

**Proposed Motion for Item 2: Consideration of the proposal for decision and proposed order concerning the Petition for the creation of Highland Lakes Municipal Utility District No. 1 of Ellis County**

**Grant** the petition for creation of Highland Lakes Municipal Utility District No. 1 of Ellis County and additional road powers under Texas Water Code § 54.234.

**Appoint** Freeman Bell, Daniel Brunson, Scott Jon Kepple, Michael Wayne Moore, and Kenneth Lee Watson as temporary directors.

**Adopt** the Administrative Law Judge's proposed Order with the following changes:

- A. To clarify that the Commission does not consider the proposed district's water supply source to be a consideration for the groundwater issue and to identify the record evidence that the Commission finds better supports the groundwater factor analysis, amend the proposed order as follows.

**Delete Findings of Fact Nos. 31-35.**

**Add Finding of Fact No. 36a. to state:**

36a. The proposed development's resulting impervious cover from mostly single-family residential lots will not have any greater effect on groundwater levels or recharge capacity of groundwater in the region than any other typical single-family development.

**Amend Finding of Fact No. 37 to state:**

37. The District, the systems, and subsequent development will not have an unreasonable effect on groundwater level within the region and recharge capability of a groundwater source.

Furthermore, consistent with these findings, **delete Conclusion of Law No. 8.**

- B. Because the record shows that Applicant intends to limit post-development flows at or below pre-development conditions and comply with all federal, state, and local requirements for its stormwater collection, the Commission amends the proposed order as follows.

**Delete Findings of Fact Nos. 44 through 47.**

**Add new Findings of Fact Nos. 46 and 47:**

46. The District's stormwater collection, conveyance, and detention facilities will be designed, constructed, operated, and maintained in compliance with all federal, state, and local requirements.

47. Sufficient evidence was presented to establish that the District will not have an unreasonable effect on water quality.

Furthermore, consistent with these findings, **delete Conclusion of Law No. 7.**

C. Because the Commission considers the aggregate tax assessments at the time of district creation and does not include future projections, the Commission **deletes Finding of Fact No. 49.**

D. To correct a typographical error in Finding of Fact No. 50, the Commission **amends Finding of Fact No. 50 to state:**

50. The proposed District, its system, and subsequent development within the proposed District will not have an unreasonable effect on total tax assessments on all land located within the proposed District.

E. To address all seven statutory factors within the Commission's review, the Commission **adds new Finding of Fact No. 61** to state:

61. The District, the systems, and subsequent development will not have an unreasonable effect on land elevation and subsidence.

F. To incorporate the Commission's decision that there will not be an unreasonable effect on the groundwater level and water quality and to memorialize that the record supports concluding that the District, the systems, and subsequent development will not have an unreasonable effect on land elevation and subsidence under TWC § 54.021(b)(3)(A) and (B), the Commission **amends Conclusion of Law No. 9** to add "water quality, groundwater level within the region, land elevation, and subsidence" into the list of issues.

G. To incorporate the Commission's decision that there will not be an unreasonable effect on the groundwater level and water quality, and to emphasize that the regulatory preliminary engineering report content requirements are not a separate burden from the necessary statutory determination, the Commission amends the proposed order as follows.

**Amend Finding of Fact No. 51 to state:**

51. The Applicant established that the District is feasible, practicable, necessary, and will benefit all of the land included in the District.

**Amend Conclusion of Law No. 14** to state:

14. Sufficient evidence was presented to establish the projects are feasible, practicable, and necessary and would be a benefit to the land included in the District. Tex. Water Code § 54.021.

- H. To memorialize the Commission's decision to grant the Petition, the Commission amends the order as follows.

**Amend the Order's Title** to state:

AN ORDER GRANTING PETITION FOR CREATION OF HIGHLAND LAKES MUNICIPAL UTILITY DISTRICT NO. 1 OF ELLIS COUNTY.

**Amend Conclusion of Law No. 18** to state:

18. Applicant's Petition should be granted.

**Amend Ordering Provision No. 1** to state:

The Petition for Creation of Highland Lakes Municipal Utility District No. 1 of Ellis County and the request to acquire road powers is granted, and the District is created under the terms and conditions of Article XVI, Section 59 of the Texas Constitution and Texas Water Code Chapters 49 and 54.

- I. To memorialize that all of the land within the proposed District shall be included in the District, the proposed order is amended as follows.

**Add Ordering Provision 1a.** stating:

1a. The District shall be composed of approximately 2,153.6 acres of land located in Ellis County, Texas and partially within the extraterritorial jurisdiction of the City of Waxahachie and partially with the extraterritorial jurisdiction of the City of Midlothian, contained in the metes and bounds description in Applicant's Exhibit 20, Exhibit 2, and attached as Exhibit A.

- J. To recognize the District's powers, including road powers, **add Ordering Provision No. 1b.**

1b. The District shall have, and shall be subject to, all of the rights, duties, powers, privileges, authority, and functions conferred and imposed by the TCEQ and the general laws of the State of Texas relating to municipal utility districts, including road powers under Texas Water Code § 54.234, subject to the requirements of the TCEQ and the general laws of the State of Texas relating to the exercise of such powers.

- K. To appoint the temporary directors requested in the Petition, the following should be added to the proposed order.

**Add Finding of Fact No. 62** stating:

62. Applicant established that Freeman Bell, Daniel Brunson, Scott Jon Kepple, Michael Wayne Moore, and Kenneth Lee Watson requested to be temporary directors and are each (1) at least 18 years old; (2) a resident of the State of Texas; and (3) either owns land subject to taxation within the proposed District or is a qualified voter within the proposed District. Additionally, the majority are residents of the county in which the proposed District is located, a county adjacent to the county in which the proposed District is located, or if the proposed District is located in a county that is in a metropolitan statistical area designated by the United States Office of Management and Budget or its successor agency, a county in the same metropolitan statistical area as the county in which the proposed District is located.

**Add Conclusion of Law No. 14a.** stating:

14a. Freeman Bell, Daniel Brunson, Scott Jon Kepple, Michael Wayne Moore, and Kenneth Lee Watson qualify to be temporary directors under Texas Water Code § 54.022.

**Add Ordering Provision 1c.** stating:

Freeman Bell, Daniel Brunson, Scott Jon Kepple, Michael Wayne Moore, and Kenneth Lee Watson are named and appointed as temporary directors and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.

- L. To ensure that this Order is sent to all affected persons, **amend Ordering Provision No. 5** to state:

5. The Commission's Chief Clerk shall forward a copy of this Order to all parties and all affected persons.

M. To acknowledge that the Commission's Order does not approve future agreements,  
**add Ordering Provision No. 7** stating:

7. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration.

