

1984 ——— 25 Years ——— 2009
Mr. Castleberry's Direct Line: (512) 322-5856
bcastleberry@lglawfirm.com

September 25, 2009

Mr. Mark R. Vickery
Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA HAND-DELIVERY

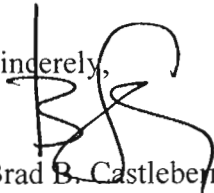
Re: Petition for Rulemaking (1489-06)

Dear Mr. Vickery:

Please find enclosed one (1) original and seven (7) copies of a Petition for Rulemaking (the "Petition") filed on behalf of the City of Leander and the City of Granite Shoals (the "Cities") seeking to repeal 30 TAC Chapter 311, Subchapters A, B, and F. In addition to the Petition and its attachments, please find enclosed resolutions of support for this initiative adopted by the City of Leander, the City of Granite Shoals, the City of Marble Falls, and the Kingsland Municipal Utility District.

We respectfully request that this Petition be set for consideration and Commission action and look forward to working with all concerned on this matter.

If you have any questions, please do not hesitate to contact me at (512) 322-5856.

Sincerely,

Brad B. Castleberry



BBC/plh
1489\06\090922 bbc

ENCLOSURES

cc: Mr. Les Trobman, General Counsel, TCEQ
Mr. John Cowman, Mayor, City of Leander
Mr. Frank Reilly, Mayor, City of Granite Shoals
Mr. Robert H. Lloyd

PETITION FOR RULEMAKING	§	
	§	
BY THE CITY OF LEANDER	§	
AND	§	
THE CITY OF GRANITE SHOALS	§	BEFORE THE TEXAS COMMISSION
	§	
TO REPEAL PORTIONS OF	§	ON ENVIRONMENTAL QUALITY
30 TEX. ADMIN. CODE CHAPTER 311	§	
RELATED TO THE PROHIBITION	§	
OF DISCHARGING RECLAIMED	§	
WATER	§	

ORIGINAL PETITION FOR RULEMAKING

TO THE HONORABLE COMMISSIONERS:

Now comes the City of Leander and the City of Granite Shoals (the “Cities” or “Petitioners”), and pursuant to the provisions of 30 Texas Administrative Code (“TAC”) Chapter 20 hereby present this Petition for Adoption of a Repeal of a Rule (the “Petition”) to the Texas Commission on Environmental Quality (“the Commission”) seeking the repeal of 30 TAC Chapter 311, Subchapters A, B, and F (collectively, the “Rules”) and respectfully request that the Commission consider this Petition and the proposed repeal as set out herein (the “Repeal”) and initiate proceedings necessary to adopt the Repeal. Pursuant to the provisions of 30 TAC §20.15, the Cities would respectfully show the following:

I. Public Policy Benefits

This Petition is submitted in the interest of furthering the statewide public policy of efficiently utilizing and conserving *existing* water resources. Throughout history, the State of Texas has grappled with a means of providing adequate fresh water supplies to meet the demands of its citizens, especially in arid parts of the state, while preserving this valuable natural resource for the environment and future generations. This struggle to maximize resources has led to a need to consider all water supply options in a holistic and beneficial manner.

The Rules sought to be repealed by this Petition were adopted in 1986. At the time the Rules were adopted, there was concern regarding the availability and expertise to operate advanced wastewater treatment units. There was also not much experience with tertiary (or advanced) treatment, and the concern was that without such experience and proven performance, a prohibition on discharges was needed to protect water quality. However, that concern was raised 23 years ago. Today, there is ample experience in operating advanced wastewater treatment facilities. In fact, some facilities now use drinking water technology (e.g. membranes) that can produce effluent of such high quality that it is virtually indistinguishable from, or in most cases, of higher quality than local untreated fresh water supplies.

Treated effluent, now known as “reclaimed water,” has become the centerpiece of many water supply portfolios across the state. Indeed, the use of reclaimed water has grown dramatically over the years, and it is now a planned water management strategy for meeting the demands of a large portion of the state. *See*, Texas Water Development Board, *Water for Texas 2007*, January 2007. *See also*, Texas Comptroller of Public Accounts, *Liquid Assets: The State of Texas’ Water Resources*, February 2009. The Commission already acknowledges and promotes direct reuse through its rules promulgated at 30 TAC Chapter 210 (related to the use of reclaimed water). What the Commission does not currently do that this Petition seeks to accomplish is to further recognize reclaimed water as a resource that can and should be used to supplement existing water supplies in the Colorado River Basin (the “Basin”). In essence, the public policy goal that the Cities strive to reach by submitting this Petition is to acknowledge that reclaimed water in the Basin is a *resource*, not a waste, and that the policy of disposing of this resource should be abandoned in favor of principles that support conservation and the efficient use of existing supplies.

By this Petition, the Cities request that the Commission further its support for the use of reclaimed water as a public policy goal for the State of Texas and adopt the Repeal as specified herein. Provided hereto as Attachment A is a copy of a letter submitted by the City of Leander summarizing the public policy goals associated with the use of reclaimed water. The City acknowledges that the attached letter is in response to a petition previously filed, but the issue before the Commission is one of state-wide policy, given water supply implications.

II. Petitioners' Names and Addresses

The Cities are each a home rule municipality that provides retail water service, and the City of Leander also provides retail wastewater service. The City of Granite Shoals recently completed a joint study with the Texas Water Development Board that shows the feasibility and efficacy of providing regional wastewater services to Granite Shoals and nearby residents. For purposes of the Petition, contact with the Cities can be made by directing all correspondence to the following:

City of Granite Shoals
c/o Mr. Frank Reilly
Potts & Reilly, LLP
401 West 15th Street, Suite 850
Austin, Texas 78701

City of Leander
c/o Mr. Brad B. Castleberry
Lloyd Gosselink, *et al.*
816 Congress Ave., Suite 1900
Austin, Texas 78701

III. Brief Explanation of the Repeal

The Cities propose the Repeal as an effort to promote conservation and the efficient use of existing water resources. The Repeal would facilitate the Commission's current policies and provide flexibility for the Cities to construct domestic reclamation facilities for discharge into certain segments of the Basin.

