

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*

**NOTICE OF HEARING**

**TCEQ DOCKET NO. 2012-0421-MLM**

Dear Mr. Martin:

The Texas Commission on Environmental Quality (TCEQ) will consider the Executive Director's petition for the dissolution of the Bexar Metropolitan Water District pursuant to SB 341 at the following public meeting:

**9:30 a.m. – May 30, 2012**  
**12100 Park 35 Circle, Bldg E, Room 201**  
**Austin, Texas**

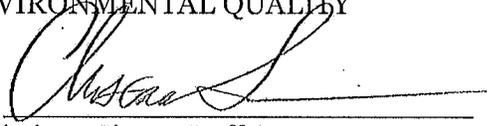
Enclosed please find the following documents:

1. The Petition for Dissolution and attachments;
2. Proposed order.

Any questions or comments may be addressed to Mr. Christiaan Siano, Staff Attorney, Environmental Law Division, Texas Commission on Environmental Quality, MC-173 P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6743.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

By: 

Christiaan Siano, Staff Attorney  
Environmental Law Division  
Texas State Bar No. 24051335  
P.O. Box 13087, MC-173  
Austin, Texas 78711-3087  
(512) 239-6743  
(512) 239-0606 (Fax)

REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

cc: TCEQ Office of the Chief Clerk

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**TCEQ DOCKET NO. 2012-0421-MLM**

<b>IN THE MATTER OF THE TRANSFER</b>	<b>§</b>	<b>BEFORE THE</b>
<b>OF BEXAR METROPOLITAN WATER</b>	<b>§</b>	
<b>DISTRICT TO THE SAN ANTONIO</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>WATER SYSTEM IN BEXAR,</b>	<b>§</b>	
<b>MEDINA, AND ATASCOSA</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>COUNTIES, TEXAS</b>	<b>§</b>	

**PETITION FOR DISTRICT DISSOLUTION**

NOW COMES the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission), by and through a representative of the Commission's Environmental Law Division, and files the Petition for District Dissolution under the Commission's statutory mandate to dissolve the Bexar Metropolitan Water District (the District) pursuant to SB 341. In support thereof, the ED shows the following:

The 82nd Legislature, Regular Session (2011), passed Senate Bill 341 (Attachment A), of which Section 4.01, §50(e) provides that "After the Commission has transferred the property, assets, and liabilities as prescribed by this section, the Commission shall enter an order dissolving the District." All the property, assets, and liabilities of the district have been transferred as provided in §50(e). Accordingly, the ED requests that the Commission enter an order dissolving the District.

**I. Background**

In 2011, the 82nd Regular Texas Legislature enacted Senate Bill 341 (the Bill)(effective June 17, 2011), concerning the dissolution of the Bexar Metropolitan Water District (the District) and the assumption of the District by the City of San Antonio, Texas, acting by and through the San Antonio Water System (SAWS).<sup>1</sup> The Bill contemplated a lengthy transition period by requiring the TCEQ to conduct an evaluation addressing, among other things, methods for rehabilitating the District.<sup>2</sup> However, already by November 8, the proposition to dissolve the district was precleared by the DOJ and placed on the ballot. The ratepayers voted in favor of dissolving the District. The election results were canvassed by the District on November 18, and certified to the Secretary of State on November 28. On January 27, 2012 the DOJ precleared the election results (Attachment B), which triggered the expiration of the term of office of each of member of the District's governing body and the transfer of the control of the

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<sup>1</sup> The election for dissolution was precleared by the United States Department of Justice (DOJ) on September 6, 2011.

<sup>2</sup> The ED contracted evaluation to be performed by the New Mexico Institute of Mining and Technology, Environmental Finance Center ("EFC").

operation and management of the District to SAWS, under SB 341 Section 4.01, §50(a). The DOJ's letter also triggered a 90 day deadline for the ED to transfer the District to SAWS. See SB 341 Sections 4.01, §50(c) & 5.01.

## **II. Transition and Transfer**

Section 4.01 of the bill provides:

Not later than the 90th day after the date the election results are certified to the Secretary of State, the Commission, in consultation with the committee, shall transfer or assign to the System all:

- 1) rights and duties of the District, including existing contracts, duties, assets, and obligations of the District;
- 2) files, records, and accounts of the District, including those that pertain to the control, finances, management, and operation of the District; and
- 3) permits, approvals, and certificates necessary to provide water services.

SB 341, Sec. 4.01, §50(c). Although that section requires the "Commission" to implement the transfer, the bill makes clear that this transition is to be done without notice and hearing:

To the extent that the transfer of an item listed in Subsection (c) of this section requires the approval of a state agency, the state agency shall grant approval without additional notice or hearing.

SB 341, Sec. 4.01, §50(d). Based on the legislative directives to complete the required transfers with 90 days, and to complete the transfers without additional notice or hearing, the ED began a series of actions designed to implement the transfer.

From November 15, 2011 until May 8, 2012 the ED met regularly with representatives from the District, the San Antonio Water System ("SAWS") and representatives of the Legislative Oversight Committee tasked with monitoring the dissolution of the District.

In consultation with the Legislative Oversight Committee, by order dated March 1, 2012, (Attachment C) the ED assigned to SAWS "all (1) rights and duties of the District, including existing contracts, duties, assets, and obligations of the District; (2) files, records, and accounts of the District, including those that pertain to the control, finances, management, and operation of the District; and (3) permits, approvals, and certificates necessary to provide water services."

To further effect the transfer, that same day, the ED submitted a proposed endorsement to change the name and address from the District to SAWS on all TCEQ issued permits pursuant to 30 TAC §50.145. On March 6, 2012, both OGC and OPIC indicated by email they had no objection to the proposed endorsement.

In a March 5, 2012, final judgment order (Attachment D) the Travis County, Texas, 261st Judicial District Court judicially noticed the ED's March 1 order entered a Declaratory Judgment validating the transfer of all of the District's outstanding indebtedness to the City of San Antonio, Texas, acting by and through SAWS. The court also validated the assumption by the City of San Antonio, which was evidenced by its City Council's approval of a Special Project Ordinance (Ord. No. 2011-10-20-0845). Finally, the court validated the election and dissolution proceedings. That Declaratory Judgment was not appealed and became final on April 4, 2012.

Finally, on March 23, the ED signed the endorsement (Attachment E), transferring all TCEQ issued permits from the District's to SAWS. The ED also signed an order and certificates canceling the District's three CCN numbers and issued a new certificate incorporating the District's CCN territory into SAWS's CCN number (Attachment F). Finally, the ED signed a master deed conveying all of the District's real property to SAWS (Attachment G), which has been filed with the deed records in Bexar, Medina and Atascosa Counties.

### **III. Other Matters**

In addition to dissolving the District, the ED requests that the Commission rule on a number of other items to give the ED and SAWS certainty moving forward.

#### ***A. Request for Authorization to Transfer Subsequently Discovered Assets or Permits***

On May 9, 2012, the ED received confirmation from SAWS that all of the District's property, assets and liabilities had been transferred to SAWS (Attachment H). The Bill provides that once the transfer is complete, the commission must order the district dissolved. See SB 341, Sec. 4.01, §50(e). Although the ED is confident that all property, assets, and liabilities have been transferred to SAWS, a possibility remains that something belonging to the District will need to be transferred at a later date. Accordingly, in the event that it becomes necessary or advisable to execute any instrument to transfer or further evidence the transfer of any permit, license, authorization, debt, right, duty, file, record, account or asset previously held by or inuring to the benefit of the District to SAWS in the future, the ED requests authorization to execute any required instrument to further evidence or effectuate the transfer so long as it is consistent with SB 341.

***B. Request to Require Five-year Integration Completion by January 27, 2017***

The Bill provides that "Not later than five years after the date the election results were certified in favor of dissolution under Article 2 or 2A of the Act enacting this section, the System shall integrate the services and infrastructure of the District into the System in a reasonable and orderly manner." See SB 341, Sec. 4.01, §52(a). The ED proposes that the five year period run from the date the SAWS assumed management and control of the District, namely January 27, 2012. Thus, the ED proposes that the five year integration period expire on January 27, 2017.

***C. Request to Require Reports on Anniversary of January 27, 2012***

The Bill further provides "During the integration period described by Subsection (a) of this section, the System shall provide an annual report on the progress of integration to the Commission, including the status of any relevant contract provision." See SB 341, Sec. 4.01, § 52(b). The ED proposes that the first report be due on the anniversary of the DOJ's preclearance of the election results, or January 27, 2012, and on each anniversary thereafter until the systems are integrated.

***D. Request to Terminate Regulatory Assessment Fee as of Date of Dissolution***

The District has been collecting a regulatory assessment fee (RAF) pursuant to Texas Water Code §5.701(n)(c). The requirement to charge a RAF, however, does not apply to SAWS and should terminate upon the District's dissolution. Therefore, the ED proposes that SAWS shall have no obligation to collect or pay the RAF after the date of the District's dissolution.

**IV. RECOMMENDATION**

For the reasons set out about, the ED recommends that the Commission enter an order dissolving the Bexar Metropolitan Water District. The ED further recommends that the Commission authorize the ED to transfer subsequently discovered property, assets or liabilities; set the integration period to expire on January 27, 2017; require annual reports to be submitted on the anniversary of January 27, 2012; and terminate the regulatory assessment fee as of the date of this order.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Zak Covar,  
Executive Director

Robert Martinez, Director  
Environmental Law Division

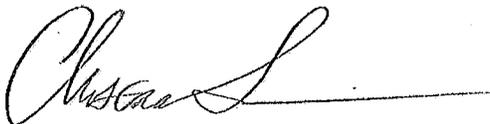
By 

Christiaan Siano, Staff Attorney  
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REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I hereby certify that on May 16, 2012, "The Petition for District Dissolution" was sent by first class mail to the person listed below and filed with the Office of the Chief Clerk.

A handwritten signature in cursive script, appearing to read "Christiaan Siano", written over a horizontal line.

Christiaan Siano, Staff Attorney

Keith Martin, Esq.  
San Antonio Water System  
2800 U.S. Hwy 281 North  
San Antonio, Texas 78212

# **Attachment A**

**Executive Director Petition for Dissolution of Bexar Metropolitan Water District -  
Attachments**

1 AN ACT  
2 relating to authorizing the dissolution of the Bexar Metropolitan  
3 Water District; providing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 ARTICLE 1. FINANCIAL AND OPERATIONAL AUDITS

6 SECTION 1.01. Section 1, Chapter 306, Acts of the 49th  
7 Legislature, Regular Session, 1945, is amended to read as follows:

8 Sec. 1. In obedience to the provisions of Article 16,  
9 Section 59 of the Constitution of Texas, there is hereby created  
10 Bexar Metropolitan Water District. [~~hereinafter in this Act~~  
11 ~~sometimes called the "District."~~]

12 SECTION 1.02. Chapter 306, Acts of the 49th Legislature,  
13 Regular Session, 1945, is amended by adding Sections 1A, 34, 35, 36,  
14 37, 38, 39, 40, 41, and 42 to read as follows:

15 Sec. 1A. In this Act:

16 (1) "Board" means the District's Board of Directors.

