TCEQ DOCKET NO. 2026-0332-MWD

APPLICATION BY MEGATEL HOMES III, LLC AND TRES RIOS PROPERTIES, LLC FOR NEW TPDES PERMIT WQ0016390001	**§**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

APPLICANTS MEGATEL HOMES III, LLC'S AND TRES RIOS PROPERTIES, LLC'S RESPONSE TO HEARING REQUEST

Megatel Homes III, LLC and Tres Rios Properties, LLC (collectively, "***Applicants***") file this response to the sole remaining request for contested case hearing (the "***Hearing Request***") submitted on Applicants' application ("***Application***") for Texas Pollutant Discharge Elimination System ("***TPDES***") Permit No. WQ0016390001 (the "***Permit***").

The Texas Commission on Environmental Quality ("***TCEQ***") received requests for a contested case hearing on the Application from Ms. Janice Newmann and from the Gulf Coast Water Authority ("***GCWA***"). The GCWA withdrew their request on October 29, 2025, leaving only Ms. Newmann's Hearing Request for consideration. Mapping attached hereto as ***Exhibit 1*** shows the location of the property as reflected in the local appraisal district website at the address provided in Ms. Neumann's Hearing Request at well over 1.5 miles from the proposed wastewater treatment plant and the proposed discharge route, which minimizes or eliminates any potential impacts the Permit could have on Ms. Neumann's personal justiciable interests. Therefore, Applicants respectfully request that Ms. Neumann's Hearing Request be denied. No requests for reconsideration were received.

I. FACTUAL AND PROCEDURAL BACKGROUND[1]

[1] The background relating to historic procedural steps is largely duplicative of the information available in the TCEQ Commissioners' Integrated Database, including from the public notices and the TCEQ Executive Director's ("***ED's***") Response to Public Comment ("***RTC***").

The Application was received by TCEQ on August 11, 2023, and declared administratively complete on October 4, 2023. The Permit would authorize the discharge of treated domestic wastewater at a daily average flow limit in Interim I Phase of 0.15 million gallons per day ("***MGD***"), at a daily average flow limit in Interim II Phase of 0.33 MGD, and at a daily average flow limit in the Final Phase of 1.33 MGD. The proposed wastewater treatment facility would serve the Tres Rios development, an approximately 1,060-acre tract that will be developed into single residential lots and multi-family residential units.

The Notice of Receipt and Intent to Obtain a Water Quality Permit ("***NORI***") was initially published on October 24, 2023, in the *Galveston County Daily News* and on November 1, 2023, in *La Voz de Houston*.

However, the location for the wastewater treatment facility initially proposed in the Application as filed and as described in the publication of the initial NORI would have been approximately 1.75 miles southeast of the intersection of Algoa Friendswood Road and Farm-to-Market Road 517, in Galveston County, Texas 77511, and the discharge route would have been from the plant site to an unnamed tributary, and thence to Dickinson Bayou Above Tidal. However, after amending the Application, the new proposed wastewater treatment facility will be located approximately 2.5 miles southeast of the intersection of Algoa Friendswood Road and Farm-to-Market Road 517, in Galveston County, Texas 77511. The new proposed discharge route will be to GCWA Canal G, thence to Galveston County Reservoir. During rare occurrences when the water in Galveston County Water Reservoir overtops its spillway, the discharge from the spillway will be to Dickinson Bayou Tidal in Segment 1103 of the San Jacinto-Brazos Coastal Basin.

After revising the originally proposed location of the wastewater treatment plant and discharge route, a revised combined NORI and a Notice of Application and Preliminary Decision ("***NAPD***") was published on April 2, 2025, in the *Galveston County Daily News* and *La Voz de Houston*. An additional combined amended Notice of Public Meeting, NORI, and NAPD was published on June 11, 2025, in the *Galveston County Daily News* and *La Voz de Houston*. The Public Meeting was held on July 22, 2025, at the Dickinson Hall and Event Center, 4132 East 27th Street, Dickinson, Texas 77539, at which time the public comment period ended.

The TCEQ Executive Director's ("***ED's***") Response to Public Comment ("***RTC***") and ED's Final Decision Letter were mailed on January 16, 2026, and the deadline for the Hearing Requests was February 17, 2026.

Because the Application was administratively complete on or after September 1, 2015, it is subject to the procedural requirements implementing House Bill 801, 76th Legislature, 1999, and Senate Bill 709, 84th Legislature, 2015.

II. APPLICABLE LAW FOR HEARING REQUESTS[2]

The Hearing Request can only be granted if several specific administrative, procedural, and substantive requirements are met.

