

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

January 24, 2023

The Honorable Phillip Martin
Hunt County Courthouse
2700 Johnson Street
Greenville, Texas 75401

RE: Hunt County
On-Site Sewage Facility No. 620107

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director (ED) has acted on the above-named application. According to 30 Texas Administrative Code (TAC) Section 50.135 the ED's action became effective on the date the ED signed the permit or other action. A copy of the final action is enclosed and cites the effective date.

For certain matters, a **motion to overturn**, which is a request that the commission review the executive director's action on an application, may be filed with the chief clerk. Whether a motion to overturn is procedurally available for a specific matter is determined by Title 30 of the Texas Administrative Code Chapter 50. According to 30 TAC Section 50.139, an action by the ED is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

If a motion to overturn is filed, the motion must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, please provide copies to the Environmental Law Deputy Director (MC 173), and the Public Interest Counsel (MC 103), both at the same TCEQ address listed above. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the ED's action. The procedure and timelines for seeking judicial review of a commission or ED action are governed by Texas Water Code Section 5.351.

Individual members of the public may seek further information by calling the TCEQ Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/erg

cc: Garrett T. Arthur, TCEQ Public Interest Counsel (MC 103)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF THE	§	BEFORE THE EXECUTIVE
APPLICATION OF	§	DIRECTOR OF THE TEXAS
HUNT COUNTY	§	COMMISSION ON
FOR A TEXAS HEALTH AND SAFETY	§	ENVIRONMENTAL
CODE §366.031 ORDER	§	QUALITY

On January 12, 2023, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Hunt County for an Order pursuant to §366.031, Texas Health and Safety Code (THSC), and 30 Texas Administrative Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive Director, on behalf of the Commission, is satisfied that Hunt County has satisfied the requirements of §366.031, THSC. The Commission finds that the Hunt County Order should be approved.

FINDINGS OF FACT

1. Hunt County drafted a proposed Order which regulates on-site sewage facilities.
2. On December 8, 2022, Hunt County caused notice to be published, in a newspaper regularly published and of general circulation, in the Hunt County's area of jurisdiction, of a public meeting to be held on December 13, 2022.
3. Hunt County held a public meeting to discuss its proposed Order on December 13, 2022.
4. The Hunt County Order regulating on-site sewage facilities was adopted on December 13, 2022.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Hunt County Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to issue Orders designating local governmental entities as authorized agents. TEXAS WATER CODE ch. 5 and TEXAS HEALTH & SAFETY CODE ch. 366.
2. The Commission may delegate uncontested matters to the Executive Director provided the required notice was given, the applicant agrees to the action and the application is uncontested. TEXAS WATER CODE § 5.122.
3. Notice of Hunt County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Hunt County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Hunt County's proposed Order incorporates the Commission's rules on abatement or prevention of pollution and prevention of injury to the public health; meets the Commission's minimum requirements for on-site sewage disposal systems. TEXAS HEALTH & SAFETY CODE § 366.032.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. Hunt County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Hunt County Order must be approved by the Commission.
3. The Office of Chief Clerk of the Commission is directed to forward a copy of this Order and the Hunt County's adopted Order, marked as Exhibit "A," to Hunt County and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: January 12, 2023



Interim Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

AFFIDAVIT

STATE OF TEXAS
COUNTY OF HUNT

Advertiser: Hunt County

Before me, the undersigned authority, in this day personally appeared

Andrew Walker

who duly swears, deposes and says that he/she is the Publisher / Advertising Manager / Editor of the **Herald-Banner**; that said newspaper is regularly published in Greenville, Hunt County, Texas; and that the attached notice was published in said newspaper on the following date(s):

[Signature]

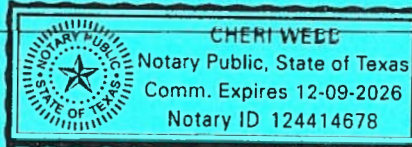
12/08/22

Publisher / Advertising Manager / Editor December 19, 2022

Subscribed and sworn to, before me, this date _____

Witness my hand and seal of office.

