

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 23, 2026

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, Texas 78711-3087

**Re: TCEQ Docket No. 2026-0290-MWD; Application by Lennar Homes of Texas  
Land and Construction, Ltd., for New TPDES Permit No. WQ0016640001**

Dear Ms. Gharis,

I have enclosed for filing the "Executive Director's Response to Hearing Requests."  
Please let me know if you have any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Fernando Salazar Martinez".

Fernando Salazar Martinez,  
Staff Attorney  
Environmental Law Division  
Office of Legal Services  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
Email: [fernando.martinez@tceq.texas.gov](mailto:fernando.martinez@tceq.texas.gov)  
Phone: (512) 239-3356

Enclosure

CC: Mailing List

TCEQ DOCKET NO. 2026-0290-MWD

APPLICATION BY LENNAR HOMES  
OF TEXAS LAND AND  
CONSTRUCTION, LTD. FOR  
NEW TPDES PERMIT NO.  
WQ0016640001

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL  
QUALITY

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EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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**I. INTRODUCTION**

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests (Response or RTH) on the Application by Lennar Homes of Texas Land and Construction, Ltd. (Applicant), for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016640001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 450,000 gallons per day near the City of Cleveland, Montgomery County, Texas.

The Office of the Chief Clerk received a timely request for a contested case hearing from the following individual: Daniel R. Kohn, Trustee of the Erwin & Henrietta Kohn Living Trust.

The Executive Director recommends that the Commission find that the Erwin & Henrietta Kohn Living Trust is an affected person and grant its hearing request. Attached to this Response for the Commission's consideration is a satellite map of the area showing the locations of the facility and requester.<sup>1</sup>

**II. SUMMARY OF APPLICATION AND DRAFT PERMIT**

**A. Project Overview**

On October 4, 2024, Lennar Homes of Texas Land and Construction, Ltd. (Applicant) submitted an application to TCEQ for a new permit, TPDES Permit No. WQ0016640001, to authorize treated wastewater at a volume not to exceed a daily average flow of 450,000 gallons per day. The Applicant proposes to operate the proposed Faulkner Ridge Wastewater Treatment Plant (WWTP), to serve the proposed Faulkner Ridge residential development.

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<sup>1</sup> The requester's location on the Executive Director's map depicts its physical location based on the information provided by the requester in its hearing request.

If the Draft Permit is issued, the proposed Faulkner Ridge WWTP will be an activated sludge process plant operated in the conventional mode. Treatment units in the Interim I Phase will include a bar screen, two aeration basins, a final clarifier, a sludge digester, and a chlorine contact chamber. Treatment units in the Interim II Phase will include a bar screen, four aeration basins, two final clarifiers, two sludge digesters, and two chlorine contact chambers. Treatment units in the Final phase will include six aeration basins, three final clarifiers, three sludge digesters, and three chlorine contact chambers. The proposed facility will be located approximately 3,425 feet south of the intersection of East Old Highway 105 and Faulkner Road, near the City of Cleveland, Montgomery County, Texas 77328. The proposed facility has not been constructed.

If the Draft Permit is issued, the treated effluent will be discharged via a detention pond to a ditch, then to an unnamed tributary, then to Peach Creek in Segment No. 1011 of the San Jacinto River Basin.<sup>2</sup> The designated uses for Segment No. 1011 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. All determinations are preliminary and subject to additional review and revisions.

Geographic coordinates of the outfall location in decimal degrees are provided in Table 1.

**Table 1. Outfall Coordinate Location**

<b>Outfall Number</b>	<b>Latitude</b>	<b>Longitude</b>
001	30.304108 N	95.209039 W

A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and

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<sup>2</sup> In the Executive Director’s Response to Comments, the description of the proposed discharge route repeats “thence to Peach Creek” twice due to a clerical error. This Response contains the correct description and is consistent with the description contained within the public notices (i.e., NORI and NAPD) for this Application.

existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

### **III. PROCEDURAL BACKGROUND**

TCEQ received this Application on October 4, 2024, declared administratively complete on November 6, 2024, and declared technically complete on July 15, 2025. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English on November 13, 2024, in the *Houston Chronicle* and in Spanish on November 13, 2024, in the *Buena Suerte Spanish News*. The Notice of Application and Preliminary Decision (NAPD) was published in English on July 23, 2025, in the *Houston Chronicle d/b/a Conroe Courier* and in Spanish on August 6, 2025, in the *Buena Suerte Spanish News*. The public comment period ended on September 2, 2025. The Executive Director's Response to Comments was filed on January 21, 2026, and mailed on January 29, 2026. The hearing request period for this Application ended on March 2, 2026.

