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

David Timberger, Interim Public Interest Counsel

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 9, 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 THE PETITION FOR CREATION OF GRAND MEADOWS MUNICIPAL UTILITY DISTRICT OF KAUFMAN COUNTY**
TCEQ DOCKET NO. 2026-0181-DIS

Dear Ms. Gharis:

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

Sincerely,

Michael Rakauskas, Attorney
Assistant Public Interest Counsel

cc: Mailing List

DOCKET NO. 2026-0181-DIS

PETITION FOR THE CREATION OF GRAND MEADOWS MUD OF KAUFMAN COUNTY	**§ § § §**	**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 TCEQ received a request for a contested case hearing in this matter from Jakie Allen, County Judge for Kaufman County. For the reasons discussed herein, OPIC respectfully recommends that the Commission deny the hearing request of Kaufman County. OPIC further invites Kaufman County to submit a written opinion stating whether the county would recommend the creation of the proposed district, and any other information that the commissioners court thinks would assist the Commission with their determination, at least 10 days before the date set for the hearing on the petition.

B. Background

TD Wheeler Development, LLC, Managing Member of Texas Grand Land II, LLC (Petitioners), filed a petition for the creation of Grand Meadows Municipal Utility District of Kaufman County (the District) pursuant to Article XVI, Section

59 of the Texas Constitution, Chapters 49 and 54 of the Texas Water Code (TWC), 30 Texas Administrative Code (TAC) Chapter 293, and the procedural rules of the TCEQ. The application was declared administratively complete on June 5, 2025. On July 3, 2025, and July 10, 2025, the Notice of District Petition was published in the *Forney Messenger*. The Notice of District Petition was published by the Kaufman County Clerk on June 25, 2025. According to the notice, the proposed District shall consist of approximately 130.893 acres and would be located within Kaufman County. The comment and contested case hearing request periods ended on August 11, 2025.

II. Applicable Law

A municipal utility district (MUD or a district) may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution, TWC § 54.011. 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.

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). *See also* 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. Discussion

On July 16, 2025, Judge Jakie Allen on behalf of Kaufman County timely submitted a request for a contested case hearing on behalf of Kaufman County. The request states that the County has voted to submit a contested case hearing request and, pursuant to Tex. Water Code § 54.0161 has the "right to submit recommendations, findings, conclusions, and other information that the Commission shall consider when deciding upon the Petition." Judge Allen further indicated that the County "reserves the right to attend such hearing and present testimony and evidence for consideration by TCEQ."

OPIC notes that Tex. Water Code § 54.0161 allows a county to 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. Judge Allen's hearing request reserved Kaufman County's right to submit these comments to the Commission for their consideration before the date set for action on the petition. Because the commission may act on an application without holding a public hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following the final publication of notice under this section,[1] the date the Commission may act on the petition is the

[1] 30 Tex. Admin. Code §293.12(c).

Commission's Agenda on April 1, 2026. Kaufman County may therefore submit a written opinion stating whether the county would recommend the creation of the proposed district, and any other information that the commissioners court thinks would assist the Commission with their determination at least 10 days before the date set for the hearing on the petition.

However, because Kaufman County's hearing request does not specifically articulate a concern with the creation of the district under the jurisdiction of the Commission, nor its authority under state law over issues contemplated by the application,[2] OPIC cannot recommend that a contested case hearing be granted and the matter referred to the State Office of Administrative Hearings.

IV. Conclusion

For the reasons set forth above, OPIC respectfully recommends that the Commission deny the hearing request of Kaufman County. OPIC notes that Kaufman County may submit a written opinion stating whether the county would recommend the creation of the proposed district, and any other information that the commissioners court thinks would assist the Commission with their determination, at least 10 days before the date set for the hearing on the petition.

Respectfully submitted,

David Timberger
Interim Public Interest Counsel

[2] 30 Tex. Admin. Code 55.256(b) & (c)(6).

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that March 9, 2026, the original of the Office of Public Interest Counsel's Response to Hearing Request 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.

_____
Michael Rakauskas

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TCEQ DOCKET NO. 2026-0181-DIS

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REQUESTER(S):

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