

Texas Commission on Environmental Quality PM 2:39

TECHNICAL MEMORANDUM

CHIEF CLERKS OFFICE

To: Texas Commission on Environmental Quality **Date:** June 11, 2007

Thru: RC
RC Doug Holcomb, P.E., Manager, Utilities and Districts Section
RC Robert Cummins, P.E., Leader, Districts Review Team

From: Districts Review Team

Subject: Docket No. 2007-0512-DIS. Fort Bend County Water Control and Improvement District No. 8; Application for Approval of Additional Powers for Wastewater and Drainage; Pursuant to Texas Water Code Sections 51.331–51.333. TCEQ Internal Control No. 12152006-D03 (TC)
CN: 603138009 RN: 105135966

A. GENERAL INFORMATION

The Commission received an application from Fort Bend County Water Control and Improvement District No. 8 (the "District") requesting approval for additional powers to provide wastewater and drainage services to its customers as provided in Texas Water Code Sections 51.331–51.333 and 30 Texas Administrative Code (TAC) Section 293.15.

The District is located in Fort Bend County, approximately 3 miles north of downtown Richmond and 23 miles southwest of downtown Houston. The District is bounded on the south by F.M. 359, approximately 0.5 miles east of McCrary Road and 0.5 miles west of Precinct Line Road. The District is partially located within the extraterritorial jurisdiction of the City of Richmond.

The District was created by order of the Fort Bend County Commissioners Court on August 9, 2005, to provide water supply, treatment, and distribution facilities for the single-family residential development of Westcreek, adjoining commercial development along F.M. 359, and a potential mixed-use development. At the time of creation the District contained 53.32 acres. There have been no changes in the District's boundary since creation; however, the District may annex adjacent land in the future. The development plan provided with the application projects 42 equivalent single-family connections (ESFCs) for single-family development and 7 ESFCs for commercial development within the District's current area.

On November 8, 2005, the District's voters confirmed creation of the District, authorized the issuance of \$16,500,000 in unlimited tax bonds for water facilities, and authorized a maintenance tax not to exceed \$1.00 per \$100 assessed valuation. The District has not previously issued bonds and has no outstanding debt.

June 11, 2007

By Ordinance No. 2006-04, effective May 22, 2006, the City of Richmond gave its consent to the District's expansion of powers.

The District operates under Chapters 49 and 51 of the Texas Water Code.

B. ECONOMIC ANALYSIS

According to a Fort Bend Central Appraisal District certificate, the District's January 1, 2006, certified taxable assessed valuation is \$1,320,900. The projected assessed valuation of the District is estimated to be \$19,260,900 at full development. The projected valuation is based on the 2006 certified valuation, plus 42 homes at an average \$320,000 per home, plus commercial properties totaling \$4,500,000 in value. The District currently levies a maintenance tax of \$0.95 and, according to the engineering report, is projecting to levy a maintenance tax of \$0.42 in the future.

Considering an estimated bond issue requirement of \$1,185,000 (assuming 100% financing), a bond interest rate of 6%, and a 26-year bond life, the average annual debt service requirement would be \$91,240. Assuming a 90% collection rate and an ultimate assessed valuation of \$19,260,900, a tax rate of approximately \$0.55 per \$100 valuation would be necessary to meet the annual debt service requirement. The resulting combined projected tax rate of \$0.97 (\$0.55 debt service plus \$0.42 maintenance) is less than the \$1.50 limit prescribed by 30 TAC Section 293.59(k)(3)(A).

C. ENGINEERING ANALYSIS

Water Supply

Water supply is from the District's water plant, which includes a well with a capacity of approximately 150 gpm and a 2,500-gallon pressure tank.

Wastewater Treatment

The District does not provide wastewater service; therefore, the District does not levy wastewater service charges. Private aerobic on-site treatment systems are installed at the expense of each landowner and are administered and serviced by the property owners association.

Storm Water Drainage

Storm water from the District generally drains through open ditches and storm sewers, which eventually outfall into a tributary of Jones Creek, then to Jones Creek and the Brazos River. Due to the size of the residential lots and minimal impervious cover, storm water detention ponds are not required for residential development. The drainage design for commercial lots includes storm water detention ponds sized for commercial development only.

