

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 2, 2022

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

RE: Petition by Highland Lakes Midlothian I, LLC for Creation of FM 875  
Municipal Utility District of Ellis County; TCEQ DOCKET NO. 2022-0534-DIS

Dear Ms. Gharis:

Transmitted herewith for filing with the Texas Commission on Environmental Quality (Commission or TCEQ) are the following items to be filed as backup materials for the September 22 Agenda on hearing requests for the creation of FM 875 Municipal Utility District of Ellis County:

1. Executive Director's Response to the Hearing Request;
2. Hearing requests;
3. Technical memo prepared by staff; and
4. Amended Petition.

Please do not hesitate to contact me at [Harrison.Malley@tceq.texas.gov](mailto:Harrison.Malley@tceq.texas.gov) if you have any questions. Thank you for your attention to this matter.

Sincerely,

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

Cole Malley, Staff Attorney - Environmental Law Division

Enclosures

# Attachment 1

**TCEQ DOCKET NO. 2022-0534-DIS**

**APPLICATION FOR FM 875  
MUNICIPAL UTILITY DISTRICT  
OF  
ELLIS COUNTY**

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§**

**BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY**

**EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS**

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests (Response) on the Petition by Highland Lakes Midlothian I, LLC (Petitioner) for the creation of FM 875 Municipal Utility District of Ellis County (District). The Office of the Chief Clerk received hearing requests from Ellis County and the City of Midlothian.

Attached for Commission consideration are the following:

Attachment A—Executive Director’s Satellite Maps.

**I. DESCRIPTION OF DISTRICT**

Highland Lakes Midlothian I, LLC applied for the creation of FM 875 Municipal Utility District of Ellis County. The proposed District is comprised of approximately 2,153.60 acres. The Petitioner requests that the Commission create the District pursuant to Chapters 49 and 54, Texas Water Code; and Chapter 293, Title 30 Texas Administrative Code. The proposed District is comprised of approximately 283.23 acres of land in Ellis County, Texas. The land in the District is entirely within the extraterritorial jurisdiction of the City of Midlothian, Ellis County, Texas.

The petition states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of and control domestic, and commercial wastes; (3) gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water in the District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the proposed District is organized. Additionally, the petitioner requests road powers pursuant to Texas Water Code, Section 54.234.

**II. PROCEDURAL HISTORY**

The TCEQ received the petition on November 30, 2021. The Application was declared administratively complete on December 02, 2021. On March 8, 2022, notice of the petition was posted on the bulletin board used for posting legal notices in Ellis County. The Petitioner published Notice of District Petition in the *Waxahachie Daily Light*, a newspaper of general circulation in Ellis County, where the district is proposed

to be located, on March 13 and March 20, 2022. The period to request a contested case hearing ended on April 19, 2022.

The TCEQ received two timely hearing requests on this Petition. Hearing requests were received from Ellis County and the City of Midlothian.

In accordance with Local Government Code § 42.042 and Texas Water Code § 54.016, the Petitioner submitted a petition for consent to both the City of Midlothian and the City of Waxahachie. After 90 days passed without receiving consent, the Petitioner submitted a petition to the City of Midlothian and the City of Waxahachie to provide water or sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by Texas Water Code § 54.016(c) expired without a contract for service being agreed to. Pursuant to Texas Water Code § 54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the district.

### III. CREATION OF MUNICIPAL UTILITY DISTRICTS

A municipal utility district (MUD) may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution. TEX WATER CODE § 54.001. The District in this case is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code.

A MUD may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state. § 54.012. the commission has jurisdiction to hear this case and create the district.<sup>1</sup>

The Commission must grant or deny a MUD creation application in accordance with Section 54.021 of the Texas Water Code. In order to grant an application, the Commission must find that organization of the district as requested is feasible and practicable and is necessary and would be a benefit to the land to be included in the

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<sup>1</sup> Tex. Water Code § 54.014.

district.<sup>2</sup> If the commission fails to make these findings, it shall refuse to grant the petition.<sup>3</sup>

In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates: and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
  - (A) land elevation;
  - (B) subsidence;
  - (C) groundwater level within the region;
  - (D) recharge capability of a groundwater source;
  - (E) natural run-off rates and drainage;
  - (F) water quality; and
  - (G) total tax assessments on all land located within a district.<sup>4</sup>

The Commission, however, must exclude the areas that it finds would not be benefited by the creation of the district and must redefine the boundaries of the proposed district according to its findings.<sup>5</sup>

#### IV. THE EVALUATION PROCESS FOR HEARING REQUESTS

As the application was declared administratively complete after September 1, 1999, it is subject to the requirements of Title 30, Chapter 55, Subchapter G, Sections 55.250-55.256 of the Texas Administrative Code. The Commission, the Executive Director, the applicant, or affected persons may request a contested case hearing on this application.<sup>6</sup> The Commission must evaluate the hearing requests and may take on of the following actions:

- (1) determine that the hearing requests do not meet the rule requirements and act on the application;
- (2) determine that the hearing requests do not meet the rule requirements and refer the application to a public meeting to develop public comment before acting on the application;
- (3) determine that the hearing requests meet the rule requirements and refer the application to the State Office of Administrative Hearings (“SOAH”) for a hearing; or
- (4) refer the hearing request to SOAH for a hearing on whether the hearing requests meet the rule requirements.<sup>7</sup>

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<sup>2</sup> Tex. Water Code § 54.021(a); 30 Tex. Admin. Code § 293.13(b)(1).

<sup>3</sup> Tex. Water Code § 54.021(d); 30 Tex. Admin. Code § 293.13(a).

<sup>4</sup> Tex. Water Code § 54.021(b).

<sup>5</sup> 30 Tex. Admin. Code § 293.13(b)(2); Tex. Water Code § 54.021(c).

<sup>6</sup> 30 Tex. Admin. Code § 55.251(a).

<sup>7</sup> 30 Tex. Admin. Code § 55.255(a).

