

DOCKET NO. 2026-0185-MWD

APPLICATION BY	§	BEFORE THE
BELLE VIE UTILITIES LLC	§	
FOR NEW TEXAS POLLUTANT	§	TEXAS COMMISSION ON
DISCHARGE ELIMINATION SYSTEM	§	
PERMIT NO. WQ0016459001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Request (Response) on the application by Belle Vie Utilities LLC for new Texas Pollutant Discharge Elimination System Permit No. WQ0016459001 and the Executive Director's preliminary decision. The Office of the Chief Clerk received contested case hearing requests from Lauren Kalisek on behalf of North Texas Municipal Water District (NTMWD).

Attached for Commission consideration:

- Attachment A: Executive Director's GIS Map

II. Description of Facility

Belle Vie Utilities LLC (Applicant) submitted an application to TCEQ on 12/19/23 for a new permit, TPDES Permit No. WQ0016459001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. The Applicant proposes to operate Belle Vie Utilities LLC Wastewater Treatment Plant (WWTP) to serve a residential development.

The Belle Vie Utilities LLC WWTP will be a membrane bio-reactor facility. Treatment units in the Interim I phase will include two fine screens, an anoxic tank, an aerobic tank, a membrane cell, a sludge press, and an ultraviolet light (UV) disinfection system. Treatment units in the Interim II phase will include two fine screens, an anoxic tank, an aerobic tank, a membrane cell, a sludge press, and an UV disinfection system. Treatment units in the Final phase will include two fine screens, two anoxic tanks, two aerobic tanks, two membrane cells, a sludge press, and an UV disinfection system. The facility has not been constructed.

The facility will be located approximately 0.3 miles northwest of the intersection of Farm-to-Market Road 1396 and County Road 2985 in Fannin County, Texas 75492. If the draft permit is issued, the treated effluent will be discharged to an unnamed tributary, thence to Lake Bois d' Arc, thence to Bois d' Arc Creek, thence to Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary, and high aquatic life use for Lake Bois d' Arc and Bois d' Arc Creek. The designated uses for Segment No. 0202 are primary contact recreation, public water supply, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses.

III. Procedural Background

The permit application was received on December 19, 2023, and declared administratively complete on March 3, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 19, 2024, in the *Fannin County Leader* and the *TexMex News*. The Notice of Application and Preliminary Decision (NAPD) was published on January 14, 2025, in the and the *TexMex News*. No public meeting was held.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

IV. The Evaluation Process for Hearing Requests

Because the application was received after September 1, 2015, and declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801 (HB-801), 76th Legislature, 1999, and requirements of Senate Bill 709 (SB-709), 84th Legislature, 2015, which are implemented through the TCEQ rules in 30 TAC Chapters 39, 50, and specifically 55, the TCEQ's Contested Case Hearing rules.

House Bill 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 (Requests). The Commission implemented HB 801 by adopting procedural rules in 30 TAC chapters 39, 50, and 55. Senate Bill 709 revised the requirements for submitting public comment and the commission's consideration of Hearing Requests.

A. *Legal Authority to Respond to Hearing Requests*

The Executive Director may submit written responses to requests. Responses to hearing requests must specifically address:

1. whether the requestor is an affected person;
2. whether issues raised in the hearing request are disputed;
3. whether the dispute involves questions of fact or 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 by filing a written 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.

B. *Hearing Request Requirements*

To consider a request, the Commission must first conclude that the requirements of the TCEQ's Contested Case Hearing rules found at 30 TAC §§ 55.201 and 55.203 are met as follows.

A request for a contested case hearing by an affected person must be in writing, filed with the chief clerk within the time provided . . ., based only on the requester's timely comments, and not based on an issue that was 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.

A hearing request must substantially comply with the following:

- (1) give the name, address, 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 is responsible for receiving all official communications and documents for the group;
- (2) identify the person's 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 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 facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) for applications filed;
 - (B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor 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 the requestor's comments that the requestor disputes, the factual basis of the dispute, list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.

C. *Provisions for Affected-Person Status*

To grant a contested case hearing request, the commission must determine, pursuant to the TCEQ's Contested Case Hearing rules, that a requestor is an "affected person" according to the provisions of 30 TAC § 55.203.

- (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 public does not qualify as a personal justiciable interest.
- (b) 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;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
 - (6) whether the requester timely submitted comments on the application which were not withdrawn; and
 - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.
- (d) In making this determination, the commission may also consider, to the extent consistent with case law:
 - (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.

D. Requests by a Group or Association

To grant a hearing request from a group or association under the TCEQ's Contested Case Hearing rules, the commission must determine that the group or association has complied with all the required provisions found in 30 TAC § 55.205(b)(1)-(4) to be found "affected" and granted Associational Standing.