[Signature]



17,903

FILED FOR RECORD
at 12:30 o'clock P M

COUNTY OF HUNT §

DEC 13 2022

STATE OF TEXAS §

BECKY LANDRUM
County Clerk, Hunt County, Tex.
By [Signature]

AFFIDAVIT

Before me, the undersigned authority, personally appeared who, being by me duly sworn, deposed as follows:

My name is Becky Landrum, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

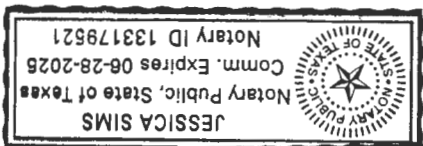
I am the custodian of the records of the County Clerk's Office for the County of Hunt, Texas. Attached hereto are eight (8) pages of records known as Rules of Hunt County, Texas For On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Hunt, in the regular course of business with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

[Signature]

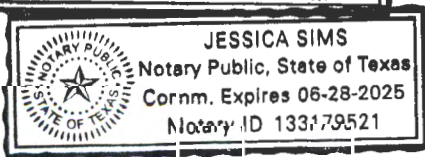
BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Becky Landrum, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 13 day of December, 2022.

(SEAL)



[Signature]
Notary/Public, State of Texas
My commission expires: 0-28-25



ORDER ADOPTING RULES OF HUNT COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES
PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Texas Legislature enacted legislation, codified as Texas Health and Safety Code (THSC), Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction to eliminate and prevent health hazards from of the use of on-site sewage facilities; and

WHEREAS, the County of Hunt, Texas understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and may have responsibilities under the following provisions:

Texas Health and Safety Code Chapters 366 (On-Site Sewage Disposal Systems) and 367 On-Site Wastewater Treatment Research;

Texas Water Code Chapters 7 (Enforcement), 26 (Water Quality) and 37 (Occupational Licensing and Registration);

30 Texas Administrative Code Chapters 30, (Occupational Licensing and Registrations) 70 (Enforcement), and 285 (On-Site Sewage Facilities); and

Section 8 of this Order (More Stringent Requirements).

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Hunt County, Texas should enact an Order regulating the installation and use of on-site sewage facilities in the County of Hunt, Texas; and

WHEREAS, the Commissioners Court of Hunt County, Texas finds that the use of on-site sewage facilities in Hunt County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Commissioners Court of Hunt County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Hunt County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HUNT COUNTY, TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble are true and correct;

SECTION 2. THAT the use of on-site sewage facilities in Hunt County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. CONFLICTS. This Order repeals and replaces any other On-site Sewage Facility (OSSF) Order for Hunt County, Texas.

SECTION 4. THAT an Order for Hunt County, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows: AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 5. ON-SITE SEWAGE FACILITY RULES.

THAT the County of Hunt, Texas wishing to adopt more stringent requirements for its OSSF ORDER understands that the more stringent requirements in this ORDER take precedence over the corresponding TCEQ rule."

Any permit issued for an on-site sewage facility within the jurisdictional area of Hunt County, Texas must comply with the Rules adopted in Section 8 of this Order.

SECTION 6. AREA OF JURISDICTION.

The Rules shall apply to all the areas lying within Hunt County, Texas, except for areas regulated under an existing Order, Ordinance or Resolution of an incorporated city or township.

This order also applies to any incorporated city or town with an executed intergovernmental contract with Hunt County to regulate OSSF.

Residents or businesses located within city jurisdictions must have a letter from the city stating that no public or private sewer service can be provided. If a city cannot provide service, only then will on-site sewage (OSSF) be permitted.

SECTION 7. COMPLIANCE WITH ORDER.

All on-site sewage disposal systems installed in the jurisdictional area of (name of AA) must comply with this Order.

SECTION 8. INCORPORATION BY REFERENCE.

The following statutes and rules, including all future amendments to the statutes and rules, are incorporated by reference specifically, but not limited to:

Texas Health and Safety Code Chapters 366 (On-Site Sewage Disposal Systems) and 367 On-Site Wastewater Treatment Research;

Texas Water Code Chapters 7 (Enforcement), 26 (Water Quality) and 37 (Occupational Licensing and Registration); and

30 Texas Administrative Code Chapters 30, (Occupational Licensing and Registrations) 70 (Enforcement), and 285 (On-Site Sewage Facilities).

