

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Erin E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 22, 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: TCEQ Docket No. 2022-1631-DIS; Duck Creek Municipal Utility District of Denton County; Request filed regarding Internal Control No. D-06142022-031.

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 January 11, 2023, agenda on hearing requests for the creation of Duck Creek Municipal Utility District of Denton County:

1. Technical memo prepared by staff;
2. Temporary Directors' Affidavits; and
3. Notice of District Petition.

Please do not hesitate to contact me if you have any questions regarding these materials. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink that reads "Kayla Murray".

Kayla Murray, Staff Attorney  
Environmental Law Division

Enclosures

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

**To:** Justin P. Taack, Manager  9/30/2022 **Date:** September 30, 2022  
Districts Section

**Thru:** Dan Finnegan, Team Lead  
Districts Section Bond Team

**From:** James Walker  
Districts Creation Review Team

**Subject:** Petition by Earthland Farms, LLC for Creation of Duck Creek Municipal Utility District of Denton County; Pursuant to Texas Water Code Chapters 49 and 54.  
TCEQ Internal Control No. D-06142022-031 (TC)  
CN: 606030203 RN: 111520458

### A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a petition within the application requesting approval for the creation of Duck Creek Municipal Utility District of Denton County (District). The petition was signed by Kenneth Zollinger and Daphne Zollinger as managing members of Earthland Farms, 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 and it further states that there is one lienholder, Lone Star ACA, on the land in the proposed District and the aforementioned entity has consented to the petition.

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 is located in Denton County, Texas, west of Lois Road West and east of FM 2450. Access to the proposed District will be provided by Lois Road West, approximately 0.25 miles north of the intersection with View Road.

#### Metes and Bounds Description

The proposed District contains 320.41 acres of land. The metes and bounds description of the proposed District has been reviewed and checked by TCEQ's staff and has been found to form an acceptable closure.

#### City Consent

The proposed District is located outside the corporate limits and extraterritorial jurisdiction of any city, town, or village. Therefore, city consent is not required.

County Notification

In accordance with TWC Section 54.0161, a certified letter, dated June 27, 2022, was sent to the Commissioners Court of Denton County which provided notice of the proposed District's pending creation application and provided them an opportunity to make their recommendations. To date, the county has not responded to this notification.

Statements of Filing Petition

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

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 Earthland Farms, LLC will develop the property. Earthland Farms has been in operation since October 2017 and is owned by Kenneth and Daphne Zollinger. Earthland Farms, Kenneth and Daphne Zollinger, and their related entities own over 500 acres in Denton County and over 600 acres in Love County, Oklahoma. They have entitled, sold, and/or developed 184 acres of land encompassing 136 lots in Denton County.

Certificate of Ownership

By signed certificate dated April 22, 2022, the Denton Central Appraisal District has certified that the appraisal rolls indicate that the Petitioner is the owner of all 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:

Glenn T. Carlton

Chuck Butler

Randall Smith

Ashlee Reaves

Anthony Heincy

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 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 August 14 and August 21, 2022, in the *Denton Record-Chronicle*, a newspaper regularly published or circulated in Denton County, the county in which the district is proposed to be located. Proper notice of the application was posted on August 10, 2022, in the County Courthouse, the place where legal notices in Denton 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 September 20, 2022.

### **B. ENGINEERING ANALYSIS**

The creation engineering report indicates the following:

#### Availability of Comparable Service

Bolivar Water Supply Corporation (WSC) holds the Certificate of Convenience and Necessity (CCN) (Permit No. 11257) for water service in the area within the proposed District. The City of Sanger holds the CCN for wastewater service. The proposed District will receive water service from Bolivar WSC and wastewater service from the City of Sanger. The proposed District will construct water, wastewater, drainage, and paving facilities in phases. Once constructed, the water facilities will be dedicated to, owned, maintained, and operated by Bolivar WSC. Once constructed, the wastewater facilities will be dedicated to, owned, maintained, and operated by the City of Sanger. The proposed District will maintain and operate the collector roadway system and the storm drainage system. Construction of the facilities serving the proposed District is necessary since there are no other sources which have the facilities or capacity to serve the project. All systems and facilities will be designed according to applicable criteria established by City and Sanger, Denton County, Texas Department of Transportation (TxDOT), and the TCEQ.

#### Water Supply Improvements

All water supply and distribution system improvements to serve the proposed District will be designed in accordance with criteria established by the TCEQ. Per the engineering report, it is estimated that the District will contain 775 equivalent single-family connections (ESFCs) at ultimate development. Further, the engineering report indicates that the water supply services will be provided by Bolivar WSC. The ultimate average daily demand is estimated to be 0.50 million gallons per day (MGD) with a max day and peak hour demand of 1.08 MGD and 1.83 MGD, respectively. Onsite groundwater wells will deliver the necessary supply of water to the proposed District distribution system.

#### Water Distribution Improvements

The water distribution system for full development of the proposed District will consist of approximately 8,800 linear feet (LF) of onsite transmission waterline ranging from 8" to 12" of polyvinyl chloride (PVC) pipe, along with all related appurtenances. The internal water distribution system will be looped where feasible to provide alternate service routes during emergencies and maintenance periods, and to equalize pressure in the system, Valves, fire hydrants, and flushing valves will be provided at intervals as required by the TCEQ. The distribution system will be designed in accordance with applicable TCEQ design criteria.

