

**ELM CREEK WATERSHED AUTHORITY**  
**Regular Session Meeting**  
**September 1, 2022**

Notice is hereby given that a regular meeting of the Board of Directors of the Elm Creek Watershed Authority will be on September 1, 2022, beginning at 7:30 p.m. at the Elm Creek Watershed Authority Office, 19 S. 25<sup>th</sup> Street, Suite 500, Temple, Texas.

**AGENDA**

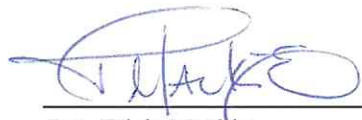
1. Call to Order.
2. Public Comment.  
Citizens who desire to address the Board of Directors on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the Board of Directors.
3. Consideration and possible action to approve the consent agenda:
  - a. Minutes from the previous meetings
  - b. Income/Disbursements
  - c. Budget
4. Discuss, consider and take action, if necessary, to accept the watershed report as presented.
  - a. Site updates
  - b. NRCS programs
  - c. TSSWCB programs
5. Discuss, consider and take possible action on Site 39 land rights.
6. Consideration and possible action on the Five Wells Solar Project:
  - a. Request to cross easement
  - b. Addressed concerns of runoff & sediment
7. Consideration and possible action to adopt the 2022 tax rate.
8. Adjourn.

**The Elm Creek Watershed Authority Board of Directors may adjourn into Executive Session regarding any appropriate provision of the Open Meetings Act on any of the above topics.**

PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, or BRAILLE ARE REQUESTED TO CONTACT ELM CREEK WATERSHED AT 254-778-1961 TWO WORKING DAYS PRIOR TO THE MEETING SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

Dated this 25th day of August, 2022

Daniel C. Lesikar, Chairman

  
\_\_\_\_\_  
By: Tricia Mackie





FILED FOR RECORD

**ELM CREEK WATERSHED AUTHORITY**  
**Regular Session Meeting**  
**September 1, 2022**

2022 AUG 25 A 11: 33

SHELLEY COSTON  
CLERK

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Dated this 25th day of August, 2022

Daniel C. Lesikar, Chairman

  
By: Tricia Mackie



9:38 AM

**ELM CREEK WATERSHED AUTHORITY**

**Regular Session Meeting  
September 1, 2022**

This is to certify that the Notice of a Meeting, a copy of which is attached  
has been posted on the official bulletin board at the Courthouse, as required  
by Article 62.52-17 V. T. C. S.

Executed on AUG 29, 2022  
J. A. "Andy" Harwell, County Clerk  
McLennan County, Texas

By LSu

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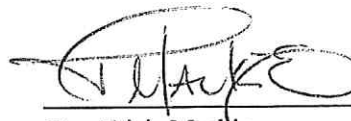
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Dated this 25th day of August, 2022

Daniel C. Lesikar, Chairman



By: Tricia Mackie



**RECEIVED**  
9/1/2022





**ELM CREEK WATERSHED AUTHORITY**  
**Regular Session Meeting**  
**September 1, 2022**

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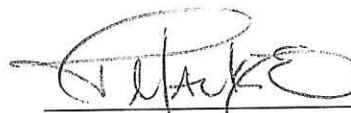
Filed 29th day of Aug.  
in 2022, At 2:00 P. M.  
JODI MORGAN  
County Clerk, Milam County, Texas  
By Melinda Coffey  
Deputy

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Daniel C. Lesikar, Chairman



By: Tricia Mackie



**RECEIVED**  
9/6/2022

\_\_\_\_\_

1. The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the structure of the atom is determined by the laws of quantum mechanics.