SECTION 9. AMENDMENTS.

30 TAC § 285.10 allows local governmental entities to propose more stringent standards than minimally required by 30 TAC Chapter 285. (Name of AA) has determined that more stringent requirements are necessary to protect human health and the environment. The Justification for the more stringent requirements is in Attachment A of this ORDER. The following more stringent requirements are adopted by Hunt County, Texas in this ORDER:

A. MORE STRINGENT REQUIREMENTS

9A.1 Each On-Site Sanitary Sewer Facility (OSSF) and each Lot with an OSSF must conform to this order.

9A.2 Each OSSF must conform to the standards of TAC Title 30, Chapter 285 and all other applicable County standards.

9A.3 All OSSF systems in Hunt County's jurisdiction shall be subject to permitting requirements regardless of lot size.

9A.4 Each OSSF requires a Permit before installation regardless of lot size.

9A.5 A commercial OSSF installer must hold a current and proper level of license. An unlicensed homeowner or property owner may only install an OSSF with approval and a permit from the designated authority.

9A.6 Irrigation spray heads shall be surface application heads and set on a spray-time schedule between the hours of 12am and 5am, regardless of setbacks. If and when a flood zone is involved, refer to AMENDMENTS, (K) Minimum Land Area for an On-Site Sanitary Sewer Facility (OSSF), 4 and 5 of this order.

9A.7 Recreations vehicles (RV) located in temporary rental communities must be served by an OSSF with the capacity to accommodate sixty (60) gallons influent per day. Each tiny home located in a temporary rental community must be served by an OSSF with the capacity necessary for dwellings/homes of the same size. Tiny homes are defined as inhabitable structures of six hundred (600) square feet or less, excluding lofts, that are often but not always on wheels. Tiny homes may also be called and include park homes, cottages, cabins, huts, camps, etc. Recreational vehicles include motor coaches, motor homes, fifth-wheels, travel trailers, pop-up campers, pickup campers, etc.; and

9A.8 Holding tanks as defined by TAC Title 30, Chapter 285 are generally prohibited in Hunt County but may be allowed by permit of the designated representative. NOTE - If allowed and permitted, the holding tanks will be required to meet the standards of this order and Chapter 285.

B. EXCEPTIONS:

9B.1 An OSSF may be completely or partially exempt from the requirements of this order if:

9B.2 The OSSF meets the conditions of TAC Title 30, Chapter 285, Subchapter A, Rule 285.3(f)(1).

9B.3 Hunt County does not allow the exceptions provided for under TAC Title 30, Chapter 285, Subchapter A, Rule 285.3(f)(2).

C. AUTHORITY TO EXCEED STATE STANDARD:

9C.1 The County may adopt and enforce more stringent standards for OSSF under TAC Title 30, Chapter 285, Subchapter B, Rule 285.10.

9C.2 This order exceeds the requirements of TAC Title 30, Chapter 285.

D. APPLICATION FOR OSSF

9D.1 The property owner or installer (the "Applicant") must submit a completed Application to the OSSF Designated Representative before beginning construction of the OSSF.

9D.2 The Application must include the following:

9D.2a A completed Application Form provided by the OSSF Designated Representative;

9D.2b Planning materials specified in this order and TAC, Title 30, Chapter 285, Subchapter A, Rule 285.5;

9D.2c Site evaluation results conforming to TAC, Title 30, Chapter 285, Subchapter D, Rule 285.30;

9D.2d Land survey completed by a Texas state licensed surveyor with all drawings and/or schematic sketches done to scale. Exact area for OSSF location should be outlined and labeled, "NO BUILD ZONE - SEPTIC EASEMENT"; and

9D.2e the required Application fee specified in the adopted Fee Schedule.

9D.3 Before the OSSF Designated Representative issues an authorization to construct, the property owner must record an affidavit in the County deed records and affirm the recording to the OSSF Designated Representative.

