

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

July 18, 2024

Harrison Malley
Kayla Murray
James Ruiz
Matthew McPhail
Sheldon Wayne

VIA EFILE TEXAS

Stacy and Brian Rushing
Colleen and Shaun Wilson
Kristina and Bryan Sipp
Marion Odom
Nancy and Joe Waide
Tonia and Don Lynch
Joshua Prator
Floyd and Debra Seitzinger

VIA EFILE & REGULAR MAIL

RE: Docket Number 582-23-13330.TCEQ; Texas Commission on Environmental Quality No. 2022-1631-DIS; *Application for Creation of Duck Creek Municipal Utility District of Denton County*

Dear Parties:

In this MUD-creation case, the Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) with Proposed Order (PO) on June 12, 2024. The Executive Director (ED), Office of Public Interest Counsel (OPIC), and Stacy and Brian Rushing each timely filed exceptions. No party filed a response to any of the exceptions. Having reviewed the exceptions, PFD, and PO, the ALJ recommends a single change to the PO, advocated by the ED—that Proposed Finding of Fact No. 9 be modified, for clarity, to identify the individuals whose

hearing requests were granted in the Interim Order. As modified, Finding of Fact No. 9 would read:

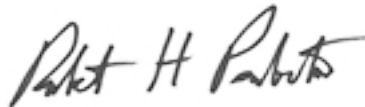
9. After receiving timely hearing requests, the Commission determined that some requestors—Stacy and Brian Rushing, Shaun and Colleen Wilson, Bryan and Kristina Sipp, and Marion Odom—were “affected persons,” and referred the matter to the State Office of Administrative Hearings (SOAH) for a contested-case hearing.

The ALJ does not recommend any changes based on the ED’s two remaining exceptions, as the evidence supports the Findings of Fact to which they pertain and the proposed changes are unnecessary legally.

The ALJ also does not recommend any changes in response to the exceptions filed by OPIC and the Rushings, which concern the ALJ’s proposed division of reporting and transcript costs. This issue was carefully considered by the ALJ when drafting the PFD, which in Part IV.E details his reasoning.

With the above recommended change to the PO, the PFD and PO are ready for the Commission’s consideration.

ALJ Signature:



Robert Pemberton,

Presiding Administrative Law Judge

CC: Service List