17 (2) "Commission" means the Texas Commission on  
18 Environmental Quality.

19 (3) "Committee" means the Bexar Metropolitan Water  
20 District Oversight Committee.

21 (4) "Director" means a Board member.

22 (5) "District" means the Bexar Metropolitan Water  
23 District.

24 (6) "System" means a water utility owned by a

1 municipality with a population of more than one million in the area  
2 served by the District.

3 Sec. 34. (a) Not later than the 30th day after the  
4 effective date of the Act enacting this section, the Commission  
5 shall begin an on-site evaluation of the District. The evaluation  
6 must include:

7 (1) a complete inventory and evaluation of each  
8 distinct water system in the District to determine:

9 (A) the District's basis in, or the intrinsic  
10 value of, the infrastructure associated with that water system;

11 (B) the District's bonded debt and commercial  
12 paper reasonably associated with or allocable to the infrastructure  
13 in that water system; and

14 (C) the adequacy of the water supply sources,  
15 water storage facilities, and distribution systems located in that  
16 water system's service area to supply current and projected demands  
17 in that service area;

18 (2) a list of any District assets whose transfer to  
19 another appropriate public water utility would be likely to  
20 improve:

21 (A) service to the former customers of the  
22 District who would be served by that utility; or

23 (B) the District's overall efficiency;

24 (3) a list and copies of existing contracts to which  
25 the District is a party, including for each contract:

26 (A) effective and termination dates;

27 (B) the general scope of the property and

1 services involved;

2 (C) obligations of the District, including  
3 financial obligations;

4 (D) how the District benefits from the contract;  
5 and

6 (E) whether the District has waived governmental  
7 immunity;

8 (4) a list of the following in regard to the District:

9 (A) property;

10 (B) rights, including certificates of  
11 convenience and necessity, pumping rights, and any other rights;

12 (C) staff; and

13 (D) internal policies, including employment  
14 rules, benefits, and an evaluation of the usefulness and efficacy  
15 of each policy;

16 (5) a comprehensive rehabilitation plan for the  
17 District that:

18 (A) identifies strategies for restoring the  
19 District's financial integrity and developing a system of sound  
20 financial management;

21 (B) describes a standard of ethics,  
22 professionalism, and openness expected of each Director and  
23 employee of the District;

24 (C) provides a mechanism to enforce compliance  
25 with District policies, including procurement policies;

26 (D) identifies ways to enhance the District's  
27 operational efficiency and improve the District's provision of

1 redundancy in water services; and

2 (E) provides for educating the Board and  
3 management personnel on improving management practices and  
4 complying with District policy and state and federal laws and  
5 regulations;

6 (6) an assessment of the District's ability to provide  
7 reliable, cost-effective, quality service to customers, including  
8 an assessment of operations compared to the best management  
9 practices of modern utilities;

10 (7) a study of the District's current infrastructure  
11 improvements, including:

12 (A) personnel for the improvements, including  
13 staffing levels of engineers, capital improvement program  
14 personnel, and mains and services personnel; and

15 (B) contracts related to any capital  
16 improvements; and

17 (8) a financial audit of the District.

18 (b) On commencement of the evaluation, the Commission shall  
19 notify the District in writing that the Commission has begun the  
20 evaluation and shall specify a time period for completion of the  
21 evaluation. The Commission may extend the specified time period  
22 for good cause. The District shall cooperate and provide  
23 assistance and access to all necessary records, confidential or  
24 not, to the Commission.

25 (c) The Commission may contract with utility management  
26 consultants, accountants, and other persons as necessary to conduct  
27 the evaluation.

1           (d) The Commission may require the District to reimburse the  
2 Commission for the reasonable cost of conducting the evaluation.

3           (e) The Commission shall file copies of the completed  
4 evaluation with:

5                   (1) the committee;

6                   (2) the Board; and

7                   (3) the lieutenant governor, the speaker of the house  
8 of representatives, and the chairs of the house and senate  
9 committees with primary oversight over the District.

10           Sec. 35. At the Commission's request, the state auditor's  
11 office may audit the District under Chapter 321, Government Code.  
12 The District shall reimburse the state auditor's office for the  
13 cost of the audit.

14           Sec. 36. The Commission may employ or contract with a person  
15 to carry out the duties described by Section 34 of this Act who, at  
16 the time of the person's hire:

17                   (1) has demonstrated a high level of expertise in  
18 utility management;

19                   (2) is not a Director; and

20                   (3) has no financial interest in the District or any  
21 entity that has a contract with the District or that is likely to  
22 develop a contractual relationship with the District.

23           Sec., 37. (a) The Commission may employ or contract with  
24 additional persons who will report to and assist the Commission if:

25                   (1) assistance from District staff is not provided; or

26                   (2) the Commission needs special expertise from one or  
27 more of the persons.

1           (b) A person employed or contracted with under Section 36 of  
2 this Act and any additional persons employed or contracted with  
3 under this section are entitled to receive a salary determined by  
4 the executive director of the Commission for performing those  
5 duties.

6           (c) The District shall pay the compensation of any persons  
7 employed or contracted with under this section or Section 36 of this  
8 Act.

9           (d) The executive director of the Commission shall set the  
10 compensation of the person employed or contracted with under this  
11 section or Section 36 of this Act after considering the person's:

12                   (1) level of expertise in utility management; and

13                   (2) certifications and education.

14           Sec. 38. (a) A person employed or contracted with under  
15 Section 36 or 37 of this Act is entitled to reimbursement of the  
16 reasonable and necessary expenses incurred by that person in the  
17 course of performing duties under this Act.

18           (b) The District shall pay the expenses incurred by the  
19 persons employed or contracted with under Section 36 or 37 of this  
20 Act. The executive director of the Commission shall determine if an  
21 expense is reasonable and necessary after considering whether the  
22 expense is:

23                   (1) necessary to complete the duties assigned by this  
24 Act;

25                   (2) at or below the cost of a similar expense incurred  
26 by other utilities;

27                   (3) documented by an invoice, bill, or work order that

1 includes details relating to the:

2 (A) time spent on services; or

3 (B) cost of supplies; and

4 (4) in accordance with procedures used to minimize  
5 expenses, including comparing vendor rates or competitive bidding.

6 Sec. 39. The executive director of the Commission may  
7 employ or contract with a person to carry out any purpose described  
8 by this Act. The District shall reimburse the Commission for all  
9 related expenses.

10 Sec. 40. (a) This section does not apply to bonds related  
11 to a water supply contract existing on or after the effective date  
12 of the Act enacting this section entered into by the District and a  
13 governmental entity, including the Canyon Regional Water Authority  
14 and the Bexar-Medina-Atascosa Counties Water Improvement District  
15 No. 1, if revenue from the contract is to be pledged wholly or  
16 partly to pay debt service on revenue bonds approved by the attorney  
17 general.

18 (b) From the effective date of the Act enacting this section  
19 until the date election results are certified to the Secretary of  
20 State under Article 2 or 2A of the Act enacting this section, the  
21 attorney general may not approve any public security, as defined by  
22 Chapter 1201, Government Code, of the District unless:

23 (1) the Commission consents in writing before  
24 approval; or

25 (2) the District provides written evidence that  
26 issuing the public security represents a refunding of outstanding  
27 debt for the purpose of realizing debt service savings in each year

1 that outstanding obligations are refunded and that results in a  
2 cumulative net present value savings of at least three percent  
3 compared to refunded debt service.

4       Sec. 41. (a) This section does not apply to a water supply  
5 contract existing on or after the effective date of the Act enacting  
6 this section entered into by the District and a governmental  
7 entity, including the Canyon Regional Water Authority and the  
8 Bexar-Medina-Atascosa Counties Water Improvement District No. 1,  
9 if revenue from the contract is to be pledged wholly or partly to  
10 pay debt service on revenue bonds approved by the attorney general.

11       (b) From the effective date of the Act enacting this section  
12 until the date election results are certified to the Secretary of  
13 State under Article 2 or 2A of the Act enacting this section, a  
14 contract or other agreement entered into, amended, or renewed  
15 during that period to which the District is a party must include a  
16 provision that the contract or other agreement is subject to:

17               (1) review by the System if the contract or other  
18 agreement is assumed by the System; and

19               (2) termination by the System at the System's sole  
20 discretion, including the termination of all rights, duties,  
21 obligations, and liabilities of the District or the System under  
22 the contract or other agreement, if the contract or other agreement  
23 is assumed by the System.

24       (c) A person or entity is not entitled to compensation for  
25 loss or other damages resulting from the termination of the  
26 contract or other agreement under Subsection (b)(2) of this  
27 section.

1        Sec. 42. From the effective date of the Act enacting this  
2 section until the date the election results are certified to the  
3 Secretary of State under Article 2 or 2A of the Act enacting this  
4 section, the District may not dispose of, sell, transfer, assign,  
5 impair, or restrict any of the District's rights or assets outside  
6 the normal and customary course of business.

7        ARTICLE 2. ELECTION; EFFECTIVE DATE OF ARTICLES 3 AND 4

8        SECTION 2.01. (a) In this article:

9                (1) "Board" means the board of directors of the  
10 district.

11                (2) "Commission" means the Texas Commission on  
12 Environmental Quality.

13                (3) "District" means the Bexar Metropolitan Water  
14 District.

15                (b) On the next uniform election date the board, after  
16 consultation with the secretary of state, shall hold an election in  
17 the district solely on the question of dissolving the district and  
18 disposing of the district's assets and obligations.  
19 Notwithstanding Subsection (b), Section 3.005, Election Code, the  
20 board shall call the election not later than the 90th day before the  
21 date the election is to be held or as soon as practicable, if the  
22 effective date of this Act is after the 90th day.

23                (c) The order calling the election must state:

24                        (1) the nature of the election, including the  
25 proposition to appear on the ballot;

26                        (2) the date of the election;

27                        (3) the hours during which the polls will be open; and

1           (4) the location of the polling places.

2           (d) The board shall give notice of an election under this  
3 section by publishing once a week for two consecutive weeks a  
4 substantial copy of the election order in a newspaper with general  
5 circulation in the district. The first publication of the notice  
6 must appear not later than the 35th day before the date of the  
7 beginning of early voting for the election.

8           (e) The ballot for an election under this section must be  
9 printed to permit voting for or against the proposition: "The  
10 dissolution of the Bexar Metropolitan Water District and the  
11 transfer of all the district's assets, obligations, and duties to  
12 the water utility owned by the municipality with the largest  
13 population in the area served by the district."