9D.4 The affidavit must include:

9D.4a The owner's full name;

9D.4b The Legal Description of the property;

9D.4c That the OSSF requiring continuous maintenance is located on the property;

9D.4d That the Permit for the OSSF is transferred to the new owner upon transfer of the property; and

9D.4e The owner of an aerobic OSSF connected to a single-family dwelling must obtain a maintenance contract within 30 days of transfer if the transfer takes place after the initial two-year service policy.

E. ACTION BY THE OSSF DESIGNATED REPRESENTATIVE

9E.1 The OSSF Designated Representative will approve or deny the Permit Application no later than thirty (30) days after submittal (TAC Title 30, Chapter 285, Subchapter A, Rule 285.3(c)).

9E.2 The OSSF Designated Representative may approve the Permit Applications with conditions necessary to ensure the OSSF will operate in accordance with the planning materials under TAC Title 30, Chapter 285, Subchapter A, Rule 285.3(a)(4).

F. INSPECTION AND MAINTENANCE

9F.1 The installer must notify the OSSF Designated Representative at least five (5) days before the OSSF is ready for inspection.

9F.2 The OSSF Designated Representative will inspect the completed OSSF and charge a fee according to the adopted Fee Schedule.

9F.2a If the property owner or installer requests an inspection before the OSSF is complete and every component ready for inspection, the OSSF Designated Representative will charge the full fee.

9F.2b If the OSSF fails the inspection, the County will charge a re-inspection fee to the property owner each time a re-inspection is required.

9F.3 The property owner must provide the OSSF Designated Representative with a maintenance contract for an OSSF using aerobic treatment. The contract must conform to the following requirements:

9F.3a A TCEQ-registered maintenance provider must conduct all contracted maintenance.

9F.3b The maintenance provider must inspect the OSSF every four (4) months; and

9F.3c The maintenance provider must submit a copy of the contract and renewal information to the OSSF Designated Representative within seven (7) days of the document's signature date.

9F.4 If an existing OSSF using aerobic treatment does not have a maintenance contract and the owner of the system maintains the OSSF, the owner must successfully complete an approved OSSF maintenance training course as specified by the Designated Representative. If an OSSF is not under a maintenance contract and is maintained by the owner, the Designated Representative may inspect the OSSF at any time.

9F.5 Non-residential OSSF (or any residential OSSF that also receives wastewater from a non-residential source/use) requires annual BOD/TSS testing. The maintenance provider must submit BOD test results to the County annually.

9F.6 Inspections at a minimum must meet all inspection requirements as set by the TCEQ, Hunt County, and as outlined by the manufacturer for the brand being inspected.

9F.7 Inspection reports must also address all inspection requirements as set by the TCEQ, Hunt County, and as outlined by the manufacturer for the brand being inspected. Hunt County requires that each inspection address sludge levels in the pump tank and the condition of the spray area.

9F.8 OSSF systems, subject to required maintenance and reporting, must register annually. Registration is subject to a fee which is set by the Commissioners Court.

G. EXPANSION OF EXISTING USE OR REMODEL OF BUILDING

9G.1 Prior to expanding any use or remodeling of a building that will result in the need for additional OSSF capacity, the property owner must notify the OSSF Designated Representative of the expansion and provide an analysis of the existing OSSF that conforms to TAC, Title 30, Chapter 285, Subchapter D, Rule 285.30. An increase in daily effluent may require additional OSSF capacity.

9G.2 Expansions and/or substantial remodels are defined as changes to an existing structure that is currently served by one or more OSSF that will require increased capacity per Table III Wastewater Usage Rate from Title 30 Chapter

285 TAC or that result in an increase in market value of the residence or building by fifty percent (50%) or more. Expansions and/or substantial remodels must include bringing the OSSF up to current requirements of this order even if a new OSSF system is not required. An increase in daily effluent may require additional OSSF capacity.

9G.3 If the existing OSSF does not have the capacity for the expanded use or building, the property owner must secure a permit for a new OSSF in accordance with this order.

9G.4 Existing facilities replacing systems must submit the last 12 months of water usage for that facility including a per day peaking factor illustrating the highest per day usage. If the peak usage would require additional capacity per Table III Wastewater Usage Rate from Title 30 TAC Chapter 285 OSSF, peak usage rather than average daily usage rate will be used for sizing.

