

TCEQ DOCKET No. 2025-1322-MWD

APPLICATION BY	§	BEFORE THE
3405 INVESTMENTS LLC FOR TCEQ	§	TEXAS COMMISSION
	§	ON ENVIRONMENTAL
PERMIT NO. WQ0016521001	§	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 3405 Investments LLC. (Applicant) for a new Texas Land Application (TLAP) Permit No. WQ0016521001. The Office of the Chief Clerk received contested case hearing requests from the following individuals: Ryan Eder, Joe Brown, Jonathan Held, and Minga M. Ybarra.

The ED recommends that the Commission approve the hearing request of Ryan Eder and Joe Brown.

Attached for the Commission consideration are satellite maps of the area showing the locations of the facility, discharge route, and requestors.

II. FACILITY DESCRIPTION

The applicant has applied for a new TLAP permit to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day via public access subsurface area drip dispersal system on a minimum area of 13.77 acres. The Applicant proposes to operate 3405 Wastewater Treatment Plant (WWTP), which will serve a C-store, 5 retail pads, and approximately 240 apartment units in Williamson County, Texas. The 3405 Wastewater Treatment Facility will consist of an activated sludge process plant using the complete mix mode. Treatment units in the Interim phase will include a primary screen, an aeration basin, a final clarifier, a digester, and a chlorine contact chamber. Treatment units in the Final phase will include a primary screen, two aeration basins, two final clarifiers, two digesters, and a chlorine contact chamber. The facility has not been constructed. The facility and disposal site will be located approximately 1,100 feet east of the intersection of Farm-to-Market Road 3405 and Ronald Reagan Boulevard, in Williamson County, Texas 78642. The facility and disposal site will be located in the drainage basin of San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. No discharge of pollutants into water in the State is authorized by this permit. If the draft permit is issued, 60,000 gallons per day of treated effluent would be authorized to be land applied by public access subsurface area drip dispersal system to 13.77 acres at an application rate of 0.1 gallons per square foot per day.

III. PROCEDURAL BACKGROUND

The permit application was received on April 8, 2024, and declared administratively complete on May 8, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on May 22, 2024, in *the Williamson County*

Sun. The Notice of Application and Preliminary Decision (NAPD) was published on February 26, 2025, in the *Williamson County Sun*.

The public comment period ended on March 28, 2025. This application was filed on or 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 comments 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 Requests 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

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

² 30 TAC § 55.209(e).

³ 30 TAC § 55.201(c).

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 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;

⁴ 30 TAC § 55.201(d).

- (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.
- (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 Requestors Complied With 30 TAC §§ 55.201(c) and (d) and 55.203.

1. Individuals the Executive Director recommends the Commission find as Affected Persons.

⁵ 30 TAC § 50.115(b).

⁶ 30 TAC § 50.115(c).

a. Ryan Eder

Ryan Eder submitted timely comments and a hearing request. Mr. Eder's request contained his name, address, and phone number pursuant to 30 TAC § 55.201(d). According to the address provided in his hearing request, the property identified in the request is approximately 0.20 miles from the land application site. Mr. Eder's property is also listed on the Adjacent Landowner map prepared by the Applicant.

Mr. Eder's request raised issues concerning human health, existing uses of the nearby stream, odors, health of the local wildlife, and the decrease in property values. Specifically, Mr. Eder is concerned with the effects of any possible discharge to the nearby creek on his family, who frequently use the creek. He is also concerned with the respiratory issues that can arise from the odors emanating from the facility given his proximity to it.

No discharge of pollutants into state water is authorized or anticipated by the proposed permit. Additionally, the proposed permit includes provisions that are designed to protect surface water quality (such as run-on/run-off controls, springs and seeps monitoring, etc.). Therefore, the draft permit will be protective of surface water quality, wildlife, and human health.

Mr. Eder is concerned with respiratory issues that he believes could arise from airborne particulates from the facility given his proximity to it. This application is for a subsurface drip and will therefore not have any airborne particulates discharged.

Mr. Eder is located approximately 0.20 miles away from the land application site. Odors are protected by the law under which the application is considered. Mr. Eder's concerns regarding odor sufficiently articulate how the facility affects him in a way not common to the general public.

The Executive Director recommends the Commission find that Ryan Eder is an affected person.

b. Joe Brown

Joe Brown submitted timely comments. Mr. Brown's comments contained his name, address, and phone number pursuant to 30 TAC § 55.201(d). According to the address provided in his hearing request, the property identified in the request is located less than 0.13 miles from the proposed wastewater treatment facility. Mr. Brown's property is also listed on the Adjacent Landowner map prepared by the Applicant.