14          (f) The board shall certify that a majority of the voters  
15 voting in the district have voted:

16           (1) in favor of dissolution; or

17           (2) not in favor of dissolution.

18          (g) If the board fails to call an election on or before the  
19 90th day before the date the election is to be held, the commission  
20 or its executive director shall file a writ of mandamus and pursue  
21 all other legal and equitable remedies available to compel the  
22 board to call the election.

23          (h) The election directed to be held under this article is  
24 not intended to prohibit a regular or special election to elect  
25 board members.

26          SECTION 2.02. (a) Not later than the 10th day after the  
27 determination under Subsection (a), Section 67.005, Election Code,

1 of the official results of the election, the board shall certify  
2 that result to the secretary of state.

3 (b) If the proposition is approved by a majority of the  
4 voters voting in the election:

5 (1) Article 3 of this Act does not take effect; and

6 (2) Article 4 of this Act takes effect on the date the  
7 results are certified.

8 (c) If a majority of the voters voting in the election do not  
9 approve the proposition:

10 (1) Article 3 of this Act takes effect on the date the  
11 results are certified; and

12 (2) Article 4 of this Act does not take effect.

13 SECTION 2.03. (a) The purpose of this article is to  
14 provide all of the eligible voters of the district an opportunity to  
15 determine by election whether to continue with the current managing  
16 authority of the district or to transition to another managing  
17 authority which owns, operates, and manages the system, as defined  
18 by Section 1A, Chapter 306, Acts of the 49th Legislature, Regular  
19 Session, 1945.

20 (b) In order to provide all of the district's eligible  
21 voters an equal opportunity to vote on the determination in  
22 Subsection (a) of this section, the preferred method of election is  
23 a district-wide vote with all votes weighted equally. The reasons  
24 for this preference include:

25 (1) the election is a referendum on a single issue,  
26 involving different considerations in its structure than the  
27 considerations for an election to select members of a multi-member

1 governing body;

2           (2) neither the vote dilution principles addressed  
3 under Section 2 of the Voting Rights Act of 1965 (42 U.S.C. Section  
4 1973 et seq.) nor the three-part analytical framework used to  
5 measure vote dilution under Thornburg v. Gingles, 478 U.S. 30  
6 (1986), are applicable to such a single-issue referendum;

7           (3) the explanation in Butts v. City of New York, 779  
8 F.2d 141 (2d Cir. 1985), cert. denied, 478 U.S. 1021 (1986), that,  
9 if "the winner of an election for a single-member office is chosen  
10 directly by all the eligible voters" for that office, electoral  
11 arrangements are unlikely to deny a class of voters equal  
12 opportunity for representation, is equally applicable to the  
13 preferred method of election for the single-issue referendum  
14 established in this article; and

15           (4) the preferred method of election established in  
16 this article adheres strictly to the constitutional principle of  
17 "one person, one vote," a principle which a federal court has stated  
18 specifically applies to the district in an order dated September  
19 21, 2006, in Civil Action No. SA-96-CA-335, Rios v. Bexar  
20 Metropolitan Water District et al., in the United States District  
21 Court, Western District of Texas, and which the district has never  
22 challenged by appeal or otherwise.

23 ARTICLE 2A. ALTERNATE ELECTION PROCEDURES IF ARTICLE 2 ELECTION IS  
24 IN VIOLATION

25 SECTION 2A.01. It is the intent of the legislature that the  
26 preferred method of election be the method described by Section  
27 2.01 of this Act. This article provides an alternate means of

1 conducting the election on the question of dissolving the Bexar  
2 Metropolitan Water District if the method described in Section 2.01  
3 of this Act cannot be used due to a final, unappealable  
4 administrative or judicial decision. It is the intent of the  
5 legislature to comply fully with the requirements of the federal  
6 Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.). It is  
7 not the intent of the legislature to influence any preclearance  
8 decision made by the United States Department of Justice relating  
9 to the Act creating this section.

10 SECTION 2A.02. (a) In this article:

11 (1) "Board" means the board of directors of the  
12 district.

13 (2) "Commission" means the Texas Commission on  
14 Environmental Quality.

15 (3) "District" means the Bexar Metropolitan Water  
16 District.

17 (4) "Voting district" means a subdivision of the  
18 district created to elect the district's board of directors.

19 (b) On the next uniform election date following the date of  
20 a final, unappealable administrative or judicial decision that any  
21 portion of this Act is in violation of the federal Voting Rights Act  
22 of 1965 (42 U.S.C. Section 1973 et seq.) or United States  
23 Constitution, the board, after consultation with the secretary of  
24 state, shall hold an election as provided by this section in the  
25 district solely on the question of dissolving the district and  
26 disposing of the district's assets and obligations.  
27 Notwithstanding Subsection (b), Section 3.005, Election Code, the

1 board shall call the election not later than the 90th day before the  
2 date the election is to be held or as soon as practicable, if the  
3 effective date of this Act is after the 90th day.

4 (c) The order calling the election must state:

5 (1) the nature of the election, including the  
6 proposition to appear on the ballot;

7 (2) the date of the election;

8 (3) the hours during which the polls will be open; and

9 (4) the location of the polling places.

10 (d) The board shall give notice of an election under this  
11 section by publishing once a week for two consecutive weeks a  
12 substantial copy of the election order in a newspaper with general  
13 circulation in the district. The first publication of the notice  
14 must appear not later than the 35th day before the date of the  
15 beginning of early voting for the election.

16 (e) The ballot for an election under this section must be  
17 printed to permit voting for or against the proposition: "The  
18 dissolution of the Bexar Metropolitan Water District and the  
19 transfer of all the district's assets, obligations, and duties to  
20 the water utility owned by the municipality with the largest  
21 population in the area served by the district."

22 (f) The election shall be held in numbered voting districts  
23 established by the board. The board shall draw each voting district  
24 to reflect population changes from the latest decennial census and  
25 to conform with state law, the federal Voting Rights Act of 1965 (42  
26 U.S.C. Section 1973 et seq.), and any applicable court order.

27 (g) The board shall certify the election results for each

1 voting district. The board shall then certify that a majority of  
2 the voting districts have voted:

3 (1) in favor of dissolution; or

4 (2) not in favor of dissolution.

5 (h) If the board fails to call an election on or before the  
6 90th day before the date the election is to be held, the commission  
7 or its executive director shall file a writ of mandamus and pursue  
8 all other legal and equitable remedies available to compel the  
9 board to call the election.

10 (i) The election directed to be held under this article is  
11 not intended to prohibit a regular or special election to elect  
12 board members.

13 SECTION 2A.03. (a) Not later than the 10th day after the  
14 determination under Subsection (a), Section 67.005, Election Code,  
15 of the official results of the election, the board shall certify  
16 that result to the secretary of state.

17 (b) If the proposition is approved by a majority of the  
18 voting districts in the election:

19 (1) Article 3 of this Act does not take effect; and

20 (2) Article 4 of this Act takes effect on the date the  
21 results are certified.

22 (c) If a majority of the voting districts in the election do  
23 not approve the proposition:

24 (1) Article 3 of this Act takes effect on the date the  
25 results are certified; and

26 (2) Article 4 of this Act does not take effect.

1       ARTICLE 3. CHANGES TO THE BEXAR METROPOLITAN WATER DISTRICT IF  
2               VOTERS DO NOT DISSOLVE THE DISTRICT UNDER ARTICLE 2  
3       SECTION 3.01. Section 8, Chapter 306, Acts of the 49th  
4 Legislature, Regular Session, 1945, is amended to read as follows:  
5       Sec. 8. (a) ~~[-]~~ The seven ~~[five (5)]~~ members of the Board  
6 of Directors are ~~[shall hereafter be]~~ elected to staggered two-year  
7 terms in an election held on the uniform election date in November.  
8 Directors are elected from numbered single-member districts  
9 established by the Board. The Board shall revise each  
10 single-member district after each decennial census to reflect  
11 population changes and to conform with state law, the federal  
12 Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), and any  
13 applicable court order ~~[for a term of six (6) years each, provided~~  
14 ~~that an election for two (2) Directors for a term of six (6) years~~  
15 ~~shall be held on the first Tuesday in April, 1954; the terms of~~  
16 ~~three (3) members of the present Board shall be, and are, hereby,~~  
17 ~~extended to the first Tuesday in April, 1957; and the present~~  
18 ~~Directors shall determine such three (3) by lot. Three (3)~~  
19 ~~Directors shall be elected on the first Tuesday in April, 1957, and~~  
20 ~~two (2) Directors and three (3) Directors, alternately, shall be~~  
21 ~~elected each three (3) years thereafter on the first Tuesday in~~  
22 ~~April as the six-year terms expire]. At an election of Directors,~~  
23 the candidate from each single-member district who receives ~~[The~~  
24 ~~two (2) or three (3) persons, respectively, receiving]~~ the greatest  
25 number of votes is ~~[shall be declared]~~ elected to represent that  
26 single-member district. Each Director shall hold office until his  
27 successor is ~~[shall have been]~~ elected or appointed and has ~~[shall~~

1 ~~have]~~ qualified.

2        (a-1) A person is not eligible to serve as a Director for  
3 more than three terms or for more than a total of seven years of  
4 service. [÷]

5        (b) Such [~~such~~] elections shall be called, conducted and  
6 canvassed in the manner provided by the Election Code. [~~Chapter 25,~~  
7 ~~General Laws of the Thirty-ninth Legislature, Regular Session,~~  
8 ~~1925, and any amendments thereto,~~]

9        (c) The [~~the~~] Board of Directors shall fill all vacancies on  
10 the Board by appointment and such appointees shall hold office  
11 until a successor elected at the next scheduled election date has  
12 qualified. [~~for the unexpired term for which they were appointed,~~]

13        (d) Any four [~~any three~~] members of the Board are [~~shall~~  
14 ~~constitute~~] a quorum for the adoption or [~~of~~] passage of any  
15 resolution or order or the transaction of any business of the  
16 District. [÷]

17        (e) A Director must [~~Directors succeeding the first Board,~~  
18 ~~whether now or hereafter elected, shall]~~ be a qualified voter of the  
19 single-member district from which the Director is elected [~~resident~~  
20 ~~electors of Bexar County, Texas, and owners of taxable property~~  
21 ~~within the area comprising said District, and shall organize in~~  
22 ~~like manner].~~

23        (f) A payment to a Director for fees of office under Section  
24 49.060, Water Code, may not be made for a meeting that occurs in a  
25 different fiscal year from the one in which the payment is made.

