

**Lori Rowe**

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**From:** PUBCOMMENT-OCC  
**Sent:** Friday, March 4, 2022 4:30 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; Pubcomment-Dis  
**Subject:** FW: Public comment on Permit Number D-11302021-043  
**Attachments:** Revised Ellis County - Comments and Request for CCH - Highland Lakes Midlothian MUD No 1 (01393388x7A30F).PDF

H

**From:** erogers@bickerstaff.com <erogers@bickerstaff.com>  
**Sent:** Friday, March 4, 2022 2:55 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number D-11302021-043

**REGULATED ENTY NAME** HIGHLAND LAKES MUD 1 OF ELLIS COUNTY

**RN NUMBER:** RN111380556

**PERMIT NUMBER:** D-11302021-043

**DOCKET NUMBER:**

**COUNTY:** NUECES

**PRINCIPAL NAME:** HIGHLAND LAKES MUNICIPAL UTILITY DISTRICT 1 OF ELLIS COUNTY

**CN NUMBER:** CN605959881

**FROM**

**NAME:** Emily Rogers

**E-MAIL:** [erogers@bickerstaff.com](mailto:erogers@bickerstaff.com)

**COMPANY:** Bickerstaff Heath Delgado Acosta LLP

**ADDRESS:** 3711 S MOPAC EXPY Bldg. 1, Ste. 300  
AUSTIN TX 78746-8013

**PHONE:** 5124728021

**FAX:**

**COMMENTS:** Please see attached revised comments and request.



March 4, 2022

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 Highland Lakes Midlothian I, LLC, to the Texas Commission on Environmental Quality for creation of Highland Lakes Municipal Utility District No. 1 of Ellis County, TCEQ Internal Control No. D-11302021-043

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 me, Emily Rogers, attorney for the County, at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, TX 78746. My daytime phone number is (512) 472-8021 and fax number is (512) 320-5638.

Highland Lakes Midlothian I, LLC is applying to the Texas Commission on Environmental Quality (the "TCEQ") for creation of a new municipal utility district entirely within Ellis County, and partially within the extraterritorial jurisdictions of both the cities of Waxahachie, Texas, and Midlothian, Texas. The County opposes the creation of the district.

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 – 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); LOCAL GOV'T CODE § 251.003 (county order and rulemaking authority for roads); LOCAL GOV'T CODE Subchapter C (fire code in unincorporated areas); LOCAL GOV'T CODE Subchapter E (infrastructure planning provisions in certain urban counties); LOCAL GOV'T CODE Chapter 233, Subchapter B (building and set back lines); LOCAL GOV'T CODE Chapter 233, Subchapter E (fire code in unincorporated area); TEXAS GOVERNMENT CODE Chapter 418 (emergency management); TEXAS TRANSPORTATION CODE § 251.016 (general control over roads, highways and bridges); TRANSPORTATION CODE Chapter 254 (drainage on public roads). 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); TEXAS 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  
Attorney for Ellis County

EWR/rfb

**Lori Rowe**

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**Subject:** FW: Public comment on Permit Number D-11302021-043  
**Attachments:** Ellis County - Comments and Request for CCH - Highland Lakes Midlothian MUD No 1 (01393363x7A30F).PDF

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**From:** erogers@bickerstaff.com <erogers@bickerstaff.com>  
**Sent:** Friday, March 4, 2022 2:35 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number D-11302021-043

**REGULATED ENTY NAME:** HIGHLAND LAKES MUD 1 OF ELLIS COUNTY

**RN NUMBER:** RN111380556

**PERMIT NUMBER:** D-11302021-043

**DOCKET NUMBER:**

**COUNTY:** NUECES

**PRINCIPAL NAME:** HIGHLAND LAKES MUNICIPAL UTILITY DISTRICT 1 OF ELLIS COUNTY

**CN NUMBER:** CN605959881

**FROM**

**NAME:** Emily Rogers

**E-MAIL:** [erogers@bickerstaff.com](mailto:erogers@bickerstaff.com)

**COMPANY:** Bickerstaff Heath Delgado Acosta LLP

**ADDRESS:** 3711 S MOPAC EXPY Bldg. 1, Ste. 300  
AUSTIN TX 78746-8013

**PHONE:** 5124728021

**FAX:**

**COMMENTS:** Please see attached.



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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 Highland Lakes Midlothian I, LLC, to the Texas Commission on Environmental Quality for creation of Highland Lakes Municipal Utility District No. 1 of Ellis County, TCEQ Internal Control No. D-11302021-043

Dear Chief Clerk Gharis:

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Highland Lakes Midlothian I, LLC is applying to the Texas Commission on Environmental Quality (the “TCEQ”) for creation of a new municipal utility district entirely within Ellis County, and partially within the extraterritorial jurisdictions of both the cities of Waxahachie, Texas, and Midlothian, Texas. The County opposes the creation of the district.

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 – 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  
Attorney for Ellis County

EWR/rfb

**Lori Rowe**

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**RN NUMBER:** RN111380556

**PERMIT NUMBER:** D-11302021-043

**DOCKET NUMBER:**

**COUNTY:** NUECES

**PRINCIPAL NAME:** HIGHLAND LAKES MUNICIPAL UTILITY DISTRICT 1 OF ELLIS COUNTY

**CN NUMBER:** CN605959881

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**Subject:** FW: Public comment on Permit Number D-11302021-043  
**Attachments:** City of Midlothian - Comments and Request for CCH - Highland Lakes Midlothian MUD No 1 (01393362x7A30F).PDF

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March 4, 2022

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Dear Chief Clerk Gharis:

The City of Midlothian, Texas (the "City") formally requests a contested case hearing on the above-referenced application. Please direct all future correspondence on this application to me, Emily Rogers, attorney for the City, at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, TX 78746. My daytime phone number is (512) 472-8021 and fax number is (512) 320-5638.

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As a regional water and sewer service provider, the City has an interest to ensure that new development in its extraterritorial jurisdiction regionalizes 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.

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Attorney for City of Midlothian

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**Attachments:** City of Waxahachie - Comments and Request for CCH - Highland Lakes Midlothian MUD No 1 (01393360x7A30F).PDF

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