\_\_\_\_\_





Tricia Mackie

[Log Off](#)

## Open Meeting Submission

**TRD:** 2022005181  
**Date Posted:** 08/25/2022  
**Status:** Accepted  
**Agency Id:** 1199  
**Date of Submission:** 08/25/2022  
**Agency Name:** Elm Creek Watershed Authority  
**Board:** Elm Creek Watershed Authority  
**Committee:** Board of Directors  
**Date of Meeting:** 09/01/2022  
**Time of Meeting:** 07:30 PM ( ##:## AM Local Time)  
**Street Location:** 19 S. 25th Street  
**City:** Temple  
**State:** TX  
**Liaison Name:** Tricia Mackie  
**Liaison Id:** 1  
**Additional Information Obtained From:** Tricia Mackie, Office Mgr.  
**Agenda:** ELM CREEK WATERSHED AUTHORITY  
Regular Session Meeting  
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Dated this 25th day of August, 2022 Daniel C. Lesikar, Chairman

By: Tricia Mackie

New Submission

## S.O.S. Acknowledgment of Receipt

From: texreg@sos.texas.gov

To: elmcreekwsa@sbcglobal.net

Date: Thursday, August 25, 2022 at 10:52 AM CDT

### Acknowledgment of Receipt

Agency: Elm Creek Watershed Authority

Liaison: Tricia Mackie

The Office of the Secretary of State has posted

notice of the following meeting:

Board: Elm Creek Watershed Authority

Committee: Board of Directors

Date: 09/01/2022 07:30 PM "TRD# 2022005181"

Notice posted: 08/25/22 10:52 AM

Proofread your current open meeting notice at:

[http://texreg.sos.state.tx.us/public/pub\\_om\\_lookup\\$.startup?Z\\_TRD=2022005181](http://texreg.sos.state.tx.us/public/pub_om_lookup$.startup?Z_TRD=2022005181)



ELM CREEK WATERSHED AUTHORITY  
INCOME AND DISBURSEMENTS  
September 1, 2022

As of August 31, 2022

**INCOME AND DISBURSEMENTS**

**INCOME**

**TAX**

	<b>PRESENT</b>
BELL COUNTY	1,579.47
FALLS COUNTY	148.86
MCLENNAN COUNTY	214.72
MILAM COUNTY	254.89
	<hr/>
<b>TOTAL TAX INCOME</b>	2,197.94

**OTHER INCOME**

TSSWCB	Reimbursement for Site 23 Upgrade	528,658.60
		<hr/>
<b>TOTAL OTHER INCOME</b>		\$ 528,658.60

CHECKING ACCOUNT BALANCE	\$ 97,055.07
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**INVESTMENTS**

ACCOUNT	MATURITY	AMOUNT	RATE	PRESENT
CITIZENS NATL BANK #94	12/3/22	600,000.00	0.450	229.32
CITIZENS NATL BANK #94	1/7/23	200,000.00	0.440	-
CLASSIC BANK #5323836	2/3/23	150,000.00	0.450	57.33
CLASSIC BANK #5825306	3/13/23	100,000.00	0.550	46.71
MEMBERS CHOICE #1936 Money Mark		249,604.81	0.800	169.78
INCOMMONS BANK #7946	7/15/23	250,000.00	1.000	163.36
HORIZON BANK #33068	7/5/23	250,000.00	1.500	318.69
BANCORP SOUTH #93700	9/24/22	250,000.00	0.200	-
CENTRAL NATL #2828689	1/18/23	250,000.00	0.200	-
BUCKHOLTS STATE BAN	1/21/23	250,000.00	0.350	-
TEXPOOL		835,896.28	2.163	1,157.79
FIRST NATL MOODY #102	5/11/2023	400,000.00	1.400	475.89
FIRST NATL MOODY #102	5/25/2023	250,000.00	1.500	318.69
		<hr/>		
		4,035,501.09		2,937.56

**OTHER DISBURSEMENTS**

Patricia Mackie	63.13 mileage reimbursement	2,304.43
Calvin Sanders	240.00 mileage reimbursement	3,172.96
Extraco	payroll tax	1,688.50
		<hr/>
<b>TOTAL OTHER DISBURSEMENTS</b>		7,165.89