26        SECTION 3.02. Section 33A, Chapter 306, Acts of the 49th  
27 Legislature, Regular Session, 1945, is amended by amending

1 Subsection (c) and adding Subsection (g) to read as follows:

2 (c) The oversight committee is comprised of seven [5]  
3 members appointed as follows [~~to represent the following members~~]:

4 (1) two Senators who represent Senate districts that  
5 include territory within the Bexar Metropolitan Water District,  
6 [~~the Senator sponsor of this Act, or, in the event this Senator~~  
7 ~~cannot serve, a Senator~~] appointed by the Lieutenant Governor, who  
8 shall also designate one of the Senators as co-chair;

9 (2) two Representatives who represent [~~the~~] House  
10 districts that include territory within the District, [~~author of~~  
11 ~~this Act, or, in the event this Representative cannot serve, a~~  
12 ~~Representative~~] appointed by the Speaker of the Texas House of  
13 Representatives, who shall also designate one of the  
14 Representatives as co-chair;

15 (3) one member with special expertise in the operation  
16 of public water utilities appointed by the Governor;

17 (4) one member appointed by the Governor to represent  
18 the public; and

19 (5) one [~~a~~] member of the Bexar County Commissioners  
20 Court who represents a precinct in which customers of the District  
21 reside.

22 (g) On or before December 31, 2012, the oversight committee  
23 shall provide a report under Subsection (e) of this section to the  
24 legislature. The committee is abolished and this section expires  
25 January 1, 2013.

26 SECTION 3.03. Chapter 306, Acts of the 49th Legislature,  
27 Regular Session, 1945, is amended by adding Sections 8A, 8B, 8C,

1 10A, 10B, and 43 to read as follows:

2 Sec. 8A. (a) To be eligible to be a candidate for or to be  
3 elected or appointed as a Director, a person must have:

4 (1) resided continuously in the single-member  
5 district that the person seeks to represent for 12 months  
6 immediately preceding the date of the regular filing deadline for  
7 the candidate's application for a place on the ballot;

8 (2) viewed the open government training video provided  
9 by the attorney general and provided to the Board a signed affidavit  
10 stating that the candidate viewed the video;

11 (3) obtained 200 signatures from individuals living in  
12 the District; and

13 (4) paid a filing fee of \$250 or filed a petition in  
14 lieu of the filing fee that satisfies the requirements prescribed  
15 by Section 141.062, Election Code.

16 (b) In this subsection, "political contribution" and  
17 "specific-purpose committee" have the meanings assigned by Section  
18 251.001, Election Code. A Director or a candidate for the office of  
19 Director may not knowingly accept political contributions from a  
20 person or organization that in the aggregate exceed \$500 from each  
21 person or organization in connection with each election in which  
22 the Director or candidate is involved. For purposes of this  
23 subsection, a contribution to a specific-purpose committee for the  
24 purpose of supporting a candidate for the office of Director,  
25 opposing the candidate's opponent, or assisting the candidate as an  
26 officeholder is considered to be a contribution to the candidate.

27 Sec. 8B. (a) A person who is elected or appointed to and

1 qualifies for office as a Director on or after the effective date of  
2 this section may not vote, deliberate, or be counted as a member in  
3 attendance at a meeting of the Board until the person completes a  
4 training program on District management issues. The training  
5 program must provide information to the person regarding:

6           (1) the enabling legislation that created the  
7 District;

8           (2) the operation of the District;

9           (3) the role and functions of the Board;

10           (4) the rules of the Board;

11           (5) the current budget for the Board;

12           (6) the results of the most recent formal audit of the  
13 Board;

14           (7) the requirements of the:

15                   (A) open meetings law, Chapter 551, Government  
16 Code;

17                   (B) public information law, Chapter 552,  
18 Government Code; and

19                   (C) administrative procedure law, Chapter 2001,  
20 Government Code;

21           (8) the requirements of the conflict of interest laws  
22 and other laws relating to public officials; and

23           (9) any applicable ethics policies adopted by the  
24 Board or the Texas Ethics Commission.

25           (b) The Commission may create an advanced training program  
26 designed for a person who has previously completed a training  
27 program described by Subsection (a) of this section. If the

1 Commission creates an advanced training program under this  
2 subsection, a person who completes that advanced training program  
3 is considered to have met the person's obligation under Subsection  
4 (a) of this section.

5 (c) Each Director who is elected or appointed on or after  
6 the effective date of this section shall complete a training  
7 program described by Subsection (a) or (b) of this section at least  
8 once in each term the Director serves.

9 (d) The Board shall adopt rules regarding the completion of  
10 the training program described by Subsection (a) or (b) of this  
11 section by a person who is elected or appointed to and qualifies for  
12 office as a Director before the effective date of this section. A  
13 Director described by this subsection who does not comply with  
14 Board rules is considered incompetent as to the performance of the  
15 duties of a Director in any action to remove the Director from  
16 office.

17 (e) A Director may not:

18 (1) accept or solicit a gift, favor, or service, the  
19 value of which exceeds \$50 per gift, favor, or service, that:

20 (A) might reasonably influence the Director in  
21 the discharge of an official duty; or

22 (B) the Director knows or should know is being  
23 offered with the intent to influence the Director's official  
24 conduct;

25 (2) accept other employment or engage in a business or  
26 professional activity that the Director might reasonably expect  
27 would require or induce the Director to disclose confidential

- 1 information acquired by reason of the official position;  
2           (3) accept other employment or compensation that could  
3 reasonably be expected to impair the Director's independence of  
4 judgment in the performance of the Director's official duties;  
5           (4) make personal investments that could reasonably be  
6 expected to create a substantial conflict between the Director's  
7 private interest and the interest of the District;  
8           (5) intentionally or knowingly solicit, accept, or  
9 agree to accept any benefit for having exercised the Director's  
10 official powers or performed the Director's official duties in  
11 favor of another; or  
12           (6) have a personal interest in an agreement executed  
13 by the District.  
14       (f) Not later than April 30 each year, a Director shall file  
15 with the Bexar County clerk a verified financial statement  
16 complying with Sections 572.022, 572.023, 572.024, and 572.0252,  
17 Government Code. The District shall keep a copy of a financial  
18 statement filed under this section in the main office of the  
19 District.  
20       Sec. 8C. (a) A Director may be recalled for:  
21           (1) incompetency or official misconduct as defined by  
22 Section 21.022, Local Government Code;  
23           (2) conviction of a felony;  
24           (3) incapacity;  
25           (4) failure to file a financial statement as required  
26 by Section 8B(f) of this Act;  
27           (5) failure to complete a training program described

1 by Section 8B(a) or (b) of this Act; or

2 (6) failure to maintain residency in the District.

3 (b) If at least 10 percent of the registered voters in a  
4 single-member voting district of the District submit a petition to  
5 the Board requesting the recall of the Director who serves that  
6 single-member voting district, the Board, not later than the 10th  
7 day after the date the petition is submitted, shall mail a written  
8 notice of the petition and the date of its submission to each  
9 registered voter in the single-member voting district.

10 (c) Not later than the 30th day after the date a petition  
11 requesting the recall of a Director is submitted, the Board shall  
12 order an election on the question of recalling the Director.

13 (d) A recall election under this section may be held on any  
14 uniform election date.

15 (e) If a majority of the voters of a single-member voting  
16 district voting at an election held under this section favor the  
17 recall of the Director who serves that single-member voting  
18 district, the Director is recalled and ceases to be a Director.

19 Sec. 10A. All Board reimbursements and expenditures must be  
20 approved by the Board in a regularly scheduled meeting.

21 Sec. 10B. The Board may not select the same auditor to  
22 conduct an audit required by Section 49.191, Water Code, for more  
23 than three consecutive annual audits.

24 Sec. 43. (a) The Commission shall evaluate the condition  
25 of the District and determine whether the District has been  
26 sufficiently rehabilitated to enable the District to provide  
27 reliable, cost-effective, quality service to its customers.

1           (b) If the Commission finds that the District has not been  
2 rehabilitated, the Commission may order the District to implement  
3 any part of the rehabilitation plan developed under Section 34.

4           (c) If the District fails to comply with a Commission order,  
5 the Commission may assess a penalty against the District in the  
6 manner provided by Section 13.4151, Water Code.

7           SECTION 3.04. (a) Section 8, Chapter 306, Acts of the 49th  
8 Legislature, Regular Session, 1945, as amended by this Act, applies  
9 only to a member of the board of directors of the Bexar Metropolitan  
10 Water District who is elected to the board on or after the effective  
11 date of this Act.

12           (b) Section 8A, Chapter 306, Acts of the 49th Legislature,  
13 Regular Session, 1945, as added by this Act, applies only to a  
14 member of the board of directors of the Bexar Metropolitan Water  
15 District who is elected to the board on or after the effective date  
16 of this Act. A director who is elected before the effective date of  
17 this Act is governed by the law in effect when the director was  
18 elected, and the former law is continued in effect for that purpose.

19           (c) For two of the numbered single-member district  
20 director's positions that expire in 2012, the Bexar Metropolitan  
21 Water District shall call and hold an election on a uniform election  
22 date in that year to elect the directors for those positions for  
23 terms that expire on the uniform election date in November 2013.  
24 For the other two director's positions that expire in 2012, the  
25 district shall call and hold an election on the same uniform  
26 election date in that year to elect the directors for those  
27 positions for terms that expire on the uniform election date in

1 November 2014. The district shall determine by lot which  
2 single-member districts shall elect directors to serve one-year  
3 terms and which shall elect directors to serve two-year terms.

4 ARTICLE 4. TRANSFER OF DISTRICT ASSETS AND LIABILITIES IF VOTERS  
5 DISSOLVE THE BEXAR METROPOLITAN WATER DISTRICT UNDER ARTICLE 2

6 SECTION 4.01. Chapter 306, Acts of the 49th Legislature,  
7 Regular Session, 1945, is amended by adding Sections 50, 51, 52, 53,  
8 54, and 55 to read as follows:

9 Sec. 50. (a) The term of each person who is serving as a  
10 Director of the District on the date the election results are  
11 certified to the Secretary of State as authorized by Article 2 or 2A  
12 of the Act enacting this section expires on that date.

13 (b) On the date the election results are certified to the  
14 Secretary of State, the System assumes control of the operation and  
15 management of the District, subject to Sections 52 and 53 of this  
16 Act and other law applicable to the System.

17 (c) Not later than the 90th day after the date the election  
18 results are certified to the Secretary of State, the Commission, in  
19 consultation with the committee, shall transfer or assign to the  
20 System all:

21 (1) rights and duties of the District, including  
22 existing contracts, duties, assets, and obligations of the  
23 District;

24 (2) files, records, and accounts of the District,  
25 including those that pertain to the control, finances, management,  
26 and operation of the District; and

27 (3) permits, approvals, and certificates necessary to

1 provide water services.

2 (d) To the extent that the transfer of an item listed in  
3 Subsection (c) of this section requires the approval of a state  
4 agency, the state agency shall grant approval without additional  
5 notice or hearing.

6 (e) After the Commission has transferred the property,  
7 assets, and liabilities as prescribed by this section, the  
8 Commission shall enter an order dissolving the District.