First, the Hearing Request must be in writing, must be timely filed no later than 30 days after mailing of the ED's decision and RTC, may not be based on an issue raised in a public comment that was withdrawn, and must be based on the requestor's own timely comments.[3]

[2] Hearing Requests for the Application are governed primarily by statutory provisions in TEX. GOV'T CODE § 2003.047 and TEX. WATER CODE §§ 5.115 and 5.556 which are implemented by various provisions in 30 TEX. ADMIN. CODE, CHAPTER 50, SUBCHAPTER F and CHAPTER 55, SUBCHAPTER F. In the interest of efficiency and since TCEQ's rules comprehensively encompass all relevant statutory provisions, and because various provisions of such TCEQ's rules overlap and are duplicative but consistent, citations herein may not include every applicable TCEQ rule.

[3] 30 TEX. ADMIN. CODE § 55.201(c).

Second, the Hearing Request must substantially comply with the following requirements:

(1) Give the name, address, daytime telephone number, and, where possible, a fax number;
(2) Identify the requestor's purported personal 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 proposed wastewater treatment facility and how and why the requestor believes the requestor will be adversely affected by the wastewater treatment facility in a manner not common to members of the general public;
(3) Request a contested case hearing; and
(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 executive director's responses to the requestor's comments that the requestor disputes, 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.[4]

Third, the Hearing Request cannot be granted unless the Commission first determines the requestor is an "affected person."[5] An "affected person" is:

> [O]ne 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."[6]

In determining whether a requestor is an affected person, the Commissioners must consider the following factors:

(1) Whether the requestor's 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] *Id.* § 55.201(d).

[5] TEX. WATER CODE §5.556(c); *Id.* §§ 55.201(b), 55.211(c)(2). The Commission, the ED, or the applicant may also request a contested case hearing.

[6] 30 TEX. ADMIN. CODE § 55.203(a); *see also* TEX. WATER CODE §5.115(a).

(4) Likely impact of the wastewater treatment plant on the health and safety of the requestor, and on the use of property of the requestor;
(5) Likely impact of the regulated activity on use of the impacted natural resource by the requestor;
(6) Whether the requestor timely submitted comments on the Application that were not withdrawn; and
(7) For a local government, whether the local government has statutory authority over or interest in the issues relevant to the Application.[7]

In addition, the Commission may consider the following additional factors in determining whether a requestor is an affected person:

(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, by Applicants, or the requestor.[8]

A person seeking to be admitted as a party has the burden of making a minimum jurisdictional showing of a justiciable interest.[9] The burden to show that a requestor is an affected person lies entirely with the requestor.[10] Thus, each requestor must carry the burden to demonstrate that the requestor has a *personal justiciable interest* that is *not common to members of the general public*.[11] To have a justiciable interest, the complainant must show that a concrete, particularized, actual or imminent injury faces him or her due to the decision; a hypothetical or speculative injury is not enough.[12] A requestor cannot meet is burden if its alleged personal

[7] 30 TEX. ADMIN. CODE § 55.203(c).

[8] *Id.* § 55.203(d).

[9] *Tex. Comm'n on Envtl. Quality v. San Antonio Bay Estuarine Waterkeeper*, 714 S.W.3d 270, at 284 (Tex. App.—Austin [15th Dist.] May 20, 2025, pet. filed)(citing *DaimlerChrysler Corp. v. Inman*, 252 S.W.3d 299, 304-05 (Tex. 2008)).

[10] *TCEQ v. City of Aledo,* 2015 Tex. App. LEXIS 6940 at *12 (Tex. App.—Austin July 8, 2015, no pet.) (explaining that if no showing is made on any one or more of the factors in 30 TEX. ADMIN. CODE § 55.203, "there is nothing in the statutes or rules placing the burden on the Commission or [Administrative Law Judge] draw out from the person such information.").

[11] 30 TEX. ADMIN. CODE § 55.203(a) (emphasis added).

[12] *Waterkeeper*, 714 S.W.3d 284 (citing *DaimlerChrysler*, 252 S.W.3d 304-05.

justiciable interests are "couched in terms of *potentialities* or events that '*may*' happen" are "*mere speculation, and as such, it falls short of establishing a justiciable interest and standing*."[13]

> [To] have such an interest, the complainant must show that a concrete, particularized, actual or imminent injury faces him due to the decision; a *hypothetical or speculative injury is not enough*."[14]

Further, the Texas Third Court of Appeals has determined that it is reasonable to conclude that hearing requestors cannot be affected persons if the proposed "*activity will have minimal effect on their health, safety, use of property, and use of natural resources*."[15] As explained below, the Hearing Request does not meet this burden.

Fourth, *only if* the Commissioners determine a requestor is an affected person can issues be referred to the State Office of Administrative Hearings ("***SOAH***") for a contested case hearing. The only issues that can be referred are issues which involve a disputed question of fact or a mixed question of law or fact raised *by a requestor during the public comment period whose request is granted*, but only if the comment was not withdrawn, and only if the issue is relevant and material to the decision on the application.[16]

III. THE HEARING REQUEST

According to the Commissioners' Integrated Database, requests for a contested case hearing on the Application were only submitted from the GCWA and from Ms. Newmann. Since the GCWA withdrew its request on October 29, 2025, the only request remaining for Commission consideration is Ms. Newmann's Hearing Request.