H. MINIMUM LAND AREA FOR AN ON-SITE SANITARY SEWER FACILITY (OSSF)

9H.1 Any Lot with an OSSF must be a minimum of one (1) acre to accommodate adequate drainage fields. A minimum of ½ acre of land appropriate for use as a drainage field shall be marked and identified on any new survey of a subdivision lot prior to installation of an OSSF for new construction.

9H.2 The OSSF Designated Representative may approve an OSSF on a Lot that is less than one (1) acre under the following conditions:

9H.2a The Lot is a Lot of Record;

9H.2b The OSSF Designated Representative determines that an OSSF will not cause a threat or harm to an existing or proposed water supply system or to the public health; and

9H.2c The OSSF will not create a threat of pollution or nuisance conditions.

9H.3 Only one single family residence using an OSSF system may be located on one (1) acre.

9H.4 An OSSF proposed within a 100-year Floodplain is subject to special planning requirements in accordance under TAC Title 30, Chapter 285, Subchapter D, Rule 285.31(c)(2).

9H.4a The Applicant must locate the OSSF to avoid damage during a flood event that could result in contamination of the environment.

9H.4b Planning materials must demonstrate prevention of tank flotation in a flood event.

9H.5 If the site is within the Floodway, the planning materials must demonstrate the following:

9H.5a The system will not increase the height of the flood elevation;

9H.5b All components, except for risers, chlorinators, cleanouts, sprinklers, and inspection ports, will be completely buried without adding fill; and

9H.5c Non-buried components (e.g., alarms, junction boxes, sprinklers and compressors) will be elevated 2 feet above the 100-year Base Flood Elevation.

SECTION 10. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Hunt County, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the THSC, Chapter 367.

SECTION 11. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Hunt County, Texas.

The Applicant may appeal the decision to the Development Support Committee no later than thirty (30) days after the decision of the OSSF Designated Representative.

The Development Support Committee will decide the appeal no later than thirty (30) days after the appeal is filed. Failure of the Development Support Committee to act on the appeal will uphold the decision of the OSSF Designated Representative.

The Applicant may appeal the decision of the Development Support Committee to the Commissioners Court no later than ten (10) days after the decision of the Development Support Committee. Failure of the Commissioners Court to act will uphold the decision of the Development Support Committee.

The decision of the Commissioners Court is final.

SECTION 12. ENFORCEMENT PLAN

The County of Hunt, Texas understands that, at a minimum, it must follow the requirements in 30 Texas Administrative Code § 285.71 Authorized Agent Enforcement of OSSFs. This includes timely investigating complaints, notifying complainants of findings, and taking appropriate action related to any documented violations. Records related to these activities shall be retained for review by TCEQ.

The County shall take appropriate and timely action on all documented violations, which may include any available penalties and remedies, pursuant to all applicable provisions related to on-site sewage facilities, including those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7 and 26 of the Texas Water Code, and 30 Texas Administrative Code Chapter 285.

SECTION 13. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Hunt County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared void by a valid judgment or decree of any court of competent jurisdiction the judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order.

SECTION 14. RELINQUISHMENT OF ORDER

If the Authorized Agent of Hunt County, Texas decides to relinquish its authority to regulate on-site sewage facilities in its area of jurisdiction, the local governmental entity (previously the Authorized Agent) and the TCEQ shall follow the procedures in 30 TAC § 285.10 (d) (1) through (4).

After relinquishing its OSSF authority, the local governmental entity understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14.

SECTION 15. TITLE VI COMPLIANCE

If necessary, based on the need for access to information in a language other than English by the community, the Authorized Agent shall provide information regarding this Order, including notice, applications, and enforcement actions, in an alternative language. The Authorized Agent may base its determination on all relevant factors including whether the elementary or middle school nearest to the site is required to provide a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B; whether there is newspaper regularly published in an alternative language; or if the AA has historical knowledge.

SECTION 16. EFFECTIVE DATE.

This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the TCEQ. "

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 13th DAY OF December,
2022.

(SEAL)



APPROVED:

Phillip A. Martin
County Judge

ATTEST:

[Signature]
County Clerk