IV. Text of the Repeal

The text of the Repeal is provided hereto as Attachment B.

V. Statement of Legal Authority for the Repeal

The Repeal is proposed to be adopted pursuant to the following authority:

- a. Texas Water Code §§5.102 and 5.103, which authorize the Commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code.
- b. Texas Water Code §5.013(a)(3), which grants the Commission jurisdiction over the state's water quality program, including the issuance of permits and other necessary authorizations.
- c. Texas Water Code §26.121, which regulates the discharge of pollutants into or adjacent to waters of the State.
- d. Texas Water Code §26.027, which authorizes the Commission to issue permits that regulate the discharge of pollutants into or adjacent to waters of the State.
- e. Texas Water Code §11.046(c), which authorizes the use and beneficial reuse of reclaimed water before discharge or disposal.
- f. Texas Water Code §11.002(8), which defines conservation as those practices, techniques and technologies that will improve the efficiency in the use of water.
- g. Texas Water Code §11.1271(e), which requires the Commission to develop model water conservation programs that suggest best management practices for achieving the highest practicable levels of water conservation and efficiency.
- h. The 2007 State Water Plan, *Water for Texas 2007*, which recognizes that reuse is an important water management strategy to meet the growing needs for water by the people of Texas.

VI. Injury or Inequity Resulting From Failure to Adopt the Repeal

The Repeal is important to the Cities for the following reasons:

1. The Repeal is needed to facilitate the well-planned centralized collection and treatment of domestic sewage to produce reclaimed water;
2. The Repeal is needed to reduce the cost of unnecessarily disposing of reclaimed water under the current regulatory regime; and
3. The Repeal is needed to firm up existing water supplies within the Basin.

Leander provides, and Granite Shoals plans to provide, retail domestic wastewater collection and treatment service for their citizens. Sanitation has become an expected municipal service, and the Cities desire to perform this service in the most cost-effective and well-planned manner. The Rules make centralized collection and treatment difficult, if not impossible. Because the Rules require the construction of large holding ponds and a significant amount of acreage to irrigate, it is not cost-effective to construct a single large treatment facility. Instead, facilities are often constructed in a manner that recognizes the immediacy of development in certain areas within the Basin. This ad-hoc approach is most pronounced in the areas abutting the lakes that are regulated by the Rules, but are served by hundreds, if not thousands, of individual septic systems. Not only are these septic systems basic in design and operation, many are often not properly maintained and as such, they have the potential to negatively affect the goal of improving and preserving water quality in the Basin.

All homes in the proposed Granite Shoals wastewater treatment service area are on septic systems, with many of the properties located directly on the shores of Lake Lyndon B. Johnson. Granite Shoals currently has more than 5,000 inhabitants, and there are several thousand other residents located within the proposed service area.

The Repeal would recognize the value of centralized collection and treatment of raw sewage. The Repeal would also recognize that current technology exists that far surpasses basic septic systems. This technology should be considered, where appropriate, and value should be awarded to the resource produced, that being reclaimed water. As currently authorized, the Rules prevent the Cities from even planning for centralized collection, treatment and discharge, and the Repeal would provide relief from this burdensome restriction by allowing the Cities to consider discharges of reclaimed water into the Basin.

The Cities have considered future projects to dispose of reclaimed water. These projects are historically more costly than a counterpart project that would allow the discharge of reclaimed water. Granite Shoals' study from Freese & Nichols, Inc. indicates that the City would have to spend over \$4 million more to purchase and develop irrigation fields and distribution systems than it would spend to treat and return the reclaimed water to Lake Lyndon B. Johnson. Moreover, the disposal projects would cause the Cities to continue to cultivate juniper ash, locally known as "cedar," which is a tree that many other areas of the state strive daily to eradicate. Juniper ash is a high water consumption tree that can efficiently uptake the quantity of reclaimed water produced under the current disposal policy within the Rules. Cultivating this tree in lieu of considering reclaimed water as a resource is not only bad land-management practice, it is also counterproductive to conservation initiatives adopted within the Basin. The Cities believe that the Repeal is needed to alleviate the burden imposed to construct disposal facilities that promote cedar cultivation instead of discharge facilities, and that without the Repeal, the Cities cannot even consider such an approach.

The Commission is aware that there are existing wastewater treatment facilities located in the Highland Lakes area that were built prior to the adoption of Chapter 311, and are thus grandfathered facilities that have been discharging into the lakes for decades with pre-existing technology. If the Commission adopts the Repeal, the newer technology used in water reclamation will be superior to these older plants, and more protective of the water quality.

Finally, the Repeal is needed to supplement existing water supplies. One must only look at the current status of many of the Highland Lakes to see that we are in a significant drought, and the forecast fares no better. All the while, more than 10,000 acre-feet per annum of reclaimed water is currently being wasted on cedar irrigation and other disposal sites. Some

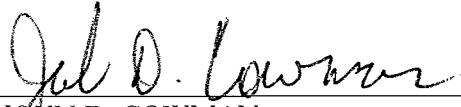
reclaimed water is directly used for golf courses and other irrigation, and this is good public policy; however, there are not enough direct reuse beneficial sites available.

There is a series of lakes regulated by the Rules that stand willing, and we believe able, to assimilate and benefit from reclaimed water. A repeal of the Rules is needed to even consider such an approach.

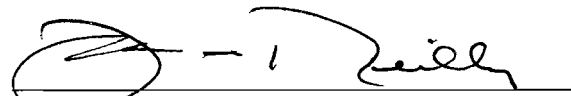
VII. Prayer

WHEREFORE, premises considered, the Cities respectfully request that the Commission consider this Petition, and the Repeal as proposed herein, and initiate proceedings necessary to adopt the Repeal. The Cities further pray for any and all other relief to which they may be entitled.