The regulations provide that a hearing request made by an affected person must be in writing and must be filed with the Office of the Chief Clerk within the time provided in the Notice of District Petition.<sup>8</sup> These two requirements are mandatory. The affected person's hearing request must also substantially comply with the following:

- (1) give the name, address, and daytime telephone number of the person who files the request.
- (2) identify the person'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 activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.<sup>9</sup>

An affected person's personal justiciable interest must be related to a legal right, duty, privilege, power, or economic interest affected by the application belonging to the requestor and not an interest common to members of the general public.<sup>10</sup> The regulations give the Commission flexibility to determine affected person status by considering any relevant factor, including the following:

- (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; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.<sup>11</sup>

Government entities, including local governments, may be affected persons if they have authority under state law over issues contemplated by the application.<sup>12</sup>

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<sup>8</sup> 30 Tex. Admin. Code § 55.251(b) and (d).

<sup>9</sup> 30 Tex. Admin. Code § 55.251(c).

<sup>10</sup> 30 Tex. Admin. Code § 55.256(a).

<sup>11</sup> 30 Tex. Admin. Code § 55.256(c).

<sup>12</sup> 30 Tex. Admin. Code § 55.256(b).

## V. THE HEARING REQUESTS

**The following governmental entities submitted a request for a contested case hearing:**

### 1. Ellis County

Ellis County submitted a timely hearing request which included all of the required information for a contested case hearing request pursuant to 30 TAC § 55.251(c)(1). The County requested a contested case hearing pursuant to 30 TAC § 55.251(c)(3) and provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to 30 TAC § 55.251(c)(4). The Executive Director recommends the Commission find that the hearing request by Ellis County complies with the requirements of 30 TAC § 55.251.

It is undisputed that the proposed District is located within Ellis County. The County's request raised issues relating to water quality, subsidence, transportation, emergency services, as well as human health and safety. Therefore, Ellis County identified its personal justiciable interest affected by the application in a manner not common to members of the general public pursuant to 30 TAC § 55.251(c)(2). The request identified the County's statutory authority and interest in the issues relevant to the application pursuant to 30 TAC § 55.256(c)(6). Specifically, the County stated that it has statutory and constitutional authority over various functions - including but not limited to transportation, emergency services, and health and safety, citing several statutes corresponding with that authority.

The Executive Director recommends that the Commission find that Ellis County is an affected person pursuant to 30 TAC § 55.256 as well as grant Ellis County's hearing request.

### 2. The City Midlothian

The City of Midlothian submitted a timely hearing request which contained all required information for a contested case hearing request pursuant to 30 TAC § 55.251(c)(1). The city requested a contested case hearing pursuant to 30 TAC § 55.251(c)(3) and provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to 30 TAC § 55.251(c)(4). The Executive Director recommends the Commission find that the hearing request by the City of Midlothian complies with the requirements of 30 TAC § 55.251.

It is undisputed that the proposed district is wholly located in the extraterritorial jurisdiction of the City of Midlothian. The City's hearing request raised issues relating to subsidence, regionalization, emergency services, as well as public health and safety. Therefore, the City of Midlothian identified its personal justiciable interest affected by the application in a manner not common to members of the general public pursuant to 30 TAC § 55.251(c)(2). The request identified the City's statutory authority and interest in the issues relevant to the application pursuant to 30 TAC § 55.256(c)(6). Specifically, the City stated that it has authority to protect the public health and safety within its extraterritorial jurisdiction and to regulate development within its extraterritorial jurisdiction pursuant to Tex. Lox. Gov't Code §§ 42.001, 212.044.

The Executive Director recommends the Commission find that the City of Midlothian is an affected person pursuant to 30 TAC § 55.256 as well as grant the City of Midlothian's hearing request.

#### VI. RECOMMENDATION

The Executive Director recommends that the Commission find Ellis County and the City of Midlothian are affected persons and grant each of their hearing requests.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker, Executive Director

Charmaine Backens, Deputy Director  
Environmental Law Division




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Harrison Cole Malley, Staff Attorney  
Environmental Law Division  
State Bar No. 24116710  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Phone: (512) 239-1439  
Fax: (512) 239-0606



## CERTIFICATE OF SERVICE

I certify that on August 30, 2022, the “Executive Director’s Response to Hearing Requests” for the creation of FM 875 Municipal Utility District of Ellis County for Highland Lakes Midlothian I, LLC was filed with the TCEQ’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



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Harrison Cole Malley Staff Attorney  
Environmental Law Division

**MAILING LIST**  
**FM 875 MUNICIPAL UTILITY DISTRICT OF ELLIS COUNTY DOCKET**  
**NO. 2022-0534-DIS; INTERNAL CONTROL NO. D-11302021-042**

FOR THE APPLICANT

via electronic mail:

Mindy Koehne  
Coats Rose PC  
14755 Preston Road, Suite 600  
Dallas, Texas 75254  
Tel: (972) 982-8461  
Fax: (713) 890-3979  
[mkoehne@coatsrose.com](mailto:mkoehne@coatsrose.com)

Thomas Coppin  
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[tom.coppin@kimley-horn.com](mailto:tom.coppin@kimley-horn.com)

FOR THE EXECUTIVE DIRECTOR

via electronic mail:

Harrison "Cole" Malley, Staff Attorney  
Texas Commission on Environmental  
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Ryan Vise, Deputy Director  
Texas Commission on Environmental  
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FOR PUBLIC INTEREST COUNSEL

via electronic mail:

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Public Interest Counsel, MC-103  
P.O. Box 13087  
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Tel: (512) 239-6363  
Fax: (512) 239-6377  
[vic.mcwherter@tceq.texas.gov](mailto:vic.mcwherter@tceq.texas.gov)

FOR ALTERNATIVE DISPUTE RESOLUTION

via electronic mail:

Kyle Lucas  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711  
Tel: (512) 239-0687  
Fax: (512) 239-4015  
[kyle.lucas@tceq.texas.gov](mailto:kyle.lucas@tceq.texas.gov)

FOR THE CHIEF CLERK:

Docket Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711  
Tel: (512) 239-3300  
Fax: (512) 239-3311  
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S):

Emily W. Rogers  
Bickerstaff Heath Delgado Acosta LLP  
3711 South Mopac Expressway  
Building 1, Suite 300  
Austin, Texas 78746