This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 Tex. Admin. Code, Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

### **IV. EVALUATION OF HEARING REQUESTS**

HB 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. SB 709 revised the requirements for submitting public comments and the Commission's consideration of hearing requests. The evaluation process for hearing requests is discussed below.

#### **A. Response to Requests**

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.<sup>3</sup>

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<sup>3</sup> 30 TEX. ADMIN. CODE § 55.209(d).

Responses to hearing requests must specifically address:

- (1) whether the requester 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.<sup>4</sup>

## **B. 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 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.<sup>5</sup>

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 requester's location and distance relative to the facility or activity that is the subject of the application and how and why the requester 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;

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<sup>4</sup> 30 TEX. ADMIN. CODE § 55.209(e).

<sup>5</sup> 30 TEX. ADMIN. CODE § 55.201(c).

- (4) list all relevant and material disputed issues of fact that were raised 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 requester should, to the extent possible, specify any of the ED's responses to comments that the requester disputes and the factual basis of the dispute and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.<sup>6</sup>

**C. Requirement that Requester be an Affected Person**

To grant a contested case hearing, the Commission must determine that a requester is an "affected person" by conducting the following analysis:

- (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.

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<sup>6</sup> 30 TEX. ADMIN. CODE § 55.201(d).

(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 requester.<sup>7</sup>

Under 30 Tex. Admin. Code § 55.205(a), a group or association may request a contested case hearing only if the group or association meets the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.<sup>8</sup>

Additionally, for applications filed on or after September 1, 2015, a hearing 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 timely submitted 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 standing 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.<sup>9</sup>

#### **D. 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.<sup>10</sup> The

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<sup>7</sup> 30 TEX. ADMIN. CODE § 55.203(a)-(d).

<sup>8</sup> 30 TEX. ADMIN. CODE § 55.205(a)(1)-(3).

<sup>9</sup> 30 TEX. ADMIN. CODE § 55.205(b)(1)-(4).

<sup>10</sup> 30 TEX. ADMIN. CODE § 50.115(b).

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.<sup>11</sup>

## **V. ANALYSIS OF THE HEARING REQUESTS**

For this Application, the public comment period ended on September 2, 2025, and the time for filing Requests for a Hearing or a Request for Reconsideration (RFR) ended on March 2, 2026. TCEQ's Office of the Chief Clerk received timely public comments and a request for a contested case hearing from Daniel R. Kohn, Trustee of the Erwin & Henrietta Kohn Living Trust, on November 29, 2024.

The Executive Director's analysis determined whether the Request followed TCEQ rules, if the requester qualifies as an affected person, the issues recommended for referral for a possible hearing, and the recommended duration of that hearing.

### **A. Affected Persons**

#### ***1. Requester No. 1 - Erwin & Henrietta Kohn Living Trust***

##### ***Whether the Request complies with 30 Tex. Admin. Code §§ 55.201***

On November 29, 2024, Mr. David R. Kohn, Trustee of the Erwin & Henrietta Kohn Living Trust (Kohn Trust),<sup>12</sup> submitted timely public comments and its request for a contested case hearing (Request). The Kohn Trust's Request contains the required contact information and complies with the applicable requirements under 30 Tex. Admin. Code § 55.201(a), (c), (d).

Under 30 Tex. Admin. Code § 55.201(d)(2), a hearing request must identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining the requestor's location and distance relative to the proposed 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 proposed facility in a manner not common to members of the general public.

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<sup>11</sup> 30 TEX. ADMIN. CODE § 55.203(d).

<sup>12</sup> Upon the Executive Director's review, it appears that Mr. David R. Kohn submitted public comments and a hearing request on behalf of the Kohn Trust in his capacity as Trustee.