Respectfully submitted,



JOHN D. COWMAN
MAYOR, CITY OF LEANDER



FRANK M. REILLY
MAYOR, CITY OF GRANITE SHOALS

Attachment A

Proposed Repeal
30 TEX. ADMIN. CODE §311, Subchapters A, B and F



City of Leander, Texas



February 6, 2009

Ms. Beth Seaton (MC 145)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: TCEQ Docket No. 2008-1601-RUL; Rule Project 2009-002-PET-NR

Dear Ms. Seaton:

This letter is submitted on behalf of the City of Leander (the "City") in response to the above-referenced matter. Specifically, this letter is submitted to comment on the policies and issues discussed during the stakeholder meeting held on January 16, 2009 to consider the Petition for Rulemaking (the "Petition") that was filed by Barton Springs/Edwards Aquifer Conservation District and the City of Austin on or about October 1, 2008 to amend 30 TEX. ADMIN. CODE Chapter 311. While the Petition does not affect the City directly, the policy implications for such a proposed rule change do affect the City and dozens of other cities along the Highland Lakes in Central Texas.

The State of Texas has limited fresh water supplies. Many of our existing fresh water supplies were constructed years ago with great foresight from past leaders. These supplies were envisioned to meet the future demands of Texans for many years to come. Given the fact that we have limited fresh water supplies, we must consider how best to utilize these supplies and promote good public policy. The use of reclaimed water, also known as "reuse," is a water management strategy that has been identified by the Texas Water Development Board as a means of furthering existing supplies. Reuse can be either direct -- *i.e.*, flanged from a reclaimed water production facility, or indirect -- *i.e.*, discharged into a stream for subsequent in-stream or diversion purposes. Reuse has been occurring around the state, and the country for that matter, for a number of years, and it is an effective way of further extending the use of existing water supplies.

The concept identified in the Petition, and as was discussed during the stakeholder meeting referenced, does not seek to promote reuse. Indeed, prohibiting the discharge of reclaimed water is clearly contrary to the concept of indirect reuse. Texas streams and rivers have recognized a benefit throughout the years from the provision of reclaimed water. Reclaimed water, regulated under the federal Clean Water Act, and the correlative state laws, is a valuable resource that must not be confused with waste. Technological and regulatory provisions can be provided to address concerns regarding the use of reclaimed water. Ignoring this fact and outright prohibiting discharges, as is currently done with the Highland Lakes, is simply bad public policy.

Post Office Box 319 Leander, Texas 78646-0319

Attachment A

**Proposed Repeal
30 TEX. ADMIN. CODE §311, Subchapters A, B and F**

Right now Lake Travis is operating at historically low levels. The Colorado River Basin is in a significant drought and the forecast from experts is that there is little hope in sight. All the while, there are thousands of acre-feet of reclaimed water being discharged onto cedar irrigation tracts or golf courses created for the purpose of addressing a discharge prohibition such as the one being proposed by the Petition. Moreover, given that there is no incentive to provide for centralized collection of raw sewage along the Highland Lakes, thousands of septic systems have been installed, many without proper maintenance and oversight.

As noted, the City does not have a direct interest in the geographical area proposed by the Petition. However, the policy underlying the Petition, which is that reclaimed water is a waste, not a resource, is simply without merit. The majority of the State of Texas has already recognized and implemented many water supply projects that promote indirect reuse. The Dallas-Fort Worth area has been a leader in this arena promoting environmentally friendly projects that have created hundreds of thousands of acre-feet of water supplies that would not otherwise exist. These supplies benefit both water purveyors and the aquatic environment by virtue of maintaining instream flows.

The City would urge the TCEQ to carefully consider the Petition and exercise sound judgment as it relates to the utilization of existing water supplies. Such action is needed to ensure that existing supplies are used in the most efficient and conservation-oriented manner.

We appreciate the opportunity to provide these comments and look forward to addressing any questions that you may have.

Sincerely,



Anthony Johnson
City Manager

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

TITLE 30 ENVIRONMENTAL QUALITY PART 1 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY CHAPTER 311 WATERSHED PROTECTION

SUBCHAPTER A LAKES TRAVIS AND AUSTIN WATER QUALITY

RULE §311.1 Definitions

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

~~–(1) Lake Austin water quality area—Those portions of the Lake Austin watershed within 10 stream miles of the pool level of Lake Austin (492.8 feet, mean sea level).~~

~~–(2) Lake Austin watershed—Lake Austin and its tributaries located between Tom Miller Dam and Mansfield Dam.~~

~~–(3) Lake Travis water quality area—Those portions of the Lake Travis watershed within 10 stream miles of the pool elevation of Lake Travis (681 feet, mean sea level).~~

~~–(4) Lake Travis watershed—Lake Travis and its tributaries located between Mansfield Dam and Max Starcke Dam, but only that part of the Pedernales River and its tributaries within 15 stream miles of the pool elevation of Lake Travis.~~

RULE §311.2 No Discharge of Pollutants

~~There shall be no discharge of pollutants into the Lake Austin water quality area or the Lake Travis water quality area, except as provided in these sections.~~

RULE §311.3 Wastewater Disposal

~~Any proposed sewage treatment facility in the Lake Austin or Lake Travis water quality area will be required to provide secondary treatment in accordance with one of the following options:~~

~~–(1) the treatment facility will provide treatment as specified in Effluent Sets 2 and A in §309.4 of this title (relating to Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into on-channel ponds. Such ponds will be designed, constructed, and operated to meet standards established on a case-by-case basis that will assure that any overflows of treated effluent occur only when the volume of effluent to stormwater in the pond is less than or equal to 1:10. For the purposes of this paragraph and calculation, effluent does not include any amounts of stormwater runoff, but only the amount of wastewater discharge from the plant. Standards will include, but are not limited to, a minimum pond size requirement based on hydrological studies of the drainage area of the pond and allowable irrigation rates as determined~~