# Attachment A

# FM 875 Municipal Utility District

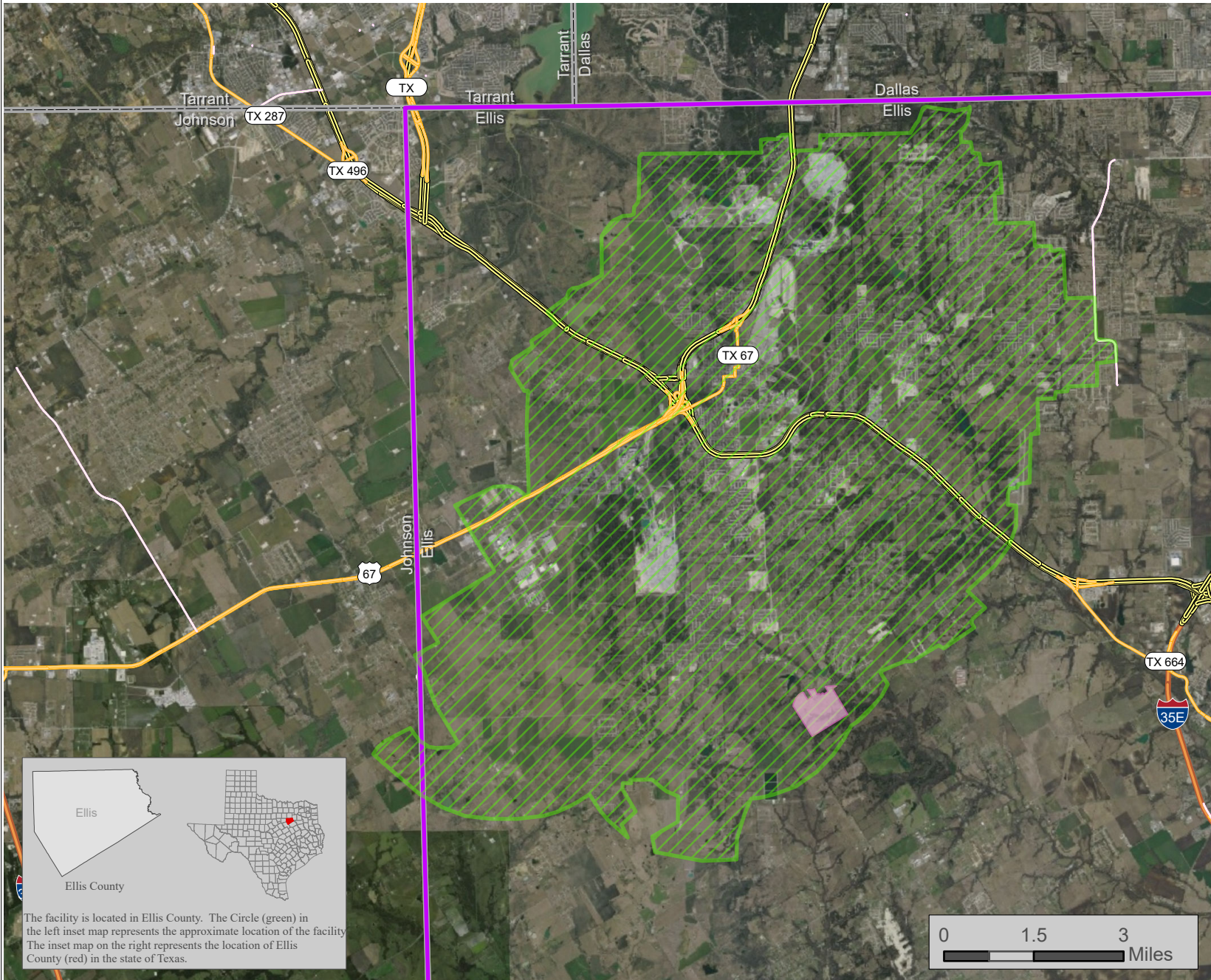
## TCEQ Internal Control No. D-11302021-042

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



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Reducing and  
Preventing Pollution*

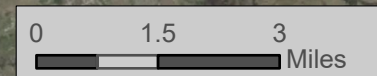
Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 5/3/2022  
CRF 0070421  
Cartographer: ABanda



- MUD
- City of Midlothian ETJ
- Ellis County Boundary
- County Boundary



The facility is located in Ellis County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Ellis County (red) in the state of Texas.



Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

# FM 875 Municipal Utility District

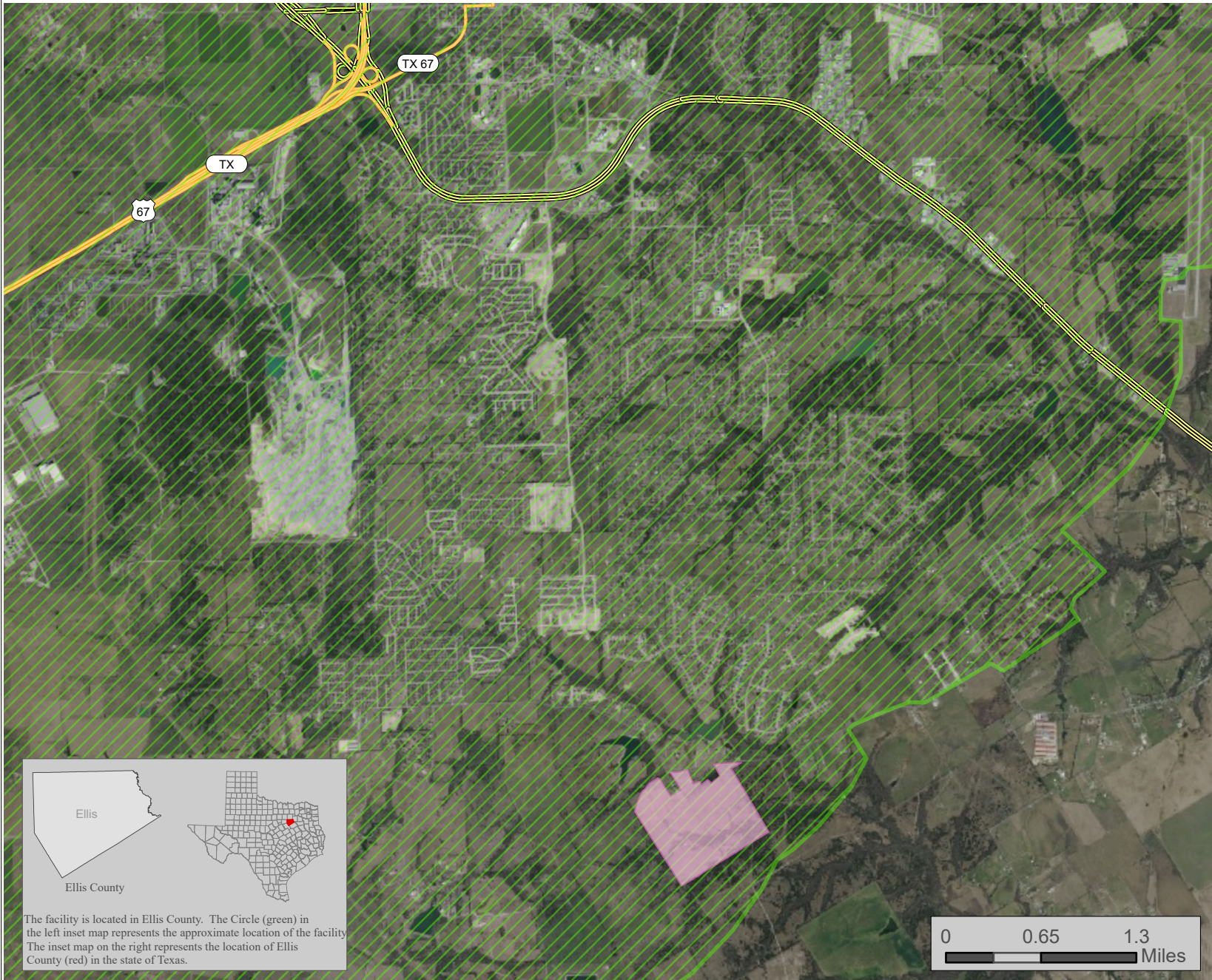
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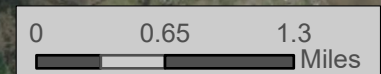
Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 5/3/2022  
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# FM 875 Municipal Utility District