### Wastewater Collection and Treatment Improvements

It is estimated that the District will contain 775 ESFCs at ultimate development, requiring 248,000 gallons per day of wastewater treatment capacity, using 320 gallons per day per connection. The wastewater generated by development within the proposed District will flow by gravity and by one lift station to an onsite wastewater treatment plant. The onsite wastewater collection system will consist of approximately 9,400 LF of 8" gravity flow PVC wastewater line, and approximately 550 LF of 6" PVC onsite force main wastewater line. The entire development will gravity flow along the central collector to a proposed lift station located at the center of the cite where it will then convey to the proposed onsite wastewater treatment plant. The average daily demand is estimated to be 0.30 MGD with a peak 2-hour demand of 1.25 MGD. All wastewater facilities will be designed in accordance with applicable criteria established by the TCEQ

### Storm Water Drainage System and Drainage Improvements

The storm water runoff within the proposed District will be directed within the streets via curb and gutters to collector lines provided by the proposed District. The storm water collection system will be designed to convey the 100-year storm with a pipe system to detention ponds that will ultimately release to Duck Creek. The storm water collection system for the full development will consist of a combination of streets curbs and gutters with inlets, detention ponds, and internal storm drain conduit. One major crossing at Duck Creek is required and proposed to be a bridge crossing. Less significant crossings of the major collector throughout include a 48" reinforced concrete pipe and a 5'x5' reinforced concrete box. Detention will be provided for the proposed District. Two pond locations have been identified. During the design phase, each pond will be designed to sufficiently detain storm runoff to predeveloped flows as required by Denton County. All storm drainage improvements will be designed in accordance with the applicable design criteria established by Denton County.

### Road Improvements

The paving within the proposed District will be 37' concrete curb and gutter roadways provided by the proposed District. The collector roadways for full development of the proposed District will consist of an east-west collector road that will provide access from Lois Road and Cash's Mill Road. All roadway facilities will be designed in accordance with criteria established by Denton County.

### Topography/Land Elevation

The proposed District is moderately sloped pastureland, with some steeper slopes near Duck Creek. Elevations range from 700 feet above mean sea level (msl) to 770 feet above msl. 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, plants, and paving.

### Floodplain

According to Federal Emergency Management Agency Flood Insurance Rate Map No. 48121C0065G, dated April 18, 2011, approximately 110 acres is located within Zone "A". The floodplain areas are intended to remain undeveloped.

### Subsidence

No facilities are proposed that are expected to cause or contribute to subsidence. According to the engineering report, Bolivar WSC has not experienced any land subsidence from groundwater extraction.

### Dam Safety Analysis

The TCEQ Dam Safety Program personnel reviewed the location of the District and confirmed by letter dated February 15, 2022, that there is one significant sized dam upstream of the proposed District. Clear Creek Watershed Site 52 (TX 00528) is located north of Gregory Road upstream of the proposed District. The dam would possibly have an impact on the proposed District if the dam should fail, or possibly from flows through the spillway. It is possible that this dam should be upgraded in hazard classification. It is recommended that consideration be given to addressing possible impact from spillway flows and from a breach of the dam.

### Groundwater Levels/Recharge

The water supply sources to be utilized by the proposed District are only groundwater. Wells in this area are typically drilled to a depth of 1,000 feet and produce approximately 150 gpm and have maintained groundwater levels. The proposed District will be able to drill deeper to extract water at a higher flow rate than existing wells currently operated by Bolivar WSC. The proposed District will receive its water from groundwater sources via wells constructed, owned, operated, and maintained by the proposed District. Recharge to the unconfined portion of aquifers beneath the surface of the District area is primarily from infiltration of precipitation and seepage of surface water bodies. Approximately 60% of the proposed District's area will be made impervious as a result of development, leaving ample area pervious to allow for recharge of the groundwater.

### Natural Run-off and Drainage

Most of the existing drainage is through the runoff which collects and is conveyed to creek tributaries onsite. Some existing drainage contributing to the site is from overland flow contributed from offsite areas to the north. Water from Duck Creek and a tributary to Duck Creek creates floodplain areas. Most of the floodplain will remain, while a small portion may be reclaimed to construct the future collector roadway.

### Water Quality

No adverse effect of the water quality of ground or surface water is anticipated as a result of this development. The proposed District will use groundwater tanks in addition to transmission waterlines. Wastewater from the proposed District will be captured through onsite collection and treated at an onsite wastewater treatment plant at the central portion of the proposed District. The treatment and disposal of wastewater from the proposed District will be provided by the City of Sanger in compliance with the terms of the waste discharge permit obtained from the TCEQ.