A Federal Emergency Management Agency flood insurance rate map dated January 3, 1997, shows a portion of the District in the 100-year floodplain. According to the engineering report, areas currently within the floodplain will be reclaimed by fill from the detention pond.

D. SUMMARY OF COSTS

<u>Construction Costs</u>	<u>District's Share</u> ⁽¹⁾⁽²⁾
A. Developer Contribution Items	
1. Water Plant	\$ 140,900
2. Westcreek – Water and Drainage	561,554
3. Engineering and Testing (15.0% of item nos. 1–2)	<u>105,300</u>
Total Developer Contribution Items	\$ 807,754
B. District Items – not applicable	
TOTAL CONSTRUCTION COSTS (68.2% of BIR)	\$ 807,754
<u>Nonconstruction Costs</u>	
A. Legal Fees (2.5%)	\$ 29,625
B. Fiscal Agent Fees (2%)	23,700
C. Interest	
1. Capitalized Interest (24 months @ 6%)	142,200
2. Developer Interest	96,930 ⁽³⁾
D. Bond Discount (3%)	35,550
E. Bond Issuance Expenses	20,093
F. Bond Application Report Costs	25,000
G. Attorney General Fee (0.10%)	1,185
H. TCEQ Bond Issuance Fee (0.25%)	<u>2,963</u>
TOTAL NONCONSTRUCTION COSTS	\$ 377,246
TOTAL BOND ISSUE REQUIREMENT	\$ 1,185,000

- Notes: (1) Projected costs based on estimates prior to any future annexation of land into the District. Assumes 100% funding of anticipated developer contribution items, where applicable.
- (2) The cost summary does not include wastewater facilities. According to the engineering report, such facilities may be provided upon future expansion of the District.
- (3) Estimated at 6% for two years.

The eligible reimbursement of utility costs will be determined in accordance with the Commission's Rules at the time bond applications are reviewed.

E. CONCLUSIONS

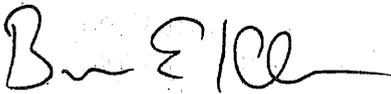
1. Based on a review of the application and supporting documents, the District's request to have the authority to provide for the purchase, maintenance, and operation of wastewater and drainage facilities for its customers is considered feasible.

June 11, 2007

2. The recommendation is made under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

F. RECOMMENDATION

Grant the District's request for additional power to provide wastewater and drainage services to its residents in accordance with Texas Water Code Sections 51.331–51.333 and 30 TAC Section 293.15.



Brian E. Kline
Districts Review Team

Draft: August 9, 2007

DOCKET NO. 2007-0512-DIS

AN ORDER AUTHORIZING ADDITIONAL POWERS TO
FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 8

On September 19, 2007, the Texas Commission on Environmental Quality (hereafter "Commission") met in regular session at its offices in Austin, Texas, with notice of the meeting issued in compliance with the Open Meetings Act, TEX. GOVT. CODE §§ 551.001–551.146, and the Administrative Procedure Act, TEX. GOVT. CODE §§ 2001.001–2001.902, to consider the application of Fort Bend County Water Control and Improvement District No. 8 (hereafter "District") for additional powers to provide wastewater and drainage services within the District pursuant to TEX. WATER CODE §§ 51.331–51.333 and 30 TEX. ADMIN. CODE § 293.15.

