

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 20, 2023

VIA ELECTRONIC FILING

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

Re: FM 875 Municipal Utility District of Ellis County
TCEQ Docket No.: 2023-0955-MWD
SOAH Docket No.: 582-23-11662

Dear Ms. Gharis:

Please find the Executive Director's Exceptions to the Proposal for Decision for the above referenced matter.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "Harrison Cole Malley".

Harrison Cole Malley, *Staff Attorney*
Environmental Law Division

enclosure

SOAH DOCKET NO. 582-23-11662
TCEQ DOCKET NO. 2022-0534-DIS

APPLICATION OF HIGHLAND LAKES	§	BEFORE THE STATE
MIDLOTHIAN I, LLC FOR THE	§	
CREATION OF FM 875 MUNICIPAL	§	OFFICE OF
UTILITY DISTRICT OF ELLIS COUNTY	§	ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

I. BACKGROUND

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) supports the Administrative Law Judge's (ALJ) conclusion that Highland Lakes Midlothian I, LLC (Applicant) met its burden of proving the District's creation meets all applicable requirements and should be granted.

II. SUMMARY OF ISSUES

The Executive Director has reviewed the Proposal for Decision and has determined ALJ has correctly identified the relevant and material issues for the creation of a municipal utility district. The administrative record and additional evidence the ED presented in this hearing supports the ALJ's conclusion that the applicant met its burden. Consistent with the evidence presented at the hearing, the ED affirms her original position that the creation meets all applicable regulatory requirements. The evidentiary record supports the ALJ's conclusions: the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district; that the petition filed with the Commission was signed by a majority in value of the holders of title of the land within the proposed district; and that the Applicant's request for road powers complies with the requirements of TWC § 54.234 and 30 TAC §§ 293.11(d)(11) and 293.202.

III. CONCLUSION

The Executive Director supports the ALJ's finding that the Applicant met its burden of proof their recommendation that the creation of the district be granted. Therefore, the Executive Director respectfully requests that the Commission adopt the ALJ's proposed order grant the creation of the district.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Charmaine Backens, Deputy Director



Harrison Cole Malley
Staff Attorney
Environmental Law Division
State Bar of Texas No. 24116710
MC-173, P.O. Box 13087
Austin, Texas 78711-3087
Phone: (512) 239-1439
Email: Harrison.malley@tceq.texas.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following by U.S. Regular Mail, Certified Mail (return receipt requested), electronic mail, hand delivery and/or facsimile at the address listed below on this 20th day of December, 2023.



Harrison Cole Malley
Staff Attorney
Environmental Law Division

For the Chief Clerk:

Laurie Gharis
TCEQ Office of the Chief Clerk, MC 105
P.O. Box 13087
Austin, Texas 7811-3087

For the Public Interest Counsel:

Eli Martinez, *via email:* Eli.Martinez@tceq.texas.gov
Jessica Anderson, *via email:* Jessican.Anderson@tceq.texas.gov

For the Applicant:

Natalie Scott, *via email:* nscott@coatsrose.com
Kevin R. Bartz, *via email:* kbartz@coatsrose.com

**Counsel for Ellis County, Texas and
City of Midlothian:**

Emily Rogers, *via email:* erogers@bickerstaff.com
Joshua Katz, *via email:* jkatz@bickerstaff.com
Stefanie P. Albright, *via email:* salbright@bickerstaff.com
Kimberly Kelley, *via email:* kkelley@bickerstaff.com
Rae Fregeolle-Burk, *via email:* rfburk@bickerstaff.com