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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

February 13, 2026

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 PETITION FOR CREATION OF WILLIAMSON
COUNTY MUNICIPAL UTILITY DISTRICT NO. 68
TCEQ DOCKET NO. 2026-0041-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,

A handwritten signature in cursive script that reads "Jessica M. Anderson".

Jessica M. Anderson, Attorney
Assistant Public Interest Counsel

cc: Mailing List

DOCKET NO. 2026-0041-DIS

PETITION FOR THE CREATION
OF WILLIAMSON COUNTY
MUNICIPAL UTILITY DISTRICT
68

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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 Williamson County Municipal Utility District 68 (WilCo MUD 68 or District). For the reasons discussed herein, OPIC respectfully recommends that the Commission grant the hearing request of Williamson County.

B. Background

Berry Creek Land Investment, LLC (Petitioner), filed a petition for creation of Williamson County Municipal Utility District No. 68 with 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 are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 158.040 acres located within Williamson County; and (4) some of the land within the proposed District is within the extraterritorial jurisdiction (ETJ) of the City of Weir. By resolution, the City of Weir gave its consent to the creation of the proposed District. The proposed District would be wholly located within Williamson County.

The petition was declared administratively complete on June 13, 2025, and the Notice of District Petition was published on July 20, 2025. According to the Notice, the proposed District would purchase, construct, acquire, repair, extend, and improve land, easements, works, improvements, facilities, plants, equipment, and appliances to: (1) provide a water supply for municipal uses, domestic uses, and commercial purposes; (2) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in the District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; (5) purchase, construct, acquire, provide, operate, maintain, repair, improve, extend, and develop park and recreation facilities for the inhabitants of the District; and (6) provide such other facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the District is created and permitted under state law. The comment period ended on August 19, 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 Steven 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.

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 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

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.

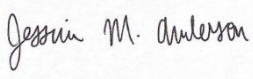
on Williamson County's statutory authority over and identified interest in drainage issues and the proposed District's location entirely within its boundaries, OPIC finds that Williamson County has demonstrated that it qualifies as an affected person in this matter.

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,

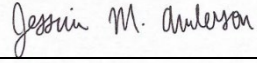
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CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2026, 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

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TCEQ DOCKET NO. 2026-0041-DIS

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