

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

August 4, 2025

Stephen Selinger, Applicant
Stefanie Albright for Ellis County and the City of Ennis
Harrison Malley for the Executive Director
Eli Martinez for the Office of Public Interest Counsel

VIA EFILE TEXAS

**RE: SOAH Docket Number 582-24-19086;
TCEQ Docket No. 2024-0671-DIS;
*Application for Creation of Ellis County Municipal Utility District
FM 984***

Dear Parties:

On June 30, 2025, I issued the Proposal for Decision in this case. On July 21, 2025, Stephen Selinger (Applicant), Ellis County and the City of Ennis (Protestants), and the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) timely filed exceptions. The same parties each filed responses to exceptions. The Office of Public Interest Counsel did not file any exceptions or response to exceptions.

Applicant's Exceptions

Applicant contends that the construction costs in the prefled testimony are less than those in the Petition. The record shows that Applicant submitted revised figures for new construction costs which exceeded those filed in the original petition by \$8.5 million dollars.¹ Thus, the ALJ recommends no changes in response to this exception.

¹ See App. Ex. 1 at 9; ED Ex. JT-4 at 45.

Applicant seeks a ruling on whether the 150-foot sanitary sewer easement of 30 Texas Administrative Code section 290.41(c)(1)(F) prohibits houses. The cited provision requires a sanitary control easement(s) covering the land within 150 feet of a well or ED approval for an authorized substitute. The ALJ declines to make any express conclusions on the application of the sanitary control easement requirement because ultimately, the reasonableness of projected construction costs, tax rates, and water and sewer rates was case-dispositive. Therefore, the ALJ does not recommend any changes to the PFD in response to this exception.

Applicant also excepts to the feasibility findings, arguing that a new calculation should be made based on 204 homes that the Applicant argues were incorrectly deducted from the application. Even disregarding any reduction in lots urged by Protestants, the discrepancy in the number of lots, 1,517 versus 1,522,—both numbers provided by Applicant—may affect the financial viability and valuation of the proposed District.² Therefore, the ALJ does not recommend any changes in response to Applicant's exceptions.

Protestants' Exceptions

Protestants assert insufficient evidence was presented to establish there will be no unreasonable effect to: land elevation and subsidence; groundwater levels and recharge within the region; water quality; and total tax assessments on all land located within the District. Protestants also contend the findings are conclusory. In his technical review of the application, Justin Taack reviewed the statutory and regulatory criteria and initially concluded that the original petition met the applicable requirements.³ After the cost estimates were revised with Applicant's prefiled testimony, the ED's position on the application changed.⁴ Based on the evidentiary record, the preponderance of the evidence still establishes that the proposed District would have no unreasonable effects in those aspects. The ALJ recommends no changes in response to Protestants' exceptions.

² ED Ex. JT-4 at 30; App. Ex. 1 at 10; App. Ex. 3 at 7.

³ ED Ex. JT-3.

⁴ ED Ex. JT-1 at 6.

ED's Exceptions

The ED's exceptions recommended changes to Findings of Fact within the Proposed Order to correct procedural statements and clerical errors. In response to the ED's recommendations, the ALJ makes the following changes to the Proposed Order:

1. Finding of Fact No. 5 should be replaced with: "This matter was directly referred to State Office of Administrative Hearings (SOAH) for a contested case pursuant to 30 Texas Administrative Code section 55.254(g) after the ED, Applicant, Office of Public Interest Counsel, and Ellis County and the City of Ennis (Protestants) agreed on a list of issues and a maximum expected duration of the hearing."
2. Finding of Fact No. 7 should be replaced with: "The preliminary hearing was convened on July 22, 2024. Applicant did not appear at the preliminary hearing. Protestants filed a motion to dismiss based on Applicant's failure to appear, but the ALJ denied the motion after Applicant responded that he did not have notice of the hearing. At a prehearing conference on August 16, 2024, the parties agreed to move forward with setting the procedural schedule."
3. The word "million" should be added to Finding of Fact No. 26 to state: "Subsequently, Applicant added \$8.5 million in estimated costs for water wells, water storage, and the wastewater treatment plant."

With the changes above, the Proposal for Decision and Proposed Order are ready for TCEQ's consideration.

Exceptions Letter

August 4, 2025

Page 4 of 4

ALJ Signature:

Linda Brite

Linda Brite

Presiding Administrative Law Judge

CC: Service List