9 Sec. 51. (a) This Act does not enhance or harm the position  
10 of a contracting party.

11 (b) No law or charter provision may be construed to limit  
12 the System's performance of an obligation under a contract  
13 transferred or assigned to the System as a result of the dissolution  
14 of the District, if revenue from the contract was pledged wholly or  
15 partly to pay debt service on revenue bonds approved by the attorney  
16 general.

17 Sec. 52. (a) Not later than five years after the date the  
18 election results were certified in favor of dissolution under  
19 Article 2 or 2A of the Act enacting this section, the System shall  
20 integrate the services and infrastructure of the District into the  
21 System in a reasonable and orderly manner. The Commission for good  
22 cause may grant an extension to complete integration of not more  
23 than three additional years. The System shall base the integration  
24 on the consideration of relevant information, including:

- 25 (1) the location and condition of the infrastructure;  
26 (2) debt obligations;  
27 (3) prudent utility practices and fiscal policies;

1           (4) costs and revenue; and

2           (5) potential impacts on the customers of the District  
3 and the System.

4           (b) During the integration period described by Subsection  
5 (a) of this section, the System shall provide an annual report on  
6 the progress of integration to the Commission, including the status  
7 of any relevant contract provision.

8           (c) Until the date specified in Subsection (a) of this  
9 section, the System may operate the former District as a special  
10 project under the System's existing senior lien revenue bond  
11 ordinances.

12           (d) Once the Commission has transferred the assets,  
13 obligations, and duties to the System, the System shall provide  
14 affordable and reliable water services to all of the former  
15 ratepayers of the District under the System's certificate of  
16 convenience and necessity.

17           (e) After the integration described by Subsection (a) of  
18 this section is complete, the System shall provide water service to  
19 former ratepayers of the District in the same manner the System  
20 provides water service to other ratepayers of the System. The  
21 integration is considered complete if:

22           (1) the areas of service located in the former  
23 District are no longer operated as a special project within the  
24 System;

25           (2) the ratepayers of the former District pay the same  
26 rates for services provided by the System as other similarly  
27 situated ratepayers of the System; and

1           (3) the ratepayers of the former District receive  
2 water service that meets the requirements of the Commission.

3           (f) If the System fails to integrate the services and  
4 infrastructure of the District into the System in accordance with  
5 Subsection (a) of this section, the Commission may find the System  
6 in violation of the obligation under the System's certificate of  
7 convenience and necessity to provide continuous and adequate  
8 service. The Commission may bring an enforcement action against  
9 the System, including the imposition of an administrative penalty  
10 under Section 13.4151, Water Code.

11           Sec. 53. (a) For a 24-month period following the transfer  
12 of the employment of any employee of the former District, the System  
13 may not terminate that employee, except for cause, as defined by the  
14 System's standards of conduct for all employees, if the employee:

15                   (1) is vested in the retirement program of the  
16 District on the effective date of this Act; and

17                   (2) earns an annual base salary of less than \$50,000 on  
18 the effective date of the Act enacting this section.

19           (b) For a five-year period following the transfer of the  
20 employment of any employee of the former District, the System may  
21 not terminate that employee, except for cause, as defined by the  
22 System's standards of conduct for all employees, if:

23                   (1) the employee meets the requirements of Subsections  
24 (a)(1) and (2) of this section; and

25                   (2) the sum of the years of service of the employee and  
26 the employee's age is equal to or greater than 80.

27           (c) An employee who qualifies under Subsection (a) or (b) of

1 this section and who is terminated by the System has the same  
2 opportunity for appeal as a person employed by the System who is not  
3 an employee of the former District.

4 (d) The System is not required to employ an employee of the  
5 District if that person was formerly terminated from, or resigned  
6 in lieu of termination from, the System.

7 Sec. 54. A state agency at which an administrative or  
8 enforcement action is pending against the District shall grant the  
9 System special consideration and reasonable extensions to identify  
10 and resolve the action in a manner satisfactory to the agency.

11 Sec. 55. (a) In this section, "advisory committee" means a  
12 committee appointed under Subsection (b) of this section.

13 (b) Not later than the 60th day after the date the District  
14 is dissolved under Section 50 of this Act, the System shall work  
15 cooperatively with the commissioners court of each county in which  
16 the former District was wholly or partly located to establish an  
17 advisory committee to advise the System regarding the integration  
18 of the services and infrastructure of the former District,  
19 including service integration issues and the delivery of water  
20 services by the System, in specific areas or water systems located  
21 in the area outside the corporate boundaries of the largest  
22 municipality served by the System.

23 (c) The advisory committee shall include at least one  
24 representative from each county served by the System who resides in  
25 the boundaries of the former District or the owner or operator of a  
26 business located in the boundaries of the former District.

27 (d) Until the integration described by Section 52 of this

1 Act is complete, the board of directors of the System shall:

2 (1) consult with the advisory committee about the  
3 matters described by Subsection (b) of this section at least  
4 quarterly, during a regularly scheduled or specially called board  
5 meeting of the System; and

6 (2) on request by the advisory committee chair,  
7 provide members of the advisory committee an opportunity to address  
8 the System's board of trustees on matters relating to the duties of  
9 the advisory committee.

10 ARTICLE 5. DEADLINES; NOTICE; EFFECTIVE DATE OF ACT

11 SECTION 5.01. If a deadline established in Articles 1  
12 through 4 of this Act cannot be met because of a requirement imposed  
13 by the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973 et  
14 seq.), the deadline is the next available date after the  
15 requirement is met.

16 SECTION 5.02. (a) The legal notice of the intention to  
17 introduce this Act, setting forth the general substance of this  
18 Act, has been published as provided by law, and the notice and a  
19 copy of this Act have been furnished to all persons, agencies,  
20 officials, or entities to which they are required to be furnished  
21 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
22 Government Code..

23 (b) The governor, one of the required recipients, has  
24 submitted the notice and Act to the Texas Commission on  
25 Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has filed  
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of  
2 representatives within the required time.

3 (d) All requirements of the constitution and laws of this  
4 state and the rules and procedures of the legislature with respect  
5 to the notice, introduction, and passage of this Act are fulfilled  
6 and accomplished.

7 SECTION 5.03. (a) Articles 1, 2, 2A, and 5 of this Act take  
8 effect immediately if this Act receives a vote of two-thirds of all  
9 the members elected to each house, as provided by Section 39,  
10 Article III, Texas Constitution. If this Act does not receive the  
11 vote necessary for immediate effect, Articles 1, 2, 2A, and 5 of  
12 this Act take effect September 1, 2011.

13 (b) Articles 3 and 4 of this Act take effect as provided by  
14 Articles 2 and 2A of this Act.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 341 passed the Senate on March 21, 2011, by the following vote: Yeas 29, Nays 1; May 25, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 1.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 341 passed the House, with amendments, on May 23, 2011, by the following vote: Yeas 129, Nays 11, five present not voting; May 26, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 118, Nays 20, four present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

# **Attachment B**

**Executive Director Petition for Dissolution of Bexar Metropolitan Water District -  
Attachments**



U.S. Department of Justice  
Civil Rights Division

TCH:RSB:JER:ZB:tst  
DJ 166-012-3  
2011-2548  
2011-4825

Voting Section - NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

JAN 27 2012

Elizabeth Hanshaw Winn, Esq.  
Interim Acting Director of Elections  
P.O. Box 12060  
Austin, Texas 78711-2060

Rolando L. Rios, Esq.  
Rolando L. Rios & Associates  
115 East Travis, Suite 1645  
San Antonio, Texas 78205

Dear Ms. Winn and Mr. Rios:

This refers to the 2011 redistricting plan for the Bexar Metropolitan Water District and Articles 3 and 4 of Chapter 1256 (S.B. 341) (2011), insofar as they amend the enabling act for the Bexar Metropolitan Water District in Atascosa, Bexar, Comal, and Medina Counties, Texas, as follows:

1. Article 3 of Chapter 1256 changes the terms of office for directors; changes the staggering of terms for directors, establishes an implementation schedule, establishes term limits, changes procedures for filling vacancies, changes candidate qualification requirements, changes requirements governing political contributions, establishes conflict-of-interest provisions, and establishes recall procedures.
2. Article 4 of Chapter 1256 establishes procedures for dissolving the district.

These changes were submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submissions on October 7 and November 28, 2011; additional information was received through December 5, 2011.

Your November 28, 2011, letter indicates that provisions in Article 3 of Chapter 1256 will not be implemented. Accordingly, no determination by the Attorney General is required or appropriate concerning these matters. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.25 and 51.35.

The Attorney General does not interpose any objection to the procedures for dissolving the district in Article 4 of Chapter 1256. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change, 28 C.F.R. 51.41.

-2-

With respect to the 2011 redistricting plan, this change has been superseded by the dissolution of the district. Accordingly, no determination by the Attorney General is required or appropriate concerning this matter. 28 C.F.R. 51.25 and 51.35.

Sincerely,

*for Eric Rich*

T. Christian Herren, Jr.  
Chief, Voting Section

# **Attachment C**

**Executive Director Petition for Dissolution of Bexar Metropolitan Water District -  
Attachments**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2012-0421-MLM

<b>IN THE MATTER OF</b>		
<b>THE TRANSFER OF BEXAR</b>	<b>§</b>	<b>BEFORE THE</b>
<b>METROPOLITAN WATER</b>	<b>§</b>	
<b>DISTRICT TO THE SAN ANTONIO</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>WATER SYSTEM</b>	<b>§</b>	
<b>IN BEXAR, MEDINA, AND</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>ATASCOSA COUNTIES, TEXAS</b>	<b>§</b>	

**ORDER**

Pursuant to Section 50(c), Chapter 306, Acts of the 49<sup>th</sup> Texas Legislature, Regular Session, 1945, set forth in Article 4, Section 4.01 of Senate Bill 341, 2011 Regular Session, enacted into law on or about June 19, 2011 ("SB 341") concerning the BEXAR METROPOLITAN WATER DISTRICT, a political subdivision of the State of Texas and water district created by a special act of the Texas Legislature pursuant to Article XVI, Section 50 of the Texas Constitution (together, for purposes herein, with all interests held by its Board of Trustees, "BexarMet"), the Texas Commission on Environmental Quality, having consulted with the Bexar Metropolitan Water District Oversight Committee (the "Oversight Committee"), finds that it is necessary to transfer and assign unto the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES and their successors in office appointed by the City Council of the City of San Antonio as provided in Ordinance No. 75686, adopted at a regular meeting of the city council, April 30, 1992 ("SAWS"), all (1) rights and duties of BexarMet, including existing contracts, duties, assets, and obligations of BexarMet; (2) files, records, and accounts of BexarMet, including those that pertain to the control, finances, management, and operation of the BexarMet; and (3) permits, approvals, and certificates necessary to provide water services (all of the foregoing being the "Transferred Interests").

