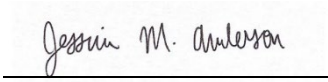
Garrett T. Arthur
Public Interest Counsel



By: _____
Jessica M. Anderson
Assistant Public Interest Counsel
State Bar No. 24131226
P.O. Box 13087, MC 103
Austin, Texas 78711-3087
(512) 239-6823

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2025, the original of the Office of Public Interest Counsel's Response to Request for Hearing was filed with the Chief Clerk of the TCEQ and a copy was served on all persons listed on the attached mailing list via electronic mail, and/or by deposit in the U.S. Mail.



Jessica M. Anderson

MAILING LIST
NORTHWEST WILLIAMSON COUNTY MUD NO. 3
TCEQ DOCKET NO. 2025-1188-DIS

FOR THE APPLICANT
via electronic mail:

Ryan Harper
Duggan Baker V
Allen Boone Humphries Robinson LLP
919 Congress Avenue, Suite 1500
Austin, Texas 78701
rharper@abhr.com

Daniel Ryan
LJA Engineering Inc
7500 Rialto Boulevard, Suite 100
Austin, Texas 78735
dryan@ljaengineering.com

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Kayla Murray, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-0600 Fax: 512/239-0606
kayla.murray@tceq.texas.gov

James Walker, Technical Staff
Texas Commission on Environmental Quality
Water Supply Division MC-152
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-4653 Fax: 512/239-4430
james.walker@tceq.texas.gov

Ryan Vise, Director
Texas Commission on Environmental Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-4000 Fax: 512/239-5678
pep@tceq.texas.gov

FOR ALTERNATIVE DISPUTE RESOLUTION
via electronic mail:

Kyle Lucas, Attorney
Texas Commission on Environmental Quality
Alternative Dispute Resolution MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-0687 Fax: 512/239-4015
kyle.lucas@tceq.texas.gov

FOR THE CHIEF CLERK
via eFiling:

Docket Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-3300 Fax: 512/239-3311
https://www14.tceq.texas.gov/epic/eFiling/

REQUESTER(S):

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