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

in accordance with ~~§317.10(c)~~ of this title (relating to Appendix B—Land Disposal of Sewage Effluent); or

~~—(2) the treatment facility will provide secondary treatment as specified in §§309.1–309.4 of this title (relating to Introduction and Purpose; Rationale for Effluent Sets; Application of Effluent Sets; and Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into storage ponds for land disposal. Storage ponds and land disposal practices will be designed, constructed, and operated in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent).~~

RULE §311.4 Existing Facilities in Water Quality Areas

~~(a) Any currently permitted treatment facility in the Lake Austin or Lake Travis water quality areas may continue operation in accordance with the terms and conditions of the existing permit for the facility and can apply for renewal of the permit unless the facility becomes substantially noncompliant or an expansion of the treatment facility is included in the application for renewal.~~

~~(b) Any modification of a facility described in subsection (a) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as described in §311.3 of this title (relating to Wastewater Disposal) for the total wastewater flow from the permitted facility.~~

~~(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.3 of this title (relating to Wastewater Disposal).~~

RULE §311.5 Lake Austin and Lake Travis Watershed Management

~~Any proposed new or expanded treatment facility in the Lake Austin or Lake Travis watersheds, but outside the Lake Austin and Lake Travis water quality areas may be permitted only if it provides for disposal without discharge in accordance with §311.3 of this title (relating to Wastewater Disposal) or if the applicant establishes that any alternative proposed wastewater treatment and disposal will consistently protect and maintain the existing water quality of Lake Austin and Lake Travis.~~

RULE §311.6 Allowable Storm Water Runoff and Certain Non-Storm Water Discharges

~~(a) The following discharges of storm water runoff may be authorized by a Texas pollutant discharge elimination system (TPDES) permit or a national pollutant discharge elimination system (NPDES) permit:~~

~~—(1) storm water runoff from industrial facilities;~~

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

~~-(2) storm water runoff from municipal separate storm sewer systems; and~~

~~-(3) storm water runoff from construction activities.~~

~~(b) The following non-storm water discharges may be authorized by a TPDES permit or a NPDES permit:~~

~~-(1) discharges from fire fighting activities;~~

~~-(2) discharges from fire hydrant flushings;~~

~~-(3) discharges from potable water sources, including drinking fountain water and water line flushings;~~

~~-(4) discharges from uncontaminated air conditioning or compressor condensate;~~

~~-(5) discharges from lawn watering and similar irrigation drainage;~~

~~-(6) discharges from pavement wash down without the use of detergents or other chemicals and where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed);~~

~~-(7) discharges from a routine external building wash down that do not use detergents or other compounds;~~

~~-(8) discharges from uncontaminated groundwater or spring water;~~

~~-(9) discharges from foundation or footing drains where flows are not contaminated with process materials such as solvents;~~

~~-(10) discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage; and~~

~~-(11) discharges of storm water or groundwater seepage from mine dewatering activities at construction sand and gravel, industrial sand, or crushed stone mining facilities.~~

~~(e) Nothing in this subchapter is intended to restrict the powers of the commission or any other governmental entity to prevent, correct, or curtail activities that result or may result in pollution in the water quality area. In addition to the rules of the commission, a TPDES permit applicant may also be required to comply with local pollution control ordinances and regulations.~~

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

~~SUBCHAPTER B LAKES INKS AND BUCHANAN WATER QUALITY~~

~~RULE §311.11 Definitions~~

~~The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~–(1) Inks Lake water quality area—Those portions of the Inks Lake Watershed within 10 stream miles of the normal operating pool elevation of Inks Lake (888 feet, mean sea level):~~

~~–(2) Inks Lake watershed—Inks Lake and its tributaries located between Roy Inks Dam and Buchanan Dam:~~

~~–(3) Lake Buchanan water quality area—Those portions of the Lake Buchanan Watershed within 10 stream miles of the normal operating pool elevation of Lake Buchanan (1,020 feet, mean sea level):~~

~~–(4) Lake Buchanan watershed—Lake Buchanan and its tributaries located between Buchanan Dam and the confluence of the Colorado River and Deep Creek near the convergence of the Brown, McCulloch, and San Saba County lines:~~

~~RULE §311.12 No Discharge of Pollutants~~

~~There shall be no discharge of pollutants into the Inks Lake or Lake Buchanan water quality areas, except as provided in these sections:~~

~~RULE §311.13 Wastewater Disposal~~

~~Any proposed sewage treatment facility in the Inks Lake or Lake Buchanan water quality areas will be required to provide secondary treatment in accordance with one of the following options:~~

~~–(1) the treatment facility will provide treatment as specified in Effluent Sets 2 and A in §309.4 of this title (relating to Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into on-channel ponds. Such ponds will be designed, constructed, and operated to meet standards established on a case-by-case basis that will assure that any overflows of treated effluent occur only when the volume of effluent to stormwater in the pond is less than or equal to 1:10. For the purposes of this paragraph and calculation, effluent does not include any amounts of stormwater runoff, but only the amount of wastewater discharge from the plant. Standards will include, but are not limited to, a minimum pond size requirement based on hydrological studies of the drainage area of the pond and allowable irrigation rates as determined in accordance with §317.10(c) of this title (relating to Appendix B Land Disposal of Sewage Effluent); or~~

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

~~–(2) the treatment facility will provide secondary treatment as specified in §§309.1–309.4 of this title (relating to Introduction and Purpose; Rationale for Effluent Sets; Application of Effluent Sets, and Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into storage ponds for land disposal. Storage ponds and land disposal practices will be designed, constructed, and operated in accordance with §317.10(c) of this title (relating to Appendix B Land Disposal of Sewage Effluent).~~

RULE §311.14 Existing Facilities in Water Quality Areas

~~(a) Any currently permitted treatment facility in the Inks Lake or Lake Buchanan water quality areas may continue operation in accordance with the terms and conditions of the existing permit for the facility and can apply for renewal of the permit, unless the facility becomes substantially noncompliant or an expansion of the treatment facility is included in the application for renewal.~~

