

**SOAH DOCKET NO. 582-24-12113
TCEQ DOCKET NO. 2023-1406-DIS**

PETITION FOR THE CREATION OF BRAHMAN RANCH MUNICIPAL UTILITY DISTRICT OF ELLIS COUNTY AND JOHNSON COUNTY	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**PROTESTANT ELLIS COUNTY’S REPLY TO APPLICANTS’ EXCEPTIONS TO
PROPOSAL FOR DECISION**

COMES NOW, Ellis County (“Protestant” and/or “the County”) and files this, its Reply to the Applicants’ Exceptions to the Proposal for Decision (“PFD”), and in support thereof would show the following:

I. Reply to Applicants’ Exception Regarding Effect on Natural Run-Off Rates and Drainage.

In their exceptions, the Applicants request that the Administrative Law Judge (“ALJ”) include an additional finding of fact in the PFD that “the District’s storm drainage improvements will be designed with generally acceptable practices for the design of stormwater systems in the Dallas/Fort Worth metropolitan area and applicable requirements and design criteria of Ellis County and any other governmental entities with regulatory jurisdiction.”

The ALJ, however, properly excluded this proposed “finding of fact” from the PFD, and the Applicants have failed to provide a single reason in their exceptions justifying the inclusion of such statement within the PFD. It appears from the Applicants’ closing arguments that they relied upon the below statement of their expert witness, Ken Heroy, in support of this proposed “fact:”

20 E. The proposed internal drainage system and drainage improvements within the
21 development will conform to generally acceptable practices for the design of
22 stormwater systems in the Dallas/Fort Worth metropolitan area, including mitigation
23 of increased stormwater runoff rates. All drainage construction plans will be required
1 to obtain approval from Ellis County prior to construction.¹

¹ See Applicants’ Closing Brief, p. 17, fn 51.

However, the language in Mr. Heroy's statement, in addition to being conclusory, differs from the proposed "fact" that the Applicants now recommend for inclusion in the PFD. Furthermore, and as stated in Protestants' Exceptions, the Applicants' Preliminary Engineering Report offers little substantive information on run-off and storm drainage, and the Applicants have failed to provide enough information in this case to adequately assess the impact of the District and its systems and subsequent development on natural run-off rates and drainage. Thus, the ALJ properly excluded the Applicants' proposed statement of fact from the PFD, and the PFD should not be amended to include this statement.

II. Conclusion.

WHEREFORE, Protestant respectfully requests that the TCEQ grant its exceptions and amend the PFD with the corrections as set out in its Exceptions to the PFD. Protestant respectfully requests any other relief to which it is entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2025, a copy of the foregoing document was served on all persons listed via electronic mail.

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