

TCEQ DOCKET NO. 2026-0184-RAW

APPLICATION BY
CONOCOPHILLIPS COMPANY
FOR MAJOR AMENDMENT OF
RADIOACTIVE MATERIAL
LICENSE R01634

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BEFORE THE
TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS
AND REQUESTS FOR RECONSIDERATION

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests and Requests for Reconsideration (Response) on the application by ConocoPhillips Company (ConocoPhillips or Applicant) for major amendment of Radioactive Material License No. R01634 (Application). The Application would authorize ConocoPhillips to remove contaminated materials, construct a supplemental disposal cell for disposal of the contaminated materials, and close the supplemental disposal cell. Further details regarding the Applicant's proposed activities are provided below.

The Office of the Chief Clerk (OCC) received timely hearing requests from: Carlos A. De Ayala (and/or D & D Talk Ranch LLC), Bernadette Dziuk Diver, Blake Elkins, and Leslie Gonzales.

The Executive Director recommends that the Commission find the following requesters are affected persons and grant their hearing requests:

Bernadette Dziuk Diver and Carlos A. De Ayala (and/or D & D Talk Ranch LLC).

OCC also received a request for reconsideration from Patsy Sekula. The Executive Director recommends that the Commission deny her request.

Attached for the Commission's consideration are two Geographic Information Systems (GIS) maps of hearing requesters in the area of the two facilities (Attachments A-1 and A-2), along with lists of landowners adjacent to each facility (Attachments B-1 and B-2). The Draft Permit, Technical Summary, Notice of Completion of Technical Review (which includes the Executive Director's preliminary decision), and Executive Director's Response to Public Comment can be found in the Agenda backup materials filed for the Commission's consideration.

I. Introduction

A. Facility Description

ConocoPhillips owns the Conquista Project, a former conventional uranium milling and processing site, licensed under TCEQ Radioactive Materials License No. R01634, that is undergoing final closure. The Conquista Project includes a tailings

impoundment and is located in Karnes County, eight miles west of Falls City, Texas, on FM Road 791. The Conquista Project site is an UMTRCA (Uranium Mill Tailings Radiation Control Act of 1978) Title II Disposal Site, which means that the site must be decommissioned by the licensee to standards established by TCEQ and the US Nuclear Regulatory Commission (NRC). The site will then be transferred to the United States Department of Energy for custody and long-term care. The Slick-Wilcox site is a closed former uranium processing pilot project located in Goliad and DeWitt Counties, approximately 7.5 miles southeast of Nordheim, Texas.

ConocoPhillips has applied to the TCEQ for major amendment of Radioactive Material License No. R01634 to authorize the removal of contaminated materials from on-site at the Conquista Project, from an area on the FM 791 road-side adjacent to the Conquista Project site, and from the Slick-Wilcox site; construction of a supplemental disposal cell at the Conquista Project site for disposal of contaminated materials; and closure of the supplemental disposal cell.

Radioactive Material License No. R01634 currently authorizes the possession and disposal of radioactive byproduct material at the Conquista Project, and establishes requirements for operations, radiation safety, decommissioning, closure, and financial assurance.

B. Procedural Background

This application is for major amendment of the existing license R01634. The initial application was dated November 20, 2014, and received by TCEQ on November 25, 2014. The application was revised on July 1, 2024, and December 2, 2024.

A Notice of Declaration of Administrative Completeness was issued on May 18, 2015. The Notice of Declaration of Administrative Completeness was published on June 10, 2015, in the *Karnes Countrywide, The Cuero Record*, and on June 11, 2015, in the *Goliad Advance Guard*. A Notice of Completion of Technical Review was issued on February 25, 2025. A Revised Notice of Completion of Technical Review was issued on March 25, 2025, and published on May 8, 15, 22, 29, and June 5, 2025, in the *Karnes Countrywide, The Cuero Record*, and the *Goliad Advance Guard*.

A public meeting on this application was held on September 22, 2025, in Falls City, Texas, at the request of State Representative AJ Louderback. The public comment period ended on September 22, 2025, at the conclusion of that meeting.

This application is not subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and is not subject to the procedural requirements adopted pursuant to Senate Bill 709, 84th Legislature, 2015.