According to Kohn Trust's Request, it filed public comments and a hearing request, "[b]ecause the Discharge Path crosses the Kohn Trust Property and its use could potentially significantly affect its value and enjoyable use, the Trust has grave concerns about allowing or authorizing the Discharge Path, and why the Discharge Path was chosen, and whether it is appropriate and justified, and why an alternative path solely on the Applicants property and emptying directly into Peach Creek was not chosen instead." The Kohn Trust's request also raises concerns relating to the accuracy of the proposed discharge route's description, specifically whether the unnamed tributary of Peach Creek exists.

Upon the Executive Director's review of the Request, Kohn Trust raises issues that are primarily concerned with the proposed discharge route, particularly whether the proposed discharge path is accurate as it would run through and potentially adversely affect the Kohn Trust's property. Upon the Executive Director's review of Kohn Trust's request, she finds that it contains sufficient information that complies with the requirements under 30 Tex. Admin. Code § 55.201(d)(2).

***Affected Person Determination under 30 Tex. Admin. Code §§ 55.203***

Under 30 Tex. Admin. Code § 55.203(a), 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. Further, an interest in common to members of the public does not qualify as a personal justiciable interest. Under 30 Tex. Admin. Code § 55.203(c), the Commission considers the listed factors in making its determination on whether a requester is an affected person.

In the Kohn Trust's Request, it raises concerns primarily focused on the proposed discharge route and potential impacts it may cause to its property. In its Request, the Kohn Trust states that it is listed on the Applicant's Affected Landowner List. Upon review of the Applicant's Affected Landowner Map, the Kohn Trust's property appears to be located within one mile downstream of the proposed facility and outfall and is listed as No. 35 on the Affected Landowner List.<sup>13</sup> According to the satellite map prepared by the Executive Director's staff, the Kohn Trust's property is located approximately 0.47 miles from the proposed facility.

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<sup>13</sup> See [Tech Complete Package](#), page 121, 124 of online PDF (Downstream & Adjacent Landowners Map, Affected Landowners Map and Table). The Kohn Trust is depicted as Landowner No. 35 downstream of the discharge route.

Based on the intervening distances, the Kohn Trust's property is in proximity to the proposed facility and outfall. In its Request, the Kohn Trust claims its property would be adversely impacted because the proposed discharge would run through its property; therefore, this Request adequately articulates a personal justiciable interest that would likely be impacted by the regulated activity under 30 Tex. Admin. Code § 55.203(a), (c)(3). In conjunction with the issues raised within its Request, the Kohn Trust's provided sufficient information demonstrating its affectedness under 30 Tex. Admin. Code § 55.203. For these reasons, the Executive Director recommends that the Commission finds that the Kohn Living Trust is an affected person under 30 Tex. Admin. Code § 55.203 and grant its hearing request.

**B. Whether the Issues the Requester Raised are Referable to the State Office of Administrative Hearings (SOAH)**

The Executive Director has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the Response to Comments. None of the issues were withdrawn. For applications submitted on or after September 1, 2015, only those issues raised in a timely comment by a requester whose request is granted may be referred.<sup>14</sup> The issues raised for this application and the Executive Director's analysis and recommendations are discussed below.

**1. Whether the Draft Permit is adequately protective of surface water quality in accordance with the applicable laws and regulations, including the Texas Surface Water Quality Standards in 30 Tex. Admin. Code, Chapter 307.**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If the Commission refers this application for a contested case hearing, the Executive Director recommends the Commission refers this issue to SOAH.

**2. Whether the discharge route is adequately characterized in accordance with the applicable laws and regulations in Tex. Water Code Chapter 26 and 30 Tex. Admin. Code, Chapter 309.**

The issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance

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<sup>14</sup> TEX. GOVT. CODE § 2003.047(e-1); 30 TEX. ADMIN. CODE § 55.211(c)(2)(A)(ii).

of the draft permit. If the Commission refers this application for a contested case hearing, the Executive Director recommends the Commission refers this issue to SOAH.