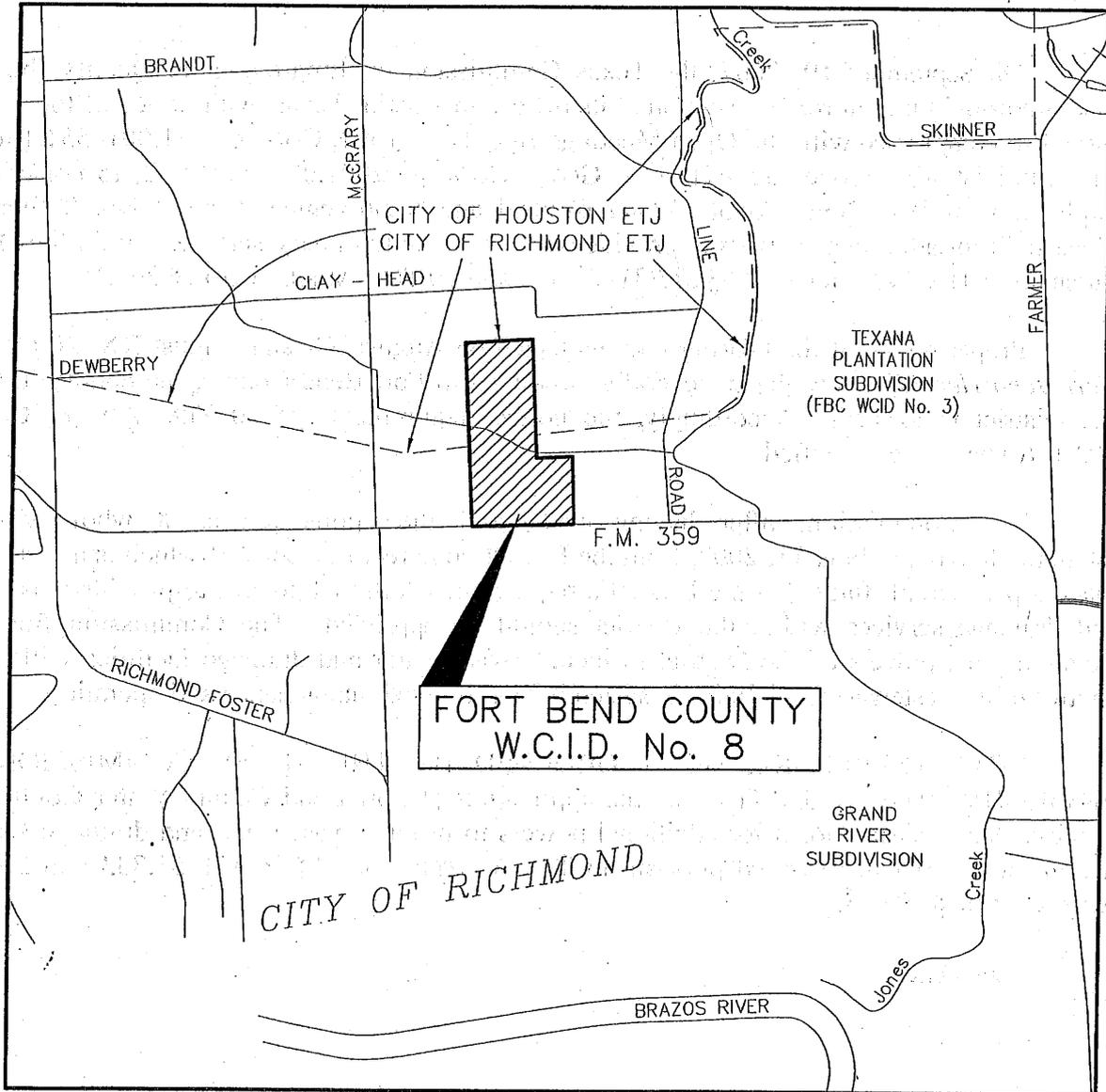
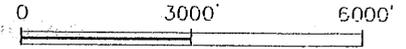
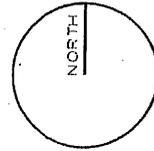
Proper notice of the hearing was published on August XX and August XX, 2007, in the *Fort Bend Herald*, a newspaper generally circulated in Fort Bend County, the county in which the District is located. Accordingly, the notice requirements of 30 TEX. ADMIN. CODE § 293.15(c) have been satisfied.