Mr. Brown's comment raised issues concerning odors, noise, contamination of nearby property, monitoring of the facility, and sludge disposal.

Mr. Brown's hearing request raised concerns regarding odors, noise, property values, contamination of his property, and the location of the proposed facility. The issues of odors and contamination of his property are relevant and material to the application. Based on his proximity to the proposed facility and land application area and his concern about potential odors and the contamination of his property, Mr. Brown has demonstrated that he is an affected person in a manner not common to the general public.

The Executive Director recommends the Commission find that Joe Brown is an affected person.

2. *Individuals the Executive Director recommends the Commission not find Affected Persons*

a. Jonathan Seth Held

Jonathan Seth Held submitted timely comments and a hearing request. Mr. Held's request contained his name, address, and phone number pursuant to 30 TAC § 55.201(d). According to the address provided in his hearing request, the property identified in the request is approximately 0.25 miles from the proposed wastewater treatment facility. Mr. Held's property is also listed on the Adjacent Landowner map prepared by the Applicant.

Mr. Held's requests raised several issues concerning the effects on local ecosystems, the availability of open land, traffic, property values, human health, flooding, and waste disposal. No discharge of pollutants into state water is authorized or anticipated by the proposed permit. Based off the issues raised, Mr. Held has not demonstrated how he is affected in a manner not common to the general public.

The Executive Director recommends the Commission find that Jonathan Seth Held is not an affected person.

b. Minga M. Ybarra

Minga M. Ybarra submitted timely comments and a hearing request. Ms. Ybarra's request contained her name, address, and phone number pursuant to 30 TAC § 55.201(d). According to the address provided in her hearing request, the property identified in the request is approximately 0.28 miles from the proposed wastewater treatment facility. Ms. Ybarra's property is also listed on the Adjacent Landowner map prepared by the Applicant.

Ms. Ybarra's request fails to raise any specific issues. Instead, it asks for more information regarding certain issues such as flooding. Specifically, Ms. Ybarra asks "has an assessment on slope stability been done in the runoff area? Our neighborhood suffers greatly from issues with runoff." Therefore since Ms. Ybarra has failed to comply with 30 TAC 55.203(d), she has not identified herself separately from the general public.

The Executive Director recommends the Commission find that Minga M. Ybarra is not an affected person.

3. *Whether the Issues the Requestors Raised are Referable to the State Office of Administrative Hearings (SOAH).*

1. Whether the draft permit complies with applicable buffer zone requirements regarding odors and effluent storage as set forth in 30 TAC Chapters 309 and 222.
2. Whether the draft permit includes adequate provisions to prevent the contamination of neighboring properties in accordance with TCEQ rules.

VI. CONCLUSION

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission approve the hearing requests of Ryan Eder and Joe Brown and deny the hearing requests of Jonathan Held and Ybarra M. Minga.

Respectfully submitted,

Texas Commission on Environmental
Quality

Kelly Keel,
Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



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Staff Attorney
Environmental Law Division
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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on October 10, 2025, the “Executive Director’s Response to Hearing Request” for TLAP Permit WQ0016521001 for 3405 Investments LLC 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.

A handwritten signature in black ink, appearing to read "Ryan Rakowitz", with a horizontal line drawn underneath it.

Ryan Rakowitz
Staff Attorney
Environmental Law Division

MAILING LIST
3405 Investments LLC
TCEQ Docket No./TCEQ Expediente N.º 2025-1322-MWD;
Permit No./ Permiso N.º WQ0016521001

FOR THE APPLICANT/PARA EL
SOLICITANTE

Soef Maknojiya, Managing Partner
3405 Investments LLC
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Austin, Texas 78759

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JA Wastewater LLC
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Arvada, Colorado 80002

Jamie Miller
JA Wastewater LLC
5765 Fig Way
Arvada, Colorado 80002

FOR THE EXECUTIVE DIRECTOR/PARA
LA DIRECTOR EJECUTIVA

via electronic mail/vía correo
electrónico:

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ABOGADOS DE INTERÉS PÚBLICO

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electrónico:

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Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS

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Kyle Lucas
Texas Commission on
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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>

REQUESTER(S)/SOLICITANTE(S)

See attached list.

