

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 18, 2011

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: Docket No. 2010-1584-DIS
Palo Pinto County Water Control and Improvement District No. 1; Application for
Approval of Additional Powers for Wastewater, Pursuant to Texas Water Code
Sections 51.331-51.333
TCEQ Internal Control Number 06012010-D02(TC)
CN: 603332966 RN: 105477798

Dear Ms. Castañuela:

Enclosed, please find the original and 7 copies of the agenda backup for the above referenced matter which is set for the March 9, 2011 Commission agenda. The backup consists of 1) a draft order; 2) Attachment A - the Technical Memorandum; 3) a map of the proposed land use plan; 4) the mailing list; 5) the Resolution Authorizing Application for the Addition of Wastewater Powers and Requesting a Public Hearing; and 6) the Executive Summary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dinniah C. Tadema".

Dinniah C. Tadema
Staff Attorney
Environmental Law Division

cc: Mailing List

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



DOCKET NO. 2010-1584-DIS

AN ORDER AUTHORIZING ADDITIONAL POWERS TO PALO PINTO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1

On March 9, 2011, 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 Palo Pinto County Water Control and Improvement District No. 1 (hereafter "District") for additional powers to provide wastewater 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 January 6, 2011 and January 14, 2011 in the Mineral Wells Index, a newspaper generally circulated in Palo Pinto 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 November 22, 2010, from the Executive Director, a copy of which is attached and made a part hereof as Attachment A, finds that the District's request for additional powers to provide wastewater services within the District should be approved. The Commission finds that expanding the powers of the District to include wastewater facilities will give it control of its wastewater systems for continued maintenance and operation. The Commission finds that the District's request for additional wastewater powers is feasible and practical, will benefit the land, and will further public welfare.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the application of Palo Pinto County Water Control and Improvement District No. 1 for additional powers to provide wastewater services within the District is approved pursuant to TEX. WATER CODE §§ 51.331–51.333 and 30 TEX. ADMIN. CODE § 293.15. The District is directed that its board may not issue a money obligation to finance wastewater services until the District's request for additional powers to provide wastewater services within the District is approved.

Issue Date:

Bryan W. Shaw, Ph.D., Chairman

Attachment A

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Linda Brookins, Director
Water Supply Division

Date: November 22, 2010

Thru: ^{RN} Tammy Benter, Manager, Utilities and Districts Section
^{RN} Alex A. (Skip) Ferris, P.E., Leader, Districts Bond Team

From: Districts Bond Team

Subject: Docket No. 2010-1584-DIS. Palo Pinto County Water Control and Improvement District No. 1; Application for Approval of Additional Powers for Wastewater; Pursuant to Texas Water Code Sections 51.331-51.333.
TCEQ Internal Control No. 06012010-D02 (TC)
CN: 603332966 RN: 105477798

A. GENERAL INFORMATION

The Commission received an application from Palo Pinto Water Control and Improvement District No. 1 (the "District") requesting approval for additional powers to provide wastewater services 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 Palo Pinto County, approximately 25 miles northwest of the City of Mineral Wells, around Possum Kingdom lake. The District includes four tracts, two (264.3 and 1.75 acres) are contiguous and are located west of Farm-to-Market Road 2353, and south of Park Road 36, and the other two (11.33 and 24.395 acres) are contiguous and are located west of intersection of Park Road 36 and Farm-to-Market Road 2951.

The District was created by order of the Palo Pinto County Commissioners Court on August 27, 2007 as a Fresh Water Supply District under Texas Water Code chapter 53. By Board resolution on September 2, 2009 the District converted to a Water Control and Improvement District under Texas Water Code chapter 51. According to revised land use tables there are 28 non-residential equivalent single-family connections (ESFCs) [wastewater flow of 9,680 (450+500+150+6,900+1,680) gpd/350 gpd per ESFC] and 76 residential ESFCs, for a total of 104 ESFCs as of October 7, 2010. According to the engineering report and based on a current District area of 301.78 acres, the District's ultimate development is projected to serve 457 residential and 51 (17,980 gpd/350 gpd per ESFC) non-residential ESFCs, for a total of 508 ESFCs on 178.17 developable acres.

The District's application indicates that the District is not within the corporate limits or extraterritorial jurisdiction of any municipality. The District operates under Chapters 49 and 51 of the Texas Water Code.

B. ECONOMIC ANALYSIS

According to a Palo Pinto Appraisal District certificate, the District's January 1, 2010 certified taxable assessed valuation is \$44,427,160. The assessed valuation of the District at build-out is estimated to be \$238,900,000, including \$238,500,000 for single family homes and \$400,000 for commercial.