II. Evaluation of Hearing Requests

This application was filed under Chapter 401 of the Texas Health and Safety Code, and as such, 30 TAC Chapter 55, Subchapter G applies to the evaluation of hearing requests.¹

A. Hearing Request Requirements

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

A request for a contested case hearing must be in writing, submitted by an affected person, and timely filed with the chief clerk.² A 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. 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 requester’s location and distance relative to the activity that is the subject of the application and how and why the requester 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.”³

B. Affected Person Status

In order to grant a contested case hearing, the Commission must determine that a requester is an affected person. An affected person is an individual “who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application.”⁴ An interest common to members of the general

¹ 30 TAC §§ 55.101(d) and 55.250. Caselaw supports TCEQ using the factors outlined in 30 TAC 55.256 in this context. *See Sierra Club v. Tex. Comm’n on Envtl. Quality*, 455 S.W.3d 214, 221-22 (Tex. App.—Austin 2014, pet. denied) (stating “[w]hether a requestor is an ‘affected person’ is principally controlled by the factors created by TCEQ pursuant to statutory directive” and quoting the factors in 30 TAC 55.256).

² 30 TAC § 55.251(b).

³ 30 TAC § 55.251(c).

⁴ 30 TAC § 55.256(a).

public does not qualify as a personal justiciable interest. Governmental entities, including local governments and public agencies, with authority under state law over issues contemplated by the application may also be considered affected persons.⁵ A request for a contested case hearing made by an affected person shall be granted if the request complies with the requirements of 30 TAC § 55.251, is timely filed with the chief clerk, and is pursuant to a right to hearing authorized by law.⁶

When determining whether an individual is an affected person, the Commission shall consider all relevant factors including, but 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.”⁷

C. Evaluation of Requests and Referral to the State Office of Administrative Hearings

After evaluating the hearing requests, the Commission may:

- (1) determine that a hearing request does not meet the above requirements, and act on the application;
- (2) determine that the hearing request does not meet the above requirements, and refer the application to a public meeting to develop public comment before acting on the application;
- (3) determine that a hearing request meets the above requirements, and direct the chief clerk to refer the application to the State Office of Administrative Hearings (SOAH) for a hearing; or
- (4) direct the chief clerk to refer the hearing request to SOAH. The referral may specify that SOAH should prepare a recommendation on the sole question of whether the request meets the requirements of this subchapter. The referral may also direct SOAH to proceed with a hearing on the application

⁵ 30 TAC § 55.256(b).

⁶ 30 TAC § 55.255(b).

⁷ 30 TAC § 55.256(c).

if the judge finds that a hearing request meets the requirements of this chapter.⁸

III. Analysis of the Requests

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, who qualifies as an affected person, the issues to be referred, and the appropriate duration of the hearing.

A. Individuals the Executive Director Recommends the Commission Find are Affected Persons

The Executive Director reviewed the requirements of 30 TAC §§ 55.251 and 55.256 to determine if a requester is an affected person and recommends the Commission find that the following are affected persons.

1. Bernadette Dziuk Diver

Bernadette Dziuk Diver submitted a timely written hearing request, and provided the required location and contact information, as well as the personal justiciable interest(s) that would potentially be affected by the application. The property address provided by Bernadette Dziuk Diver is located directly across FM 791 from the Conquista Project site. A group of structures on her property are approximately .29 miles northwest of the facility.

In her hearing request, Bernadette Dziuk Diver raised several concerns, including the potential release of radiation and its effects on her family's health, as well as impacts to groundwater and wildlife.

Based on the location and distance of Bernadette Dziuk Diver's property to the Conquista Project site and the issues she raised, the Executive Director has determined that Bernadette Dziuk Diver has demonstrated that she has a personal justiciable interest in the application that is not common to members of the general public, and therefore, is an affected person.

2. Carlos A. De Ayala/D & D Talk Ranch LLC

Carlos A. De Ayala (and/or D & D Talk Ranch LLC) submitted a timely hearing request at the public meeting held on the application. At that meeting, Carlos A. De Ayala was instructed by OCC staff that they would note on his registration form that he was requesting a hearing and that his spoken comments would be combined with their note and count towards his hearing request. Carlos A. De Ayala's registration form provided the required location and contact information, and spoken oral comments articulated the personal justiciable interest(s) that would potentially be affected by the application.

⁸ 30 TAC § 55.255(a).

