

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**NOTICE OF HEARING**  
**Duck Creek Municipal Utility District of Denton County**  
**SOAH Docket No. 582-23-13330**  
**TCEQ Docket No. 2022-1631-DIS**  
**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 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.**

Considering directives to protect public health, the State Office of Administrative Hearings (SOAH) will conduct a preliminary hearing via Zoom videoconference. A Zoom meeting is a secure, free meeting held over the internet that allows video, audio, or audio/video conferencing.

**10:00 a.m. – April 19, 2023**

**To join the Zoom meeting via computer:**

<https://soah-texas.zoomgov.com/>

Meeting ID: 161 303 0708

Password: TCE3DC

or

**To join the Zoom meeting via telephone:**

**(669) 254-5252 or (646) 828-7666**

Meeting ID: 161 303 0708

Password: 176833

**Visit the SOAH website for registration at: <http://www.soah.texas.gov/>  
or call SOAH at 512-475-4993.**

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding, which will occur at a later date, will be similar to a civil trial in state district court. The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapters 49 and 54, Texas Water Code; Chapter 395, Texas Local Government Code; TCEQ rules, including 30 Texas Administrative Code (TAC) Chapter 293; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. To participate in the hearing as a party, you must attend the hearing and show you would be affected by the petition in a way not common to members of the general public.

**In accordance with 1 Tex. Admin. Code § 155.401(a), Notice of Hearing, “Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH.”**

#### **INFORMATION.**

For information concerning the hearing process, please contact the TCEQ Office of the Public Interest Counsel (MC 103), P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3144. For additional information, contact the TCEQ Water Supply Division, Districts Section (MC 152), P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-4691. General information regarding the TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov)

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-4993, at least one week prior to the hearing.

Issued: March 24, 2023

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality

**PETITION FOR THE CREATION OF THE DUCK CREEK MUNICIPAL  
UTILITY DISTRICT OF DENTON COUNTY**

THE STATE OF TEXAS   §  
   §  
COUNTY OF DENTON   §

TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

The undersigned petitioners, (herein the “Petitioner”, whether one or more), being a majority of the landowners who hold title to land(s) situated within the area hereinafter described, which represents a total value of more than 50% of the value of all such area, and being a majority in value of the holders of title of said area described by metes and bounds in Exhibit A attached hereto (the “Land”), respectfully petitions the Texas Commission on Environmental Quality (“TCEQ”) for the creation of a municipal utility district in Denton County, Texas, pursuant to the provisions of Chapters 49 and 54 of the Texas Water Code, together with all amendments and additions thereto, and would respectfully show the following:

I.

The name of the proposed district shall be DUCK CREEK MUNICIPAL UTILITY DISTRICT OF DENTON COUNTY (“District”). There is no other conservation or reclamation district in Denton County, Texas with the same name.

II.

The District shall be created and organized and shall exist under the terms and provisions of Article XVI, Section 59, and Article III, Section 52 of the Texas Constitution and Chapters 49 and 54, Texas Water Code, as amended, together with all amendments and additions thereto.

III.

No part of the area within the District is within the limits or extraterritorial jurisdiction of any incorporated city, town, or village. All of the territory proposed to be included may properly be included in the District. The area proposed to be included in the District is approximately 320.41 acres of land, situated within Denton County, Texas, described by metes and bounds in Exhibit A, which is attached hereto and made a part hereof for all purposes.

IV.

Petitioners are the record owner of the described land, as evidenced by the execution of this Petition. Petitioners represent that, Lone Star, ACA, is the lienholder with respect to the Land. A copy of the Lienholder's Consent is attached hereto as **Exhibit B.**

V.

The District shall be created for all of the purposes set forth in Article XVI, Section 59 and Article III, Section 52, Texas Constitution; Chapters 49 and 54, Texas Water Code, as amended; and if required by law, subsequently acquired and approved by an election held within the District, Chapter 257, Texas Transportation Code or other applicable law.