Considering an estimated bond issue requirement of \$6,525,036 (assuming 100% financing), a bond interest rate of 6.5%, and a 25-year bond life, the average annual debt service requirement would be \$534,932. Assuming a 97% collection rate, and an ultimate assessed valuation of \$238,900,000, a tax rate of approximately \$0.23 per \$100 valuation would be necessary to meet the annual debt service requirement. Application material indicates that the District intends to levy a tax of \$0.40, which after subtracting \$0.23 for debt service, leaves \$0.17 for maintenance. The resulting combined projected tax rate of \$0.40 (\$0.23 debt service plus \$0.17 maintenance) is less than the \$1.00 limit prescribed by 30 TAC Section 293.59(k)(3)(C).

C. ENGINEERING ANALYSIS

Water Supply

The District is located within the Certificate of Convenience and Necessity (CCN) of Possum Kingdom Water Supply Corporation (PKWSC). PKWSC owns and operates the water system and water mains within the District and provides retail water service to District customers.

Wastewater Treatment

Wastewater treatment for the District is provided by the Hill Country Harbor Wastewater Treatment Plant with a capacity of 0.1 MGD. TPDES Permit No. WQ0014173001 authorizes the plant to discharge a final flow of 0.10 MGD. Based on a design factor of 350 gallons per day (gpd) per ESFC, the District's 0.10 MGD plant can serve 285 ESFCs.

Storm Water Drainage

Storm water from within the District generally drains through roadside ditches to natural channels, and then to Possum Kingdom lake.

D. SUMMARY OF COSTS

<u>Construction Costs</u>	<u>District's Share</u>	(1)
A. Developer Contribution Items		
1. Water Distribution Improvements	\$ 574,255	
2. Wastewater Collection Improvements	1,163,111	
Total Developer Contribution Items	\$ 1,737,366	(2)

B. District Items		
Wastewater Treatment Plant	\$ 2,085,470	
Total District Items	\$ 2,085,470	(2)
TOTAL CONSTRUCTION COSTS (58.6% of BIR)	\$ 3,822,836	
<u>Nonconstruction Costs</u>		
A. Legal Fees (2.5%)	\$163,126	
B. Fiscal Agent Fees (2%)	130,501	
C. Interest		
1. Capitalized Interest (24 months @ 6.5%)	848,255	
2. Developer Interest (24 months @ 6.5%)	848,255	
D. Bond Discount (3%)	195,751	
E. Bond Issuance Expenses	124,999	
F. Operating Expenses	100,000	
G. Creation Expenses	100,000	
H. Bond Application Report Costs	175,000	
I. TCEQ Bond Issuance Fee (0.25%)	16,313	
TOTAL NONCONSTRUCTION COSTS	\$2,702,200	
TOTAL BOND ISSUE REQUIREMENT	\$6,525,036	

Note: (1) Assumes 100% funding of anticipated developer contribution items.
(2) Includes construction, contingencies, and engineering costs.

The eligible reimbursement of utility costs will be determined in accordance with rules in effect at the time bond applications are reviewed.

E. SPECIAL CONSIDERATIONS

1. Voter Authorization

Information on file indicates that District voters authorized the issuance of \$15,840,272 in bonds for water, wastewater and drainage facilities on November 16, 2009.

2. Retaining Powers

The District converted from a FWSD to a WCID on September 2, 2009, and in its order indicated it would retain powers in Texas Water Code Sections 53.029-53.041. However, it does not appear the District could retain the power under 53.029 at the time of conversion to a WCID since Palo Pinto County did not contain 1.3 million people and have a city with 1.0 million people, or located adjacent to a county meeting those population requirements.

F. 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 facilities for its customers is considered feasible.
2. The recommendations are made under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

G. RECOMMENDATIONS

Grant the District's request for additional powers to provide wastewater services in accordance with Texas Water Code Sections 51.331- 51.333 and 30 TAC Section 293.15.



