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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

April 20, 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 APPLICATION BY 183 258 LIBERTY HILL LLC FOR TPDES PERMIT NO. WQ0016517001 TCEQ DOCKET NO. 2026-0412-MWD**

Dear Ms. Gharis:

Enclosed for filing is the Office of Public Interest Counsel's Response to Requests for Hearing in the above-entitled matter.

Sincerely,

Michael McCarthy, Attorney
Assistant Public Interest Counsel

cc: Mailing List

DOCKET NO. 2026-0412-MWD

APPLICATION BY 183 258 LIBERTY HILL LLC FOR TPDES PERMIT NO. WQ0016517001	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE TO REQUESTS FOR HEARING

To the Members of the Texas Commission on Environmental Quality:

The Office of Public Interest Counsel (OPIC) at the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Requests for Hearing on the application in the above-captioned matter and respectfully submits the following.

I. INTRODUCTION

A. Summary of Position

Before the Commission is an application by 183 258 Liberty Hill LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016517001. The Commission received timely hearing requests from Justin Day, on behalf of Holmes 29 LLC, and from Shawn Hight. For the reasons stated herein, OPIC respectfully recommends the Commission find that Holmes 29 LLC is an affected person and further recommends that the Commission grant its hearing request.

B. Description of Application and Facility

Applicant applied for TPDES Permit No. WQ0016517001, seeking authorization to discharge treated domestic wastewater at an Interim I volume

not to exceed a daily average flow of 0.15 MGD, an Interim II volume not to exceed a daily average flow of 0.30 MGD, and a Final volume not to exceed a daily average flow of 0.50 MGD. Applicant proposes to operate 183 258 Liberty Hill Wastewater Treatment Plant (facility). The facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units in the Interim I phase will include a bar screen, an aeration basin, a clarifier, a chlorine contact basin, and an aerobic digester. Treatment units in the Interim II phase will include a bar screen, an aeration basin, a clarifier, a chlorine contact basin and an aerobic digester. Treatment units in the Final phase will include a bar screen, an aeration basin, a clarifier, a chlorine contact basin, an aerobic digester, and a dechlorination chamber. The facility has not been constructed.

If the draft permit is issued, the treated effluent will be discharged via pipe to an unnamed tributary in Segment No. 1250 of the Brazos River Basin. The designated uses for Segment No. 1250 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The facility will be located approximately 0.38 miles northwest of the intersection of County Road 258 and U.S. Highway 183, in Williamson County.

C. Procedural Background

The permit application was received on April 2, 2024, and declared administratively complete on May 8, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on May 16, 2024, in *The Austin American-Statesman* and *El Mundo* (Spanish publication). The Notice of Application and Preliminary Decision (NAPD) was published on August 7, 2025,

in *The Austin American-Statesman* and *El Mundo.* The public comment period ended on September 8, 2025. The ED mailed their Response to Comments on February 3, 2026, and the deadline for requesting a hearing or reconsideration of the ED's decision was March 5, 2026.

II. APPLICABLE LAW

The permit application was filed after September 1, 2015, and is therefore subject to the procedural rules adopted pursuant to Senate Bill 709. Tex. S.B. 709, 84th Leg., R.S. (2015). Under 30 Texas Administrative Code (TAC) § 55.201(c), a hearing request by an affected person must be in writing, must be timely filed, may not be based on an issue raised solely in a public comment which has been withdrawn, and, for applications filed on or after September 1, 2015, must be based only on the affected person's timely comments.

Section 55.201(d) states that a hearing request must substantially comply with the following:

> (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
>
> (2) identify the requestor's 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 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 or activity in a manner not common to members of the general public;
>
> (3) request a contested case hearing;
>
> (4) 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, and list any disputed issues of law; and

(5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

Under 30 TAC § 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. An interest common to members of the general public does not qualify as a personal justiciable interest. Relevant factors to be considered in determining whether a person is affected include:

(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;

(6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and

(7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203(c).

Under § 55.203(d), to determine whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the Commission may also consider the following:

(1) the merits of the underlying application and supporting documentation in the administrative record, including whether the application meets the requirements for permit issuance;

(2) the analysis and opinions of the executive director; and

(3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.

30 TAC § 55.203(d).

Under 30 TAC § 55.211(c)(2)(A)(ii), for an application filed on or after September 1, 2015, the Commission must grant a hearing request made by an affected person if the request raises disputed issues of fact that were raised by the affected person during the comment period, that were not withdrawn by filing a withdrawal letter with the Chief Clerk prior to the filing of the ED's RTC, and that are relevant and material to the Commission's decision on the application.

Under § 55.211(c)(2)(B)–(D), the hearing request, to be granted, must also be timely filed with the Chief Clerk, pursuant to a right to hearing authorized by law, and comply with the requirements of § 55.201.