The Commission, after having considered the application as a whole and the memorandum dated June 11, 2007, from the Executive Director, a copy of which is attached and made a part hereof, finds that the District's request for additional powers to provide wastewater and drainage services within the District should be approved. The Commission finds that expanding the powers of the District to include wastewater and drainage facilities will give it control of its wastewater and drainage systems for continued maintenance and operation.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the application of Fort Bend County Water Control and Improvement District No. 8 for additional powers to provide wastewater and drainage services within the District is approved pursuant to TEX. WATER CODE §§ 51.331–51.333 and 30 TEX. ADMIN. CODE § 293.15.

Issue Date:

For the Commission



**EXHIBIT 1
LOCATION MAP**

EXPANSION OF POWERS
ADDITION OF WASTEWATER AND DRAINAGE POWERS
FORT BEND COUNTY W.C.I.D. No. 8

MAILING LIST

Docket No. 2007-0512-DIS
Fort Bend County Water Control and Improvement District No. 8
TCEQ Internal Control No. 12152006-D03

Mr. Josh H. Kahn
Coats Rose Yale Ryman & Lee PC
3 E. Greenway Plaza – Suite 2000
Houston, Texas 77046-0307

Mr. Trey Schneider, P.E.
PBK Inc.
11 E. Greenway Plaza – Suite 2210
Houston, Texas 77046

Ms. Donna Phillips
TCEQ Region 12
5425 Polk St. – Suite H
Houston, Texas 77023-1452

Fort Bend County Clerk
Attn: Dianne Wilson, Ph.D.
301 Jackson St.
Richmond, Texas 77469

City of Richmond
Attn: Mona Matak, City Secretary
402 Morton St.
Richmond, Texas 77469

Houston-Galveston Area Council
Community and Environmental Planning – Forecast Group
3555 Timmons Ln. – Suite 120
Houston, Texas 77027

Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Todd Galiga, Senior Attorney, Environmental Law Division, MC-173
Brian Kline, Technical Manager, Utilities & Districts Section, MC-152
Komal Patel, Utilities & Districts Section, MC-153
Blas Coy, Office of Public Interest Counsel, MC-103

CERTIFICATE FOR APPLICATION
FOR APPROVAL BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OF EXPANSION OF POWERS

THE STATE OF TEXAS

COUNTY OF FORT BEND

FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 8

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We, the undersigned officers of the Board of Directors (the "Board") of Fort Bend County Water Control and Improvement District No. 8 (the "District"), hereby certify as follows:

1. The Board convened in organizational session, open to the public, on the 30th day of August, 2005, at a meeting place inside the District, and the roll was called of the members of the Board, to-wit:

- | | | |
|-------------------|---|---------------------|
| Don Dulin | - | President |
| Carla Goehring | - | Vice President |
| Michael C. Prokop | - | Secretary |
| Basil MacDonald | - | Assistant Secretary |
| Scott Winkley | - | Assistant Secretary |

All members of the Board were present, except the following: All Present, thus constituting a quorum. Whereupon, among other business, the following was transaction at such meeting:

CERTIFICATE FOR APPLICATION FOR APPROVAL BY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY OF EXPANSION OF POWERS

was duly introduced for the consideration of the Board. It was then duly moved and seconded that such Application be adopted; and, after due discussion, such motion, carrying with it the adoption of said Application, prevailed and carried by the following vote:

AYES: 5

NOES: 0

2. A true, full, and correct copy of the aforesaid Application adopted at the meeting described in the above and foregoing paragraph is attached to and follows this Certificate; such Application has been duly recorded in said Board's minutes of such meeting; the above and foregoing paragraph is a true, full, and correct excerpt from the Board's minutes of such meeting pertaining to the adoption of such Application; the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of the Board as indicated therein; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance of the time, place, and purpose of such meeting and that such Application would be introduced and considered for adoption at such meeting and each of such officers and members consented, in advance, to the holding of such meeting for such purpose; such meeting was open to the public, as required by law, and public notice of the time, place and purpose of such meeting was given as required by V.T.C.A. Government Code, Chapter 551.

SIGNED AND SEALED the 30th day of August, 2005





President, Board of Directors

APPLICATION FOR APPROVAL BY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OF EXPANSION OF POWERS

THE STATE OF TEXAS

COUNTY OF FORT BEND

FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 8

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TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW Fort Bend County Water Control and Improvement District No. 8 (herein called "Applicant" or "District"), and files and presents this Application and requests the Texas Commission on Environmental Quality (the "Commission") take such action thereon as provided by law, and would respectfully show the following:

I.