Carlos A. De Ayala raised several concerns, including the potential release of radiation and its effects on human health, as well as impacts to groundwater, soil, wildlife, hunting, recreation, and cattle ranching operations on his property, which is directly adjacent to and shares two fencelines with the Slick-Wilcox site. Carlos A. De Ayala had particular concerns about wind-blown contamination and water-well contamination and stated that his property has at least one water well within the application's area of review that was not sampled. Carlos A. De Ayala stated that he had hired his own environmental consultant, which recommended soil sampling to check for contamination. He also alleges that ConocoPhillips did radiation sampling on his property but did not share the results. Carlos A. De Ayala then stated that the application should not be considered complete without sampling data from his property.

This is an out of the ordinary situation because the applicable rules require hearing requests to be in writing. But since OCC staff instructed Carlos A. De Ayala that his spoken comments at the public meeting would be combined with the note on his registration form and count as a hearing request, the Executive Director believes that it would be fundamentally unfair to deny him an opportunity to participate in the hearing process.

Based on the location and distance of Carlos A. De Ayala (and/or D & D Talk Ranch LLC)'s property and the issues raised, the Executive Director has determined that he (and/or D & D Talk Ranch LLC) has demonstrated a personal justiciable interest in the application that is not common to members of the general public, and therefore, is an affected person.

B. Individuals the Executive Director Does Not Recommend the Commission Find are Affected Persons

The Executive Director recommends the Commission find that the following requesters are NOT affected persons.

1. Blake Elkins

The Executive Director recommends the Commission find that Blake Elkins is NOT an affected person because he did not demonstrate a personal justiciable interest that would be affected by the application.

Blake Elkins submitted a timely written hearing request and provided the required contact and location information. However, he raised issues that do not show how and why he will be affected by the application in a manner not common to members of the general public. Specifically, when Blake Elkins' distance from the Conquista Project site (1.54 miles) is considered in conjunction with his general concerns about safety, transparency, and long-term environmental impacts, it does not appear that he would have an interest protected under the law. Additionally, it is not clear whether Blake Elkins actually intended to request a hearing in the first place as his request (submitted prior to the public meeting) seeks "further information and clarification" about the application as well as "[o]pportunities for community engagement including a public

meeting or hearing to ensure residents' concerns are heard and addressed." It appears that the true intent of Blake Elkins' request is for a public meeting, which was later held.

Based on the lack of issues unique to him and the ambiguous nature of his request, the Executive Director has determined that Blake Elkins has not demonstrated that he is an affected person.

2. Leslie Gonzales

The Executive Director recommends the Commission find that Leslie Gonzales is NOT an affected person because of her location relative to the facility (11.95 miles) and because she did not demonstrate a personal justiciable interest that would be affected by the application.

Leslie Gonzales submitted a timely written hearing request, and provided the required contact and location information, but raised issues that are related to the application's generalized impact to her as member of the local community. Specifically, Leslie Gonzales' concerns were about public health and safety, community involvement and transparency, the cumulative burden on the community posed by the facility, and environmental justice. It does not appear that Leslie Gonzales has an interest in the application that would be protected under the law.

Based on the lack of issues unique to her, the Executive Director has determined that Leslie Gonzales has not demonstrated that she has a personal justiciable interest in the application that is not common to members of the general public, and therefore, is not an affected person.

C. Referral to SOAH for a Contested Case Hearing

If the Commission determines that the above individuals are affected persons, the Executive Director recommends that the following issues be referred to SOAH for a hearing:

Issue 1 - The application's potential impact to human health, groundwater, soil, wildlife, hunting, recreation, and/or cattle ranching operations on the affected persons' properties.

Issue 2 - Whether the application is complete without sampling information from Carlos A. De Ayala (and/or D & D Talk Ranch LLC)'s property.

IV. Contested Case Hearing Duration

If there is a contested case hearing on this application, the Executive Director recommends that the duration of the hearing be six months from the preliminary hearing to the presentation of a proposal for decision to the Commission.

V. Requests for Reconsideration

OCC also received a request for reconsideration from Patsy Sekula. Her request did not raise any specific issues or alleged errors for the Commission to address. The Executive Director recommends that the Commission deny Patsy Sekula's request.