III. ANALYSIS OF HEARING REQUESTS

A. Whether the requestors are affected persons

Holmes 29 LLC

Justin Day submitted a timely comment and hearing request on behalf of Holmes 29 LLC (Holmes 29), a Texas limited liability company. According to the maps created by ED staff, Holmes 29 is 0.67 miles from the proposed facility, and is adjacent to the proposed discharge route. The hearing request indicates that Holmes 29 is within one mile downstream of the facility's proposed outfall.

Holmes 29 raised concerns related to water quality and human health, antidegradation analysis, effluent limits and cumulative downstream impacts analysis, siting requirements, characterization of the discharge route, regionalization analysis, sewage solids management, and administrative and technical completeness. These concerns are interests that are protected by the law under which this application will be considered.

Given Holmes 29's proximity to the facility, discharge route—and the fact that the requestor's specific articulated concerns relate to personal legal rights, duties, privileges, powers, and economic interests in the property that are protected by the law under which this application is considered—a reasonable relationship exists between Holmes 29's concerns and regulation of the facility. OPIC therefore finds that Holmes 29 has a personal justiciable interest in this matter and qualifies as an affected person under 30 TAC § 55.203(c).

Shawn Hight

Shawn Hight submitted timely comments and a hearing request. Mr. Hight's request raised general concerns that the facility would be mismanaged and could harm the North San Gabriel River through discharge of treated sewage. These concerns did not provide any specific references indicating how he might be uniquely affected by facility operations in a manner that would establish a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application.

Further, Mr. Hight gave his address as 1081 County Road 257, Liberty Hill, which the map created by ED staff indicates is 2.61 miles from the proposed

facility. Mr. Hight's property furthermore is not adjacent to the proposed discharge route. OPIC finds that the distance between Mr. Hight's property and the outfall, discharge route, and facility do not establish a reasonable relationship between his concerns and the regulated activity.

Therefore, given the absence of a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application, and the distance between Mr. Hight's property and the proposed outfall, discharge route, and facility, OPIC cannot find that Mr. Hight would be affected in a manner uncommon to the general public and therefore recommends that his hearing request be denied.

B. Which issues raised in the hearing requests are disputed

The affected requestor raised the following disputed issues:

1. Whether the permit is adequately protective of water quality;
2. Whether the draft permit complies with antidegradation requirements;
3. Whether the proposed facility may have adverse effects on human and animal health;
4. Whether the draft permit includes adequate effluent limits;
5. Whether the draft permit adequately considers cumulative downstream impacts;
6. Whether the proposed facility is in violation of TCEQ's regionalization policy;
7. Whether the draft permit contains adequate siting requirements;
8. Whether the application is administratively and technically complete and accurate;

9. Whether the public received adequate notice and opportunities for public participation during TCEQ's review of the application;

10. Whether the application adequately characterizes the discharge route;

11. Whether the treatment process description is sufficiently detailed;

12. Whether the draft permit's sewage solids management plan and sludge solids management plan are adequate.

C. Whether the dispute involves questions of fact or of law

If the Commission considers an issue to be one of fact, rather than one of law or policy, it is appropriate for referral to hearing if it meets all other applicable requirements. The issues raised here are issues of fact.

D. Whether the issues were raised during the public comment period

Issues 1-12 in Section III.B. were specifically raised by Holmes 29 during the public comment period.

E. Whether the hearing requests are based on issues raised solely in a withdrawn public comment

No public comments were withdrawn in this matter. Therefore, the hearing requests are not based on issues raised in withdrawn public comments.

F. Whether the issues are relevant and material to the decision on the application

The hearing request of the affected requestor raises issues that are relevant and material to the Commission's decision under the requirements of 30 TAC §§ 55.201(d)(4)(B) and 55.211(c)(2)(A)(ii). To refer an issue to the State Office of Administrative Hearings (SOAH), the Commission must find that the issue is relevant and material to the Commission's decision to issue or deny the

permit. Relevant and material issues are those governed by the substantive law under which the permit is to be issued. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-51 (1986).