A. The Hearing Request Does Not Establish that the Requestor is an Affected Person

[13] *Texas Disposal Sys. Landfill, Inc. v. TCEQ*, 259 S.W.3d 361, 363-64 (Tex. App.—Amarillo 2008, no pet.) (emphasis added).

[14] *Id.* at 363 (emphasis added).

[15] *TCEQ v. Sierra Club*, 455 S.W.3d 228, 240 (Tex. App. – Austin 2014) (emphasis added).

[16] 30 TEX. ADMIN. CODE §§ 50.115(c), (f)-(g); 55.211(c)(2)(A)(ii).

Applicants do not dispute that Ms. Neumann's Hearing Request contains the basic elements required by TCEQ's rules.[17] However, the Hearing Request does not demonstrate that Ms. Neumann has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to the general public.[18] The only basis offered is that the discharge from the proposed wastewater treatment plant would be into a ditch on the east end of her property. Although the initially proposed location of the wastewater treatment plant may have been located in relative proximity to Ms. Newmann's property and the discharge route may have been on or near her property at the address provided in the Hearing Request, as explained above, the Application was amended to change these locations. Both the new location of the proposed wastewater treatment plant and the new location of the proposed discharge route to GCWA's Canal G are located more than 1.5 miles from the closest part of Ms. Newmann's property, as shown in the mapping provided in ***Exhibit 1***. Given the distance between her property and the locations of the wastewater treatment plant and the discharge route, she is not an affected person. Any suggestion that she could be affected even in a minimal way different than a member of the general public would be mere speculation. Thus, Applicant's urge the Commission to deny her Hearing Request.

B. Issues Raised in the Hearing Request

Even if Ms. Newmann's Hearing Request could be granted, the only issues she raises are all based on a mistake regarding a discharge route which will no longer be used, and are limited to: (i) flooding of her property; (ii) potential contamination of drinking water for animals at a zoo

[17] 30 TEX. ADMIN. CODE § 55.201(c)-(d).

[18] 30 TEX. ADMIN. CODE § 55.203(a).

and in Dickinson Bayou (which is no longer near the discharge route); (iii) contamination from flooding on her property used for grazing; and (iii) groundwater contamination for homes that have wells. Flooding is not an issue for consideration in a TCEQ wastewater permit application. All of the other issues are addressed through compliance with the applicable surface water quality standards in 30 Tex. Admin. Code, Chapter 307. However, since Ms. Newmann has not met her burden to show that she is an affected person, no issues should be referred to SOAH.

IV. CONCLUSION

For the foregoing reasons, Applicants respectfully request that the Commission deny Ms. Newmann's Hearing Request, adopt the ED's RTC, approve the Application, and issue TPDES Permit No. WQ001639000.

Alternatively, in the event the Commission determines that the Hearing Request should be granted, Applicants respectfully request that only the following issue be referred to SOAH: Whether the draft permit is protective of groundwater and drinking water, per compliance with the applicable surface water quality standards in 30 Tex. Admin. Code, Chapter 307.

Applicants further respectfully request that if the Application is referred to SOAH, that the Commissioners direct SOAH to issue a proposal for decision by the 140th day after the first day of the preliminary hearing.[19]

[19] 30 TEX. ADMIN. CODE §50.115(d)(2).

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Applicants' foregoing Response to Hearing Requests has been forwarded via electronic mail or U.S. Mail to the persons on the attached mailing list as required by 30 Tex. Admin. Code §55.209(d) on April 6, 2026.

By: _____
Derek Seal

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TCEQ Docket No. 2026-0332-MWD; TPDES Permit No. WQ0016390001

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Exhibit 1

MAP

MEGATEL HOMES III LLC / TRES RIOS PROPERTIES WQ0016390001

APRIL 2026

LEGEND

- PREVIOUSLY PROPOSED SITE LOCATION
- PROPOSED DISCHARGE POINT
- PROPOSED DISCHARGE ROUTE
- PREVIOUSLY PROPOSED DISCHARGE ROUTE
- PROPOSED PROPERTY BOUNDARY
- SERVICE AREA BOUNDARY
- REQUESTOR'S PROPERTY BOUNDARY

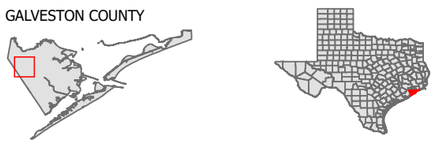
RADIUS

- 0.50-MILE RADIUS
- 1-MILE RADIUS
- 1.5-MILE RADIUS
- COUNTY LINE

N W E S

0 0.5 1 MILES

GALVESTON COUNTY



THE FACILITY IS LOCATED IN GRAYSON COUNTY.
THE SQUARE (RED) IN THE LEFT MAP
REPRESENTS THE APPROXIMATE LOCATION OF THE FACILITY.
THE INSET MAP ON THE RIGHT REPRESENTS THE LOCATION
OF GRAYSON COUNTY (RED) IN THE STATE OF TEXAS.