REQUESTER(S)/SOLICITANTE(S)

Joe Brown
220 Marbella Way
Georgetown, Texas 78633

Ryan L. Eder
232 Marbella Way
Georgetown, Texas 78633

Jonathan Seth Held
205 Marbella Way
Georgetown, Texas 78633

Minga Ybarra
144 Marbella Way
Georgetown, Texas 78633

Attachment A

3405 Investments LLC TLAP Permit No. WQ0016521001

Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



*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: 7/22/2025
CRF 0126821
Cartographer: AProvenc

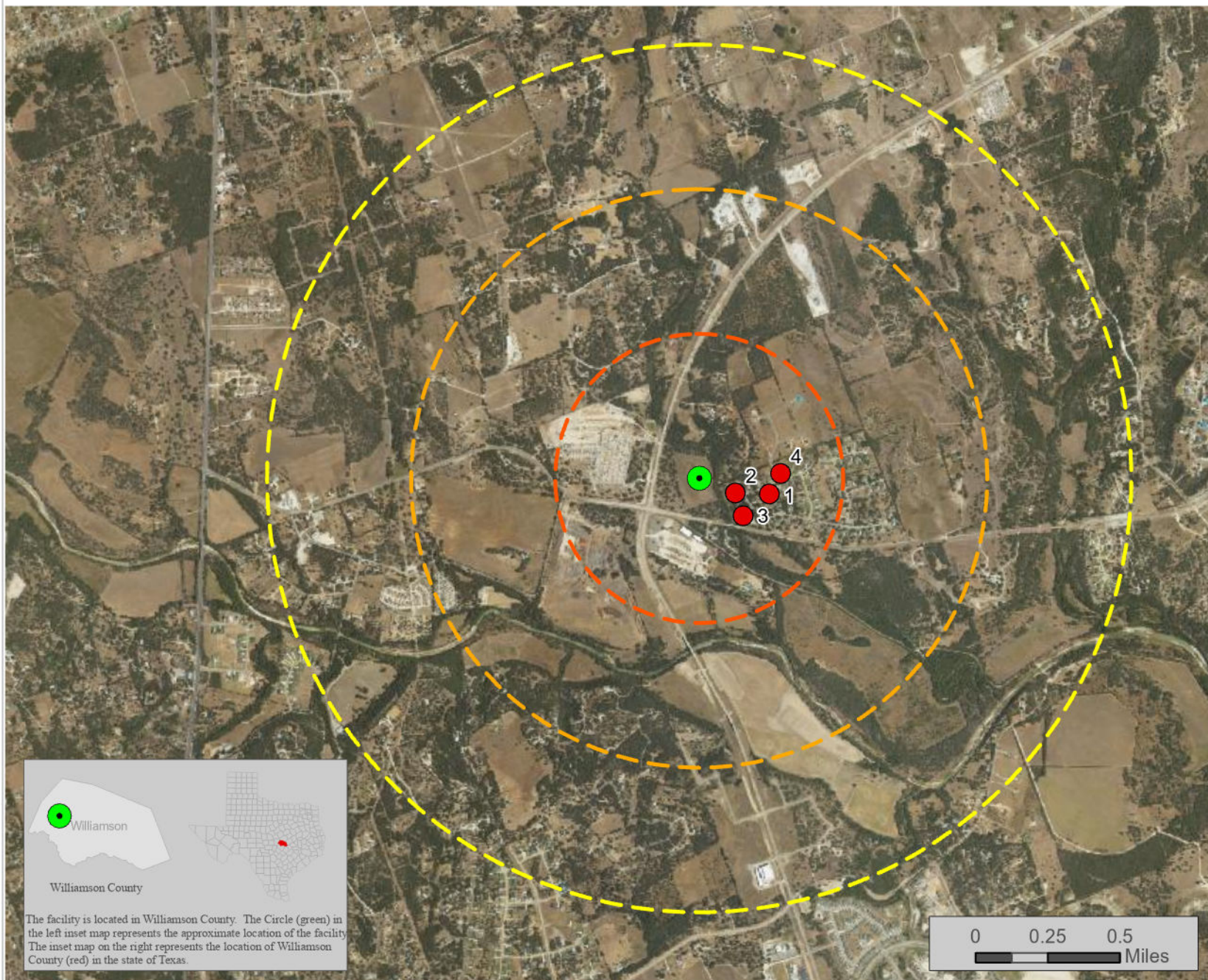


- Requestors
- Land Application Site
- 0.5 Mile Radius
- 1 Mile Radius
- 1.5 Mile Radius

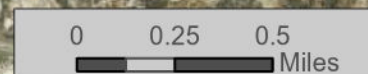
Requestor distances from
Land Application Site in
Appendix A

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

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.