## TCEQ Internal Control No. D-11302021-042

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda

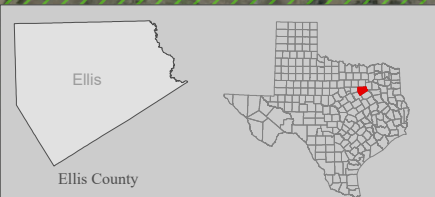
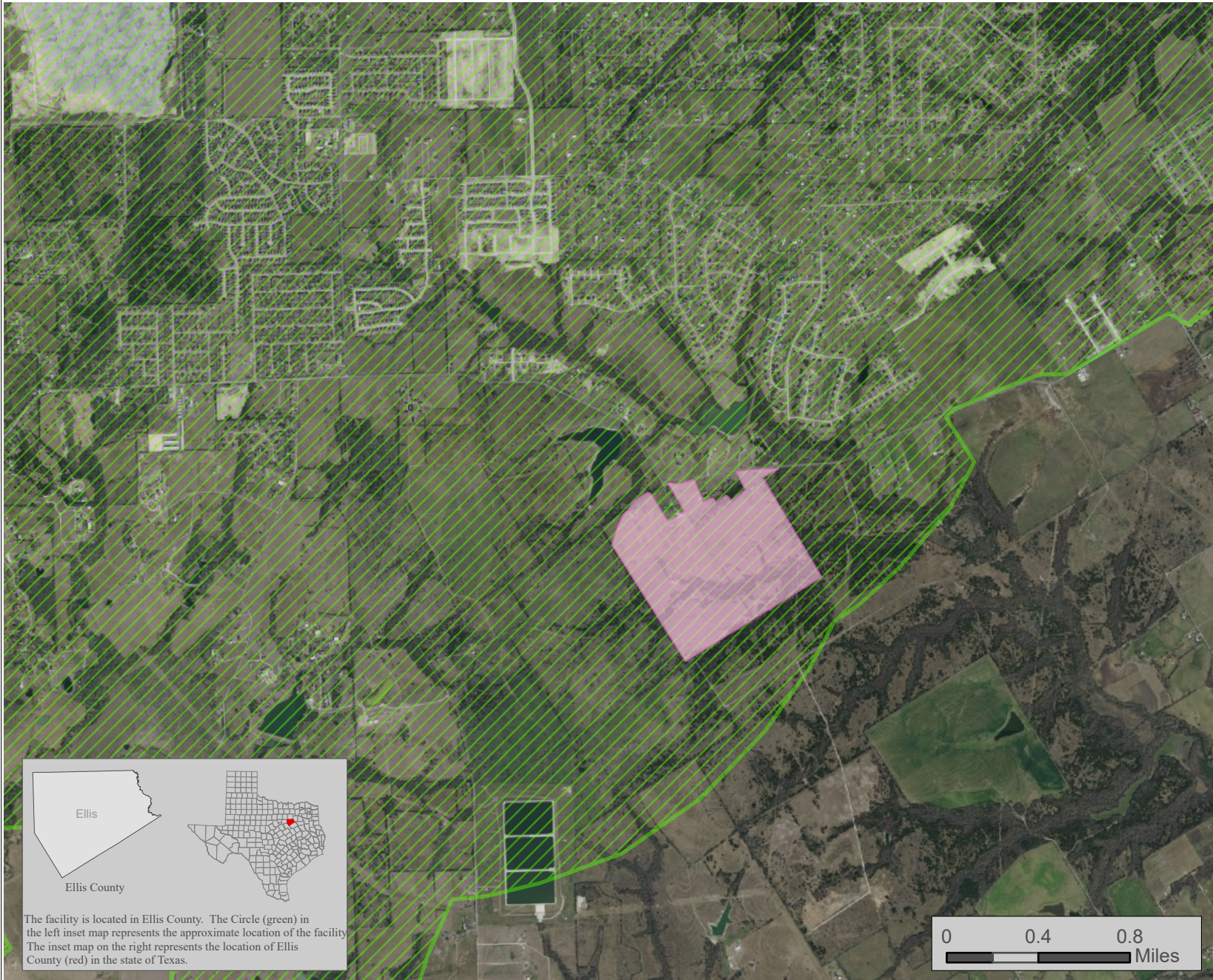


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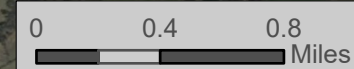
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# Attachment 2



March 30, 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 FM 875 Municipal Utility District of Ellis County, TCEQ Internal Control No. D-11302021-042

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.