## VI. EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends the following actions by the Commission:

1. Find that the Erwin & Henrietta Kohn Living Trust is an affected person under 30 Tex. Admin. Code § 55.203 and grant its hearing request.
2. Should the Commission decide to refer this case to SOAH:
  - a. refer the case to TCEQ's Alternative Dispute Resolution for a reasonable time; and
  - b. refer the identified issue above in Section V.B to SOAH for a contested case hearing with a duration of 180 days from the preliminary hearing to the issuance of a Proposal for Decision.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Kelly Keel, Executive Director

Phillip Ledbetter, Director  
Office of Legal Services

Amy L. Browning, Acting Deputy Director  
Environmental Law Division



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Fernando Salazar Martinez, Staff Attorney  
Environmental Law Division  
State Bar No. 24136087  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Office: (512) 239-3356  
Email: [Fernando.martinez@tceq.texas.gov](mailto:Fernando.martinez@tceq.texas.gov)

REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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**CERTIFICATE OF SERVICE**

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I certify that on March 23, 2026, the “Executive Director’s Response to Hearing Requests” was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



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Fernando Salazar Martinez, Staff Attorney  
Environmental Law Division  
State Bar No. 24136087

MAILING LIST  
LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD.  
TCEQ Docket No./TCEQ Expediente N.º 2026-0290-MWD  
TPDES Permit No./TPDES Permiso N.º WQ0016640001

FOR THE APPLICANT/PARA EL  
SOLICITANTE

Michael W. Johnson  
Vice President of Land Development  
Lennar Homes of Texas Land and  
Construction, Ltd.  
681 Greens Parkway, Suite 220  
Houston, Texas 77067

Shelley Young, P.E., Engineer  
WaterEngineers, Inc.  
17230 Huffmeister Road, Suite A  
Cypress, Texas 77429

REQUESTER/SOLICITANTE

Mr. Daniel R. Kohn  
Erwin & Henrietta Kohn Living Trust  
7801 West Arquilla Drive  
Apt 2A  
Palos Heights, IL 60463

FOR THE EXECUTIVE DIRECTOR/PARA  
LA DIRECTOR EJECUTIVA  
via electronic mail/vía correo  
electrónico:

Fernando Salazar Martinez, Staff Attorney  
Texas Commission on  
Environmental Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711

Paula Palmar, Technical Staff  
Texas Commission on  
Environmental Quality  
Water Quality Division MC-148  
P.O. Box 13087  
Austin, Texas 78711

Ryan Vise, Deputy Director  
Texas Commission on  
Environmental Quality  
External Relations Division  
Public Education Program, MC-108  
P.O. Box 13087  
Austin, Texas 78711

FOR PUBLIC INTEREST COUNSEL/PARA  
ABOGADOS DE INTERÉS PÚBLICO  
via electronic mail/vía correo  
electrónico:

David Timberger, Attorney  
Texas Commission on  
Environmental Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE  
RESOLUTION/PARA LA RESOLUCIÓN  
ALTERNATIVA DE DISPUTAS  
via electronic mail/vía correo  
electrónico:

Kyle Lucas  
Texas Commission on  
Environmental Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA LA  
SECRETARIA OFICIAL  
via eFilings:

Docket Clerk  
Texas Commission on  
Environmental Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711