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. As authorized by SB 341, and in consultation with the Oversight Committee, the TCEQ does hereby TRANSFER and ASSIGN to SAWS all

- (1) rights and duties of BexarMet, including existing contracts, duties, assets, and obligations of BexarMet;
  - (2) files, records, and accounts of BexarMet, including those that pertain to the control, finances, management, and operation of the BexarMet; and
  - (3) permits, approvals, and certificates necessary to provide water services.
2. All of the rights and privileges, of every kind and nature, previously enjoyed by the former BexarMet, and related in any way to the Transferred Interests, shall immediately inure to the benefit of SAWS so that SAWS can effectively own, control, manage and operate that system.
  3. Pursuant to Chapter 501 of the Texas Local Government Code (Development Corporation Act), the City of San Antonio has succeeded BexarMet as the authorizing unit for the Bexar Metropolitan Development Corporation.

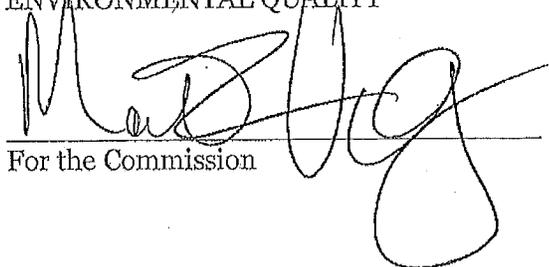
This order is made pursuant to the requirements of SB 341 and shall not constitute an assignment or other transfer that would require consent by any third party or terminate or otherwise prejudice any interest previously held by BexarMet under any agreement applicable or related to Transferred Interests. Further, this Order is consistent with Section 50 (d) of the Legislation which specifically excludes the requirement of a notice and hearing procedure.

The Office of the Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: 3-1-2012

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY



For the Commission

# **Attachment D**

**Executive Director Petition for Dissolution of Bexar Metropolitan Water District -  
Attachments**

NO. D-1-GV-12-000115

IN RE  
THE CITY OF SAN ANTONIO  
AND CERTAIN PUBLIC SECURITIES

§ IN THE DISTRICT COURT OF  
§  
§ TRAVIS COUNTY, TEXAS  
§  
§ 261st JUDICIAL DISTRICT  
§

Filed in The District Court  
of Travis County, Texas

TJ MAR 05 2012  
At 10:18 AM  
Amalia Rodriguez-Mendoza, Clerk

**FINAL JUDGMENT**

On the 5th day of March, 2012, the Court conducted a trial on the Amended Petition for Expedited Declaratory Judgment previously filed by the City of San Antonio, Texas (City), acting by and through the San Antonio Water System (SAWS). The City appeared by and through its counsel of record. The Attorney General of the State of Texas (Attorney General) also appeared. The Court considered evidence and the arguments of counsel, which support the following findings of fact and conclusions of law:

1. The Court has subject matter jurisdiction over this action, and venue in Travis County is proper.
2. The Court has *in rem* jurisdiction, as well as personal jurisdiction over the City; the Attorney General; all residents, property owners, and taxpayers of the City; all ratepayers of the San Antonio Water System; all residents, property owners, and ratepayers of the Bexar Metropolitan Water District (BexarMet); and any other persons who have or claim a right, title, or interest in any property or money to be affected by the public security authorization or the issuance of the public securities made the subject of the City's petition (Interested Parties).
3. The Court finds that the City has complied with the statutory requirements of Chapter 1205 of the Texas Government Code.
4. The Court finds that notice of trial was timely and properly published in newspapers of general circulation in Atascosa, Comal, Bexar, Medina, and Travis Counties.

5. The Texas Legislature exercised its police power to protect the public's health, safety, and welfare by enacting Senate Bill No. 341 (SB 341), which relates to dissolution of the BexarMet.

6. The Court finds that the Texas Legislature's exercise of police power was subsequently ratified and affirmed by the majority of former BexarMet ratepayers who voted in the November 8, 2011 election to dissolve BexarMet.

7. The November 8, 2011 election was legally held and is valid, as are the results of that election.

8. On October 20, 2011, the City validly and properly enacted Ordinance No. 2011-10-20-0845 (hereinafter, the "Special Project Ordinance" and attached as Exhibit A) pursuant to SB 341 and other applicable law.

9. The City is an "issuer" as defined in TEX. GOV'T CODE § 1205.001(1).

10. The Court finds that the Special Project Ordinance, by its own terms, permitted the City's agents to make non-substantive, clarifying revisions as necessary to ensure compliance with its terms.

11. The Special Project Ordinance fully satisfies SB 341.

12. The Special Project Ordinance operates as a valid public securities authorization, as that term is defined in TEX. GOV'T CODE § 1205.001(3).

13. The validation of the public securities in the Special Project Ordinance is limited to the following public securities (previously submitted to the Court as Exhibits 14-22), and no other contracts, permits, credit agreements, credit facilities, obligations, rights, or responsibilities of BexarMet or SAWS:

- a. \$66,655,402.95 "Bexar Metropolitan Water District Waterworks System Revenue Bonds, Series 1998," dated July 1, 1998 and currently

- outstanding in the principal amount of \$33,662,975.17, with interest rates or yields of 5.00%-5.600%, authorized to be issued by an order of the BexarMet Board adopted on June 22, 1998 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements and effecting waterworks system improvements.
- b. \$57,700,000 "Bexar Metropolitan Water District Waterworks System Revenue Refunding Bonds, Series 2002," dated July 15, 2002 and currently outstanding in the principal amount of \$23,440,000, with interest rates of 3.80%-5.3750%, authorized to be issued by an order of the BexarMet Board adopted on July 22, 2002 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.
  - c. \$53,741,386.95 "Bexar Metropolitan Water District Waterworks System Revenue Refunding Bonds, Series 2006," dated June 1, 2006 and currently outstanding in the principal amount of \$50,471,386.95, with interest rates or yields of 4.00%-5.50%, authorized to be issued by an order of the BexarMet Board adopted on May 31, 2006 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.
  - d. \$31,235,000 "Bexar Metropolitan Water District Waterworks System Revenue Refunding Bonds, Series 2007," dated July 1, 2007 and currently outstanding in the principal amount of \$28,045,000, with interest rates of 4.400%-5.500%, authorized to be issued by an order of the BexarMet Board adopted on June 25, 2007 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.
  - e. \$67,215,000 "Bexar Metropolitan Water District Waterworks System Revenue Refunding Bonds, Series 2009," dated October 15, 2009 and currently outstanding in the principal amount of \$65,180,000, with interest rates of 2.00%-5.00%, authorized to be issued by an order of the BexarMet Board adopted on September 28, 2009 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.
  - f. \$23,390,000 "Bexar Metropolitan Water District Waterworks System Senior Lien Revenue Refunding Bonds, Series 2010," dated December 1, 2010 and currently outstanding in the principal amount of \$23,390,000, with interest rates of 3.00%-5.8750%, authorized to be issued by an order of the BexarMet Board adopted on January 3, 2011 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.
  - g. \$11,820,000 "Bexar Metropolitan Water District Waterworks System Subordinate Lien Revenue Refunding Bonds, Series 2010-A," dated

December 1, 2010, and currently outstanding in the principal amount of \$11,820,000, with interest rates of 2.8910%-7.3%, authorized to be issued by an order of the BexarMet Board adopted on January 3, 2011 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.

- h. \$2,500,000 "Bexar Metropolitan Water District Waterworks System Subordinate Lien Revenue Bonds, Series 1995-A," dated November 15, 1995 and currently outstanding in the principal amount of \$625,000, with no interest rates, issued pursuant to an authorizing document adopted by the BexarMet Board adopted on November 20, 1995 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.

14. The City's unilateral amendment of BexarMet's public securities as specified in the Special Project Ordinance and otherwise identified in the preceding paragraph of this judgment is legal, valid, binding, and enforceable against all Interested Parties.

15. BexarMet's public securities identified in paragraph 13 above, as assumed and amended by the City, are legal, valid, binding, and enforceable against all Interested Parties, and the covenants contained in those public securities are in no way impaired or defaulted by such assumption and amendment.

16. By assuming BexarMet's obligations pursuant to SB 341, the City also assumes BexarMet's rights and defenses.

17. The Court finds that on March 1, 2012, the Texas Commission on Environmental Quality (TCEQ), acting by and through its Executive Director, transferred and assigned BexarMet's assets, obligations, permits, records, and contracts to the City, acting by and through SAWS. The Court further finds that TCEQ intends to enter an order formally dissolving BexarMet.

ACCORDINGLY, IT IS ORDERED that, pursuant to Chapter 1205 of the Texas Government Code, the City of San Antonio, Texas, acting by and through the San Antonio Water System, is entitled to a Final Declaratory Judgment as follows:

1. The City's Special Project Ordinance was validly and properly adopted pursuant to SB 341, satisfies the requirements of SB 341, and operates as a valid public securities authorization, as that term is defined in TEX. GOV'T CODE § 1205.001(3).

2. The City's unilateral amendment of the following BexarMet public securities as specified in the Special Project Ordinance (and no others) is legal, valid, binding, and enforceable against all Interested Parties:

- a. \$66,655,402.95 "Bexar Metropolitan Water District Waterworks System Revenue Bonds, Series 1998," dated July 1, 1998 and currently outstanding in the principal amount of \$33,662,975.17, with interest rates or yields of 5.00%-5.600%, authorized to be issued by an order of the BexarMet Board adopted on June 22, 1998 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements and effecting waterworks system improvements.
- b. \$57,700,000 "Bexar Metropolitan Water District Waterworks System Revenue Refunding Bonds, Series 2002," dated July 15, 2002 and currently outstanding in the principal amount of \$23,440,000, with interest rates of 3.80%-5.3750%, authorized to be issued by an order of the BexarMet Board adopted on July 22, 2002 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.
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BexarMet Board adopted on September 28, 2009 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.

- f. \$23,390,000 "Bexar Metropolitan Water District Waterworks System Senior Lien Revenue Refunding Bonds, Series 2010," dated December 1, 2010 and currently outstanding in the principal amount of \$23,390,000, with interest rates of 3.00%-5.8750%, authorized to be issued by an order of the BexarMet Board adopted on January 3, 2011 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.
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- h. \$2,500,000 "Bexar Metropolitan Water District Waterworks System Subordinate Lien Revenue Bonds, Series 1995-A," dated November 15, 1995 and currently outstanding in the principal amount of \$625,000, with no interest rates, issued pursuant to an authorizing document adopted by the BexarMet Board adopted on November 20, 1995 for the purpose of refunding outstanding debt originally issued to effect waterworks system improvements.

3. The public securities identified in the preceding paragraph and their authorizing orders, as assumed and amended by the City, are legal, valid, binding, and enforceable against all Interested Parties, and the covenants contained in those public securities are in no way impaired or defaulted by such assumption and amendment.