12:58 PM

09/01/22

Cash Basis

## Elm Creek Watershed Authority

### Disbursements

August 12 through September 1, 2022

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	<u>Aug 12 - Sep 1, 22</u>
ATT	-150.38
Espinoza Fence	-1,280.00
Evelyn Sanderson	-100.00
Heartland Construction Services, LLC	-4,250.00
McLennan County Appraisal District	-39.05
Milam County Clerk	-1.00
Patricia Mackie	-471.05
Relhom Properties LLC	-550.00
Sanderford & Carroll, P.C.	-929.00
United States Postal Service	-60.00
	<hr/>
TOTAL	<u><u>-7,830.48</u></u>



# Elm Creek Watershed Authority

## Profit & Loss Budget vs. Actual

### January through December 2022

	Jan - Dec 22	Budget	\$ Over Bud...	% of Bu...
Ordinary Income/Expense				
Income				
Income from Taxes	195,695.23	385,000.00	-189,304.77	50.8%
Total Income	195,695.23	385,000.00	-189,304.77	50.8%
Gross Profit	195,695.23	385,000.00	-189,304.77	50.8%
Expense				
Advertising	0.00	1,000.00	-1,000.00	0.0%
Allocation (Collection) Expe...	3,361.44	6,500.00	-3,138.56	51.7%
Communications	1,634.02	3,500.00	-1,865.98	46.7%
Contract	2,462.49	3,000.00	-537.51	82.1%
Contract Labor	0.00	0.00	0.00	0.0%
Director-Per Diem	6,200.00	10,500.00	-4,300.00	59.0%
Down Stream Structure	0.00	6,000.00	-6,000.00	0.0%
Dues and Subscriptions	325.00	325.00	0.00	100.0%
Easements	0.00	0.00	0.00	0.0%
Elections	0.00	0.00	0.00	0.0%
Insurance	320.00	10,000.00	-9,680.00	3.2%
Maintenance	83,189.25	200,000.00	-116,810.75	41.6%
Mileage	4,274.43	10,000.00	-5,725.57	42.7%
Miscellaneous	175.00	500.00	-325.00	35.0%
Office Supplies	2,888.14	4,000.00	-1,111.86	72.2%
Payroll Expenses	67,557.80	86,000.00	-18,442.20	78.6%
Professional Fees	30,917.45	31,800.00	-882.55	97.2%
Recording Fees	10.00	350.00	-340.00	2.9%
Rent	4,400.00	6,600.00	-2,200.00	66.7%
Supplies	15.11			
Tax Increment Zone Payment	44,198.29	44,200.00	-1.71	100.0%
Training	45.00	1,900.00	-1,855.00	2.4%
Travel & Ent	35.67	5,000.00	-4,964.33	0.7%
Utilities	603.95	1,800.00	-1,196.05	33.6%
Total Expense	252,613.04	432,975.00	-180,361.96	58.3%
Net Ordinary Income	-56,917.81	-47,975.00	-8,942.81	118.6%
Other Income/Expense				
Other Income				
Interest Income	12,412.83	20,000.00	-7,587.17	62.1%
Reimbursed Income	1,339,541.60			
Total Other Income	1,351,954.43	20,000.00	1,331,954.43	6,759.8%
Other Expense				
Reimbursed Expenses	1,604,680.33			
Total Other Expense	1,604,680.33			
Net Other Income	-252,725.90	20,000.00	-272,725.90	-1,263.6%
Net Income	-309,643.71	-27,975.00	-281,668.71	1,106.9%

SUGGESTED:

↓ TRAVEL/ENT \$2000.-

↑ PROFESSIONAL FEES \$2000.-



**ELM CREEK WATERSHED AUTHORITY**  
**Monthly Report – 9/1/2022**

**Operation and Maintenance**

**Site 21 Beaver Buildup**

Mud and debris due to beaver activity cleared from riser by Heartland Construction Services. Six beavers were removed by USDA Wildlife Services in late May/early June.