**C. SUMMARY OF COSTS****WATER, WASTEWATER, AND DRAINAGE**

<u>Construction Costs</u>	<u>District Share</u> <sup>(1)</sup>
A. Developer Contribution Items	
1. Water Distribution System	\$ 7,232,896
2. Wastewater Collection System	8,552,213
3. Stormwater Drainage System	<u>4,396,014</u>
Total Developer Contribution Items	\$ 20,181,123
 B. District Items	
None.	
TOTAL CONSTRUCTION COSTS (78.10% of BIR)	\$ 20,181,123
 <u>Non-Construction Costs</u>	
A. Legal Fees	\$ 646,000
B. Fiscal Agent Fees	516,800
C. Interest Costs	
1. Capitalized Interest (1 year @ 4.5%)	1,162,800
2. Developer Interest (2 years @ 4.5% of Construction Costs)	1,816,301 <sup>(2)</sup>
D. Bond Discount	775,000
E. Bond Issuance Expenses	175,000
F. Organization and Operating Costs	100,000
G. District Creation Expenses	75,000
H. Bond Application Report Costs	301,336
I. Attorney General Fee (0.1%)	25,840
J. TCEQ Bond Issuance Fee (0.25%)	<u>64,600</u>
TOTAL NON-CONSTRUCTION COSTS	\$ 5,658,877
 <b>TOTAL W, WW, &amp; D BOND ISSUE REQUIREMENT</b>	 <b>\$ 25,840,000</b>

Notes: (1) Assumes 60.24% 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>
A. Developer Contribution Items	
1. Major Roadway System: Collectors	\$ 5,352,565
2. Major Roadway System: Perimeter Roads	1,264,498
3. Onsite Roadway	<u>5,462,684</u>

Total Developer Contribution Items	\$ 12,079,746
B. District Contribution Items	
None.	
TOTAL CONSTRUCTION COSTS (80.16% of BIR)	\$ 12,079,746

Non-Construction Costs

A. Legal Fees	\$ 376,750
B. Fiscal Agent Fees	301,400
C. Interest Costs	
1. Capitalized Interest (1 year @ 4.5%)	678,150
2. Developer Interest (2 years @ 4.5% of Construction Costs)	1,087,177 <sup>(2)</sup>
D. Bond Discount	452,100
E. Bond Issuance Expenses	79,606
F. Attorney General Fee (0.1%)	<u>15,070</u>
TOTAL NON-CONSTRUCTION COSTS	\$ 2,990,253
 <b>TOTAL ROAD BOND ISSUE REQUIREMENT</b>	 <b>\$ 15,070,000</b>

Notes: (1) Assumes 60.24% 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 intended to accommodate single-family residential. Planned ultimate development in the proposed District, as shown in the land use plan provided, is as follows:

<u>Land Use</u>	<u>Acreage</u>	<u>ESFCs</u>
Single Family/Residential	162.9	775
Right-of-way Dedication - Perimeter	1.8	0
Open Space/Floodplain/Buffers	128.5	0
Internal Collectors	15.2	0
Water Plant/Wastewater Treatment Plant	<u>12.0</u>	<u>0</u>
<b>Total</b>	<b>320.4</b>	<b>775</b>

Market Study

A market study, prepared in March 2022 by Residential Strategies, Inc., was submitted in support of the creation of the proposed District. The proposed District is expected to include approximately 775 equivalent single-family connections on a tract totaling approximately

320.41 acres. The home values are expected to be approximately \$300,000 for 40-foot lots, \$320,000 for 50-foot lots, \$350,000 for 60-foot lots, and \$457,500 for ¾-acre 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 155 homes/year over the first five years.

Project Financing

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

<u>Development Description</u>	<u>Lots</u>	<u>Developed Unit Value (per home per lot)</u>	<u>Total Buildout Value</u>
40-foot single-family lots	344	\$ 300,000	\$ 103,200,000
50-foot single-family lots	344	\$ 320,000	\$ 110,080,000
60-foot single-family lots	77	\$ 350,000	\$ 26,950,000
¾-acre single-family lots	10	\$ 457,500	\$ 4,575,000
<b>Total Assessed Valuation</b>			<b>\$ 244,805,000</b>

Considering the issuance of a total of \$40,910,000 (\$25,840,000 for utilities and \$15,070,000 for roads) in bonds, assuming 60.24% financing, a coupon bond interest rate of 4.5%, and a 25-year bond life, the average annual debt service requirement would be \$2,758,931 (\$1,742,624 for utilities plus \$1,016,306 for roads). Assuming a 98% collection rate and an ultimate AV of \$244,805,000, a projected ultimate tax rate of approximately \$1.16 (\$0.73 for utilities and \$0.43 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 \$1.21.

Based on the information provided and assuming 60.24% financing, the total year 2021 overlapping tax rates on land within the proposed District are shown as follows:

<u>Taxing Jurisdiction</u>	<u>Tax Rates (Denton County)</u> <sup>(1)</sup>
Duck Creek MUD of Denton County (District)	\$ 1.210000 <sup>(2)(3)</sup>
Denton County	\$ 0.233086
Sanger Independent School District	\$ 1.142300
Clear Creek Watershed Authority	\$ 0.036500
<b>TOTAL TAX per \$100 AV:</b>	<b>\$ 2.621886</b>

- Notes: (1) Tax rate per \$100 assessed valuation.  
 (2) Represents \$0.73 for utilities, \$0.43 for roads, and \$0.05 for operation and maintenance tax.  
 (3) Assuming 60.24% funding of anticipated developer contribution items, where applicable.