VI.

The District shall have the powers of government and authority to exercise the rights, privileges, and functions given to it by Article XVI, Section 59 and Article III, Section 52, Texas Constitution; Chapters 49 and 54, Texas Water Code, as amended; and if required by law, subsequently acquired and approved by an election held within the District, Chapter 257, Texas Transportation Code, or by any other State law.

VII.

The general nature of the work proposed to be done by the District at the present time is the construction, maintenance and operation of a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; the construction, maintenance and operation of a sanitary sewer collection, treatment and disposal system, for domestic and commercial purposes; the construction, installation, maintenance, purchase and operation of drainage and roadway facilities and improvements; and the construction, installation, maintenance, purchase and operation of facilities, systems, plants and enterprises of such additional facilities as shall be consonant with the purposes for which the District is organized.

VIII.

There is a necessity for the improvements described above for the following reasons: The area of the District is urban in nature and is in close proximity to populous and developed sections of Denton County. The District's area will, within the immediate future, experience a substantial and sustained residential and commercial growth. Said area is not supplied with adequate water and sanitary sewer facilities and services or with adequate drainage facilities and does not have adequate fire suppression facilities, parks and recreational land and facilities, or roads or improvements in aid thereof. The health and welfare of the future inhabitants of the area and of territories adjacent thereto require the installation and acquisition of an adequate water supply and sewage disposal system,

an adequate drainage system for and within the area of the District, adequate fire suppression facilities, adequate parks and recreational land and facilities, and roads or improvements in aid thereof.

A public necessity exists for the organization of such District to provide for the purchase, construction, extension, improvement, maintenance and operation of such waterworks and sanitary sewer system, such drainage facilities, such fire suppression facilities, parks and recreational land and facilities, and roads or improvements in aid thereof, in order to promote and protect the purity and sanitary condition of the State's waters and the public health and welfare of the community.

IX.

Said proposed improvements are practicable and feasible, in that the terrain of the territory to be included in the District is of such a nature that a waterworks, sanitary sewer, drainage and roadway system can be constructed at a reasonable cost, currently estimated at \$40,910,000, with reasonable ad valorem tax and assessment rates and water and sewer rates, and said territory will be developed for residential and commercial purposes. The District shall be designated a noncity service district in the meaning of Section 54.016, Texas Water Code, as the District does not currently propose to connect to any municipal water or sewer system, as of the date this Petition is filed.

X.

The following named persons are (i) all over eighteen (18) years of age, (ii) resident citizens of the State of Texas, (iii) reside in Denton County or a county in the same metropolitan statistical area as Denton County, (iv) owners of land subject to taxation within the District, and (v) are otherwise qualified to serve as directors of the District under the provisions of the Texas Water Code:

1. Glenn T. Carlton
2. Chuck Butler
3. Randall Smith
4. Ashlee Reaves
5. Anthony Heincy


WHEREFORE, the undersigned respectfully pray that this Petition be properly filed, as provided by law; that notice of the application be given as provided therein, that a hearing be held if necessary and that this Petition be in all things granted; that the proposed municipal utility district be organized; that the five (5) persons named herein be appointed to serve as temporary directors until their successors are duly elected and qualified; and for such other orders, acts, procedures and relief as are proper, necessary and appropriate to the purpose of creating and organizing the District.


*[Signature Page Follows]*

RESPECTFULLY SUBMITTED, this 26<sup>th</sup> day of May, 2022


PETITIONERS:

**EARTHLAND FARMS, LLC,**  
a Texas limited liability company

By:   
Kenneth Zollinger, Managing Member

By:   
Daphne Zollinger, Managing Member


**Kenneth Zollinger and Daphne Zollinger,**  
as individual landowners

  
Kenneth Zollinger

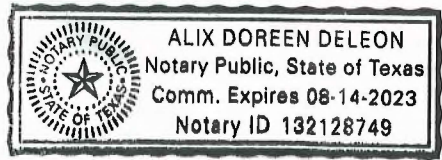
  
Daphne Zollinger

THE STATE OF TEXAS           §  
  §  
COUNTY OF DENTON           §

This instrument was acknowledged before me on May 26<sup>th</sup>, 2022,  
by Kenny A. Zollinger as Managing Member, on behalf of Earthland Farms, LLC, a  
Texas limited liability company and as an individual landowner.