VI. Executive Director's Recommendation

The Executive Director therefore respectfully recommends the following actions by the Commission:

1. Find that Bernadette Dziuk Diver and Carlos A. De Ayala (and/or D & D Talk Ranch LLC) are affected persons and grant their hearing requests.
2. Find that all other requesters are not affected persons and deny their hearing requests.
3. Deny Patsy Sekula's request for reconsideration.
4. Refer the application to SOAH for a hearing on Issues 1 and 2 and set a hearing duration of six months from the date of the preliminary hearing to the presentation of the proposal for decision to the Commission.
5. Concurrently refer this matter to Alternative Dispute Resolution.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel
Executive Director

Amy L. Browning, Interim Deputy Director
Environmental Law Division



Nicholas Pilcher, Staff Attorney
Environmental Law Division
State Bar No. 24102359
P.O. Box 13087, MC 173
Austin, TX 78711-3087
Phone: 512-239-5927
Fax: (512) 239-0606
Nicholas.Pilcher@tceq.texas.gov

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on March 9, 2026, this Response to Hearing Requests and Requests for Reconsideration on the application by ConocoPhillips Company for major amendment of Radioactive Material License No. R01634, was filed with the TCEQ Office of the Chief Clerk and that a complete 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.



Nicholas Pilcher, Staff Attorney
Environmental Law Division

MAILING LIST
CONOCOPHILLIPS COMPANY
TCEQ DOCKET NO. 2026-0184-RAW
PERMIT NO. R01634

FOR THE APPLICANT
via electronic mail:

Bill Borgh ConocoPhillips Center
925 North Eldridge Parkway Houston,
Texas 77079
bill.borgh@conocophillips.com

Nicholas Furse Tetra Tech
8911 North Capital of Texas Highway Suite
2310
Austin, Texas 78759
nik.furse@tetratech.com

Neal Goates
neal.goates@contractor.conocophillips.com

REQUESTER(S)/INTERESTED PERSON(S)
See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Nicholas A. Pilcher, 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
nicholas.pilcher@tceq.texas.gov

Kan Tu, Technical Staff
Texas Commission on Environmental
Quality
Radioactive Materials Division MC-233
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-6473 Fax: 512/239-6464
kan.tu@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 PUBLIC INTEREST COUNSEL
via electronic mail:

Sheldon Wayne, Attorney
Texas Commission on Environmental
Quality Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711
Sheldon.Wayne@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)

DE AYALA ,CARLOS A
D&D TALK RANCH LLC
1114 LOESER DR
HOUSTON TX 77055-6513
cdeayala@comcast.net

DIVER, BERNADETTE & BERNADETTE DZIUK
8411 TIMBER LOCHE
SAN ANTONIO TX 78250-4466
bdiver@att.net

ELKINS , BLAKE
15679 FM 1344
FALLS CITY TX 78113-3076
blake.elkins94@yahoo.com

GONZALES , LESLIE
507 CRAIG ST
KARNES CITY TX 78118-3535
lesliegonzales62@yahoo.com

