

LAW OFFICE OF STEPHEN C. DICKMAN

6005 Upvalley Run
Austin, Texas 78731
Tel: 512-922-7137
Fax: 512-454-8495
Email: sdickmanlaw@att.net
Website: <https://www.sdickmanlaw.com>

REVIEWED

JAN 23 2023

By GCW H

TCEQ OCC
23JAN '23 11:02

January 18, 2023

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

Re: Petition of HMH Caddo Mills Land, LP for Creation of Hunt County Municipal Utility District No. 5; TCEQ Internal Control No. D-10212022-034; Request for Contested Case Hearing

Dear TCEQ Chief Clerk:

I represent the **City of Caddo Mills** (the "City") regarding the above-referenced petition (the "Petition") to create Hunt County Municipal Utility District No. 5 (the "MUD"). Please direct all future correspondence on this Petition to the undersigned attorney at the address shown on this letterhead.

The City opposes the creation of the MUD which would be located on land which is located wholly within the extra-territorial jurisdiction ("ETJ") of the City of Caddo Mills and will create unnecessary tax and regulatory burdens on land that may later be annexed into the City. Moreover, the City is concerned about water quality and drainage impacts on land within the City's ETJ, interferences with City functions and services, and the proliferation of unneeded small package sewer plants in the area. Accordingly, the City is directly affected by the Petition and is hereby requesting a contested case hearing on the Petition.

Under TCEQ rules, the City is an "affected person" entitled to a contested case hearing on issues relevant to the Petition and raised herein because the City has interests related to legal rights, duties, privileges, powers or economic interests affected by the Petition that are not common to the general public. The proposed land to be created as Hunt County MUD No. 5 is located entirely within the ETJ of the City and the City does not consent to the addition of such land into the MUD. Pursuant to Texas Water Code §54.0165, land within the City's ETJ cannot be added into the MUD without the City's consent. The City does not believe all statutory requirements for obtaining the "deemed consent" of the City have been met in this case.

For this reason and because of the water quality and drainage impacts on the City, local governments such as the City with authority under state law over issues contemplated by the petition may be considered "affected persons" under 30 Tex. Admin. Code §55.256(b). The City has authority over the protection of public health and safety within its ETJ and authority to regulate

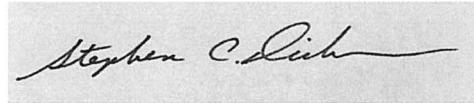
TCEQ Chief Clerk
January 18, 2023
Page 2

development within its ETJ. See, e.g., Tex. Local Govt. Code §§42.001 and 212.044. Moreover, various City functions and services, including water and sewer services, roadway and transportation, and emergency services will be affected by the creation of the MUD and the landowner's proposed residential and commercial development. These impacts on the City have not been properly addressed in the Petition or the preliminary engineering report and need to be the subject of a contested case hearing.

Finally, the City has available wastewater collection and treatment facilities that can and should be used to provide wastewater service to the proposed MUD development and therefore the proliferation of unneeded small package wastewater plants in the area violates TCEQ's Regionalization Policy set forth in Tex. Water Code §26.081. A City sewer line is located next to the MUD No. 5 boundary. See February 22, 2022 letter with enclosed map.

In conclusion, a contested case hearing is needed to evaluate the above issues so that TCEQ can make a fully informed decision on the Petition. Thank you for your consideration of this request for contested case hearing. If you have any questions regarding this request for hearing, please feel free to contact me at any time.

Very truly yours,



Stephen C. Dickman
Outside Counsel for the City of Caddo Mills

cc: Matt McMahan, Mayor of City of Caddo Mills
Andy Messer, City Attorney

encl: February 22, 2022 letter (with enclosed map)

TCEQ OCC
23JAN '23 11:03



MESSER ★ FORT ★ McDONALD

THE MUNICIPAL LAW FIRM

NORTH TEXAS | AUSTIN | ABILENE

February 22, 2022

Via certified mail, return receipt requested
Via email rmartin@winstead.com

TCEB 000

23JAN '23 11:03

Ross Martin, Attorney at Law
For HMH Caddo Mills Land, L.P.
2728 N. Harwood Street, Suite 500
Dallas, TX 75201

Re: HMH Caddo Mills Land, L.P.'s Petition for Water and Sewer Services Otherwise Provided
By Proposed Hunt County MUD No. 5

Dear Mr. Martin:

As the Attorney for the City of Caddo Mills (the "City"), I am responding to the petition published on January 27, 2022 and delivered to the City Secretary on February 14, 2022 by HMH Caddo Mills Land, L.P. for services otherwise provided by Hunt County Municipal Utility District ("MUD") No. 5 proposed to be created in the City's ETJ.