~~(b) Any modification of a facility described in subsection (a) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as described in §311.13 of this title (relating to Wastewater Disposal) for the total wastewater flow from the permitted facility.~~

~~(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.13 of this title (relating to Wastewater Disposal).~~

RULE §311.15 Inks Lake and Lake Buchanan Watershed Management

~~Any proposed new or expanded treatment facility in the Inks Lake or Lake Buchanan watersheds, but outside the Inks Lake or Lake Buchanan water quality areas may be permitted only if it provides for disposal without discharge in accordance with §311.13 of this title (relating to Wastewater Disposal) or if the applicant establishes that any alternative proposed wastewater treatment and disposal will consistently protect and maintain the existing water quality of Inks Lake and Lake Buchanan.~~

RULE §311.16 Allowable Storm Water Runoff and Certain Non-Storm Water Discharges

~~(a) The following discharges of storm water runoff may be authorized by a Texas pollutant discharge elimination system (TPDES) permit or a national pollutant discharge elimination system (NPDES) permit:~~

~~–(1) storm water runoff from industrial facilities;~~

~~–(2) storm water runoff from municipal separate storm sewer systems; and~~

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

~~-(3) storm water runoff from construction activities.~~

~~(b) The following non-storm water discharges may be authorized by a TPDES permit or a NPDES permit:~~

~~-(1) discharges from fire fighting activities;~~

~~-(2) discharges from fire hydrant flushings;~~

~~-(3) discharges from potable water sources, including drinking fountain water and water line flushings;~~

~~-(4) discharges from uncontaminated air conditioning or compressor condensate;~~

~~-(5) discharges from lawn watering and similar irrigation drainage;~~

~~-(6) discharges from pavement wash down without the use of detergents or other chemicals and where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed);~~

~~-(7) discharges from a routine external building wash down that do not use detergents or other compounds;~~

~~-(8) discharges from uncontaminated groundwater or spring water;~~

~~-(9) discharges from foundation or footing drains where flows are not contaminated with process materials such as solvents;~~

~~-(10) discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage; and~~

~~-(11) discharges of storm water or groundwater seepage from mine dewatering activities at construction sand and gravel, industrial sand, or crushed stone mining facilities.~~

~~(c) Nothing in this subchapter is intended to restrict the powers of the commission or any other governmental entity to prevent, correct, or curtail activities that result or may result in pollution in the water quality area. In addition to the rules of the commission, a TPDES permit applicant may also be required to comply with local pollution control ordinances.~~

SUBCHAPTER F LAKES LYNDON B. JOHNSON AND MARBLE FALLS WATER QUALITY

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

RULE §311.51 Definitions

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

~~–(1) Lake Lyndon B. Johnson Water Quality Area—Those portions of the Lake Lyndon B. Johnson Watershed within ten stream miles of the pool level of Lake Lyndon B. Johnson (825 feet, mean sea level).~~

~~–(2) Lake Lyndon B. Johnson Watershed—Lake Lyndon B. Johnson and its tributaries located between Alvin Wirtz Dam and Roy Inks Dam.~~

~~–(3) Lake Marble Falls Water Quality Area—Those portions of the Lake Marble Falls Watershed within 10 stream miles of the pool elevation of Lake Marble Falls (738 feet, mean sea level).~~

~~–(4) Lake Marble Falls Watershed—Lake Marble Falls and its tributaries located between Max Starcke Dam and Alvin Wirtz Dam.~~

RULE §311.52 No Discharge of Pollutants

~~There shall be no discharge of pollutants into or adjacent to waters of the state within the Lake Lyndon B. Johnson Water Quality Area or the Lake Marble Falls Water Quality Area, except as provided in this subchapter.~~

RULE §311.53 Wastewater Disposal

~~Any proposed sewage treatment facility in the Lake Lyndon B. Johnson or Lake Marble Falls Water Quality Area will be required to provide secondary treatment facility in accordance with one of the following options:~~

~~–(1) the treatment facility will provide treatment as specified in Effluent Sets 2 and A in §309.4 of this title (relating to Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into on-channel ponds. Such ponds will be designed, constructed, and operated to meet standards established on a case-by-case basis that will assure that any overflows of treated effluent occur only when the volume of effluent to stormwater in the pond is less than or equal to 1:10. For the purposes of this paragraph and calculation, effluent does not include any amount of stormwater runoff, but only the amount of wastewater discharge from the plant. Standards will include, but are not limited to, a minimum pond size requirement based on hydrological studies of the drainage area of the pond and allowable irrigation rates as determined in accordance with §317.10 (c) of this title (relating to Appendix B Land Disposal of Sewage Effluent); or~~

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

~~(2) the treatment facility will provide secondary treatment as specified in §§309.1-309.4 of this title (relating to Introduction and Purpose, Rationale for Effluent Sets; Application of Effluent Sets and Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into storage ponds for land disposal. Storage ponds and land disposal practices will be designed, constructed and operated in accordance with §317.10 (c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent).~~

RULE §311.54 Existing Facilities in Water Quality Areas

~~(a) Any currently permitted treatment facility in the Lake Lyndon B. Johnson or Lake Marble Falls Water Quality Areas may continue operation in accordance with the terms and conditions of the existing permit for the facility and can apply for renewal of the permit unless the facility becomes substantially noncompliant or an expansion of the treatment facility is included in the application for renewal.~~

~~(b) Any modification of a facility described in subsection (a) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as described in §311.53 of this title (relating to Wastewater Disposal) for the total wastewater flow from the permitted facility.~~

~~(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.53 of this title (relating to Wastewater Disposal).~~

~~(d) The commission may consider any application for a new facility or for expansion of an existing facility that has been received by the commission and declared administratively complete as of November 1, 1986, after notice and an opportunity for hearing has been extended to all affected parties as required under §§305.91-305.105 of this title (relating to Actions, Notice, and Hearing). However, the commission's decision on any application considered under this subsection shall not be constrained, in any manner, by the provisions of this subsection.~~