SEKULA, PATSY
patsysekula@sbcglobal.net

ATTACHMENT A-1

Conquista Site

Hearing Requestors

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



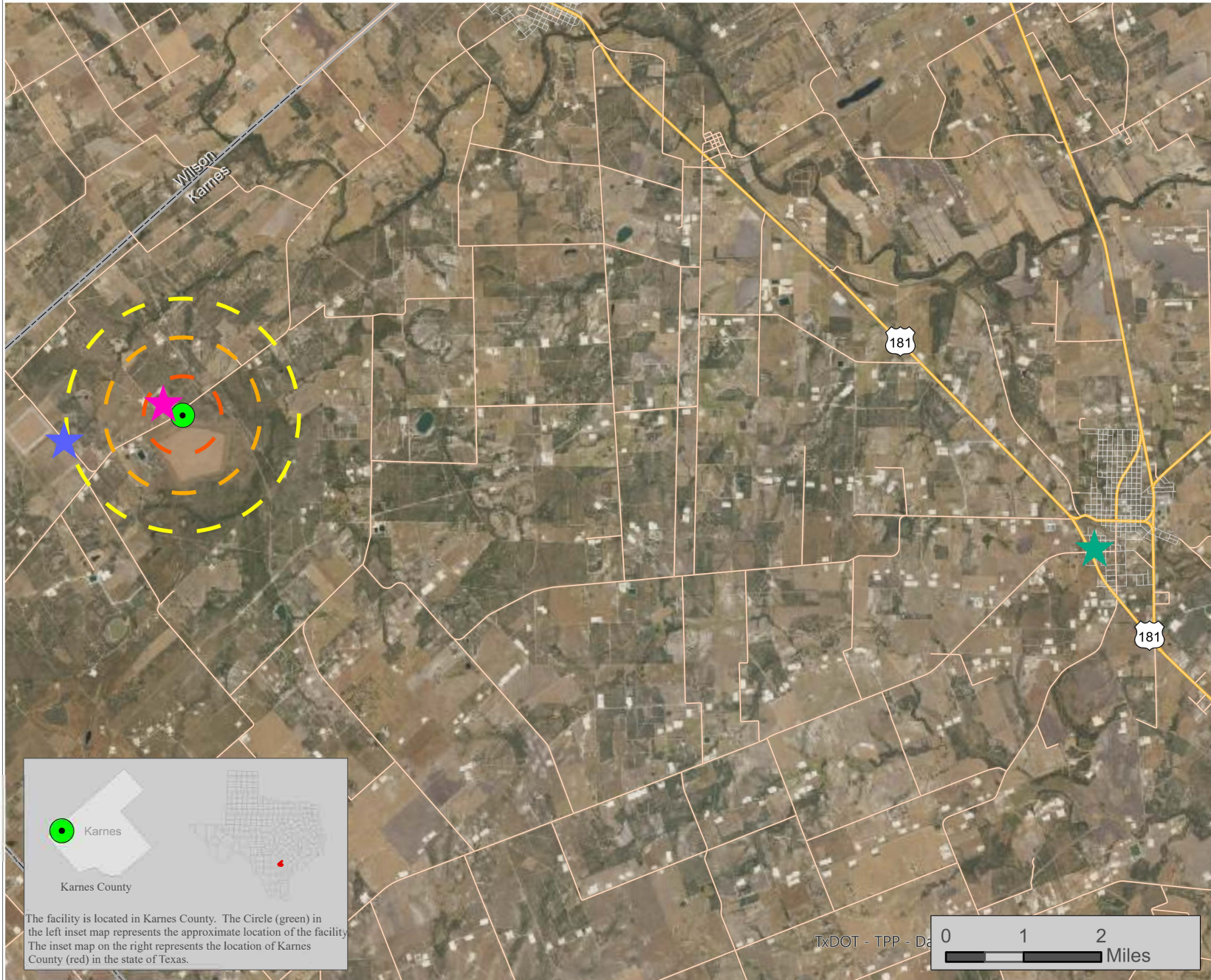
*Protecting Texas by
Reducing and
Preventing Pollution*

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 2/2/2026
CRF 0134766
Cartographer: JStalsby



Legend

- Facility
- 0.5 Mile Radius
- 1.0 Mile Radius
- 1.5 Mile Radius
- Bernadette Dziuk Diver, 0.29 miles from facility
- Blake Elkins, 1.54 miles from facility
- Leslie Gonzales, 11.95 miles from facility



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.

The facility is located in Karnes 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 Karnes County (red) in the state of Texas.