Based on the proposed District tax rate and the year 2021 overlapping tax rate on land within the proposed District, and assuming 60.24% financing, the project is considered economically feasible.

Water and Wastewater Rates

According to information provided, Bolivar WSC will provide retail water services and the City of Sanger will provide retail wastewater services to the proposed District’s customers. The estimated monthly fee for 10,000 gallons of water and wastewater would be \$150.25.

### Comparative Water District Tax Rates

A tax rate of \$1.21 (\$0.73 for utilities, \$0.43 for roads, and \$0.05 for operation and maintenance tax) for the proposed District is comparable to other districts in the target market area. Each particular 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 proposed District.

### **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, parks and recreational facilities, and road facilities; a combined projected tax rate of \$1.21 per \$100 AV when assuming 60.24% financing; the proposed District obtaining a 4.5% bond coupon interest rate; and other supporting data, each particular 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 proposed District.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

### **G. RECOMMENDATIONS**

1. Grant the petition for creation of Duck Creek Municipal Utility District of Denton 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 statements:

"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:

Glenn T. Carlton

Chuck Butler

Randall Smith

Ashlee Reaves

Anthony Heincy

#### **H. ADDITIONAL INFORMATION**

The Petitioner’s professional representatives are:

Attorney: Mr. Matt McPhail – Winstead, PC

Creation Engineer: Ms. Stephanie White, P.E. – Kimley-Horn

AFFIDAVIT OF TEMPORARY DIRECTOR

THE STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS           §

BEFORE ME, the undersigned duly constituted authority of the State and County aforesaid, on this day personally appeared Anthony Heincy who expressed a desire to be appointed a director of Duck Creek Municipal Utility District of Denton County (hereinafter the "District"), and who on oath did state:

1.           I am at least eighteen (18) years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District. I am a resident of Denton County, the county in which the District is located.

2.           I am not now and have no present plans to be a developer of property in the District as defined in Section 49.052(d), Texas Water Code, as amended (a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys or parks or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto).

3.           I am not, to the best of my knowledge, related within the third degree of affinity (marriage) or consanguinity (blood) to a developer of property within the District; or to any of the other proposed Directors of the District; or to the attorney, engineer or manager of the District or other person providing professional services to the District.

4.           I am not an employee of any developer of property within the District or any other Director or any attorney, engineer or manager of the District, or other person providing professional services to the District or a developer of property in the District in connection with the District or property located in the District.

5.           I am not serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the District or a developer of property within the District.

6.           Neither my employer nor I have any business or other connection with the developer of the District, the attorney representing the District, or any consulting engineer for the District in regard to the District and the development therein.

7.           I am not a party to a contract with or along with the District (except, possibly, for the purchase of public services furnished by the District to the public generally) or a contract

with or along with a developer of property in the District relating to the District or property within the District (except, possibly, a contract related solely to the purpose of purchasing or conveying real property in the District for the purpose of qualifying as a director).

8. I do not, at the present time, plan to live in the District. I do plan to retain ownership of my land in the District for the indefinite future, but I anticipate that I will eventually offer it for resale.

9. I am generally familiar with the responsibilities of a director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers and residents of the District.

10. I am aware that the District is a public agency, that by law notice of its meetings must be posted, and that, subject to certain exceptions, its meetings must be open to the public and its records must be available for inspection by the public at all reasonable times.

11. I am aware that the District is subject to the continuing supervision of the Texas Commission on Environmental Quality, and I will fully cooperate with said Commission.

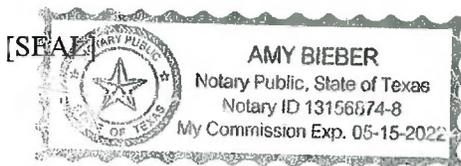
12. I am not presently an officer, director or official of the State of Texas or any other district, city, county, school district or political subdivision of this State.

13. I hereby affirm that I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of the State of Texas; and I hereby affirm that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

AFFLIANT:

  
Anthony Heincy

SWORN AND SUBSCRIBED BEFORE ME this \_\_\_ day of \_\_\_\_\_, 2022.



  
Notary Public in and for the State of Texas

AFFIDAVIT OF TEMPORARY DIRECTOR

THE STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS           §

BEFORE ME, the undersigned duly constituted authority of the State and County aforesaid, on this day personally appeared Ashlee Reaves who expressed a desire to be appointed a director of Duck Creek Municipal Utility District of Denton County (hereinafter the "District"), and who on oath did state:

1.           I am at least eighteen (18) years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District. I am a resident of Denton County, the county in which the District is located.

2.           I am not now and have no present plans to be a developer of property in the District as defined in Section 49.052(d), Texas Water Code, as amended (a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys or parks or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto).

3.           I am not, to the best of my knowledge, related within the third degree of affinity (marriage) or consanguinity (blood) to a developer of property within the District; or to any of the other proposed Directors of the District; or to the attorney, engineer or manager of the District or other person providing professional services to the District.

4.           I am not an employee of any developer of property within the District or any other Director or any attorney, engineer or manager of the District, or other person providing professional services to the District or a developer of property in the District in connection with the District or property located in the District.

5.           I am not serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the District or a developer of property within the District.