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.



3405 Investments LLC TLAP Permit No. WQ0016521001

Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



*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: 7/22/2025
CRF 0126821
Cartographer: AProvenc



- Requestors
- Land Application Site
- 0.5 Mile Radius
- 1 Mile Radius
- 1.5 Mile Radius

Requestor distances from
Land Application Site in
Appendix A

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

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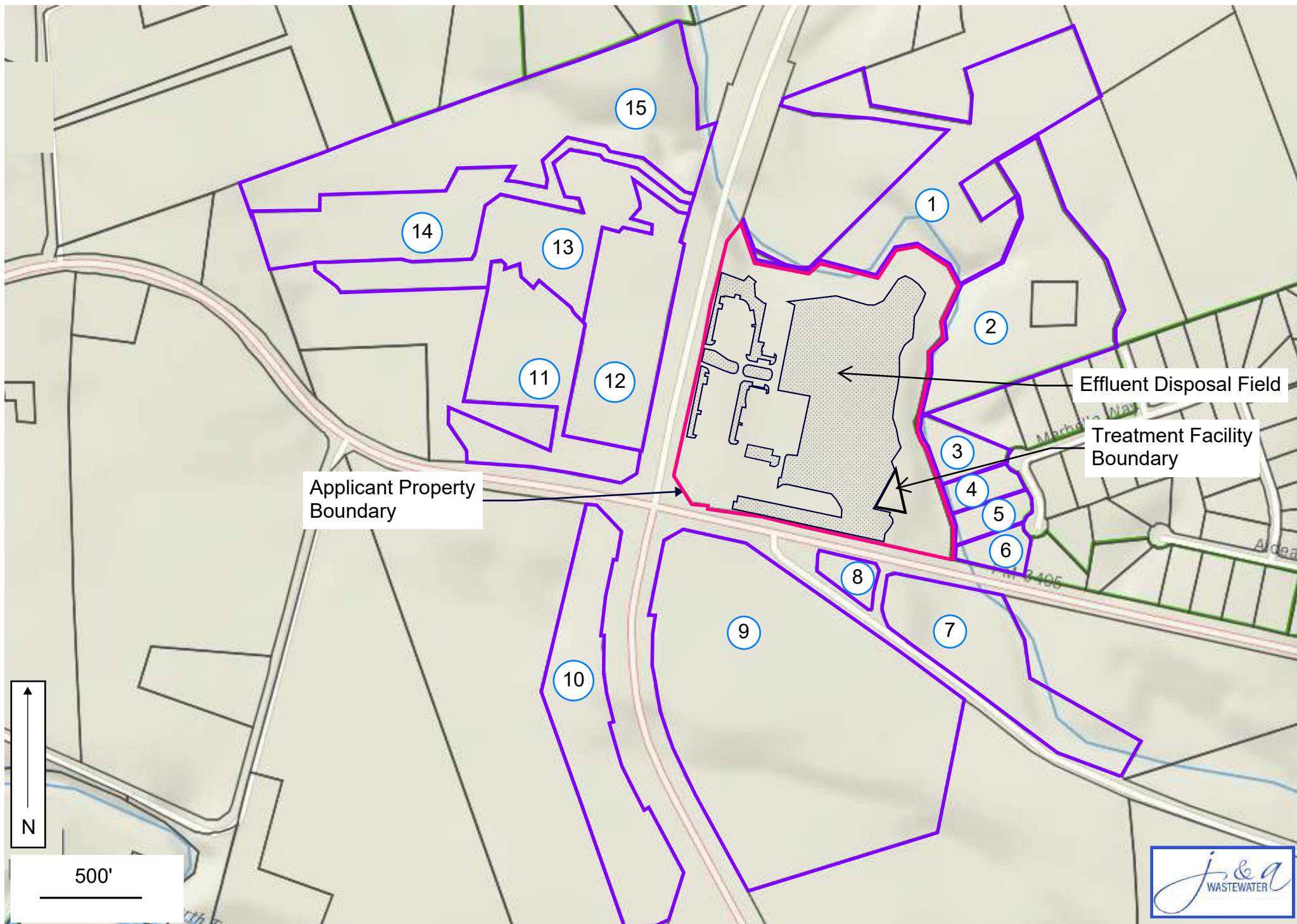
The facility is located in Williamson County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Williamson County (red) in the state of Texas.

