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 23, 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 WILLOW RANCH MUNICIPAL UTILITY DISTRICT NO. 1 OF KAUFMAN COUNTY**
TCEQ DOCKET NO. 2026-0186-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,

Michael Rakauskas, Attorney
Assistant Public Interest Counsel

cc: Mailing List

DOCKET NO. 2026-0186-DIS

PETITION FOR THE CREATION OF KAUFMAN COUNTY WILLOW RANCH MUNICIPAL UTILITY DISTRICT 1	**§**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

OFFICE OF PUBLIC INTEREST COUNSEL'S
RESPONSE TO HEARING REQUESTS

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 Requests in the above-entitled matter.

I. INTRODUCTION

A. Summary of Position

The TCEQ Chief Clerk's office received hearing requests from Chairman Keith Bell and County Judge Jakie Allen.[1] Chairman Bell's request did not state an interest that relates to a legal right, duty, privilege, power, or economic interest affected by the petition. For the reasons discussed herein, OPIC respectfully recommends that the Commission deny Chairman Bell's hearing request.

B. Background

Forney Development, LLC (Petitioner), filed a petition for the creation of Kaufman County Municipal Utility District No. 1 (the District) pursuant to Article XVI, Section 59 of the Texas Constitution, Chapters 49 and 54 of the Texas Water

[1] Judge Jackie Allen submitted two hearing requests on July 7, 2025, and October 7, 2025. Judge Allen withdrew both requests on March 4, 2026. As they were withdrawn by the requestor, no analysis is needed on these requests.

Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the TCEQ. The application was declared administratively complete on July 15, 2025. On September 11, 2025, and September 18, 2025, the Notice of District Petition was published in the *Kaufman Herald*. On September 4, 2025, the Kaufman County Clerk posted the notice on the bulletin board used for posting legal notices in Kaufman County. According to the notice, the proposed District shall consist of approximately 140.125 acres and would be located within Kaufman County. The comment and contested case hearing request periods ended on October 20, 2025.

The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of and control domestic and commercial wastes; (3) gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water in the proposed District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvement in aid of those roads; and, (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the proposed District is created. It is further proposed that the proposed District be granted road powers pursuant to Texas Water Code, Section 54.234.

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. Tex. Water Code § 54.011. Chapters 49 and 54 of the Texas Water Code (TWC) and the Commission's administrative rules found at Title 30, Chapter 293, of the Texas Administrative Code (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. ANALYSIS OF HEARING REQUEST

Chairman Keith Bell timely filed a hearing request on August 29, 2025.[2] His hearing request only stated that he would like to formally request a hearing regarding the proposed creation of Willow Ranch Municipal Utility District No. 1. In his hearing request, Chairman Bell requested a hearing regarding the proposed MUD but did not state reasons for his opposition to its creation. A requestor must articulate an interest that relates to a legal right, duty, privilege, power, or

[2] While there are special statutory and regulatory provisions relating to a legislator's request for a public meeting, there are no specific requirements relating to requests for a contested case hearing filed by a legislator Therefore, Chairman Bell's request has been analyzed under the requirements applicable to all contested case hearing requests.

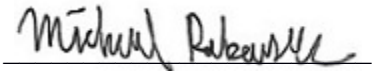
economic interest affected by the petition in their request. 30 TAC § 55.256(a), (c). Without the contention that creation of the proposed District would affect any personal interests, a mere request for a hearing regarding the proposed MUD or a general statement of concern as a legislator does not fulfill this requirement. Consequently, OPIC finds that Chairman Bell has not demonstrated that he qualifies as an affected person in this matter.

IV. Conclusion

For the reasons set forth above, OPIC respectfully recommends the Commission find that Chairman Keith Bell is not an affected person and deny his hearing request.

Respectfully submitted,

David Timberger
Interim Public Interest Counsel

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2025, the original of the Office of Public Interest Counsel's Response to Hearing Requests 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. 2026-0186-DIS

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