6.           Neither my employer nor I have any business or other connection with the developer of the District, the attorney representing the District, or any consulting engineer for the District in regard to the District and the development therein.

7.           I am not a party to a contract with or along with the District (except, possibly, for the purchase of public services furnished by the District to the public generally) or a contract

with or along with a developer of property in the District relating to the District or property within the District (except, possibly, a contract related solely to the purpose of purchasing or conveying real property in the District for the purpose of qualifying as a director).

8. I do not, at the present time, plan to live in the District. I do plan to retain ownership of my land in the District for the indefinite future, but I anticipate that I will eventually offer it for resale.

9. I am generally familiar with the responsibilities of a director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers and residents of the District.

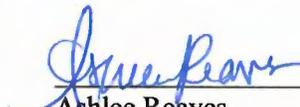
10. I am aware that the District is a public agency, that by law notice of its meetings must be posted, and that, subject to certain exceptions, its meetings must be open to the public and its records must be available for inspection by the public at all reasonable times.

11. I am aware that the District is subject to the continuing supervision of the Texas Commission on Environmental Quality, and I will fully cooperate with said Commission.

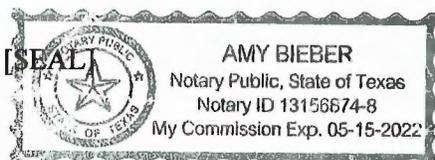
12. I am not presently an officer, director or official of the State of Texas or any other district, city, county, school district or political subdivision of this State.

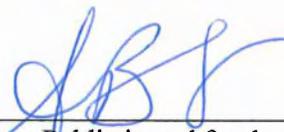
13. I hereby affirm that I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of the State of Texas; and I hereby affirm that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

AFFIANT:

  
\_\_\_\_\_  
Ashlee Reaves

SWORN AND SUBSCRIBED BEFORE ME this 12<sup>th</sup> day of may, 2022.



  
\_\_\_\_\_  
Notary Public in and for the State of Texas

AFFIDAVIT OF TEMPORARY DIRECTOR

THE STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS           §

BEFORE ME, the undersigned duly constituted authority of the State and County aforesaid, on this day personally appeared Charles Butler who expressed a desire to be appointed a director of Duck Creek Municipal Utility District of Denton County (hereinafter the "District"), and who on oath did state:

1.           I am at least eighteen (18) years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District. I am a resident of Denton County, the county in which the District is located.

2.           I am not now and have no present plans to be a developer of property in the District as defined in Section 49.052(d), Texas Water Code, as amended (a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, ... or laying out suburban lots or building lots, or any lots, streets, alleys or parks or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto).

3.           I am not, to the best of my knowledge, related within the third degree of affinity (marriage) or consanguinity (blood) to a developer of property within the District; or to any of the other proposed Directors of the District; or to the attorney, engineer or manager of the District or other person providing professional services to the District.

4.           I am not an employee of any developer of property within the District or any other Director or any attorney, engineer or manager of the District, or other person providing professional services to the District or a developer of property in the District in connection with the District or property located in the District.

5.           I am not serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the District or a developer of property within the District.

6.           Neither my employer nor I have any business or other connection with the developer of the District, the attorney representing the District, or any consulting engineer for the District in regard to the District and the development therein.

7.           I am not a party to a contract with or along with the District (except, possibly, for the purchase of public services furnished by the District to the public generally) or a contract

with or along with a developer of property in the District relating to the District or property within the District (except, possibly, a contract related solely to the purpose of purchasing or conveying real property in the District for the purpose of qualifying as a director).

8. I do not, at the present time, plan to live in the District. I do plan to retain ownership of my land in the District for the indefinite future, but I anticipate that I will eventually offer it for resale.

9. I am generally familiar with the responsibilities of a director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers and residents of the District.

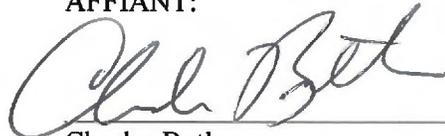
10. I am aware that the District is a public agency, that by law notice of its meetings must be posted, and that, subject to certain exceptions, its meetings must be open to the public and its records must be available for inspection by the public at all reasonable times.

11. I am aware that the District is subject to the continuing supervision of the Texas Commission on Environmental Quality, and I will fully cooperate with said Commission.

12. I am not presently an officer, director or official of the State of Texas or any other district, city, county, school district or political subdivision of this State.

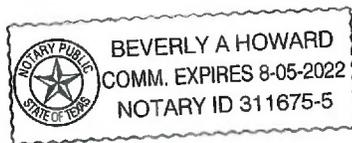
13. I hereby affirm that I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of the State of Texas; and I hereby affirm that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

AFFIANT:

  
\_\_\_\_\_  
Charles Butler

SWORN AND SUBSCRIBED BEFORE ME this 13 day of May, 2022.

[SEAL]



  
\_\_\_\_\_  
Notary Public in and for the State of Texas



with or along with a developer of property in the District relating to the District or property within the District (except, possibly, a contract related solely to the purpose of purchasing or conveying real property in the District for the purpose of qualifying as a director).

8. I do not, at the present time, plan to live in the District. I do plan to retain ownership of my land in the District for the indefinite future, but I anticipate that I will eventually offer it for resale.