Water Quality, Antidegradation, Effluent Limitations, Downstream Conditions and Human Health and Safety

Holmes 29 expressed concern regarding water quality, antidegradation requirements, effluent limitations, downstream conditions, and human health and safety. TCEQ is responsible for the protection of water quality under TWC Chapter 26 and 30 TAC Chapters 305, 307 and 309, as well as under specific rules related to wastewater systems found at 30 TAC Chapters 30 and 217. The Texas Surface Water Quality Standards (TSWQS) contained in 30 TAC Chapter 307 require a proposed permit "to maintain the quality of water in the state consistent with public health and enjoyment…." 30 TAC § 307.1. In addition, the TSWQS further provide that "[t]he commission may not issue a permit for a new facility … unless it finds that the proposed site, when evaluated in light of the proposed design, construction or operational features, minimizes possible contamination of water in the state." 30 TAC § 309.12. Chapter 307 further states that, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

The Commission's antidegradation policy and procedures are addressed by 30 TAC § 307.5. Additionally, "[a] permit must contain effluent limitations that protect existing uses and preclude degradation of existing water quality." 30

TAC § 307.2(d)(5)(D). This requirement necessarily entails consideration of existing pollutant loads and downstream conditions, as degradation is assessed considering cumulative conditions.

Accordingly, as TCEQ regulations designate extensive criteria for the regulation of water quality as well as human health and safety, Issues Nos. 1-5 are relevant and material to the Commission's decision on this Application and are appropriate for referral to SOAH.

Regionalization Analysis

Holmes 29 raised concerns about the application's regionalization analysis. TCEQ's regionalization policy comes from Section 26.081 of the Texas Water Code, which implements "the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state." TCEQ's wastewater permit application requires the applicant for a new permit to provide information concerning other wastewater treatment facilities that exist near the applicant's proposed treatment facility site. Accordingly, Issue No. 6 is relevant and material to the Commission's decision on this Application.

Siting Requirements

Holmes 29 raised concerns about the application's compliance with siting requirements. 30 TAC Chapter 309, Subchapter B rules contain the location standards for domestic wastewater treatment facilities. Section 309.10(b) states

that the purpose of Chapter 309 is to condition issuance of a permit and/or approval of construction plans and specifications for new domestic wastewater treatment facilities on selection of a site that minimizes possible contamination of ground and surface water. Under 30 TAC § 309.13, a wastewater treatment plant must comply with site location restrictions and buffer zone requirements. Therefore, Issue No. 7 is relevant and material to the Commission's decision regarding this application.

Public Participation and Completeness and Accuracy of the Application

Holmes 29 raised concerns related to completeness and accuracy of the application, and public notice. The Commission's Chapter 305 and Chapter 281 rules address the required contents of applications. Further requirements pertaining to public notice and public participation are detailed in 30 TAC Chapter 39 and Chapter 55. Therefore, Issues No. 8 and 9 are relevant and material to the Commission's decision regarding this application and are appropriate for referral to SOAH.

Characterization and Functioning of the Proposed Discharge Route

Holmes 29 raised concerns related to the application's characterization of the discharge route. Proper functioning of a discharge route as an operational feature of a wastewater treatment plant may be addressed under 30 TAC § 309.12. Therefore, Issue No. 10 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Treatment Process Description

Holmes 29 raised concerns about the treatment process description in the application. 30 TAC Chapter 217 address requirements of treatment technology, and associated descriptions from applicants. Therefore, Issue No. 11 is relevant and material to the Commission's decision regarding this application, and is appropriate for referral to SOAH.

Sewage Solids Management Plan and Sludge Solids Management Plan

Holmes 29 raised concerns about the adequacy of the application's sewage solids management plan and sludge solids management plan. 30 TAC Chapter 312 addresses sludge use, disposal, and transportation. Therefore, Issue No. 12 is relevant and material to the Commission's decision regarding this application, and is appropriate for referral to SOAH.

G. Maximum expected duration for the contested case hearing

Commission rule 30 TAC § 50.115(d) requires that any Commission order referring a case to SOAH specify the maximum expected duration of the hearing by stating a date by which the judge is expected to issue a proposal for decision. The rule further provides that, for applications filed on or after September 1, 2015, the administrative law judge must conclude the hearing and provide a proposal for decision by the 180th day after the first day of the preliminary hearing, or a date specified by the Commission, whichever is earlier. 30 TAC § 50.115(d)(2). To assist the Commission in setting a date by which the judge is expected to issue a proposal for decision, and as required by 30 TAC

§ 55.209(e)(7), OPIC estimates that the maximum expected duration of a hearing on this Application would be 180 days from the first date of the preliminary hearing until the proposal for decision is issued.

V. CONCLUSION

Having found that Holmes 29 qualifies as an affected person in this matter, OPIC respectfully recommends the Commission grant its hearing request and refer Issue Nos. 1-12 specified in Section III.B. for a contested case hearing at SOAH with a maximum duration of 180 days.

Respectfully submitted,

David Timberger
Interim Public Interest Counsel

By: _____
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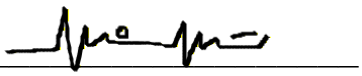
CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2026, the original of the Office of Public Interest Counsel's Response to Requests for Hearing was filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via Inter-Agency Mail, electronic mail, or by deposit in the U.S. Mail.



Michael McCarthy

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