<https://www.tceq.texas.gov/goto/efilings>

# Attachment A

# Application by Lennar Homes of Texas Land and Construction Ltd.

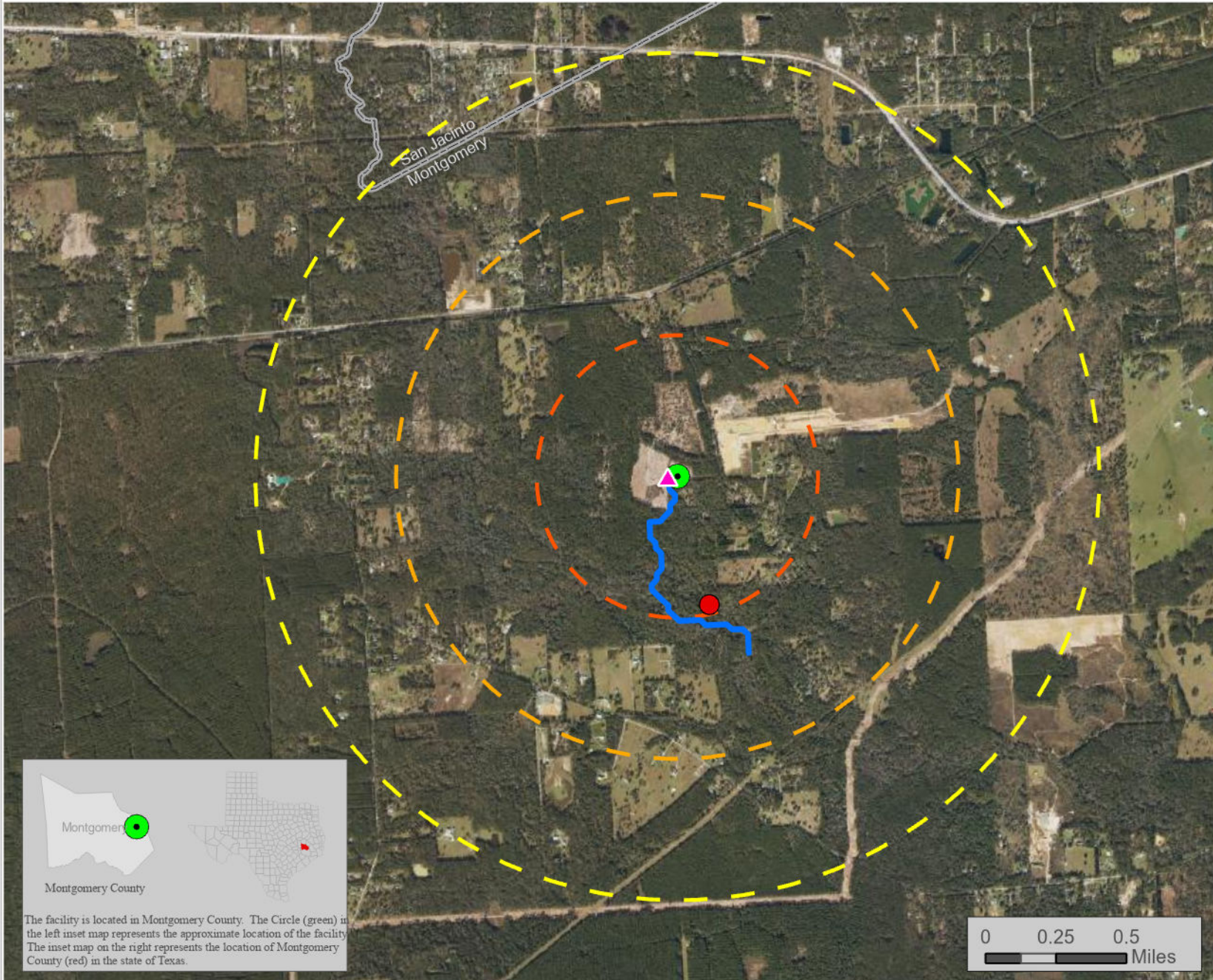
## New TPDES Permit No. WQ0016640001

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



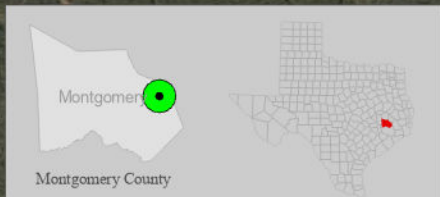
*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 3/20/2026  
CRF 0136417  
Cartographer: AProvenc



- Requestor
- Facility Point
- Outfall
- 1 Mile Discharge Route
- 0.5 Mile Radius
- 1.0 Mile Radius
- 1.5 Mile Radius
- County Boundary

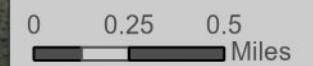
See Appendix A for  
Requestor distance from  
facility point.



The facility is located in Montgomery 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 Montgomery 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.



# Appendix A for Application by Lennar Homes of Texas Land and Construction Ltd.

Name	Lat	Long	Distance to Facility Point (Miles)
Erwin & Henrietta Kohn Living Trust	30.2974	-95.2069	0.47