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 jurisdiction of the City of Midlothian. The City 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 partially 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 extraterritorial jurisdiction cannot be included within the boundaries of a municipal utility district 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.



The City has a nearby wastewater treatment plant that is currently being expanded, and the existing infrastructure to transport the wastewater could be upgraded to serve the proposed development. 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.

Sincerely,



Emily W. Rogers  
Attorney for City of Midlothian

EWR/rfb



March 30, 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 FM 875 Municipal Utility District of Ellis County, TCEQ Internal Control No. D-11302021-042

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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

# Attachment 3

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

**To:** Justin P. Taack, Manager  
Districts Section  6-29-2022 **Date:** June 29, 2022

**Thru:** Andrew Paynter, Technical Specialist  
Districts Section

**From:** Bijaya Chalise  
Districts Bond Team

**Subject:** Amended Petition by Highland Lakes Midlothian I, LLC for Creation of FM 875  
Municipal Utility District of Ellis County; Pursuant to Texas Water Code Chapters 49  
and 54.  
TCEQ Internal Control No. D-11302021-042 (TC)  
CN: 605959840 RN: 111380531

### A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received an amended petition (Petition) within the application requesting approval for the creation of FM 875 Municipal Utility District of Ellis County (District). The Petition was signed by Shannon Livingston as the vice president of Highland Lakes Midlothian I, LLC, a Texas limited liability company (Petitioner). The Petition states that the Petitioner holds title to a majority in value of the land in the proposed District. Information provided indicates that there is one lienholder, Community National Bank & Trust of Texas, on the property to be included in the proposed District, and they have consented to the creation of the proposed District.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59 of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code (TWC).

#### Location and Access

The proposed District will be located on the south side of and adjacent to FM 875, approximately 4,200 feet west of McAlpin Road, and approximately 8,400 feet east of FM 663 wholly within the extraterritorial jurisdiction of the City of Midlothian in Ellis County, Texas. The primary access to the proposed District is from FM 875. Other roads will be extended through the proposed in-city portion of the Highland Lakes development, (outside the boundary of the District), to FM 875 to provide additional access to the District.

#### Metes and Bounds Description

The proposed District contains 283.23 acres of land. The metes and bounds description of the proposed District has been reviewed and checked by TCEQ staff and has been found to form an acceptable closure.

### City Consent

In accordance with Local Government Code Section 42.042 and TWC Section 54.016, the Petitioner submitted a petition to the City of Midlothian, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by the TWC Section 54.016(c) expired and information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to TWC Section 54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the District.

### Statements of Filing Petition

Evidence of filing a copy of the petition with the City of Midlothian Secretary's office, the Ellis County Clerk's office, the TCEQ's Dallas/Fort Worth regional office, the Texas state representative, and the Texas state senator was included in the application.

### Notification of County

TWC Section 54.0161 requires the TCEQ to notify the County Commissioners Court of a creation application if all of the proposed District is located outside of the corporate limits of a municipality. Information provided indicates the proposed District is wholly within the extraterritorial jurisdiction of the City of Midlothian, Texas, and no portion of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By letter dated January 18, 2022, the Ellis County Commissioners Court was notified of the subject application. A response has not been received to date.

### Type of Project

The proposed District will be considered a "developer project" as defined by 30 Texas Administrative Code (30 TAC) Section 293.44(a). Therefore, developer cost participation in accordance with 30 TAC Section 293.47 will be required.

### Developer Qualifications

Application material indicates that Shannon Livingston is the applicant. Mr. Livingston has over 27 years of real estate development experience.

### Certificate of Ownership

By signed certificate dated November 23, 2021, the Ellis County Appraisal District has certified that the appraisal rolls indicate that the Petitioner is the owner of the majority in value of the land in the proposed District.

### Temporary Director Affidavits

The TCEQ has received affidavits for consideration of the appointment of the following five temporary directors:

Gary Eckeberger

Robert Glenn Holland

Michael Gleason

James B. Sammons, III

Jay Sterling Gravens

Each of the above persons named is qualified, as required by 30 TAC Section 293.32(a), to serve as a temporary director of the proposed District, as each (1) is at least 18 years old; (2) is a resident citizen 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, as required by TWC Section 54.022, 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.

#### Notice Requirements

Proper notice of the application was published on March 13, 2022 and March 20, 2022 in the Waxahachie Daily Light, a newspaper regularly published or circulated in Ellis County, the county in which the district is proposed to be located. Proper notice of the application was posted on March 8, 2022, in the County Courthouse, the place where legal notices in Ellis County are posted. Accordingly, the notice requirements of 30 TAC Section 293.12(b) have been satisfied. The opportunity for the public to request a contested case hearing (comment period) expired April 19, 2022.

#### **B. ENGINEERING ANALYSIS**

The creation engineering report indicates the following:

##### Availability of Comparable Service

According to information provided, the proposed District is planned to serve a total of 283.23 acres. The District will construct a water system, wastewater treatment plant, wastewater collection system, storm water system, and internal collector roadway system within the proposed District and dedicate the water system to Mountain Peak SUD. There are no other sources which have the facilities or capacity to serve the proposed District.

##### Water Supply

The engineering report states that the proposed District will construct a water system to serve the projected 1,260 equivalent single-family connections (ESFCs). The ultimate average daily demand is projected to be 0.7 million gallons per day (MGD). The water distribution and supply system improvements to serve the proposed District will be designed in accordance with the criteria established by the TCEQ, Mountain Peak SUD, and Ellis County.

##### Water Distribution

The water distribution system for full development of the proposed District will consist of approximately 56,281 linear feet (LF) of 8" to 16" polyvinyl chloride (PVC) pipes, along with all related appurtenances. The water distribution system will be looped for service redundancy during emergencies and maintenance periods, and to maintain adequate circulation and pressure in the system.

### Wastewater Treatment

The engineering report states that the proposed District will construct its own wastewater treatment plant to serve the projected 1,260 ESFCs. The ultimate average daily demand is projected to be 3 MGD from the Highland Lakes project. All wastewater facilities will be designed in accordance with the criteria established by the TCEQ and Ellis County.

### Wastewater Collection Improvements

The internal wastewater collection system for full development of the proposed District will consist of approximately 43,453 LF of 8" to 36" PVC pipes, a force main, and two lift stations, along with manholes and all related appurtenances.