ATTACHMENT A-2

Slick-Wilcox Site Hearing Requestors

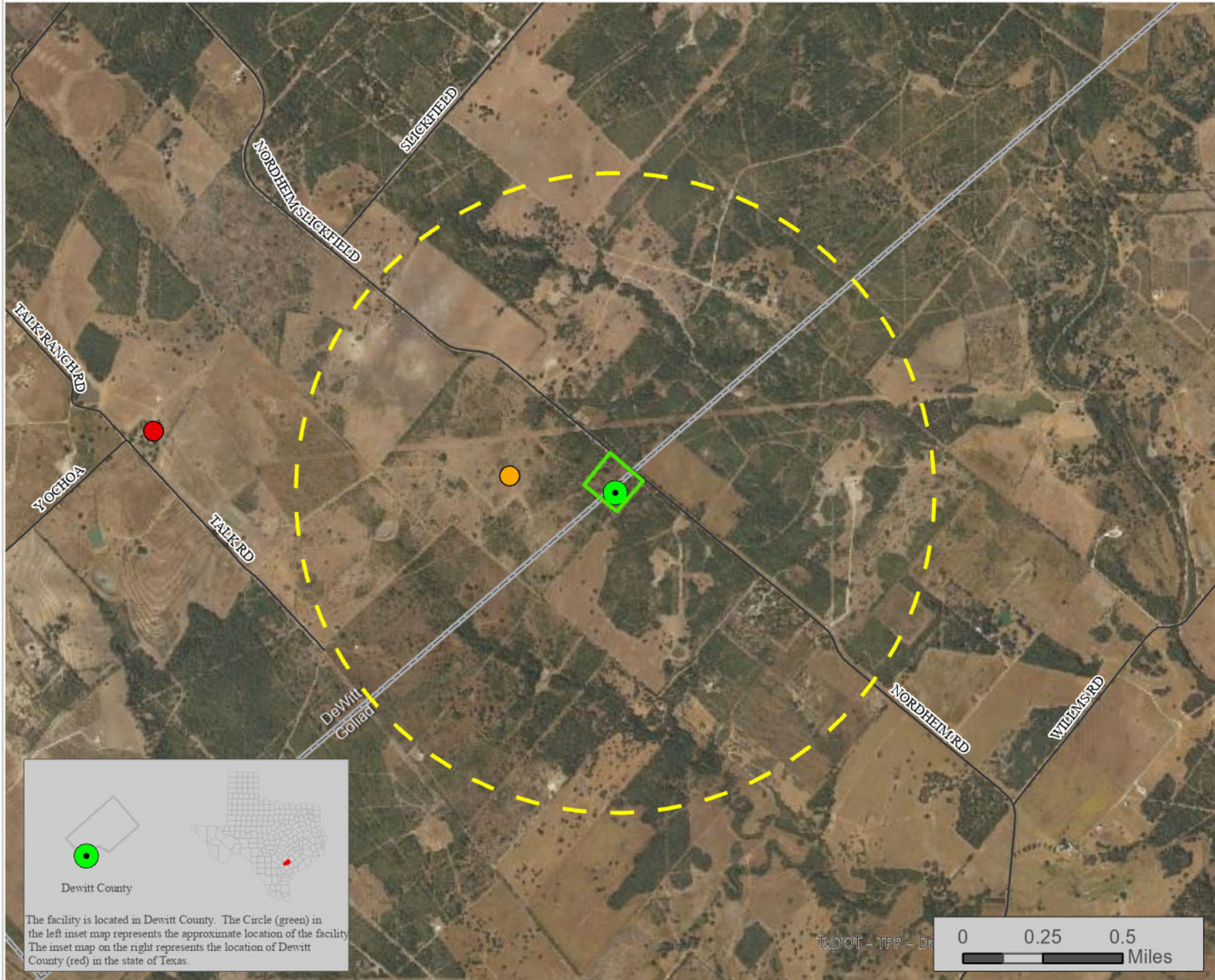
Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



*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: 2/3/2026
CRF 0134767
Cartographer: AProvenc

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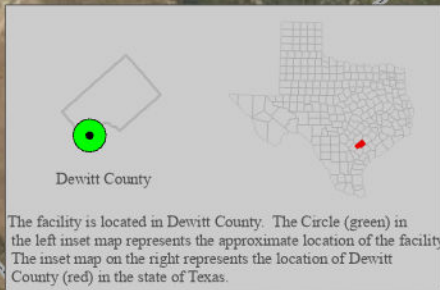


- Carlos A De Ayala
- Facility Point
- Facility Boundary
- Adjacent landowner D & D Talk Ranch LLC (owned by Carlos A De Ayala)
- 1.0 Mile Radius
- County Roads
- County Boundary

Carlos A De Ayala is 1.46 miles from the Facility Point

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.

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The facility is located in Dewitt 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 Dewitt County (red) in the state of Texas.



TxDOT - TPP - De

ATTACHMENT B-1

List of Landowners for Properties Adjacent to the Conquista Project Site:

- JEFFERY BEICKER
105 BIG TRAIL CIR
MISSOURI CITY TX 77459-5187
- 8809 FM 971 LLC
5808 BALCONES DR SUITE 200
AUSTIN TX, 78731
- BERNADETTE DIVER DZUIK ET AL
8411 TIMBER LOCHE
SAN ANTONIO TX 78250-4466
- TURNER EFFIE ESTATE
C/O DEBORAH MCBRIDE ET AL
22905 BARRISTER CREEK DR
TOMBALL TX 77377
- VINCENT LABUS JR
18894 N FM 81
HOBSON TX 78117-5407
- LYSSY LEO V JR
LYNETTE M MENTESAN
2638 CR 204
FALLS CITY TX 78113-3017

ATTACHMENT B-2

**Slick-Wilcox Site
Adjacent Landowners**

BEVERLY BELL WOOD
435 ADCOCK DAIRY RD
VICTORIA TX 77905

D&D TALK RANCH LLC
1114 LOESER DR
HOUSTON TX 77055

WILLIAM R FINNEY
P.O. BOX 914
CUERO TX 77954

BEVERLY LYNN WOOD
435 ADCOCK DAIRY RD
VICTORIA TX 77905

FORREST ROGERS
49 MEIDER LN
YORKTOWN TX 78164