



## Filing Receipt

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**DOCKET NO. 51973**

<b>PETITION OF RODNEY EARL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MOHNKE, STEPHEN LEE MOHNKE,</b>	<b>§</b>	
<b>MELVIN MAX MOHNKE, KENNETH</b>	<b>§</b>	<b>OF TEXAS</b>
<b>WAYNE MOHNKE, KATHLEEN ANN</b>	<b>§</b>	
<b>MOHNKE-BLAKELY, AND MEL</b>	<b>§</b>	
<b>MOHNKE, TRUSTEES OF THE</b>	<b>§</b>	
<b>MOHNKE LIVING TRUST, TO AMEND</b>	<b>§</b>	
<b>H-M-W SPECIAL UTILITY</b>	<b>§</b>	
<b>DISTRICT'S CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>HARRIS COUNTY BY EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**ORDER NO. 11  
ADDRESSING PENDING MOTIONS**

**I. Petitioners' Objection to Appraiser's Report**

On January 24, 2022, Rodney Earl Mohnke, Stephen Lee Mohnke, Melvin Max Mohnke, Kenneth Wayne Mohnke, Kathleen Ann Mohnke-Blakely and Mel Mohnke, Trustee of the Mohnke Living Trust dated December 7, 1996 (collectively, the petitioners) filed an objection to H-M-W Special Utility District's appraiser's report. The petitioners argue that H-M-W SUD's report does not comply with Texas Water Code (TWC) § 13.254(g) and 16 Texas Administrative Code (TAC) § 24.245(i) and (j). As a result, the petitioners allege that, in effect, H-M-W SUD failed to submit an appraiser's report. The petitioners request a determination that, under 16 TAC § 24.245(i)(4), the amount of compensation that should be awarded in this case be deemed to be zero.

The petitioners do not cite, and the administrative law judge (ALJ) is unaware of, any authority where the ALJ may make a judgment as to the legitimacy, or lack thereof, of an appraiser's report filed by a party. To the extent that the petitioners are asking the ALJ to evaluate the legitimacy of H-M-W SUD's report, the request is denied. The ALJ further denies petitioners' request for a determination that, under 16 TAC § 24.245(i)(4), the amount of compensation that should be awarded in this case be deemed to be zero.

**II. Commission Staff's Request for Revised Procedural Schedule**

On January 31, 2022, Commission Staff requested a revised procedural schedule to be entered in this docket. This request was based on Commission Staff's assertions that (1) the

petitioners and H-M-W SUD failed to make a filing by November 12, 2021 that they were unable to select an agreed-upon appraiser and affirming that they will pay half of the cost of Commission Staff's appraiser and (2) the petitioners failed to file an appraiser's report.

The ALJ disagrees with Commission Staff's assertions. First, the ALJ notes that the petitioners filed a notice on November 12, 2021, advising that the parties were unable to come to an agreement on selecting an appraiser, indicating that they each would file their own appraiser's report, and affirming that they would pay half of the costs of Commission Staff's appraiser. Thus, Commission Staff has been on notice since November 12, 2021 that it would have to file its own appraiser's report.

Second, the ALJ points out that the parties were never required to make a filing specifying that they were unable to agree on an appraiser and affirming that they will pay half of the cost of Commission Staff's appraiser. The procedural schedule governing this case, which was adopted in Order No. 5, did not include any such requirement, and Commission Staff has not identified any such requirement in the applicable statute or rule.

Third, Commission Staff's assertion that the petitioner did not file an appraisal is simply wrong. The petitioners filed a timely appraiser's report on January 11, 2022.

For these reasons, the ALJ denies Commission Staff's request for a revised procedural schedule. The deadlines set forth in Order No. 5, including the requirement for Commission Staff to submit an appraiser's report within 100 days after the Commission approved streamlined expedited release of the tract of land, remain in effect.

**Signed at Austin, Texas the 1st day of February 2022.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**CHRISTINA DENMARK**  
**ADMINISTRATIVE LAW JUDGE**