AERIAL PHOTOGRAPH DATE: NEARMAP JANUARY 2026

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.

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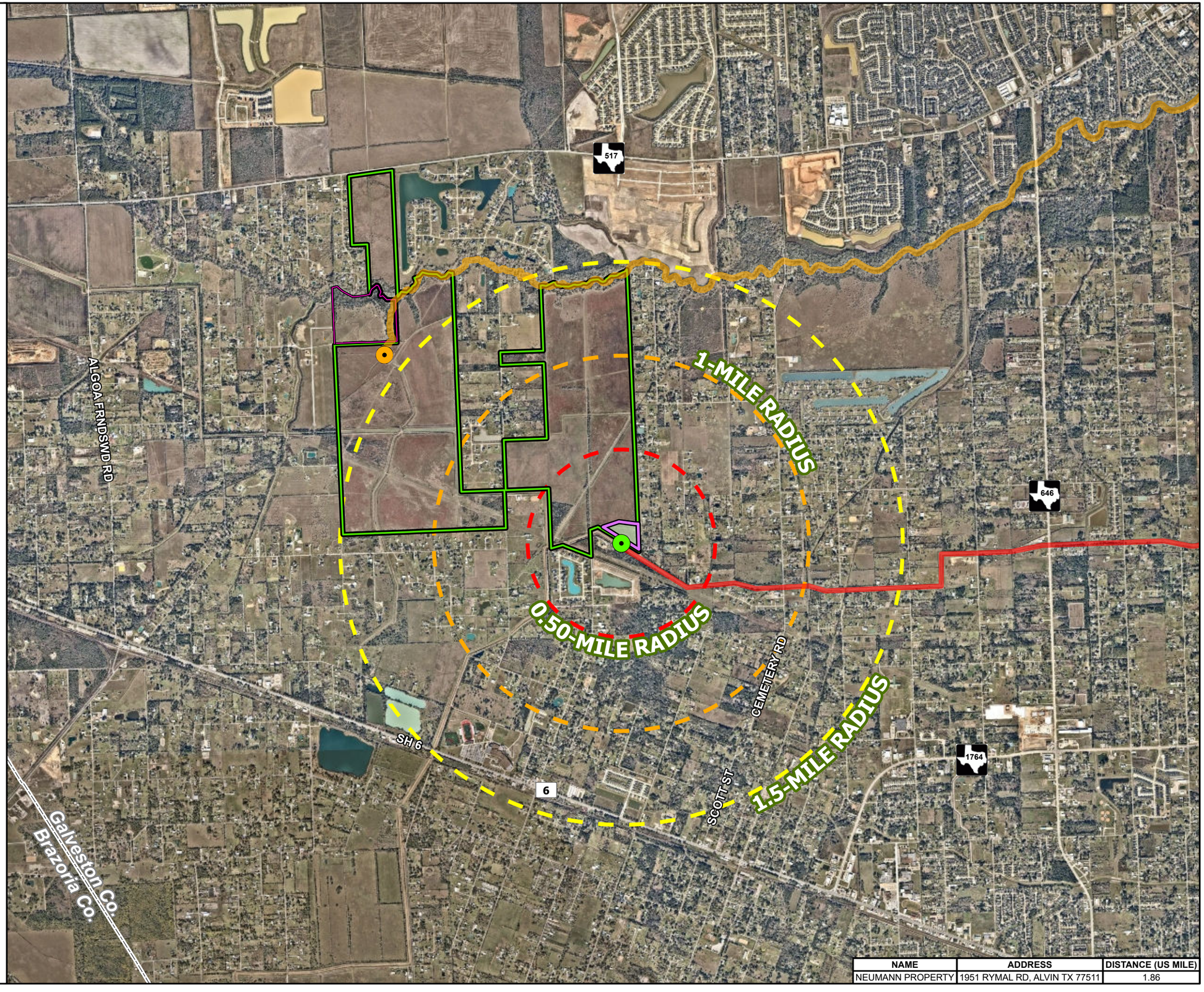
Path: S:\NTX-LAND\03233300SUPPORT\370 Wastewater\Tres Rios Discharge Permit\Support\GIS\PRO\pro\workspace.aprx



NAME	ADDRESS	DISTANCE (US MILE)
NEUMANN PROPERTY	1951 RYMAL RD, ALVIN TX 77511	1.86