As we have previously discussed, the City has a 15 inch sewer line already in place on the west property line of the proposed MUD and the City is currently capable of providing retail sewer service to the proposed MUD development, indeed on a much more cost-effective basis than by the proposed MUD. I have included a map that depicts the location of the City's sewer line in proximity to the development. Moreover, the City has a sewer CCN amendment application pending at the Public Utility Commission of Texas ("PUC") that, when approved by the PUC, will include the proposed development within the exclusive service area of the City's sewer CCN No. 20469. See PUC Dk. No. 52978.

In addition, the City is in the process of obtaining dual certification at the PUC for providing retail water service to the proposed MUD development. See PUC Dk. No. 53166. When this application is approved by the PUC, the City will have the right to provide retail water service to the land within the proposed MUD. The City's ability to provide water and sanitary sewer services to the development was stated in my previous letter of January 14, 2022 and last year in meeting with the developer.

Under Section 42.042(f) of the Texas Local Government Code and Section 54.016(d) of the Texas Water Code, the City stands ready and is eager to enter into a contract or other legally binding instrument committing sufficient funds by the City to provide water and wastewater service adequate to serve the proposed MUD development at a reasonable cost to the landowner, with

TCEQ 000
23JAN '23 11:03

construction of such facilities to be commenced within two years and to be substantially completed within 4 1/2 years from the date of the October 19, 2021 presentation. Please contact me to discuss the drafting of an agreement between the City and your client for the City to provide water and wastewater service to the proposed development.

There is no legal or practical reason for the proposed MUD to provide water or wastewater service to the land or development. Please know that the City intends to vigorously oppose the creation of Hunt County MUD No. 5 at the Texas Commission on Environmental Quality.