4. Any future public securities issued pursuant to the Special Project Ordinance must be submitted for review to the Attorney General, as their terms have not been determined and are therefore not validated by this judgment.

5. By assuming any specific BexarMet contracts, permits, credit agreements, credit facilities, obligations, rights, and responsibilities pursuant to SB 341, the City also assumes and is entitled to BexarMet's rights and defenses and may take any action necessary to secure same.

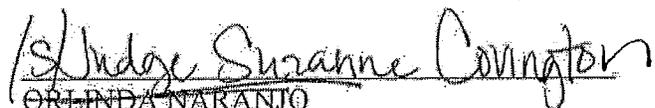
6. The City may enter into contracts and take other actions as necessary to implement the Special Project Ordinance.

IT IS FURTHER ORDERED that this Final Judgment is binding and conclusive against the City; the Attorney General; the Comptroller of Public Accounts for the State of Texas; all residents, property owners, and taxpayers of the City; all ratepayers of the San Antonio Water System; all residents, property owners, and ratepayers of the Bexar Metropolitan Water District; and any other persons who have or claim a right, title, or interest in any property or money to be affected by the public securities (City and/or BexarMet) described in this Final Judgment.

IT IS FURTHER ORDERED that this Final Judgment is a permanent injunction against the filing by any person of any proceeding contesting the validity of: (a) the public securities, a public security authorization, or an expenditure of money relating to the public securities described herein; (b) each provision made for the payment of the public securities or of any interest on the public securities; and (c) any adjudicated matter and any matter that could have been raised in this action.

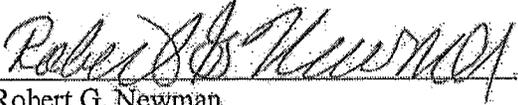
This Final Judgment is appealable as an accelerated appeal pursuant to the terms of TEX. GOV'T CODE § 1205.068.

SIGNED THIS 5th day of March, 2012.

  
~~ORLINDA NARANJO~~  
JUDGE PRESIDING

APPROVED AS TO FORM:

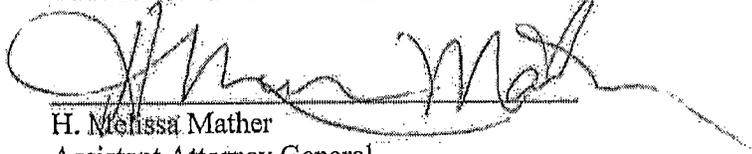
FULBRIGHT & JAWORSKI L.L.P.



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Facsimile: (210) 270-7205

ATTORNEYS FOR THE CITY OF SAN ANTONIO, TEXAS  
ACTING BY AND THROUGH THE SAN ANTONIO WATER SYSTEM

OFFICE OF THE ATTORNEY GENERAL OF TEXAS



H. Melissa Mather  
Assistant Attorney General  
Financial and Tax Litigation Division  
Office of the Attorney General  
P. O. Box 12548  
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Telephone: 512.475.2540  
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E-mail: hmelissa.mather@oag.state.tx.us

# **Attachment E**

**Executive Director Petition for Dissolution of Bexar Metropolitan Water District -  
Attachments**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



ENDORSEMENT TO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CERTIFICATES OF CONVENIENCE AND NECESSITY NO. 10675, 12759, 12760;

PERMIT NO. WQ0004437-000;

CERTIFICATES OF ADJUDICATION 19-1959, 19-4768, 19-2144, 19-1966;

WATER RIGHTS PERMITS 3867, 3866, 3865, 5549.

TCEQ DOCKET NO. 2012-0421-MLM

FOR Bexar Metropolitan Water District

The name and address of the above-referenced CCNs, Permits, certificates of adjudication, and water right permits has changed. That part of the signature page pertaining to the name and address of the permit holder is hereby changed so that the name shall hereafter be and read as follows:

SAN ANTONIO WATER SYSTEM  
2800 U.S. Hwy. 281 North  
San Antonio, TX 78212

This endorsement is part of the listed orders, certificates, authorizations and permits and should be attached to it.

This endorsement is in accordance with 30 Texas Administrative Code Section 50.145(b)(3).

ISSUED DATE: *March 23, 2012*

A handwritten signature in black ink, appearing to read "Mark A. G.", written over a horizontal line. Below the line, the text "For the Commission" is printed.

For the Commission

# **Attachment F**

**Executive Director Petition for Dissolution of Bexar Metropolitan Water District -  
Attachments**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2012-0421-MLM

IN THE MATTER OF THE SAN ANTONIO  
WATER SYSTEM CERTIFICATE OF  
CONVENIENCE AND NECESSITY NO.  
10640, TO TRANSFER AND CANCEL  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY NOS. 10675, 12759, AND  
12760 FROM BEXAR METROPOLITAN  
WATER DISTRICT IN BEXAR, MEDINA,  
AND ATASCOSA COUNTIES, TEXAS

§  
§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE TEXAS  
  
COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## ORDER

On March 23, 2012, the Executive Director of the Texas Commission on Environmental Quality pursuant to Chapters 5 and 13 of the Texas Water Code considered the requirements of Senate Bill 341 for San Antonio Water System Certificate of Convenience and Necessity No. 10640, to transfer and cancel Certificate of Convenience and Necessity Nos. 10675, 12759, and 12760 from Bexar Metropolitan Water District in Bexar, Medina, and Atascosa Counties, Texas.

No notice or hearing is required to complete this transfer.

The certificate amendment and cancellations required by SB 341 are necessary for the service, accommodation, convenience, and safety of the public.

Now, therefore, be it ordered by the Texas Commission on Environmental Quality that Certificate of Convenience and Necessity No. 10640 be amended and Certificates of Convenience and Necessity Nos. 10675, 12759, and 12760 be cancelled in accordance with the terms and conditions set forth herein and in the certificate.

IT IS FURTHER ORDERED that San Antonio Water System shall serve every customer and applicant for service within the area certified under Certificate of Convenience and Necessity No. 10640 and that such service shall be continuous and adequate.

Texas Commission on Environmental Quality

Issued date: *March 23rd, 2012*

*[Handwritten Signature]*  
For the Commission



## **CANCELLATION OF CERTIFICATE OF CONVENIENCE AND NECESSITY**

To Provide Water Service Under V.T.C.A., Water Code  
and Texas Commission on Environmental Quality Substantive Rules

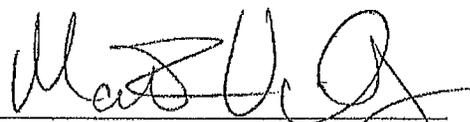
### **Certificate No. 10675**

Certificate No. 10675 was canceled by Order of the Commission in Docket No. 37272-S. Bexar Metropolitan Water District's facilities and lines were transferred to San Antonio Water System, CCN No. 10640, in Bexar, Comal and Medina Counties.

Please reference Certificate No. 10640 for the location of maps and other information related to the service area transferred.

Certificate of Convenience and Necessity No. 10675 is hereby CANCELED by Order of the Texas Commission on Environmental Quality.

Issued Date: March 23rd, 2012

  
\_\_\_\_\_  
For the Commission



## **CANCELLATION OF CERTIFICATE OF CONVENIENCE AND NECESSITY**

To Provide Water Service Under V.T.C.A., Water Code  
and Texas Commission on Environmental Quality Substantive Rules.

### **Certificate No. 12759**

Certificate No. 12759 was canceled by Order of the Commission in Docket No. 37272-S. Bexar Metropolitan Water District's facilities and lines were transferred to San Antonio Water System, CCN No. 10640, in Bexar County.

Please reference Certificate No. 10640 for the location of maps and other information related to the service area transferred.

Certificate of Convenience and Necessity No. 12759 is hereby CANCELED by Order of the Texas Commission on Environmental Quality.

Issued Date: March 23rd, 2012

  
For the Commission



## **CANCELLATION OF CERTIFICATE OF CONVENIENCE AND NECESSITY**

To Provide Water Service Under V.T.C.A., Water Code  
and Texas Commission on Environmental Quality Substantive Rules

### **Certificate No. 12760**

Certificate No. 12760 was canceled by Order of the Commission in Docket No. 37272-S. Bexar Metropolitan Water District's facilities and lines were transferred to San Antonio Water System, CCN No. 10640, in Atascosa County.

Please reference Certificate No. 10640 for the location of maps and other information related to the service area transferred.

Certificate of Convenience and Necessity No. 12760 is hereby  
**CANCELED** by Order of the Texas Commission on Environmental  
Quality.

Issued Date: March 23rd, 2012

  
For the Commission



# Texas Commission On Environmental Quality

**By These Presents Be It Known To All That**

## **San Antonio Water System**

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

### **Certificate of Convenience and Necessity No. 10640**

to provide continuous and adequate water utility service to that service area or those service areas in Atascosa, Bexar, Comal, Kendall and Medina Counties as by final Order or Orders duly entered by this Commission, which Order resulting from Application No. 37272-S is on file at the Commission offices in Austin, Texas; and is a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of San Antonio Water System to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this March 23, 2012

  
For the Commission

# **Attachment G**

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE

**DEED, WATER DEED AND TRANSFER OF REAL PROPERTY INTERESTS**

KNOW ALL BY THESE PRESENTS that the TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, an agency of the State of Texas, acting pursuant to Section 50(c), Chapter 306, Acts of the 49<sup>th</sup> Texas Legislature, Regular Session, 1945, set forth in Article 4, Section 4.01 of Senate Bill 341, 2011 Regular Session, enacted into law on or about June 19, 2011 (the "Legislation") concerning the BEXAR METROPOLITAN WATER DISTRICT, a governmental agency, municipal corporation, political subdivision of the State of Texas and water district created by a special act of the Texas Legislature pursuant to Article XVI, Section 50 of the Texas Constitution (together, for purposes herein, with all interests held by its Board of Trustees, "BexarMet"), has, in connection with the dissolution of the Bexar Metropolitan Water District Board of Trustees, TRANSFERRED, GRANTED, and CONVEYED, and by these presents does hereby TRANSFER, GRANT, and CONVEY unto the CITY OF SAN ANTONIO, A TEXAS MUNICIPAL CORPORATION, FOR THE USE, BENEFIT AND CONTROL OF ITS SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES as such and their successors in office appointed by the City Council of the said City of San Antonio as provided in Ordinance No. 75686, adopted at a regular meeting of said council, April 30, 1992 ("Grantee"), all of the following real property and water rights interests (being collectively, the "Property"):

**A. Land:** All real property, including all improvements thereon, owned in fee-simple, fee-simple determinable or similar estate by BexarMet and located in Bexar, Medina or Atascosa Counties, or any other county in the State of Texas (all of the foregoing being collectively the "Land"), together with all BexarMet's right, title and interest in and to (i) all water rights and claims of water rights of any nature related to the Land, (ii) all oil, gas and other minerals in and under and that may be produced from said Land, and (iii) all appurtenances including, but not limited to, reversionary rights or rights of reverter related to said Land, strips between the Land and abutting properties, and in any street, highway, alley, easement or right of way, existing or proposed, on or adjacent to or benefitting the Land.