Prabin Basnet
Districts Bond Team

EXHIBIT 4
PROPOSED LAND USE PLAN
 PALO PINTO COUNTY WATER
 CONTROL & IMPROVEMENT
 DISTRICT No. 1

KEY TO FEATURES

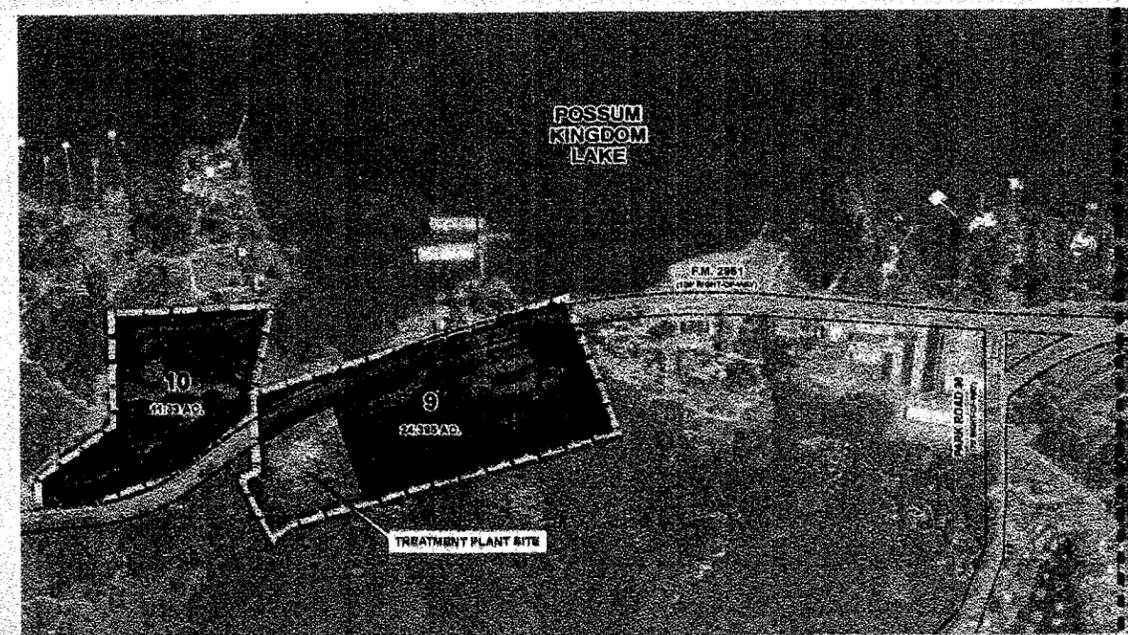
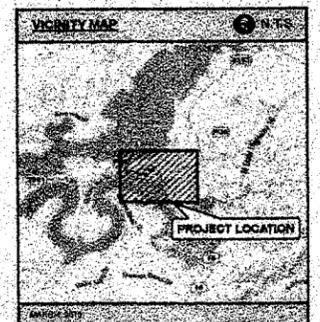
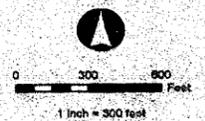
- LAND USE SECTION BOUNDARY
- - - - - PROPOSED PRIVATE ACCESS EASEMENT
- EXISTING PUBLIC ROW
- - - - - EXISTING PRIVATE ACCESS EASEMENT
- - - - - EXISTING DISTRICT BOUNDARY
- ▒ PROPOSED COMMERCIAL
- ▒ PROPOSED DISTRICT TREATMENT FACILITY
- ▒ PROPOSED OPEN SPACE
- ▒ PROPOSED RESIDENTIAL

LAND USE TABLE

No.	AREA (ACRE)
1	21.28
2	18.83
3	44.14
4	1.75
5	67.86
6	14.44
7	78.28
8	18.87
9	24.396
10	11.33
TOTAL	381.778

DATUM

NAD 1983 Texas State Plane
 North Central Zone FIPS 4202
 NGVD 29



MAILING LIST

Docket No. 2010-1584-DIS
Palo Pinto County Water Control and Improvement District No. 1
TCEQ Internal Control No. 06012010-D02 (TC)

Mr. Ross Martin
Kelly Hart & Hallman LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102

Mr. Jay C. London, P.E.
Pacheco Koch Consulting Engineers
8350 N Central Expy, Suite 1000
Dallas, Texas 75206-1612

Mr. Todd C. McCall, President
Palo Pinto WCID 1
70 Oyster Bay
Graford, Texas 76449-5103

Mr. Tony Walker
TCEQ Region 4
2309 Gravel Drive
Fort Worth, Texas 76118

Palo Pinto County Clerk
Attn: Bobbie Smith
P.O. Box 219
Palo Pinto, Texas 76484

North Central Texas Council of Governments
R. Michael Eastland, Executive Director
P.O. Box 5888
Arlington, Texas 76005

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

Todd Galiga, Senior Attorney, Environmental Law Division, MC-173
Dinniah Tadema, Attorney, Environmental Law Division, MC-173
Komal Patel, Utilities & Districts Section, MC-153
Blas Coy, Office of Public Interest Counsel, MC-103

**RESOLUTION AUTHORIZING APPLICATION FOR THE ADDITION OF
WASTEWATER POWERS AND REQUESTING A PUBLIC HEARING**

STATE OF TEXAS §

COUNTY OF PALO PINTO §

PALO PINTO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1§

The Board of Directors ("Board" or "Board of Directors") of Palo Pinto County Water Control and Improvement District No.1 (the "District") met in special session, open to the public, after due notice, at an authorized meeting place outside the boundaries of the District, on December 8, 2009 whereupon the roll was called of the members of the Board of Directors, to-wit:

Todd McCall	President
Melissa Wilson	Vice President
James Smith	Secretary
Mark Dannehl	Treasurer/Asst. Secretary
Ric Hayward	Assistant Secretary

All members of the Board were present and participated in the meeting except Director Hayward.