RULE §311.55 Lake Lyndon B. Johnson and Lake Marble Falls Watershed Management

~~Any proposed new or expanded treatment facility in the Lake Lyndon B. Johnson or Lake Marble Falls Watersheds but outside the Lake Lyndon B. Johnson and Lake Marble Falls Water Quality Areas may be permitted only if it provides disposal without discharge in accordance with §311.53 of this title (relating to Wastewater Disposal) or if the applicant establishes that any alternative proposed wastewater treatment and disposal will consistently protect and maintain the existing water quality of Lake Lyndon B. Johnson and Lake Marble Falls.~~

RULE §311.56 Allowable Storm Water Runoff and Certain Non-Storm Water Discharges

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

~~(a) The following discharges of storm water runoff into or adjacent to water in the state may be authorized by a Texas pollutant discharge elimination system (TPDES) permit or a national pollutant discharge elimination system (NPDES) permit:~~

- ~~–(1) storm water runoff from industrial facilities;~~
- ~~–(2) storm water runoff from municipal separate storm sewer systems; and~~
- ~~–(3) storm water runoff from construction activities.~~

~~(b) The following non-storm water discharges into or adjacent to water in the state may be authorized by a TPDES permit or a NPDES permit:~~

- ~~–(1) discharges from fire fighting activities;~~
- ~~–(2) discharges from fire hydrant flushings;~~
- ~~–(3) discharges from potable water sources, including drinking fountain water and water line flushings;~~
- ~~–(4) discharges from uncontaminated air conditioning or compressor condensate;~~
- ~~–(5) discharges from lawn watering and similar irrigation drainage;~~
- ~~–(6) discharges from pavement wash down without the use of detergents or other chemicals and where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed);~~
- ~~–(7) discharges from a routine external building wash down that do not use detergents or other compounds;~~
- ~~–(8) discharges from uncontaminated groundwater or spring water;~~
- ~~–(9) discharges from foundation or footing drains where flows are not contaminated with process materials such as solvents;~~
- ~~–(10) discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage; and~~
- ~~–(11) discharges of storm water or groundwater seepage from mine dewatering activities at construction sand and gravel, industrial sand, or crushed stone mining facilities.~~

Attachment B

Proposed Repeal

30 TEX. ADMIN. CODE §311, Subchapters A, B and F

~~(e) Nothing in this subchapter is intended to restrict the powers of the commission or any other governmental entity to prevent, correct, or curtail activities that result or may result in pollution in the water quality area. In addition to the rules of the commission, a TPDES permit applicant may also be required to comply with local pollution control ordinances and regulations.~~

RESOLUTION NO. 09-019-00

A RESOLUTION SUPPORTING A PETITION FOR RULEMAKING

WHEREAS, the City of Leander (the "City") desires to provide cost-effective retail water and wastewater service for its citizens and to conserve and reuse as much of the City's available water supply as possible;

WHEREAS, technology exists to produce high-quality reclaimed water that can be reused by the City and others within the Highland Lakes watershed;

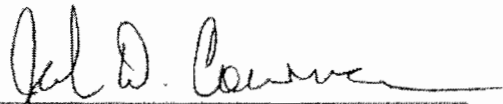
WHEREAS, the Texas Commission on Environmental Quality's ("TCEQ's") rules are inconsistent with respect to the conservation and use of reclaimed water within the Highland Lakes watershed;

WHEREAS, the City, in concert with the cities of Granite Shoals and Marble Falls, desires to file a petition requesting the TCEQ reconsider its rules related to the discharge and use of reclaimed water;

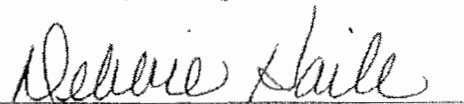
NOW THEREFORE, the City hereby directs the City manager as follows:

1. To prepare a petition for rulemaking to the TCEQ regarding rules related to the discharge and use of reclaimed water; and
2. To file the petition and arrange for the appearances of persons representing the City in the proceedings regarding the petition, and any associated rulemaking, before the TCEQ.

PASSED, ADOPTED, AND APPROVED this 6th day of August 2009



John D. Cowman, Mayor



Debbie Haile, City Secretary



The City of Granite Shoals

410 N. Phillips Ranch Road
Granite Shoals, Texas 78654

phone (830) 598-2424
fax (830) 598-6538

MINUTES

FOR A REGULAR MEETING

OF THE CITY COUNCIL OF THE CITY OF GRANITE SHOALS

**TUESDAY, MARCH 10, 2009
7:00 p.m.**

1. Mayor Frank Reilly called to order the Regular meeting of the City Council of the City of Granite Shoals at 7:15 p.m., Granite Shoals Municipal Complex, Council Chambers, 2101 N. Phillips Ranch Road, Granite Shoals, Texas.

Present:

Frank Reilly, Mayor
David Dittmar, Council member
Bessie Jackson, Council member
Shirley King, Council member
Dennis Maier, Council member
Merilyn Nations, Council member

City Staff:

John Gayle, City Manager
Brad Young, City Attorney
Ronda Reichle, City Secretary
Ken Francis, Building Official
Doug Cloud, Building Inspector
Katy, Municipal Court Clerk
Austin Stanphill, Fire Chief
J.P. Wilson, Chief of Police
Peggy Smith, Water Dept. Manager

Guests and Presentations:

Keith Neffendorf, CPA

2. Public comment and announcements. Roy Settlemyer spoke regarding street conditions.
3. Announcements and special recognitions from the mayor and council members. No announcements of special recognitions were made.
4. Updates and Presentations

- Presentation by Keith Neffendorf, C.P.A., Neffendorf, Knopp, Horry & Doss, P.C., review of 2007-2008 audit of the city of Granite Shoals, fiscal year ending September 30, 2008. Mr. Neffendorf presented the audit for FY 2007 – 2008 and there was discussion with city council regarding the audit.
- City Manager's report and updates on activities of city departments and related issues. John Gayle provided information and update on city projects and activities.