**B. Water Rights:** All water rights, permits to withdraw groundwater, leases of water rights or permits to withdraw groundwater, and permits for the use, withdrawal, diversion or detention of surface water, owned or held by BexarMet (all of the foregoing being collectively the "Water Rights"), together with all BexarMet's right, title and interest in and to (i) all successor rights of or relating to the Water Rights, (ii) all real or personal property rights appurtenant to the Water Rights, and (iii) all historical rights, claims, permits, easements, and licenses relating to the Water Rights.

**C. Easements:** All easements and rights of way owned by, held by or for the use and benefit of BexarMet, whether by express grant, plat, implication or prescription, and located in Bexar, Medina or Atascosa Counties, or any other county in the State of Texas, together with all improvements, facilities, pipelines and other infrastructure owned by BexarMet and located on,

across or under any of the foregoing, together with all rights and appurtenances thereto.

**E. Miscellaneous:** All right, title and interest of BexarMet in and to all leases, licenses, and any other rights to real property, as well as and including all rights derived by adverse possession or time periods of adverse possession of any real property interest by BexarMet.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, its successors and assigns forever.

This instrument is being executed pursuant to the requirements of the Legislation and to put third parties on notice that the real property interests of BexarMet are under the ownership, benefit, use and control of the Grantee, and this instrument shall not constitute an assignment or other transfer that would require consent by any third party or terminate or otherwise prejudice any interest to any of the Property under any agreement applicable to the Property.

All of the rights and privileges, of every kind and nature, previously enjoyed by the former BexarMet, and related in any way to the Property, shall immediately inure to the benefit of Grantee so that Grantee can effectively own, control, manage and operate that system. The Property is initially being held by Grantee related to the District Special Project, as defined in City of San Antonio City Council Ordinance No. 2011-10-20-0845, and as allowed by Section 52 (c) the Legislation.

This instrument shall be effective as of, and relate back to, the Texas Commission on Environmental Quality's Order dated March 1, 2012 for TCEQ Docket No. 2012-0421-MLM, In the Matter of the Transfer of Bexar Metropolitan Water District to the San Antonio Water System in Bexar, Medina and Atascosa Counties, Texas.

*Signature and acknowledgement on following page*

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY,  
an agency of the State of Texas;

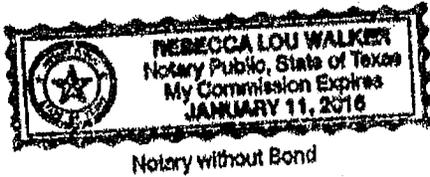
By: [Signature]  
Printed Name: Mark Vickery  
Title: Executive Director

STATE OF TEXAS           §  
  §  
COUNTY OF Travis       §

This instrument was acknowledged before me on this 23<sup>rd</sup> day of March, 2012, by Mark Vickery, Executive Director of the Texas Commission on Environmental Quality, an agency of the State of Texas, on behalf of said agency.

[Seal]

[Signature]  
Notary Public, State of Texas



After recording, return to:  
San Antonio Water System  
Attn: Mark Brewton, Corporate Counsel  
P.O. Box 2449  
San Antonio, Texas 78298-2449

# **Attachment H**

**Executive Director Petition for Dissolution of Bexar Metropolitan Water District -  
Attachments**



May 9, 2012

Mr. Doug Holcomb  
Specialist - Water Supply Division MC 154  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

Re: Senate Bill 341 and Bexar Metropolitan Water District

Dear Mr. Holcomb:

The San Antonio Water System (SAWS) acknowledges and confirms that the Texas Commission on Environmental Quality (TCEQ), through its Executive Director, has effectively transferred or assigned to SAWS all of the property, assets and liabilities of the former Bexar Metropolitan Water District (District) as required by Senate Bill 341, Sections 50. (c) and (d). SAWS has received TCEQ's Order dated March 1, 2012 for TCEQ Docket No. 2012-0421-MLM, in the Matter of the Transfer of the District to SAWS in Bexar, Medina and Atascosa Counties (Master Transfer and Assignment Order).

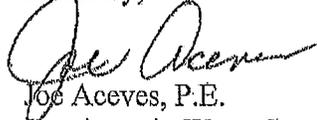
In furtherance of that Master Transfer and Assignment Order, SAWS has received from TCEQ: 1) the Deed, Water Deed and Transfer of Real Property Interests, which evidenced the transfer of all real property interests, including, but not limited to, land, water rights and easements for purposes of recordation and notification; 2) the Order that evidenced the transfer to SAWS the certificates of convenience and necessity (CCNs) of the former District through a certificate amendment and cancellations; and 3) the Endorsement to water rights, permits and CCN. These actions are within TCEQ's control and jurisdiction and further the purpose of the Master Transfer and Assignment Order by providing documentation to notify the public of the change in ownership.

As SAWS progresses toward the full integration of the two systems in compliance with Senate Bill 341, it is reasonable to anticipate the need for other modifications, particularly if they are within the control or jurisdiction of other agencies or entities. SAWS commits to pursue and document any such modifications when prudent and necessary, and will rely on the Orders already issued by TCEQ as support for those modifications. However, SAWS may seek the continued assistance of the TCEQ and its Executive Director in the event that it would be beneficial to effectuate future modifications.

Mr. Doug Holcomb  
May 9, 2012

SAWS requests that the TCEQ proceed with an order dissolving the District pursuant to Senate Bill 341, Sec. 50. (e).

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Aceves". The signature is fluid and cursive, with a large initial "J" and "A".

Joe Aceves, P.E.  
San Antonio Water System  
District Special Project Executive

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



DOCKET NO. 2012-0421-MLM

## AN ORDER DISSOLVING THE BEXAR METROPOLITAN WATER DISTRICT

On May 30, 2012, the Texas Commission on Environmental Quality ("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. Gov't Code §§ 551.001 - 551.146 and the Administrative Procedure Act, Tex. Gov't Code §§ 2001.001 - 2001.902, to consider the petition submitted by the Executive Director ("ED") pursuant to Senate Bill No. 341 ("SB 341"), enacted by the 82nd Regular Texas Legislature, to dissolve the Bexar Metropolitan Water District ("District"). The Commission, after having considered the petition, finds that the petition has merit and should be granted.

### I. Findings of Fact

1. On June 17, 2011, Senate Bill 341 (SB 341) of the 82nd Regular Texas Legislative Session concerning the dissolution of the Bexar Metropolitan Water District, became law.
2. On September 6, 2011, an election to dissolve the District was precleared by the U.S. Department of Justice ("DOJ").
3. On November 8, 2011, District ratepayers voted to dissolve the District.
4. From November 15, 2011 until May 8, 2012 the ED met regularly with representatives from the District, the San Antonio Water System ("SAWS") and representatives of the Legislative Oversight Committee tasked with monitoring the dissolution of the District.
5. On January 27, 2012, the DOJ precleared the election results.

6. On January 28, 2012, the District's Board of Directors was dissolved and SAWS assumed management and control of the District.
7. In consultation with the Legislative Oversight Committee, on March 1, 2012, the ED signed an order assigning to SAWS all (a) rights and duties of the District, including existing contracts, duties, assets, and obligations of the District; (b) files, records, and accounts of the District, including those that pertain to the control, finances, management, and operation of the District; and (c) permits, approvals, and certificates necessary to provide water services.
8. On March 5, 2012, the District Court of Travis County, Texas, 261st Judicial District Court entered a Declaratory Judgment validating the transfer of all of the District's outstanding indebtedness to the City of San Antonio, Texas, acting by and through SAWS. The Court also validated the assumption by the City of San Antonio, which was evidenced by its City Council's approval of a Special Project Ordinance (Ord. No. 2011-10-20-0845). Finally, the Court validated the election and dissolution proceedings. That Declaratory Judgment was not appealed and became final on April 4, 2012.
9. On March 23, 2012 the ED issued an endorsement changing the name and address of all TCEQ issued permits of the District to SAWS; an order canceling the District's three certificates of convenience and necessity (CCN's); and certificates reflecting that the District's CCN's had been canceled, and incorporating the territory of the District's CCN into SAWS's CCN. Finally, the ED signed a master deed conveying all real property of the District to SAWS.
10. All permits, licenses, authorization, and other debts, obligations, and assets that previously belonged to the District have, to the extent ascertainable, been transferred to SAWS.
11. Pursuant to Texas Water Code §5.701(n)(c), the District has billed each customer for its regulatory assessment fee.
12. On May 9, 2012, SAWS by letter confirmed that all required transfers were completed.

## II. Conclusions of Law

1. SB341 required the ED to make the above transfers within 90 days of the DOJ's preclearing the election results.
2. SB341 required the ED to make the above transfers in consultation with the Legislative Oversight Committee.
3. The ED's orders and actions complied with SB 341.
4. The District has no bonded indebtedness, no assets and no further functions.
5. SB 341 requires the Commission to dissolve the District.
6. SB341 requires SAWS to file an annual report with the TCEQ on each anniversary of January 27, 2012, until the completion of its integration period and for each year thereafter if the integration period is extended.
7. The obligation of the District, by and through SAWS, to collect and pay a regulatory assessment fee under Texas Water Code §5.701(n)(c) shall be extinguished with the dissolution of the District.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, that the petition for the dissolution of the District filed by the Executive Director is GRANTED.

The Commission affirms the March 1, 2012 and March 23, 2012 actions of the ED, as detailed in FOF No. 7 and 9.

The Commission hereby transfers any remaining rights and duties of the District, including existing contracts, duties, assets, rights, privileges and obligations of the District; files, records, and accounts of the District, including those that pertain to the control, finances, management, and operation of the District; and permits, approvals, and certificates necessary to provide water services, to the extent not previously transferred, to the City of San Antonio, Texas, acting by and through SAWS.

In the event that it becomes necessary or advisable to execute any instrument to transfer or further evidence the transfer of any permit, license, authorization, debt, right, duty, file, record, account or asset previously held by or inuring to the benefit of the District to SAWS in the future, then the ED is hereby

authorized to execute such instrument to further evidence or effectuate such transfer so long as it is consistent with SB 341.

SAWS shall remit the regulatory assessment fee required under Texas Water Code §5.701(n)(c) collected as of the date of this order.

The Commission shall file a certified copy of this Order of Dissolution in the deed records of Bexar, Medina, and Atascosa Counties.

The Commission will also file a certified copy of this Order of Dissolution with the Secretary of State pursuant to TEXAS WATER CODE § 49.325.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date:

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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Bryan Shaw, Chairman