- (b) For applications filed on or after September 1, 2015, a request by a group or association for a contested case may not be granted unless all of the following requirements are met:
 - (1) comments on the application are submitted timely by the group or association;
 - (2) the request identifies, by name and physical address, one or more members of the group or association that would otherwise have stood to request a hearing in their own right;
 - (3) the interests the group or association seeks to protect are germane to the organization's purpose; and

- (4) neither the claim asserted, nor the relief requested requires the participation of the individual members in the case.

E. 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 State Office of Administrative Hearing (SOAH) for a hearing. The commission may not refer an issue to 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; and
- (3) is relevant and material to the decision on the application.

F. Requests for Reconsideration

TCEQ's Contested Case Hearing rules state that any person may file a Request for Reconsideration (RFR) of the Executive Director's decision no later than 30 days after TCEQ Chief Clerk's Office (CCO) mails the Executive Director's decision and Response to Comments (RTC). According to TCEQ's Contested Case Hearing rules found at 30 TAC § 55.201(e), the RFR must be in writing, timely filed with CCO, and expressly state that the person is requesting reconsideration of the Executive Director's decision and give the reasons why the decision should be reconsidered.

V. Analysis of Hearing Requests

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestor qualifies as an affected person, what issues may be referred for a contested case hearing, and the appropriate length of the hearing, if requests are granted.

A. Whether the Hearing Requests Complied with Section 55.201(c) and (d).

Lauren Kalisek filed timely written Requests on behalf of NTMWD that provided the requisite contact information, raised issues that form the basis of its Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

The Requests by NTMWD complied with 30 TAC §§ 55.201(c) and (d) because the Request effectively identified personal justiciable interests in a written explanation plainly describing why NTMWD will be affected by the application in a way not common to the public. The GIS Map prepared by the Executive Director's staff shows that NTMWD owns property within a half mile of the proposed discharge route. NTMWD raised issues related to water quality, and potential deficiencies in the application.

B. Whether the Requestor is an affected person under 30 TAC Section 55. 203

NTMWD submitted timely comments and hearing requests which articulate several concerns the city has with the permit application. 30 TAC § 55.203(b) provides that governmental authorities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered

affected persons. Additionally, 30 TAC § 55.203(c)(7) provides that in determining whether a person is affected, factors considered for governmental entities includes their statutory authority over or interest in the issues relevant to the application.

The hearing request filed by NTMWD explains that it is a conservation district under the Texas Constitution that was created by the Texas Legislature in 1951 to serve regional water and wastewater needs in the area north and east of Dallas. The request states that NTMWD provides wastewater service to thirteen (13) area wastewater treatment plants. NTMWD claims that it is an affected person because the proposed discharge would interfere with the water quality of its drinking water supply, Bois d' Arc lake. NTMWD explains that the proposed discharge is immediately upstream of the lake and will have a direct impact on the lake. In addition, NTMWD is identified in the Applicant's adjacent landowner list as owning multiple adjacent properties.

NTMWD's statutory authority and relevant interests, in conjunction with the issues it raised, lead the Executive Director to determine that NTMWD has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the Executive Director recommends that the Commission find that NTMWD is an affected person under 30 TAC § 55.203 and grant the hearing requests.

C. Whether Issues Raised Are Referable to SOAH for a Contested Case.

The following issues were raised in the hearing requests that the Executive Director recommends the Commission grant.

1. Whether the Draft Permit satisfies Texas Surface Water Quality Standards and is protective of the environment.
2. Whether there are changes needed to the Draft Permit to protect water quality.
3. Whether the application by Belle Vie Utilities is accurate and complete and meets all TCEQ rule requirements.

VI. 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 180 days from the preliminary hearing to the presentation of a Proposal for Decision to the Commission.

VII. Executive Director's recommendations

The Executive Director recommends the following actions by the Commission:

1. Grant the hearing request filed by NTMWD.
2. Should the Commission decide to refer this case to SOAH:
 - a. Refer the case to Alternative Dispute Resolution for a reasonable time; and
 - b. Refer the issues identified in Section V above to SOAH for a contested case hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

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Office of Legal Services

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REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VIII. CERTIFICATE OF SERVICE

I certify that on March 9, 2026, the “Executive Director’s Response to Hearing Request” for TPDES Permit No. WQ0016459001 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.