### Storm Water Drainage System and Drainage Improvements

The engineering report states the storm water drainage collection system for full development of the District will consist of curb and gutter streets, inlets, and reinforced concrete pipes which ultimately outfall into lake Waxahachie, approximately 6 miles to the southeast of Highland Lake. All proposed improvements will be designed and constructed in accordance with Ellis County design criteria. All internal storm sewer collection systems will be designed using the rational method to convey the runoff from a 100-year storm.

### Road Improvements

Application material indicates the proposed District will construct road improvements within the District. The primary access to the proposed District is from FM 875. Other roads will be extended through the proposed in-city portion of the Highland Lakes development (outside the boundary of the District) to FM 875 to provide additional access to the District. All roadway facilities will be designed in accordance with criteria established by TxDOT, City of Midlothian, and Ellis County.

### Topography/Land Elevation

The topography of the District is generally moderate ranging from 0-3%. Steeper topography (3-10%) exists in the vicinity of the major drainage channel that cuts through the southern half of the District. The approximate elevation of the land ranges from 805 to 690 feet above mean sea level. The fill and/or excavation associated with development of the District's systems will not cause changes in the overall land elevations other than that normally associated with the construction of the underground utility systems, drainage facilities, and paving. Therefore, development within the District is not expected to have an unreasonable effect on overall land elevations.

### Floodplain

According to Federal Emergency Management Agency Flood Insurance Rate Map No. 48139C0175F, dated June 3, 2013, the proposed District is located within Zone X. The areas within the limits of South Prong Creek and its tributaries are designated as Zone A.

### Impact on Natural Resources

The engineering report states that the proposed District is expected to have no unreasonable effect on land elevation, groundwater levels, recharge capability, subsidence, natural runoff rates and drainage, or water quality.



Dam Safety Analysis

The Dam Safety Section of the TCEQ has conducted a review of the proposed creation of the subject District and has concluded that there are no existing dam safety issues associated with the proposed District. Therefore, no dam safety analysis is required.

**C. SUMMARY OF COSTS**

**WATER, WASTEWATER, AND DRAINAGE**

<u>Construction Costs</u>	District's <sup>(1)</sup> <u>Share</u>
A. Developer Contribution Items	
1. On-site Water, Wastewater, and Drainage	\$ <u>8,448,000</u>
Total Developer Contribution Items	\$ 8,448,000
B. District Items	
1. Off-site Water, Wastewater, and Drainage	\$ <u>10,458,118</u>
Total District Items	\$ 10,458,118
 TOTAL CONSTRUCTION COSTS	 \$ 18,906,118
 <u>Nonconstruction Costs</u>	
A. Legal Fees (2.5% of BIR)	\$ 620,000
B. Fiscal Agent Fees (2% of BIR)	496,000
C. Interest	
1. Capitalized Interest (12 months at 4.5%)	1,116,000
2. Developer Interest (24 months at 4.5%)	1,701,551 <sup>(2)</sup>
D. Bond Discount (3%)	744,000
E. Creation Expenses	350,000
F. Operating expenses	350,000
G. Bond Issuance Expenses	179,531
H. Bond Application Report Costs	250,000
I. Attorney General Fee (0.10%)	24,800
J. TCEQ Bond Issuance Fee (0.25%)	<u>62,000</u>
TOTAL NONCONSTRUCTION COSTS	\$ 5,893,882
 TOTAL BOND ISSUE REQUIREMENT	 \$ 24,800,000

Notes: (1) Assumes 100% funding of anticipated developer contribution items, where applicable.

(2) Based on developer advancing funds approximately two years prior to reimbursement.

Eligibility of costs for District funding and 30% developer contribution requirements will be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

**ROAD IMPROVEMENT**

<u>Construction Costs</u>	<u>District Share</u> <sup>(1)</sup>
Developer Contribution Items	
A. Roadway Infrastructures Costs	\$ 9,991,903
TOTAL CONSTRUCTION COSTS	\$ 9,991,903
<u>Non-Construction Costs</u>	
A. Legal Fees (2.5%)	\$ 314,875
B. Fiscal Agent Fees (2%)	251,900
C. Interest Costs	
1. Capitalized Interest (1 year @ 4.5%)	566,775
2. Developer Interest (2 years @ 4.5% of Construction Costs)	899,271 <sup>(2)</sup>
D. Bond Discount (3%)	377,850
E. Bond Issuance Expenses	179,831
F. Attorney General Fee (0.1%)	12,595
TOTAL NONCONSTRUCTION COSTS	\$ 2,603,097
<b>TOTAL ROAD BOND ISSUE REQUIREMENT</b>	<b>\$ 12,595,000</b>

Notes: (1) Assumes 100% funding of anticipated developer contribution items, where applicable.  
(2) Based on developer advancing funds approximately two years prior to reimbursement.

A preliminary layout of roads proposed for funding has been provided, and they appear to benefit the proposed District and the land included within the proposed District. TCEQ's review of eligibility of costs may be determined in accordance with TCEQ rules in effect at the time bond applications are reviewed.

**D. ECONOMIC ANALYSIS**

Land Use

The land use for the proposed District is projected in the following table:

<u>Land Use</u>	<u>Acreage</u>	<u>ESFCs</u>
Single Family	153.6	695
Multi Family	37.20	335
Single Family for Rent	28.80	230
Right-of-way/Undeveloped Open Space	<u>63.60</u>	<u>0</u>
<b>Total</b>	<b>283.20</b>	<b>1,260</b>

Market Study

A market study, prepared in April 2021 by Residential Strategies, Inc., has been submitted in support of the creation of the proposed District. The proposed District is expected to include approximately 695 equivalent single-family connections on a tract totaling approximately 153.6 acres. The home values are expected to be approximately \$272,500 for 40-foot lots, \$342,500 for 50-foot lots, and \$385,000 for 60-foot lots. The study indicates single-family homes for that price range within the study's market area are expected to be absorbed at a rate of approximately 165-175 lots/year over the first three years.