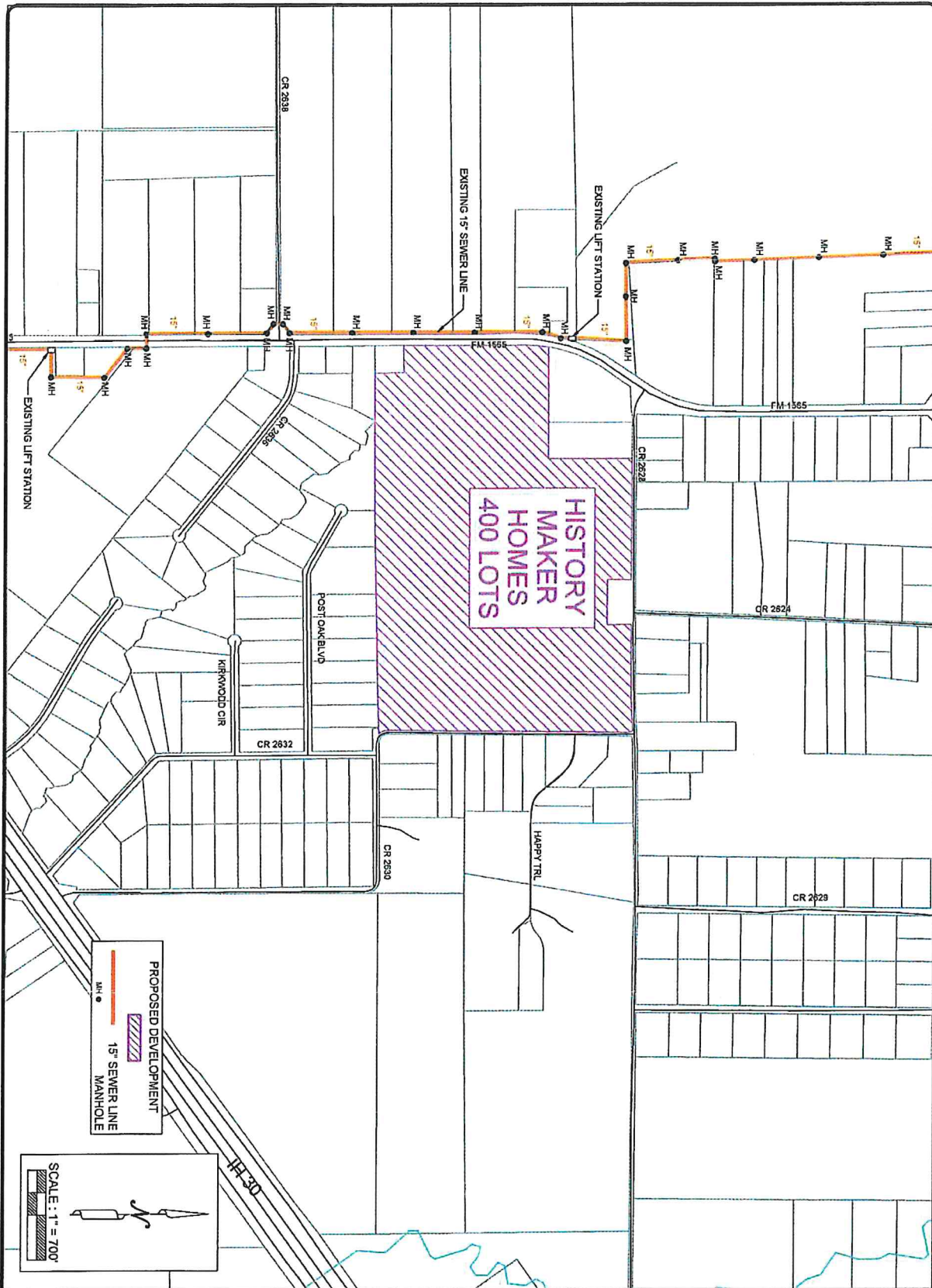
Very truly yours,



Wm. Andrew Messer

WAM/mrh
Enclosure

cc: Mayor Ron Olson, City of Caddo Mills
City Manager Matt McMahon, City of Caddo Mills
Chris Ulmann, TCEQ Districts Section, Water Supply Division, MC-152
Honorable Bobby Stovall, Hunt County Judge



MH ●

 15" SEWER LINE

 MAWHOLE

 PROPOSED DEVELOPMENT

SCALE : 1" = 700'

SHEET 1 OF 1

 SYSTEM MAP

 FOR

 CITY OF CADDO MILLS

 HUNT COUNTY, TEXAS

 SANITARY SEWER SYSTEM



118 McKinney St. • P.O. Box 406 • Farmersville, Texas 75442

 Tel: 972.784.7777

 (TXENG FIRM F-1114)

DESIGNED: E.W.D.	DATE: 11/04/21
DRAWN: M.K.W.	REVISION: N/C
FILE: N:\Caddo Mills City of Caddo Mills Sewer CEN 2021\SEWER SYSTEM EXHIBIT	

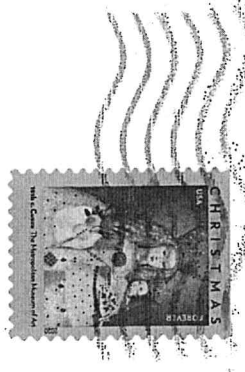
Stephen C. Dickman
Law Office of Stephen C. Dickman
6005 Upvalley Run
Austin, TX 78731

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2023 JAN 23 AM 10:48

CHIEF CLERKS OFFICE

AUSTIN TX 786
RFD GRANDE DISTRICT
19 JAN 2023 PM 3 L



Office of Chief Clerk, MC-105
Tx. Comm. on Env't. Quality
P.O. Box 13087
Austin, TX 78711-3087

RECEIVED
JAN 23 2023
TECUMPH CENTER
EC

78711-308787