5. Consent Agenda

The items listed are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which case the item will be removed from the Consent Agenda prior to a motion and vote. The item will be considered in its normal sequence on the Regular Agenda.

(a) Approval of monthly departmental reports

Monthly reports are a summary of activities and accomplishment and information that is of interest of City Council and may or may not be discussed as determined by Council and Staff.

Building Inspector, *Ken Francis*

Code Enforcement, *Doug Cloud*

Municipal Court, *Katy Oliver*

* Fire Dept., *Austin Stanphill*

Police Dept., *J.P. Wilson*

Street Dept., *Joe Uvalle*

Parks Dept., *Joe Uvalle*

* Water Dept., *Peggy Allen-Smith*

* Denotes no report received

Motion was made by Merilyn Nations to approve the monthly departmental reports as presented. Seconded by Shirley King. Motion passed unanimously.

6. Regular Agenda.

Council will individually consider and possibly take action on any or all of the following items:

6-A Discussion and possible action regarding 2007-2008 audit of the city of Granite Shoals, fiscal year ending September 30, 2008. City Council reviewed the audit and spoke with Mr. Neffendorf regarding the audit. It was requested this item be continued to the March 24, 2009 meeting.

6-B Discussion and possible action regarding Contract Change Authorization, Amendment Number 1, between Freese & Nichols, Inc. and the city of Granite Shoals. Freese & Nichols project number GSH08444, project description: municipal building upgrade. Motion was made by Dennis Maier to approve the Contract Change Authorization, Amendment Number 1, between Freese & Nichols, Inc. and the city of Granite Shoals for Freese & Nichols project number GSH08444 municipal building upgrade. Seconded by David Dittmar. Motion passed unanimously.

6-C Discussion and possible action regarding Original Petition For Rulemaking. A petition for rulemaking by the city of Leander and the city of Granite Shoals, to repeal portions of 30 Tex. Admin. Code Chapter 311 related to the prohibition of discharging reclaimed water. Motion was made by Dennis Maier authorizing the Mayor and/or City Manager to pursue the draft Petition For Rulemaking. A petition for rulemaking by the city of Leander and the city of Granite Shoals, to repeal portions of 30 Tex. Admin. Code Chapter 311 related to the prohibition of

discharging reclaimed water. Seconded by David Dittmer. Motion passed unanimously.

6-D Discussion and possible action regarding Resolution No. 365 – A resolution affirming city of Granite Shoals' support of and partnership with the 2010 census. Motion was made by Dennis Maier to approve Resolution No. 365. Seconded by Marilyn Nations. Motion passed unanimously.

6-E Discussion and possible action regarding Ordinance No. 241-B Flood Damage Prevention Ordinance. Motion was made by Marilyn Nations to approve Ordinance No. 241-B Flood Damage Prevention Ordinance. Seconded by Bessie Jackson. Motion passed unanimously.

6-F Discussion and possible action regarding issues related to 131.6 acres of land and structures located thereon (formerly known as 360 Global) for municipal uses. No action was taken on this item.

6-G Discussion and possible action regarding all matters pertaining to the recovery and response to flood events, including authorization for expenditures and use of city property, employees and equipment. No action was taken on this item.

7. Work Session. (no action will be taken on the following items)

7-A Discussion regarding Ordinance No. 409 – Zoning Ordinance, Section XXVI Boat Docks. Council reviewed the draft ordinance, will review further at a future meeting.

7-B Discussion regarding clearing drainage areas on public and private property in order to prevent flood damage within the city. There was discussion regarding drainage and flood prevention.

8. Executive Session pursuant to sections 551.071 (consultation with attorney), 551.072 (deliberations about real property) and/or 551.087 (deliberations regarding economic development negotiations) of the Open Meetings Act, the City Council will meet in executive session to discuss the following:

(A) Consultation with attorney regarding pending litigation in Cause No. 32649, *Winder, et al vs. City of Granite Shoals, et al*, in the 33rd Judicial District Court of Burnet County, Texas;

(B) Executive Session pursuant to Texas Gov't Code 551.072, deliberations about real property and/or consultation with attorney to discuss matters pertaining to property acquisition for municipal uses;

(C) Matters pertaining to commercial or financial information that the city council has received from a business prospect that the city council may seek to have located in or near the city limits and with which the city council is conducting economic development negotiations;

- (D) Consultation with attorney regarding possible Municipal Utility Districts and associated developments;
- (E) Consultation with attorney regarding Cottonwood Shores' application for a new water and sewer certificate of convenience and necessity and the related litigation pending before the Texas Commission on Environmental Quality and the State Office of Administrative Hearings;
- (F) Consultation with attorney regarding legal issues relating to City's Warranty Deed program (Ordinance No. 477);
- (G) Consultation with attorney regarding clearing creeks and drainage areas on private property;
- (H) Consultation with attorney regarding legal issues relating to encroachment onto City Park (Robinhood Park);
- (I) Consultation with attorney regarding location of equipment owned by Zeecon Wireless on the Granite Shoals Municipal Building;
- (J) Consultation with attorney regarding legal issues pertaining to retaining walls placed at Park 13 (Belaire Park);
- (K) Matters pertaining to condemnation.

Adjourn Into Executive Session: 10:19 p.m.

Reconvene Into Open Session: 11:10 p.m.

- 9. Discussion and possible action on matters included in "Executive Session" portion of this agenda. There was no discussion or action taken on matters discussed in Executive Session.
- 10. Discussion regarding future agenda items. No items were requested.
- 11. Adjournment.

I, Ronda Reichle, City Secretary for the City of Granite Shoals, Texas, certify that the attached are true and correct Minutes taken from the tapes and notes of the City Council Regular meeting held on March 10, 2009.

