

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Friday, August 13, 2021 2:55 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; Pubcomment-Dis
Subject: FW: Public comment on Permit Number D-02052021-015
Attachments: Ellis County Comments and Request for CCH re FM 984 Ellis County MUD.PDF

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From: rfburk@bickerstaff.com <rfburk@bickerstaff.com>
Sent: Friday, August 13, 2021 2:33 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number D-02052021-015

REGULATED ENTY NAME ELLIS COUNTY MUNICIPAL UTILTIY DISTRICT FM 984

RN NUMBER: RN111191680

PERMIT NUMBER: D-02052021-015

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: ELLIS COUNTY MUNICIPAL UTILITY DISTRICT FM 984

CN NUMBER: CN605858745

FROM

NAME: Emily Rogers

E-MAIL: rfburk@bickerstaff.com

COMPANY: Bickerstaff Heath Delgado Acosta LLP

ADDRESS: 3711 S MO PAC EXPY STE 300
AUSTIN TX 78746-8013

PHONE: 5124728021

FAX:

COMMENTS: Please see attached Ellis County Comments and Request for CCH re FM 984 Ellis County MUD



August 13, 2021

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

Re: Application by Waxahachie Creek Ranch LLC to the Texas Commission on Environmental Quality for creation of Ellis County Municipal Utility District FM 984, TCEQ CN605858745, RN111191680

Dear Chief Clerk Gharis:

The County of Ellis, Texas (the “County”) formally requests a contested case hearing on the above-referenced application. Please direct all future correspondence on this application to Emily Rogers or Joshua Katz, attorneys for the County, at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, TX 78746. Our daytime phone number is (512) 472-8021 and fax number is (512) 320-5638.

Waxahachie Creek Ranch LLC¹ is applying to the Texas Commission on Environmental Quality for creation of a new municipal utility district, Ellis County Municipal Utility District FM 984, TCEQ CN605858745,

The County is an “affected person” entitled to a contested case hearing on issues raised in this hearing request because the County has interests related to legal rights, duties, privileges, powers, or economic interests affected by the application that are not common to the general public and is an affected person under 30 TEX. ADMIN. CODE § 55.256. Local governments, such as the County, with authority under state law over issues contemplated by an application, may be considered affected persons under 30 TEX. ADMIN. CODE § 55.256(b). First, the Texas Water Code authorizes the County to provide TCEQ with its “findings, conclusions, and other information that the commissioners court thinks would assist the commission in making a final determination on the petition.” Tex. Water Code § 54.0161(b)(2). The TCEQ is then required to consider this information and opinion provided by the County. *Id.* at (c). The County requests a contested case hearing in order to provide all evidence and information to TCEQ that may assist in the Commission’s consideration of the application.

Additionally, the County has statutory and/or constitutional authority over various functions – including but not limited to transportation, emergency services, and health and safety

¹ Various places in the Application refer to Applicant as “Waxahachie Creek LLC.”

– that may be affected by the creation of the district and that the application fails to take into account. *See, e.g.*, Texas Local Government Code §§ 232.001-.011 (county authority for road construction in subdivisions as well as other subdivision regulations); Texas Transportation Code § 251.016 (general control over roads, highways and bridges); § 251.003 (county order and rulemaking authority for roads); Local Gov't Code Subchapter C (fire code in unincorporated areas); Government Code Chapter 418 (emergency management). Additionally, potential contamination or depletion of groundwater, if groundwater is to be the source of supply, within the region may impact the County's ability to effectively provide emergency services, may impact health and safety by lowering water quality, and may negatively impact the County's infrastructure through subsidence. Moreover, the County has an interest in protecting the water quality in the County, which may be impacted by discharges of treated effluent by Applicant's project. *See, e.g.*, Health and Safety Code § 121.003 (enforcement of laws to promote public health); Health and Safety Code Chapter 366 (license procedures for private sewage facilities); Water Code § 26.171 et seq. (enforcement of water quality controls and inspection of public waters).

Thus, the County has statutory authority under state law over numerous issues contemplated by this application and is therefore an affected person. 30 TEX. ADMIN. CODE § 55.256(b). Further, the proposed municipal utility district will be located entirely outside the corporate limits of a city. Pursuant to TEX. WATER CODE § 54.0161, the County therefore has express authority to review the petition for creation and other evidence and information relating to the proposed district that its commissioners court considers necessary. TEX. WATER CODE § 54.0161(a-2).