9. I am generally familiar with the responsibilities of a director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers and residents of the District.

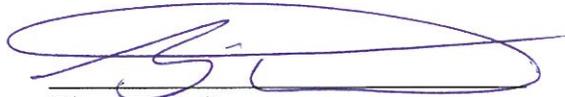
10. I am aware that the District is a public agency, that by law notice of its meetings must be posted, and that, subject to certain exceptions, its meetings must be open to the public and its records must be available for inspection by the public at all reasonable times.

11. I am aware that the District is subject to the continuing supervision of the Texas Commission on Environmental Quality, and I will fully cooperate with said Commission.

12. I am not presently an officer, director or official of the State of Texas or any other district, city, county, school district or political subdivision of this State.

13. I hereby affirm that I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of the State of Texas; and I hereby affirm that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

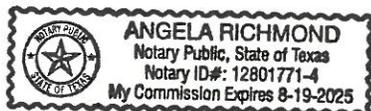
AFFIANT:



Glenn T. Carlton

SWORN AND SUBSCRIBED BEFORE ME this 11 day of May, 2022.

[SEAL]



Angela Richmond  
Notary Public in and for the State of Texas

AFFIDAVIT OF TEMPORARY DIRECTOR

THE STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS           §

BEFORE ME, the undersigned duly constituted authority of the State and County aforesaid, on this day personally appeared Randall Smith who expressed a desire to be appointed a director of Duck Creek Municipal Utility District of Denton County (hereinafter the "District"), and who on oath did state:

1.           I am at least eighteen (18) years of age, a resident citizen of the State of Texas, and own land subject to taxation within the District. I am a resident of Denton County, the county in which the District is located.

2.           I am not now and have no present plans to be a developer of property in the District as defined in Section 49.052(d), Texas Water Code, as amended (a person who owns land located within the District who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys or parks or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto).

3.           I am not, to the best of my knowledge, related within the third degree of affinity (marriage) or consanguinity (blood) to a developer of property within the District; or to any of the other proposed Directors of the District; or to the attorney, engineer or manager of the District or other person providing professional services to the District.

4.           I am not an employee of any developer of property within the District or any other Director or any attorney, engineer or manager of the District, or other person providing professional services to the District or a developer of property in the District in connection with the District or property located in the District.

5.           I am not serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the District or a developer of property within the District.

6.           Neither my employer nor I have any business or other connection with the developer of the District, the attorney representing the District, or any consulting engineer for the District in regard to the District and the development therein.

7.           I am not a party to a contract with or along with the District (except, possibly, for the purchase of public services furnished by the District to the public generally) or a contract

with or along with a developer of property in the District relating to the District or property within the District (except, possibly, a contract related solely to the purpose of purchasing or conveying real property in the District for the purpose of qualifying as a director).

8. I do not, at the present time, plan to live in the District. I do plan to retain ownership of my land in the District for the indefinite future, but I anticipate that I will eventually offer it for resale.

9. I am generally familiar with the responsibilities of a director of a municipal utility district. I realize that as a Director I will be a public official charged with the responsibility of serving the best interests of the present and future property owners, taxpayers and residents of the District.

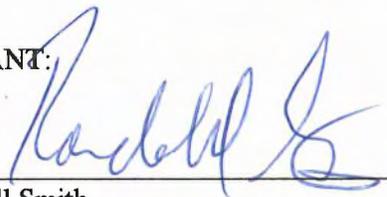
10. I am aware that the District is a public agency, that by law notice of its meetings must be posted, and that, subject to certain exceptions, its meetings must be open to the public and its records must be available for inspection by the public at all reasonable times.

11. I am aware that the District is subject to the continuing supervision of the Texas Commission on Environmental Quality, and I will fully cooperate with said Commission.

12. I am not presently an officer, director or official of the State of Texas or any other district, city, county, school district or political subdivision of this State.

13. I hereby affirm that I will faithfully execute the duties of the office of Director of the District and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of the State of Texas; and I hereby affirm that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure this appointment.

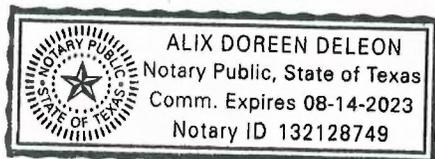
AFFIANT:



Randall Smith

SWORN AND SUBSCRIBED BEFORE ME this 4<sup>th</sup> day of May, 2022.

[SEAL]



  
\_\_\_\_\_  
Notary Public in and for the State of Texas

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF DISTRICT PETITION TCEQ INTERNAL CONTROL NO. D-06142022-031

**PETITION.** Earthland Farms, LLC, a Texas limited liability company, and Kenneth Zollinger and Daphne Zollinger as individual landowners (Petitioners) filed a petition for creation of Duck Creek Municipal Utility District of Denton County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Lone Star ACA, on the property to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 320.41 acres located within Denton County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city.

The territory to be included in the proposed District is set forth in a metes and bounds description designated as Exhibit "A" and is depicted in the vicinity map designated as Exhibit "B," both of which are attached to this document.

The petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$40,910,000 (\$25,840,000 for water, wastewater, and drainage plus \$15,070,000 for roads).