Anthony Tatu, Staff Attorney
Environmental Law Division

MAILING LIST
Belle Vie Utilities LLC
TCEQ Docket No./TCEQ Expediente N.º 2026-0185-MWD
TPDES Permit No./TPDES Permiso N.º WQ0016459001

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Attachment A

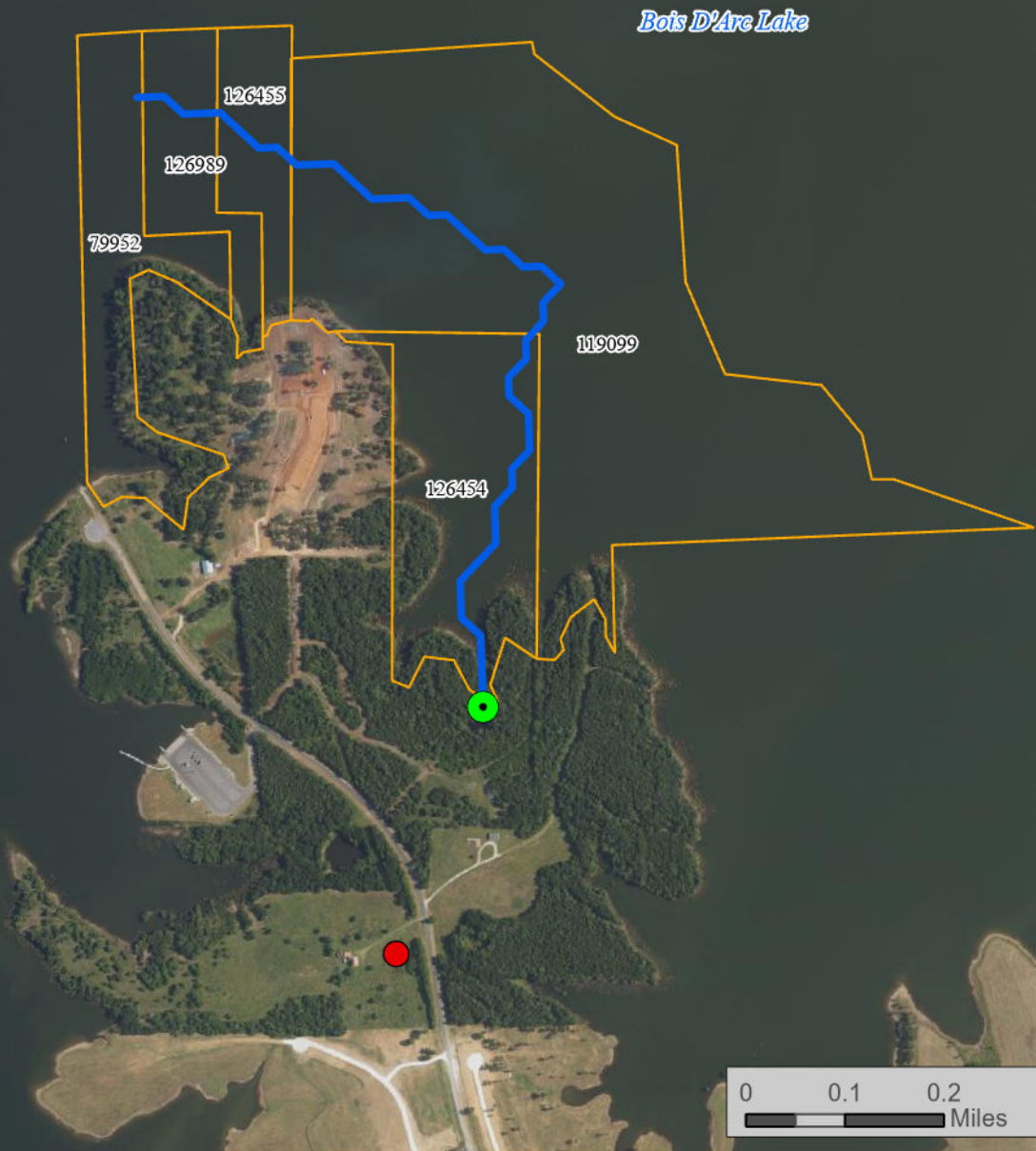
Belle Vie Utilities LLC

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



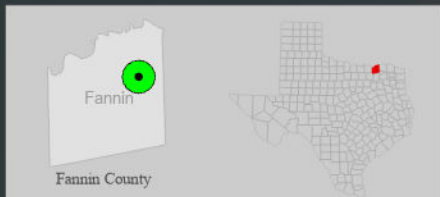
*Protecting Texas by
Reducing and
Preventing Pollution*

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 2/27/2026
CRF 0135749
Cartographer: AProvenc



- Discharge Point
- Proposed Treatment Plant
- Parcels owned by hearing requestor (NTMWD)
- Discharge Route

NTMWD - North Texas
Municipal Water District



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

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.