Project Financing

The projected taxable assessed valuation (AV) for the proposed District is as follows:

<u>Development Description</u>	<u>Number of Units/Acreage</u>	<u>Average Unit Value</u>	<u>Total Buildout Value</u>
40-foot single-family lots	348	\$ 272,500	\$ 94,830,000
50-foot single-family lots	278	\$ 342,500	\$ 95,215,000
60-foot single-family lots	69	\$385,000	\$ 26,565,000
Multi-family	37.2 Acres	\$2,750,000 per Acre	\$ 102,300,000
Single-family rental	28.8 Acres	\$1,750,000 per Acre	\$ 50,400,000
<b>Total Assessed Valuation</b>			<b>\$ 369,310,000</b>

Considering the issuance of a total of \$37,395,000 (\$24,800,000 for utilities and \$12,595,000 for roads) in bonds, assuming 100% financing, a bond coupon rate of 4.5%, and a 25-year bond life, the average annual debt service requirement would be \$2,521,882 (\$1,672,488 for utilities and \$849,394 for roads). Assuming a 98% collection rate and an ultimate AV of \$369,310,000, a projected ultimate tax rate of approximately \$0.70 (\$0.46 for utilities and \$0.24 for roads) per \$100 AV was indicated to be necessary to meet the annual debt service requirements for the proposed District. An additional \$0.05 per \$100 AV is projected to be levied for maintenance and operating expenses, for a combined proposed District tax rate of \$0.75.

Based on the information provided and assuming 100% financing, the total year 2020 overlapping tax rates on land within the proposed District are shown as follows:

<u>Taxing Jurisdiction</u>	<u>Tax Rates</u> <sup>(1)</sup>
Proposed FM 875 MUD of Ellis County (District)	\$ 0.75 <sup>(2)</sup>
Midlothian ISD	\$ 1.38
Ellis County	\$ 0.32
Ellis County ESD #2 (Midlothian)	\$ 0.10
Ellis County Lateral Road	\$ 0.03
<b>TOTAL TAX per \$100 AV:</b>	<b>\$ 2.58</b>

Notes: (1) Tax rate per \$100 AV.

(2) Includes \$0.70 for utilities and roads and \$0.05 for operation and maintenance tax.

Based on the proposed District tax rate and the year 2020 overlapping tax rate on land within the proposed District, and assuming 100% financing, the project is considered economically feasible. Each bond issue will be evaluated based on its own economic feasibility merits and the rules and regulations in place at the time prior to the issuance of any bonds by the District.

Water and Wastewater Rates

According to information provided, the District will provide retail water and wastewater services to the proposed District's customers. The current water rates are as follow:

Water rate:

Monthly Base Fee	\$22.84 Flat Fee
0 to 5,000 gallons	\$4.00 per 1,000 gallons
5,001 to 10,000 gallons	\$4.60 per 1,000 gallons
10,001 to 20,000 gallons	\$5.40 per 1,000 gallons
20,001 to 30,000 gallons	\$6.00 per 1,000 gallons

Wastewater rate:

Monthly Fee	\$29.93 Flat Fee including 2,000 gallons \$7.79 per 1,000 gallons above 2,000 gallons
-------------	--

Based on the above rates, the estimated monthly fee for 10,000 gallons of water and wastewater would be \$158.09.

Comparative Water District Tax Rates

A combined projected tax rate of \$0.75 per \$100 AV, as indicated above, for 100% financing for the proposed District is comparable to other districts in the target market area. Based on the requirements of 30 TAC Section 293.59, this project is considered economically feasible.

**E. SPECIAL CONSIDERATION**

Request for Road Powers

A request for approval of road powers was included in the Petition for creation of the proposed District. Pursuant to TWC Section 54.234, approval of road powers may be requested at the time of creation. The engineering report provided with the application included a summary of the estimated costs. The proposed roads appear to benefit the proposed District, and financing appears feasible.

**F. CONCLUSIONS**

1. Based on TCEQ policy, compliance with TCEQ rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, a benefit to the land within the proposed District, and necessary as a means to finance utilities and to provide utility service to future customers.

2. Based on a review of the preliminary engineering report; market study; the proposed District's water, wastewater, drainage facilities and road facilities; a combined projected tax rate of \$0.75 per \$100 AV when assuming 100% financing; the proposed District obtaining a 4.5% bond coupon rate; and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC Section 293.59.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

**G. RECOMMENDATIONS**

1. Grant the Petition for creation of FM 875 Municipal Utility District of Ellis County.
2. Grant the District's request to acquire road powers in accordance with TWC Section 54.234 and 30 TAC Sections 293.11(d)(11), 293.201 and 293.202 subject to the requirement imposed by the TCEQ and the general laws of the state relating to the exercise of such powers.
3. The Order granting the Petition should include the following statement:

"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."

4. Appoint the following five persons to serve as temporary directors until permanent directors are elected and qualified:

Gary Eckeberger	Michael Gleason	Jay Sterling Gravens
Robert Glenn Holland	James B. Sammons, III	

**H. ADDITIONAL INFORMATION**

The Petitioner's professional representatives are:

Attorney: Ms. Mindy L. Koehne - Coats Rose, PC  
Creation Engineer: Mr. Thomas G. Coppin, P.E. - Kimley-Horn and Associates, Inc.

# Attachment 4

AMENDED PETITION FOR THE CREATION OF  
FM 875 MUNICIPAL UTILITY DISTRICT OF ELLIS COUNTY

THE STATE OF TEXAS                   §

COUNTY OF ELLIS                   §

TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

HIGHLAND LAKES MIDLOTHIAN I, LLC, a Texas limited liability company (the "Petitioner"), respectfully petition the Commissioners of the Texas Commission on Environmental Quality (the "Commission") for the creation of a municipal utility district in Ellis County, Texas. The Petitioner hold title to a majority of the assessed value of the real property described in Exhibit "A" attached hereto and incorporated herein for all purposes, as indicated by the appraisal rolls of Ellis County, Texas. The Petitioner, acting pursuant to the provisions of Chapters 49 and 54 of the Texas Water Code, together with all amendments and additions thereto, would respectfully show the following:

I.

The name of the proposed district shall be "FM 875 MUNICIPAL UTILITY DISTRICT OF ELLIS COUNTY" (the "District"). There is no other conservation or reclamation district in Ellis County, Texas with the same name.

II.

The District shall be created and organized and shall exist under the terms and provisions of Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, together with all amendments and additions thereto.

III.

The area proposed to be within the District is approximately 283.231 acres (the "Property"), situated in Ellis County, Texas. The Property consists of one tract described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes. The approximately 283.231 acres described in Exhibit "A" is located partially within the extraterritorial jurisdiction of the City of Midlothian, Ellis County, Texas, and the District is not within the corporate limits or extraterritorial jurisdiction of any other city, town or village. All of the Property may be properly included in the District.