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this petition if a written hearing request is filed within 30 days after the newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioners and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

**INFORMATION.** Written hearing requests should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC-103, at the same address. General information regarding TCEQ can be found at our web site <http://www.tceq.texas.gov/>.

Issued: August 4, 2022

EXHIBIT A  
Legal Description of the Land

All that certain lot, tract or parcel of land lying and being situated in Denton County, Texas and being a part of the A.H. Lynde Survey, Abstract number 770 and the A.H. Lynde Survey, Abstract number 771 and the A.H. Lynde Survey, Abstract number 777 and the John Gober Survey, Abstract number 486 and being all of that called 84.23 acre tract of land described in deed to Earthland Farms, LLC recorded in Instrument number 2018-88474, Real Property Records, Denton County, Texas and being all of Tract I a called 225.78 acre tract and all of Tract II a 10.28 acre tract of land described in deed to Kenny and Daphne Zollinger recorded in Instrument number 2015-10615, Real Property Records, Denton County, Texas and being more fully described by metes and bounds as follows;

BEGINNING at a 1/2 inch iron rod found in the approximate center of Cash's Mill Road and being the most Westerly Northwest corner of said Tract I and being the Southwest corner of a called 17.031 acre tract of land described in deed to Edward Joseph Huettenmueller and wife, Rhonda Huettenmuller recorded in Volume 990, Page 505, Deed Records, Denton County, Texas;

THENCE along the common line of said 17.031 acre tract and this tract, South 89 degrees 39 minutes 20 seconds East, 911.81 feet to a wood fence corner post at the Southeast corner of said 17.031 acre tract;

THENCE South 89 degrees 44 minutes 28 seconds East, 2270.67 feet to a 1/2 inch iron rod found;

THENCE North 01 degrees 10 minutes 32 seconds East, 305.83 feet to a capped iron rod set stamped "KAZ";

THENCE North 89 degrees 33 minutes 58 seconds West, 807.42 feet to a wood fence corner post;

THENCE North 00 degrees 28 minutes 11 seconds East, 1397.44 feet to a capped iron rod set stamped "KAZ" at the most Northerly Northwest corner of said Tract I and being in the South line of Stone Creek, an addition to Denton County, Texas according to the plat recorded in Cabinet P, Page 32, Plat Records, Denton County, Texas;

THENCE along the common line of said Stone Creek and this tract, North 89 degrees 54 minutes 40 seconds East, 2151.99 feet to a wood fence corner at the Northeast corner of said Tract I and the Northwest corner of said 84.23 acre tract and also being the Southeast corner of the J.M. Gist Survey, Abstract number 478;

THENCE continuing along said common line, South 89 degrees 42 minutes 43 seconds East, passing a capped iron rod found at 2728.42 feet, continuing in all a total distance of 2758.66 feet to a Mag nail set in the approximate center of Lois Road and being the Northeast corner of said 84.23 acre tract;

THENCE along said center, South 00 degrees 14 minutes 51 seconds West, 1333.22 feet to a Mag nail set at the Southeast corner of said 84.23 acre tract and the Northeast

corner of a called 120.67 acre tract of land described in deed to Don Gillum recorded in Instrument number 2015-146204, Real Property Records, Denton County, Texas;

THENCE along the common line of said 120.67 acre tract and this tract, North 89 degrees 42 minutes 43 seconds West, 2710.53 feet to a 1/2 inch iron rod found at the most Southerly Southwest corner of said 84.23 acre tract and being the Northwest corner of said 120.67 acre tract and being in the East line of the aforesaid Tract I;

THENCE along the common line of said 120.67 acre tract and this tract, South 00 degrees 31 minutes 11 seconds West, 1981.65 feet to a capped iron rod set stamped "KAZ" at the Southwest corner of said 120.67 acre tract, in the South line of said Abstract 770, and in the North line of said Abstract 486;;

THENCE continuing along said common line, North 89 degrees 54 minutes 51 seconds East, 573.24 feet to a wood fence corner post at a common corner of said 120.67 acre tract and this tract and the Northeast corner of said Abstract number 486 and also being the Northwest corner of the R. Gist Survey, Abstract number 504;

THENCE South 02 degrees 25 minutes 15 seconds East, 427.42 feet to a capped iron rod found at the Southeast corner of said Tract I;

THENCE North 89 degrees 38 minutes 28 seconds West, 3284.87 feet to a capped iron rod found at the most Southerly Southwest corner of said Tract I and being the Southeast corner of a called 20.00 acre tract of land described in deed to Floyd Seitzinger, etux recorded in Instrument number 2007-28688, Real Property Records, Denton County, Texas;

THENCE along the common line of said 20.00 acre tract and this tract, North 00 degrees 25 minutes 40 seconds East, 1171.02 feet to a metal fence corner post at the Northeast corner of said 20.00 acre tract;

THENCE continuing along said common line, North 89 degrees 38 minutes 28 seconds West, 743.98 feet to a capped iron rod found at the Northwest corner of said 20.00 acre tract;