S
Ronda Reichle, City Secretary

RESOLUTION NO. 2009-R-07B

**CITY OF MARBLE FALLS
RESOLUTION IN SUPPORT OF PETITION TO REPEAL 30 TEX. ADMIN. CODE
CHAPTER 311 RELATED TO THE PROHIBITION
OF DISCHARGING RECLAIMED WATER**

WHEREAS, the City of Marble Falls is a duly incorporated Home Rule City; and

WHEREAS, the City of Marble Falls owns and operates a wastewater treatment facility that is being expanded and upgraded to provide the highest quality of effluent which is eligible to be re-used under the Texas Commission on Environmental Quality ("TCEQ") rules related to reclaimed water;

WHEREAS, the City intends to reuse this reclaimed water for beneficial use on lands within Marble Falls however, the volume of reclaimed water generated by the City exceeds the available land needing the water for irrigation, which results in the City having to acquire land just to irrigate for no beneficial purpose at great costs to its citizens;

WHEREAS, the City of Marble Falls is interested in furthering the statewide public policy of efficiently utilizing and conserving *existing* water resources;

WHEREAS, the City believes that successful conservation and protection of our limited water resources can only be accomplished through consideration and utilization of all water supply options and resources;

WHEREAS, 30 Administrative Code Chapter 311 prevents the City of Marble Falls from being able to return its high quality effluent to the Colorado River thereby depleting the water supply available for beneficial use by others;

WHEREAS, this rule is contrary to the 2007 State Water Plan, *Water for Texas 2007*, which recognizes that reuse is an important water management strategy to meet the growing needs for water by the people of Texas;

WHEREAS, the rule prohibiting a discharge was adopted more than 20 years ago to protect water quality at a time when the wastewater treatment technology was far less protective than the technology today and the City believes that the reasons for the rule are no longer valid;

WHEREAS, several central Texas Cities intend to petition the TCEQ to repeal 30 Administrative Code Chapter 311 to further the goal of preserving and extending our water resources; and

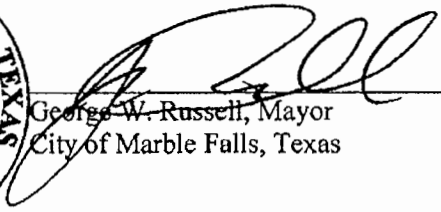
WHEREAS, the City of Marble Falls supports the beneficial reuse of reclaimed water and the conservation of our existing water supplies;

NOW THEREFORE, the City of Marble Falls, by declaration of the members of the City Council, and on behalf of the citizens of Marble Falls, hereby expresses their support for the

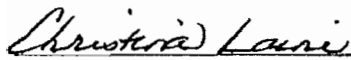
Petition to repeal portions of 30 Tex. Administrative Code Chapter 311 related to the prohibition of discharging reclaimed water.

PASSED AND APPROVED this 27th day of July, 2009.




George W. Russell, Mayor
City of Marble Falls, Texas

ATTEST:


Christina Laine, City Secretary
City of Marble Falls, Texas

(Seal)

APPROVED AS TO FORM:

Patty L. Akers, City Attorney
City of Marble Falls, Texas

RESOLUTION OF KINGSLAND MUNICIPAL UTILITY DISTRICT
In support of the Cities of Leander's and Granite Shoals' Petition to Texas Commission on Environmental Quality to Repeal the "Highland Lakes Rules" Concerning Lake Discharges

WHEREAS, the Cities of Leander and Granite Shoals have presented a Petition for Adoption of a Repeal of a Rule to the Texas Commission on Environmental Quality seeking the repeal of 30 TAC Chapter 311, Subchapters A, B, and F pursuant to the provisions of 30 Texas Administrative Code Chapter 20; and

WHEREAS, the District's Board of Directors has reviewed said Petition and is of the opinion that the granting of such Petition may facilitate well-planned centralized collection and treatment of domestic sewage to produce reclaimed water at reduced costs while firming up existing water supplies within the Basin.

Now, Therefore

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF KINGSLAND MUNICIPAL UTILITY DISTRICT:

Section 1. Findings.

The statements contained in the preamble of this Resolution are true and correct and are adopted as findings of fact and operative provisions hereof.

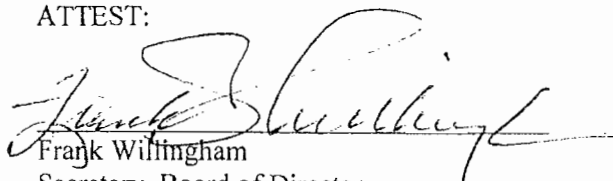
Section 2. Support for Petition

The Board of Directors hereby declares its support for the Petition filed by the Cities of Leander and Granite Shoals seeking the repeal of the Highland Lakes Rules which presently preclude new discharges into the Highland Lakes System under all circumstances.

PASSED AND EFFECTIVE this 24th day of August, 2009.


Mary Ann Hefner
President, Board of Directors
Kingsland Municipal Utility District

ATTEST:

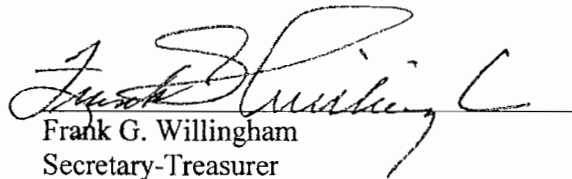

Frank Willingham
Secretary, Board of Directors
Kingsland Municipal Utility District

[DISTRICT SEAL]

CERTIFICATE

I, Frank G. Willingham, Secretary-Treasurer of the Board of Directors for Kingsland Municipal Utility District, do hereby certify that the attached and foregoing is a true and correct copy of a Resolution of Kingsland Municipal Utility District dated August 24, 2009, in support of the Cities of Leander's and Granite Shoals' Petition to Texas Commission on Environmental Quality to Repeal the "Highland Lakes Rules" concerning lake discharges, the original of which is on file in the office of the District.

Dated this the 24th day of August, 2009.



Frank G. Willingham
Secretary-Treasurer
Board of Directors
Kingsland Municipal Utility District

(SEAL)