IV.

The Petitioner constitutes the holder of title to all of the value of the land within the proposed District, as indicated by the tax rolls of the central appraisal district of Ellis County, Texas, and by conveyances of record since the date of preparation of said tax rolls. There are no lienholders on the Property, except for Community National Bank & Trust of Texas.

## V.

Pursuant to Section 42.042, Texas Local Government Code, should a municipality such as the City fail or refuse to give its consent to the creation of the District within ninety (90) days after the date the governing body of the City receives a written request for consent, the owners of at least fifty (50%) percent of the land in the proposed District may petition the governing body of the City to make available to the area the water, sanitary sewer services, or both, that would be provided by the District.

Furthermore, if, within one hundred twenty (120) days after the date the governing body of the City receives the petition for water and sanitary sewer services, the City fails to make a contract with the owners of the land in the proposed District to provide those services, such failure constitutes the City's consent to the creation of the proposed District and authorizes the landowners to initiate proceedings through the Commission to create the District.

The City has not consented to the creation of the District and has failed to execute a contract providing for the water or sanitary sewer services requested by the Petitioner within the time limits prescribed by Section 42.042, Texas Local Government Code.

## VI.

On September 9, 2020, the Petitioner filed the Petition for Consent to Creation of FM 875 Municipal Utility District of Ellis County (the "Petition for Consent"), dated August 20, 2020, with the City of Midlothian, Texas. A copy of the Petition for Consent is attached hereto as Exhibit "B." A copy of the receipt of delivery of the Petition for Consent (the "City Consent Receipt of Delivery") is attached hereto as Exhibit "C." The Petitioner has not received any response from the City related to the Petition for Consent.

On December 6, 2020, the Petitioner published Notice of Petition for Water and Sanitary Sewer Service (the "Notice of Petition"), attached hereto as Exhibit "D," in the *Waxahachie Sun*, a newspaper of general circulation within and around the District. The affidavit of publication of the Notice of Petition (the "Affidavit of Publication") is attached hereto as Exhibit "E."

On December 10, 2020, the Petitioner posted the Notice of Petition in three places convenient to the public within the boundaries of the Property sought to be included in the District. The affidavit of posting of the Notice of Petition (the "Affidavit of Posting") is attached hereto as Exhibit "F."

On December 28, 2020, the Petitioner filed a Petition for Water and Sanitary Sewer Service (the "Petition for Service") with the City of Midlothian, Texas. A copy of the Petition for Service is attached hereto as Exhibit "G." The Receipt of Delivery of the Petition for Service (the "Receipt of Petition for Service") is attached hereto as Exhibit "H."

The Petitioner has not received any response from the City related to the Petition for Service.



## VII.

The general nature of the work proposed to be done by the District at the present time is to purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; to collect, transport, process, dispose of and control domestic and commercial wastes; to gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water in the District; to design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and to purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the District is created, all as more particularly described in an engineer's report filed simultaneously with the filing of this Petition, to which reference is made for a more detailed description. It is further proposed that the District be granted road powers pursuant to Texas Water Code, Section 54.234.

## VIII.

There is, for the following reasons, a necessity for the above described work, services and improvements: the area proposed to be within the District is in a developing area of Ellis County, Texas, and within the foreseeable future will experience a substantial and sustained residential growth. There is not now available within the area, which will be developed as residential subdivisions, an adequate water supply and distribution system, sanitary sewer system, drainage system, and public road system. The protection of the purity and sanitary condition of the State's water and the health and welfare of the present and future inhabitants of the area and of territories adjacent thereto require the purchase, construction, acquisition, provision, operation, maintenance, repair, improvement, extension, and development of an adequate water supply and distribution system, sanitary sewer system, and drainage system. A public necessity therefore exists for the organization of the District to provide for the purchase, construction, acquisition, improvement, extension, and development of a water supply and distribution system, sanitary sewer system, drainage system, and roadway system.

## IX.

The proposed improvements are feasible and practicable, and the terrain of the territory to be included within the District is such that a waterworks system, a sanitary sewer system, a drainage and storm sewer system, and a roadway system can be constructed and developed at a reasonable cost. A preliminary investigation has been instituted to determine the cost of the project, and it is now estimated by the Petitioner, from such information as it has at this time, that the ultimate cost of the project contemplated will be approximately \$37,395,000.

X.

The following named persons are each and all over eighteen (18) years of age, resident citizens of the State of Texas, owners of land subject to taxation within the District, and are otherwise qualified to serve as directors of the District under the provisions of the Texas Water Code:

1. Gary Eckeberger
2. Michael Gleason
3. Jay Sterling Gravens
4. Robert Glenn Holland
5. James B. Sammons, III

XI.

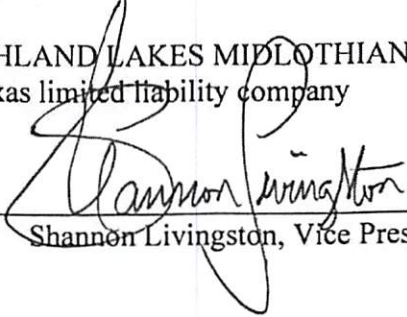
WHEREFORE, the Petitioner respectfully prays that this Petition be properly filed, as provided by law, that notice of the application be given as provided therein, that a hearing be held if necessary and that this Petition be in all things granted, that the proposed municipal utility district be organized and five (5) temporary directors named herein be appointed to serve until their successors are duly elected and qualified, and for such other orders, acts, procedures and relief as are proper, necessary, and appropriate to the purpose of creating and organizing the District and to the execution of the purposes for which the District shall be organized, as you may deem proper and necessary.

[EXECUTION PAGES FOLLOW]

RESPECTFULLY SUBMITTED this the 19<sup>th</sup> day of November, 2021.


PETITIONER:

HIGHLAND LAKES MIDLOTHIAN I, LLC,  
a Texas limited liability company

By:   
Shannon Livingston, Vice President

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on the 19<sup>th</sup> day of November, 2021 by Shannon Livingston, Vice President of Highland Lakes Midlothian I, LLC, a Texas limited liability company, on behalf of said limited liability company.

  
Notary Public in and for the State of Texas

(NOTARY SEAL)