Applicant desires that the Commission hold a hearing on the question of the addition of wastewater and drainage powers for the District as set forth in the Engineer's Report.

II.

In connection with such expansion of powers, Applicant submits this Application for investigation, together with a copy of its Engineer's Report and a copy of data, profiles, maps, plans and specifications prepared in connection therewith. Applicant will furnish additional data and information requisite to a reasonable and careful investigation of the projects and the proposed improvements to the Commission or its designated agents upon request.

III.

It is in the best interest of Applicant and essential to Applicant's improvement program and progress that said Application for Expansion of Wastewater and Drainage Powers be approved by the Commission at this time.

NOW, THEREFORE, APPLICANT PRAYS that the Texas Commission on Environmental Quality investigate, report upon, and approve the feasibility of the expansion of wastewater and drainage powers, the Engineer's Report and data, profiles, maps, plans and specifications prepared in connection therewith, Applicant's proposed plans and improvements; and that this Honorable Commission approve all other matters and do all other things required of it by law, and by the Rules of this Honorable Commission in connection with this Application; and that this Honorable Commission make a full written report on the foregoing, file same in the Office of the Commission, furnish a copy of same to the Board of Directors of Applicant; and that Applicant may have other relief to which it may show itself justly entitled.

PASSED, ADOPTED, and ORDERED this 26th day of October, 2006.

/s/ Don Dulin
President, Board of Directors

ATTEST:

/s/ Michael C. Prokop
Secretary, Board of Directors

CERTIFICATE OF ORDINANCE NO. 2006-04

CITY OF RICHMOND, TEXAS

I, the undersigned City Secretary of the City of Richmond, hereby certify that the attached and foregoing is a true and correct copy of Ordinance No. 2006-04 Ordinance of City of Richmond, Texas Giving Consent to The Expansion of Powers of Fort Bend County Water Control And Improvement District No. 8. I further certify that said Ordinance was passed and approved by the City Commission of the City of Richmond on May 22, 2006.

WITNESS MY HAND AND SEAL OF THE CITY OF RICHMOND, the 22nd day of May, 2006.

Mona Matab
City Secretary, City of Richmond

(CITY SEAL)

ORDINANCE NO. 2006-04

ORDINANCE OF CITY OF RICHMOND, TEXAS GIVING CONSENT TO THE
EXPANSION OF POWERS OF FORT BEND COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 8

WHEREAS, pursuant to Ordinance No. 2005-10 (the "Consent Ordinance"), dated June 20, 2005, the City Commission of the City of Richmond, Texas consented to the creation of Fort Bend County Water Control and Improvement District No. 8 (the "District"), located within the extraterritorial jurisdiction of the City of Richmond; and

WHEREAS, the Consent Ordinance provided that the general nature of the work to be done in the District is the construction, acquisition, maintenance and operation of a waterworks system; and

WHEREAS, the District has submitted to the Mayor and City Commission of the City of Richmond a Petition for Consent to Expansion of Powers to include sanitary sewer and storm drainage powers; and

WHEREAS, the City Commission of the City of Richmond desires to consent to the expansion of powers of the District to include sanitary sewer and storm drainage powers,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RICHMOND, TEXAS that:

Section 1. The matters and facts set out in the preamble hereof be true and correct.

Section 2. The City Commission of the City of Richmond, Texas, hereby specifically gives its written consent to the expansion of powers of Fort Bend County Water Control and Improvement District No. 8 to include sanitary sewer and storm drainage powers subject to the conditions set forth in Exhibit A.

PASSED AND APPROVED by the City Commission of the City of Richmond, Texas on this 22nd day of May, 2006.