For these reasons, the County requests that the Commission find that the County is an affected person and grant its request for a contested case hearing.

Sincerely,



Emily W. Rogers
Joshua D. Katz
Attorneys for Ellis County

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Friday, August 13, 2021 2:56 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; Pubcomment-Dis
Subject: FW: Public comment on Permit Number D-02052021-015
Attachments: City of Ennis Comments and Request for CCH re FM 984 Ellis County MUD.PDF

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From: rfburk@bickerstaff.com <rfburk@bickerstaff.com>
Sent: Friday, August 13, 2021 2:36 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number D-02052021-015

REGULATED ENTY NAME ELLIS COUNTY MUNICIPAL UTILTIY DISTRICT FM 984

RN NUMBER: RN111191680

PERMIT NUMBER: D-02052021-015

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: ELLIS COUNTY MUNICIPAL UTILITY DISTRICT FM 984

CN NUMBER: CN605858745

FROM

NAME: Emily Rogers

E-MAIL: rfburk@bickerstaff.com

COMPANY: Bickerstaff Heath Delgado Acosta LLP

ADDRESS: 3711 S MO PAC EXPY STE 300
AUSTIN TX 78746-8013

PHONE: 5124728021

FAX:

COMMENTS: Please see attached City of Ennis Comments and Request for CCH re FM 984 Ellis County MUD



August 13, 2021

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

Re: Application by Waxahachie Creek Ranch LLC to the Texas Commission on Environmental Quality for creation of Ellis County Municipal Utility District FM 984: TCEQ CN605858745, RN111191680

Dear Chief Clerk Gharis:

The City of Ennis, Texas (the “City”) formally requests a contested case hearing on the above-referenced application. Please direct all future correspondence on this application to the City’s attorneys, Emily Rogers and Joshua Katz, at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, TX 78746. Our daytime phone number is (512) 472-8021 and fax number is (512) 320-5638.

Waxahachie Creek Ranch LLC¹ is applying to the Texas Commission on Environmental Quality for creation of a new municipal utility district, Ellis County Municipal Utility District FM 984, TCEQ CN605858745. The City of Ennis opposes the creation of the District.

The City is an “affected person” entitled to a contested case hearing on issues raised in this hearing request because the City has interests related to legal rights, duties, privileges, powers, or economic interests affected by the application that are not common to the general public and is an affected person under 30 TEX. ADMIN. CODE § 55.256. The proposed municipal utility district will be located entirely within the extraterritorial jurisdiction of the City. The City does not consent to its creation. Pursuant to Texas Water Code § 54.016(a), land within the City’s ETJ cannot be included within the boundaries of a MUD without the City’s consent. For this and additional reasons, local governments, such as the City, with authority under state law over issues contemplated by an application, may be considered affected persons under 30 TEX. ADMIN. CODE § 55.256(b). The City has authority to protect the public health and safety within its extraterritorial jurisdiction and to regulate development within its extraterritorial jurisdiction. TEX. LOC. GOV’T CODE §§ 42.001, 212.044. Various city functions and services – including water and sewer services, emergency services, and health and safety concerns – may be affected by the creation of the district and are not taken into account by the application.

¹ Various places in the Application refer to Applicant as “Waxahachie Creek LLC.”

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The City also has sewer facilities near the proposed district. As a regional water and sewer service provider, the City has an interest to ensure that new development in its extraterritorial jurisdiction regionalize with existing system to the greatest extent possible in order to protect the public health, safety, and welfare of its cities. *See* Texas Water Code § 26.081(a). The City therefore has an interest in ensuring the creation and operation of the proposed municipal utility district is protective of the public health and safety within its extraterritorial jurisdiction. Thus, the City has authority under state law over the issues contemplated by this application, has interests not common to the general public, and is therefore an affected person. 30 TEX. ADMIN. CODE § 55.256(b).

For these reasons, the City requests that the Commission find that the City is an affected person and grant its request for a contested case hearing.

Sincerely,



Emily W. Rogers
Joshua D. Katz
Attorneys for City of Ennis, Texas

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