**Site 36 Stub Fence**

No livestock had been on the property that includes the east end of the dam at Site 36 for several years until 2020. Cattle have been escaping from that property onto the neighboring property to the west. A stub fence was installed by Espinoza Fence to mitigate this concern.

**NRCS WFPO Program**

**Site 6R2 and 7REV Plan Supplement Investigations**

Reached Charles Mikeska, grandson of property owner at Site 6R2, and explained need to access the property for geotechnical investigations in proposed auxiliary spillway. Mikeska refused granting access because he argues that ECWA did not provide agreed-to compensation for signing the easement in September 1989. (NOTE: there is a ledger entry and record of disbursements from ECWA board meeting in September 1989 showing that \$5000.00 was paid to the property owner). Mikeska claims that he has been keeping books for the family since before that time and argues that a payment was never received. He is demanding a cancelled check to prove the payment was made, otherwise that the easement is invalid. Shared this with attorney Brian Carroll last week and he is of the opinion the easement is valid and enforceable. Carroll indicated that even if the payment was not made, the statute of limitations for breach of contract was four years. Carroll has prepared a letter conveying this opinion to the owners.

**TSSWCB Dam Repair/Upgrade Program**

**Site 23:**

Southern Infrastructure Group continues to make good progress with the upgrade at Site 23. The west extension of the dam was completed and topsoil replacement is almost complete. The auxiliary spillway grade from the crest to the outlet channel is to finished grade and topsoil replacement is underway. Concrete pour was scheduled August 29 for the impact basin. The ECWA board approval in the income and disbursements was for a payment request in the amount of \$463,751.95 for the period 8/1-8/31/2022. ECWA portion of the amount is \$8,115.66 (1.75%) and TSSWCB portion is \$455,636.29. ECWA will also receive administrative payment of \$13669.09.

**Site 39:**

Appraiser Les Neugebauer provided values today for new easement areas on the Benolken property. The appraised value per acre is \$9,500. Steve Burton of Sanderford and Carroll immediately conveyed this information to Benolken's attorneys with the ultimatum to either accept the standing offer (3.81 acres @ \$15,000 per acre + \$8080 for temporary use + \$1500 for lost grazing = \$66,730 total) made by ECWA **now** or go to condemnation with the risk of an award of the appraised value.

TSSWCB notified ECWA today that additional funding is available on a first come, first served basis. AECOM has indicated a revised cost estimate will be ready early next week. If the easement is granted and additional funds acquired, advertisement for construction could go out this fall and construction start late this year.





**Agenda Item 6a.** Consider approval of agreement between Five Wells Solar and ECWA for an easement crossing.

BACKGROUND: Five Wells Solar has proposed to cross the Site 26 ECWA flowage easement near the upper limits of the floodwater detention pool. The crossing would be for cables that would cross under the easement. Without the crossing, there would be extensive trenching around the perimeter of the Site 26 easement. The crossing would be a bore under about 600 feet of the easement that would not appear to impact the function or purposes of Site 26. The developer has provided an agreement between Elm Creek Watershed Authority and Five Wells Solar that would allow for the crossing of the easement. Sanderford and Carroll reviewed the agreement and found that it suitable for granting the crossing while protecting ECWA interests (NOTE: Five Wells Solar has agreed to pay for the ECWA legal costs). NRCS recommended assurances that the cable would not float up, be exposed, or pose other safety issues and that it be marked with signs to identify the crossing of the easement. Five Wells Solar has provided those assurances.

**Agenda Item 6b.** Five Wells Solar project information provided to address ECWA concerns.

Background: In May of this year the Bell County Commissioners Court included provisions to the abatement agreement with Five Wells Solar that the project address comments on what impact, if any, the project may have on the Elm Creek Watershed and specifically the two dams in the project area. ECWA asked Five Wells Solar to provide information related to erosion and sedimentation as well as impacts related to runoff. On July 19 Five Wells Solar provided ECWA information including the SWPPP, Erosion and Sediment Control Plan, and results of hydraulics and hydrology model run for the two dams. This information was provided to NRCS for review and comment. A letter with recommendations from NRCS was received today, along with recommendations for seeding and vegetation management. Recommended Action: Supply NRCS recommendations to Bell County Commissioners Court, Central Texas SWCD, and Five Wells Solar with cover letter from ECWA.



