

**SOAH Docket No. 582-23-13330
TCEQ Docket No. 2022-1631-DIS**

PETITION FOR THE CREATION OF DUCK CREEK MUNICIPAL UTILITY DISTRICT OF DENTON COUNTY	§ § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) supports the Administrative Law Judge's (ALJ's) conclusions that Earthland Farms, LLC (Applicant) has met its burden of proof regarding the Creation of Duck Creek Municipal Utility District. As the Applicant has established that the District's creation meets all applicable requirements, the petition for creation should be granted. The ED recommends that the ALJ's draft Order be issued with the clarifications and changes recommended below.

Recommended Changes to PFD

Finding of Facts

Finding of Fact No. 9

For clarity, the ED recommends that Finding of Fact No. 9 include the names of the individuals the Commission referred to SOAH as they appeared in the Commission's Interim Order signed January 17, 2023. Those individuals are: Stacy and Brian Rushing, Shaun and Colleen Wilson, Bryan and Kristina Sipp, and Marion Odom.

Finding of Fact No. 33

For clarity, the ED recommends that Finding of Fact No. 33 be removed as the market competitive analysis is beyond the scope of what the Commission is required to consider under Chapter 54 of the Texas Water Code (TWC) when reviewing a district creation petition.

Finding of Fact No. 35

For clarity, the ED recommends that the phrase "more than" be removed from Finding of Fact No. 35 as TWC § 54.014 states that the petition be signed by a majority of holders of title of the land within the proposed district.

Conclusion

The Executive Director supports the ALJ's finding that the Applicant met its burden of proof. Therefore, the Executive Director respectfully requests that the Commission adopt the ALJ's proposed Order with the Executive Director's recommended changes presented herein and create the District with the changes recommended by the ALJ and the Executive Director.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on July 2, 2024, a true and correct copy of the foregoing document 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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SOAH Docket No. 582-23-13330; TCEQ Docket No. 2022-1631-DIS

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