Appendix A for 3405 Investments LLC

TLAP Permit No. WQ0016521001

ID	Name	Address	City	State	ZIP	Lat	Long	Distance to Facility Point (Miles)
1	Jonathan Seth Held	205 MARBELLA WAY	Georgetown	TX	78633	30.705324	-97.844489	0.25
2	Joe Brown	220 MARBELLA WAY	Georgetown	TX	78633	30.705405	-97.846474	0.13
3	Ryan L Eder	232 MARBELLA WAY	Georgetown	TX	78633	30.704254	-97.846042	0.20
4	Minga M Ybarra	144 Marbella Way	Georgetown	TX	78633	30.706339	-97.843811	0.28

3405 WWTF - Affected Landowner Map



AFFECTED LAND OWNER LIST

Address Source: [Williamson Central Appraisal District Map \(wcad.org\)](http://wcad.org)

Map Label	Property ID Number	Owner Name	Mailing Address
1	R054840	HAND, DONNA K S & ROBERT	PO BOX 214 LIBERTY HILL, TX 78642-0214
2	R500934	SMITH, SUE S & RONNY	5626 FM 3405, GEORGETOWN, TX 78633
3	R512797	BROWN, JOSEPH D & DONNA L	220 MARBELLA WAY, GEORGETOWN, TX 78633
4	R512796	MALZAHN, MARY P & CARRIE L ROBERTSON	224 MARBELLA WAY, GEORGETOWN, TX 78633
5	R512795	HANBERRY, LACIE & MOHAMED HARCHAOUI	228 MARBELLA WAY, GEORGETOWN, TX 78633
6	R512794	EDER, RYAN & JESSICA	232 MARBELLA WAY, GEORGETOWN, TX 78633
7	R463330	DERBY WOODS LLC	709 KODIAK TRL CEDAR PARK, TX 78613
8	R474758	ITZ, MICHAEL	500 SPEED HORSE LIBERTY HILL, TX 78642-4779
9	R451258	ESPINOZA, MARGARITO & CLAUDETT	PO BOX 87 JARRELL, TX 76537
10	R453133	TJS6 LLC	121 HESTER HOLW GEORGETOWN, TX 78633
11	R578318	JRVRG 3 LLC	1300 POST OAK BLVD #STE 1650 HOUSTON, TX 77056
12	R643049	JRVRG 6 LLC	1300 POST OAK BLVD #STE 1650 HOUSTON, TX 77056
13	R577511	JRVRG 1 LLC	1300 POST OAK BLVD #STE 1650 HOUSTON, TX 77056
14	R643042	JRVRG 4 LLC	1300 POST OAK BLVD #STE 1650 HOUSTON, TX 77056
15	R643043	JRVRG 5 LLC	1300 POST OAK BLVD #STE 1650 HOUSTON, TX 77056

HAND, DONNA K S & ROBERT
PO BOX 214
LIBERTY HILL, TX 78642-0214

SMITH, SUE S & RONNY
5626 FM 3405
GEORGETOWN, TX 78633

BROWN, JOSEPH D & DONNA L
220 MARBELLA WAY
GEORGETOWN, TX 78633

MALZAHN, MARY P & CARRIE L
ROBERTSON
224 MARBELLA WAY
GEORGETOWN, TX 78633

HANBERRY, LACIE & MOHAMED
HARCHAOUI
228 MARBELLA WAY
GEORGETOWN, TX 78633

EDER, RYAN & JESSICA
232 MARBELLA WAY
GEORGETOWN, TX 78633

DERBY WOODS LLC
709 KODIAK TRL
CEDAR PARK, TX 78613

ITZ, MICHAEL
500 SPEED HORSE
LIBERTY HILL, TX 78642-4779

ESPINOZA, MARGARITO & CLAUDETT
PO BOX 87
JARRELL, TX 76537

TJS6 LLC
121 HESTER HOLW
GEORGETOWN, TX 78633

JRVRG 3 LLC
1300 POST OAK BLVD #STE 1650
HOUSTON, TX 77056

JRVRG 6 LLC
1300 POST OAK BLVD #STE 1650
HOUSTON, TX 77056

JRVRG 1 LLC
1300 POST OAK BLVD #STE 1650
HOUSTON, TX 77056

JRVRG 4 LLC
1300 POST OAK BLVD #STE 1650
HOUSTON, TX 77056

JRVRG 5 LLC
1300 POST OAK BLVD #STE 1650
HOUSTON, TX 77056