  
\_\_\_\_\_  
Notary Public, State of Texas

(SEAL)

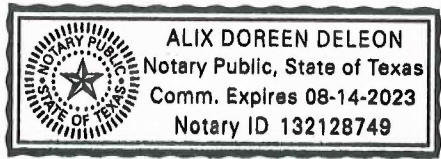


THE STATE OF TEXAS           §  
  §  
COUNTY OF DENTON           §

This instrument was acknowledged before me on May 26<sup>th</sup>, 2022,  
by Daphne Zollinger as Managing Member, on behalf of Earthland Farms, LLC, a Texas  
limited liability company and as an individual landowner.

  
\_\_\_\_\_  
Notary Public, State of Texas

(SEAL)



# 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;

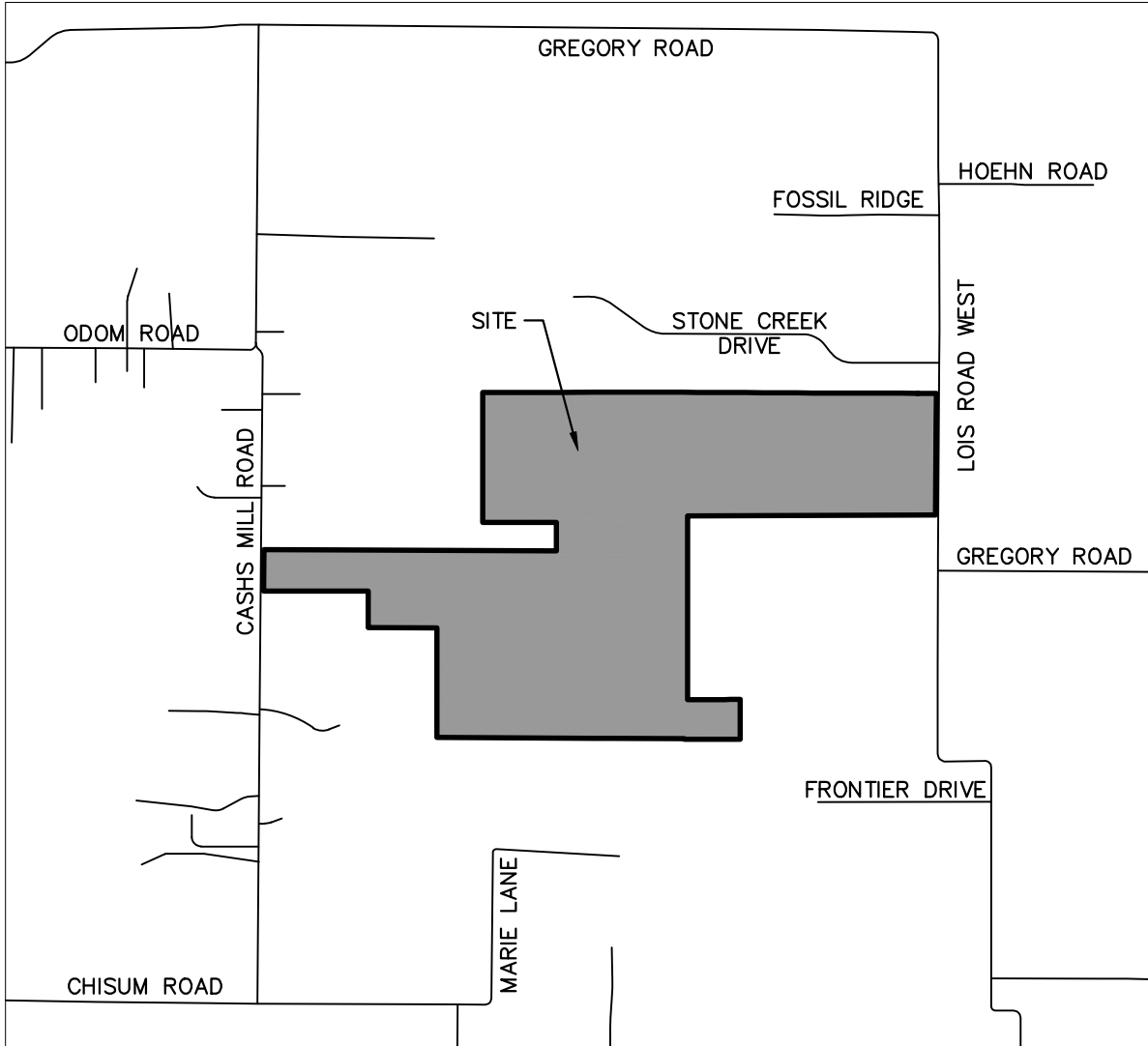
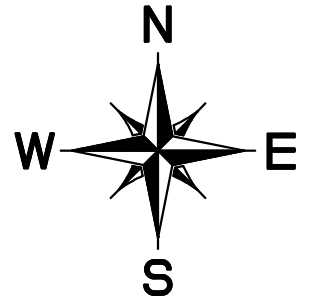
THENCE North 00 degrees 25 minutes 39 seconds East, 390.34 feet to a 1/2 inch iron rod found at the Southeast corner of the aforementioned 10.28 acre tract;

