

**Renee Lyle**

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**From:** PUBCOMMENT-OCC  
**Sent:** Monday, January 8, 2024 4:40 PM  
**To:** Pubcomment-Dis; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number D-08232023-044  
**Attachments:** County of Ellis Comments and Request for a CCH Circle S East MUD.pdf

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**From:** rfburk@bickerstaff.com <rfburk@bickerstaff.com>  
**Sent:** Monday, January 8, 2024 1:35 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number D-08232023-044

**REGULATED ENTY NAME:** CIRCLE S EAST MUD OF ELLIS COUNTY

**RN NUMBER:** RN111797205

**PERMIT NUMBER:** D-08232023-044

**DOCKET NUMBER:**

**COUNTY:** COLLIN, ELLIS

**PRINCIPAL NAME:** CIRCLE S EAST MUNICIPAL UTILITY DISTRICT OF ELLIS COUNTY

**CN NUMBER:** CN606174571

**NAME:** Emily Rogers

**EMAIL:** [rfburk@bickerstaff.com](mailto:rfburk@bickerstaff.com)

**COMPANY:** Bickerstaff Heath Delgado Acosta LLP

**ADDRESS:** 3711 S MOPAC EXPY STE 300  
AUSTIN TX 78746-8013

**PHONE:** 5124728021

**FAX:**

**COMMENTS:** Please see attached letter.



January 8, 2024

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

Re: Application by Circle S Midlothian, LLC and HAB 3336, LLC to the Texas Commission on Environmental Quality for creation of Circle S East Municipal Utility District of Ellis County; TCEQ Internal Control No. D-08232023-044

Dear Chief Clerk Gharis:

Ellis County (the “County”) formally requests a contested case hearing on the above-referenced application. Please direct all future correspondence on this application to the County’s attorney, Emily Rogers, at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, TX 78746. My daytime phone number is (512) 472-8021 and fax number is (512) 320-5638.

Circle S Midlothian, LLC and HAB 3336, LLC is applying to the Texas Commission on Environmental Quality for creation of a new municipal utility district, Circle S East Municipal Utility District of Ellis County (Circle S East MUD), TCEQ Internal Control No. D-08232023-044. Ellis County opposes the creation of the District.

The County is an “affected person” entitled to a contested case hearing on issues raised in this hearing request because the County has interests related to legal rights, duties, privileges, powers, or economic interests affected by the application that are not common to the general public and is an affected person under 30 TEX. ADMIN. CODE § 55.256. Local governments, such as the County, with authority under state law over issues contemplated by an application, may be considered affected persons under 30 TEX. ADMIN. CODE § 55.256(b). The County has authority over various functions – including but not limited to transportation, emergency services, and health and safety – that may be affected by the creation of the district and that the application fails to take into account. Potential contamination or depletion of groundwater, if groundwater is to be the source of supply, within the region may impact the County’s ability to effectively provide emergency services, may impact health and safety by lowering water quality, and may negatively impact the County’s infrastructure through subsidence. Thus, the County has authority under state law over the issues contemplated by this application, and the creation of a MUD whose governmental powers overlap in many respects to those of the County affects the County in a way that is different from the general public. The County is therefore an affected person. 30 TEX. ADMIN. CODE § 55.256(b). Further, the proposed municipal utility district will be located partially outside of the corporate limits of any municipality and partially within the extraterritorial

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jurisdiction of the City of Midlothian (City). Pursuant to TEX. WATER CODE § 54.0161, the County therefore has express authority to review the petition for creation and other evidence and information relating to the proposed district that its commissioners court considers necessary. TEX. WATER CODE § 54.0161(a-2).

For these reasons, the County requests that the Commission find that the County is an affected person and grant its request for a contested case hearing.

Sincerely,



Emily W. Rogers  
Attorney for Ellis County, Texas

EWR/rfb