WHEREUPON, among other business conducted by the Board, Director McCall introduced the resolution set out below and moved its adoption, which motion was seconded by Director Dannehl and after full discussion and the question being put out to the Board of Directors, said motion was carried by the following vote:

"Aye" 4 ; "No": 0.

The Resolution thus adopted is as follows:

WHEREAS, the District was originally created as a fresh water supply district operating under Chapters 49 and 53, Texas Water Code, with the power to operate sanitary sewer systems pursuant to election by the voters of the District in accordance with Chapter 53, Water Code; and

WHEREAS, the Board deemed it appropriate to consider the conversion of the District from a fresh water supply district operating pursuant to Chapters 49 and 53, Texas Water Code to a water control and improvement district operating pursuant to Chapters 49 and 51, Texas Water Code; and

WHEREAS, in resolution to continue operating the District's wastewater system, the Board deems it appropriate to hold a local public hearing on the addition and confirmation of such wastewater powers pursuant to 30 Texas Administrative Code §293.15;

WHEREAS, after holding such public hearing, the Board deems it appropriate to apply to the Texas Commission on Environmental Quality (the "Commission") for the addition of wastewater powers to the stated purposes of the District; and

WHEREAS, the Board deems it appropriate to request a public hearing by the Commission on the addition and confirmation of such wastewater powers pursuant to 30 Texas Administrative Code §293.15.

IT IS, THEREFORE, ORDERED BY THE BOARD OF DIRECTORS OF PALO PINTO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 THAT:

I.

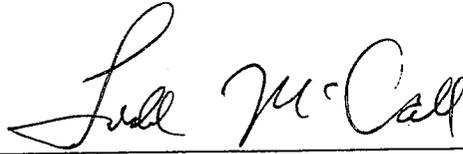
In accordance with 30 Texas Administrative Code §293.15, and after a duly held public hearing for consideration of the addition of wastewater powers to Palo Pinto County Water Control and Improvement District No. 1, a conservation and reclamation district operating pursuant to Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 51, Texas Water Code, the Board hereby orders and authorizes the preparation and filing of an application by the District to the Commission for the addition of wastewater powers to the stated purposes of the District.

II.

The Board hereby requests that the Commission hold a hearing on the addition of wastewater powers to the District, in accordance with 30 TAC §293.15, and finds that the District is not within the corporate limits or extraterritorial jurisdiction of any municipality, therefore the notice provision in §293.15(c)(2) is not applicable.

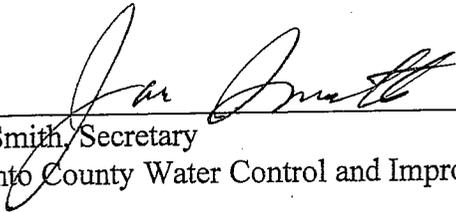
The President is authorized to execute and the Secretary to attest this Resolution on behalf of the Board and District.

PASSED, ORDERED AND APPROVED this 8th day of December, 2009.



Todd McCall, President
Palo Pinto County Water Control and Improvement District
No. 1

ATTEST:



James Smith, Secretary
Palo Pinto County Water Control and Improvement District No. 1



Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners of the Texas
Commission on Environmental Quality

Date: November 22, 2010

Thru: *RN*^{fi} Tammy Benter, Manager, Utilities and District Section
RN^{fi} Alex A. (Skip) Ferris, P.E., Leader, Districts Bond Team

From: Districts Bond Team

Subject: Docket No. 2010-1584-DIS. Palo Pinto County Water Control and Improvement District No. 1; Application for Approval of Additional Powers for Wastewater; Pursuant to Texas Water Code Sections 51.331-51.333. TCEQ Internal Control No. 06012010-D02 (TC) CN: 603332966 RN: 105477798

DESCRIPTION OF APPLICATION

Petitioner: Board of Directors of Palo Pinto County WCID No. 1.
Request: Approval of Wastewater Powers.
Type: Additional Powers.
Authority: Texas Water Code Sections 51.331-51.333.

STAFF RECOMMENDATIONS Grant the request for addition of wastewater powers.

TECHNICAL INFORMATION

General: The District was created by order of the Palo Pinto County Commissioners Court on August 27, 2007 as a Fresh Water Supply District under Texas Water Code chapter 53. By Board resolution on September 2, 2009 the District converted to a Water Control and Improvement District under Texas Water Code chapter 51.

ANTICIPATED RESPONSE General agreement with the staff's recommendation.

CONTACTS

Skip Ferris, 4571, Prabin Basnet, 0881, Districts Bond Team
Kayla Murray, 4761, Staff Attorney

Prepared by: Prabin Basnet November 22, 2010
Districts Review Team Date