**ELM CREEK WATERSHED AUTHORITY**  
**OFFICIAL MINUTES**  
**September 1, 2022**

Elm Creek Watershed Authority, Board of Directors, met in regular session on  
September 1, 2022, at 19 South 25<sup>th</sup> Street, Suite 500, Temple, Texas

**Directors present:** Ray Jungmann, Arvell Jungmann, Bobby Henson, Robert Fleming, Daniel C. Lesikar, Mike Maedgen and John Perryman.

**Others present:** Calvin Sanders, Tricia Mackie.

The meeting was called to order by Daniel C. Lesikar, Chairman, at 7:31 p.m.

**Consent Agenda:** Minutes: Bobby Henson made a motion to approve the previous meeting minutes as mailed. The motion was second by Robert Fleming. Motion passed.

Income and Disbursements were read aloud by Tricia Mackie. A motion was made by Bobby Henson to receive, approve and file income and disbursements. Ray Jungmann second the motion. Motion passed. Robert Fleming made a motion to approve the Payment #5 to Southern Infrastructure Group in the amount of \$463,751.95. The motion was second by Ray Jungmann. Motion passed.

Budget: Tricia Mackie suggested amending the 2022 budget by decreasing Travel/Entertainment \$2000 and increasing Professional Fees \$2000. Robert Fleming made a motion to amend the budget as suggested. Mike Maedgen second the motion. Motion passed.

**Watershed Report:** The watershed report was presented by Calvin Sanders. O&M: Site 21 debris has been removed & Site 36 has had a stub fence installed.

NRCS Programs: Site 6R2-Mr. Sanders has had some setbacks on land access for investigations in proposed auxiliary spillway. The easement information has been forwarded to Brian Carroll, attorney, for an opinion. Mr. Carroll determined the easement is valid and enforceable and is preparing a letter to the landowner(s).

TSSWCB Programs: Dam Upgrades: Site 23-West extension of the dam is near completion with topsoil replacement underway. The concrete for the impact basin has been poured. Site 39-Appraisal determined \$9500/acre. Attorney send information to lawyer for Benolken to either accept original offer of \$15000/ac + \$8080 for temporary use + \$1500 for lost grazing, totaling \$66,730 or ECWA will move forward with condemnation action. New funding from the TSSWCB has become available on a first come, first served basis. This funding could be used for construction if additional easements on Site 39 are established.

A motion was made by Robert Fleming to approve the watershed report. Ray Jungmann second the motion. Motion passed.

**Site 39 Land Rights:** No action.


**Five Wells Solar Project:** Five Wells Solar Project has proposed to cross the ECWA easement on Site 26 with cables underground. The information has been reviewed by attorney, Brian Carroll, with Five Wells Solar paying for the legal expense. The crossing will be near the upper limits of the detention pool away from the actual earthen structure. A motion was made by Mike Maedgen to allow Five Wells Solar Project to cross the ECWA easement with underground cables, following the guidelines established. Ray Jungmann second the motion. Motion passed.

Five Wells Solar Project supplied information related to runoff, erosion and sediment to address concerns from ECWA as required by Bell County Commissioners Court. The information was sent to NRCS. Mr. Sanders recommended supplying the NRCS recommendations to Bell County Commissioners Court, Central Texas SWCD, and Five Wells Solar. The board agreed to such action.

**2022 Proposed Tax Rate:** Bobby Henson made a motion to approve the 2022 tax rate at 0.0287. Ray Jungmann second the motion. Motion passed.

**Adjourn:** Arvell Jungmann made a motion to adjourn. Mike Maedgen second the motion. Motion passed. Meeting adjourned at 8:48 p.m.

**ATTEST:**

  
Daniel C. Lesikar  
Chairman

  
Director