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

TCEQ - Office of the Chief Clerk  
MC-105 Attention: Notice Team  
PO Box 13087  
Austin TX 78711-3087

Applicant Name: Duck Creek MUD of Denton County  
TCEQ Tracking No. D-06142022-031 CID Item No. 128812  
Application Type: PETITION FOR CREATION OF A DISTRICT

### AFFIDAVIT OF PUBLICATION

STATE OF TEXAS §  
COUNTY OF: Denton §

Before me, the undersigned authority, on this day personally appeared  
Alice Mc Connaughey, who being by me duly  
(name of newspaper representative)

sworn, deposes and says that (s)he is the Authorized Designee  
(title of newspaper representative)

of the Denton Record-Chronicle; that said newspaper is  
(name of newspaper)

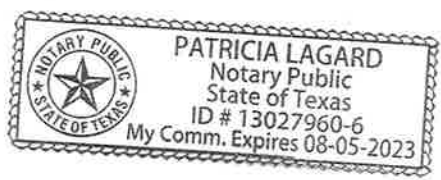
regularly published or circulated in Denton County/Countries,  
(name of county or counties)

Texas; that the attached notice was published in said newspaper on the following dates:  
08-14-2022 and 08-21-2022  
(date or dates of publication)

Alice Mc Connaughey  
Newspaper Representative's Signature

Subscribed and sworn to before me this the 22nd day of August,  
20 22, to certify which witness my hand and seal of office.

(Seal)



Patricia LaGard  
Notary Public in and for the State of Texas  
Patricia LaGard  
Print or type Name of Notary Public  
My Commission Expires 08-05-2023





**DENTON COUNTY CLERK**

**CERTIFICATE OF POSTING**

I, the undersigned, michele Boutwell, do hereby certify that on the 10<sup>th</sup> day of August, 2022, I posted a copy of the attached Notice of District Petition regarding the Duck Creek Municipal Utility District of Denton County in a place convenient to the public where Public Notices are posted.

EXECUTED this 10<sup>th</sup> day of August, 2022.

Signed: michele Boutwell  
Title: Senior Clerk