William H. Moore
Mayor, City of Richmond

ATTEST:

Mona Matak
City Secretary, City of Richmond

EXHIBIT A

(a) Bonds will be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing, or under contract with the City of Richmond, Texas (the "City"), or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way easements, sites, equipment, buildings, plants, structures, and facilities therefor, and to operate and maintain same, and to sell water, sanitary sewer, and other services within or without the boundaries of the District. Such bonds will expressly provide that the District reserves the right to redeem said bonds on any payment date subsequent to the 15th anniversary of the date of issuance without premium and will be sold only after the taking of public bids therefor, and none of such bonds, other than refunding bonds, will be sold for less than 95 percent of par; provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than 45 days after notice of sale of the bonds is given. The resolution authorizing the issuance of the District's bonds payable from revenues will contain a provision that the pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the City annexes the District, takes over the assets of the District and assumes all of the obligations of the District. No land will be added or annexed to the District until the City has given its written consent by resolution of the City Commission to such addition or annexation.

(b) Before the commencement of any construction within the District, the District, its directors, officers, or the developers and landowners will submit to the City all plans and specifications for the construction of water, sanitary sewer, and drainage facilities to serve such District and obtain the approval of such plans and specifications. All water wells, water meters, flushing valves, valves, pipes, and appurtenances thereto, installed or used within the District, will conform exactly to the specifications of the City. All water service lines and sewer service lines, lift stations, sewage treatment facilities, and appurtenances thereto, installed or used within the District will comply with the City's standard plans and specifications. Prior to the construction of such facilities within the District, the District or its engineer will give written notice by registered or certified mail to the City Manager, stating the date that such construction will be commenced. The construction of the District's water, sanitary sewer, and drainage facilities will be in accordance with the approved plans and specifications and with applicable standards and specifications of the City; and during the progress of the construction and installation of such facilities, the City's representative, may make periodic on-the-ground inspections.

(c) if operating a sewer plant, the District will agree to employ a sewage plant operator holding a valid certificate of competency issued under the direction of the Texas

Department of Health as required by Section 341.034, Texas Health and Safety Code. The District will agree to make periodic analyses of its discharge pursuant to the provisions of the Texas Water Quality Board Order No. 69-1219-1 and further to send copies of all such effluent data to the City as well as to the Texas Commission on Environmental Quality. The District will agree that representatives of the City may supervise the continued operations of the sewage treatment facility by making periodic inspections thereof.

(d) The District, its board of directors, officers, developers, and/or landowners will not permit the construction of or commit to any development within the District that will result in a wastewater flow to the serving treatment facility which exceeds that facility's legally permitted average daily flow limitations or the District's allocated capacity therein.

(e) Prior to the sale of any lot or parcel of land, the owner or the developer of the land included within the limits of the District will obtain the approval of the City of a plat which will be duly recorded in the Plat Records of Fort Bend County, Texas, and otherwise comply with the rules and regulations of the City.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Texas Commission on Environmental Quality **Date:** June 11, 2007

Thru: RC Robert Cummins, P.E., Leader, Districts Review Team

From: Districts Review Team

Subject: Docket No. 2007-0512-DIS. Fort Bend County Water Control and Improvement District No. 8; Application for Approval of Additional Powers for Wastewater and Drainage; Pursuant to Texas Water Code Sections 51.331–51.333. TCEQ Internal Control No. 12152006-D03 (TC) CN: 603138009 RN: 105135966

DESCRIPTION OF APPLICATION

Applicant: Fort Bend County Water Control and Improvement District No. 8 (the "District")

Request: Request for additional powers to provide wastewater and drainage services

Type: Additional powers to provide wastewater and drainage services

Authority: Texas Water Code Sections 51.331–51.333 and 30 TAC Section 293.15

STAFF RECOMMENDATION

Grant the District's request for additional powers to provide wastewater and drainage services.

TECHNICAL INFORMATION

General: Expanding the powers of the District to include wastewater and drainage facilities will give it control of its wastewater and drainage systems for continued maintenance and operation. The District's current tax rate can support the acquisition and maintenance of wastewater and drainage facilities.

ANTICIPATED RESPONSE

General agreement with staff recommendation.

CONTACT

BC Brian Kline, Technical Manager, Districts Review Team – 239-6014