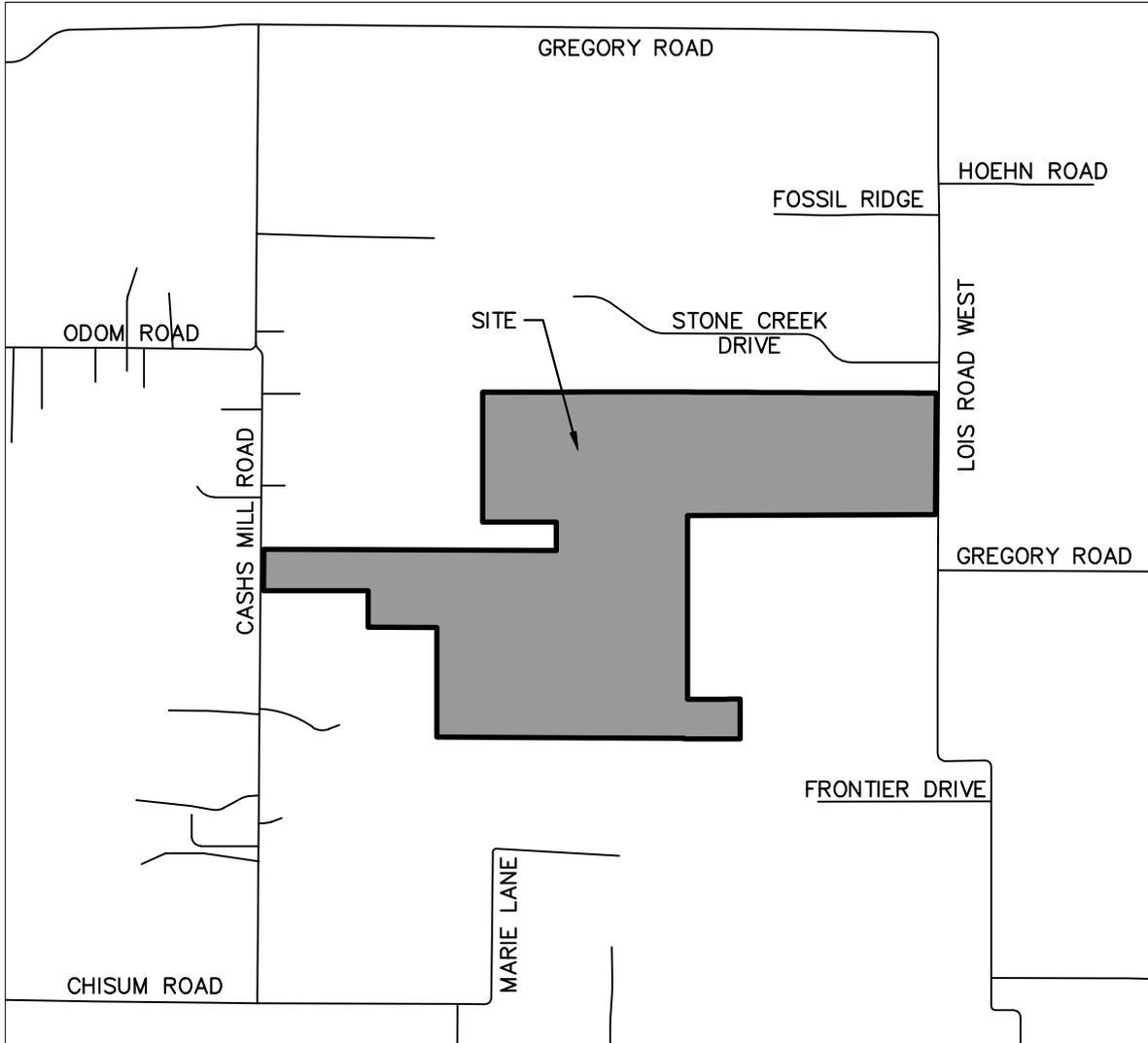
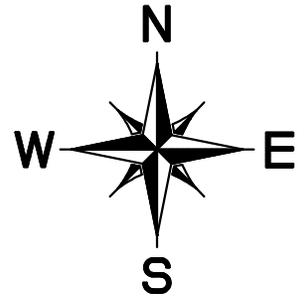
THENCE North 00 degrees 25 minutes 39 seconds East, 390.34 feet to a 1/2 inch iron rod found at the Southeast corner of the aforementioned 10.28 acre tract;

THENCE North 89 degrees 38 minutes 28 seconds West, 1147.00 feet to a Mag nail set at the Southwest corner of said 10.28 acre tract and being in the approximate center of the aforementioned Cash's Mill Road;

THENCE along said center, North 00 degrees 27 minutes 52 seconds East, 450.60 feet to the PLACE OF BEGINNING and containing 320.41 acres of land more or less.



Exhibit "B"



LOCATION MAP  
SCALE: 1" = 2000'

EXHIBIT 1

**Duck Creek MUD Exhibit**

Sanger, Texas  
January 2022

**Kimley»Horn**

© 2021 KIMLEY-HORN AND ASSOCIATES, INC.  
400 N. OKLAHOMA DRIVE, SUITE 105, CELINA, TX 75009  
PHONE: 469-501-2200  
WWW.KIMLEY-HORN.COM  
TEXAS REGISTERED ENGINEERING FIRM F-928