Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 22, 2013

Ms. Bridget Bohac, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

Re: Docket No. 2013-1245-DIS. Consideration of a resolution by the Board of Directors of Riviera Water Control and Improvement District of Kleberg County, for conversion of Riviera Water Control and Improvement District, in Kleberg County Texas to a municipal utility district.

Dear Ms. Bohac:

Enclosed for filing with the Texas Commission on Environmental Quality (Commission) is the original plus seven copies of the following backup materials for the December 11, 2013, agenda item on the above referenced matter:

- Staff Memorandum;
- Proposed order;
- Resolution for Conversion of Riviera from a WCID to a MUD;
- District Site Map;
- Notice of Hearing;
- Affidavit of Publication;
- Mailing List;
- Caption.

Please do not hesitate to contact me at (512) 239-0602 if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully submitted,

Hollis Henley
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

# Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

**To:** Tammy Benter, Manager
Utilities & Districts Section

**Date:** August 23, 2013

**Thru:** Sandy Van Cleave, Team Leader
Utilities & Districts Section

**From:** Craig Barnes, Districts Creation Review Team
CB 8-23-13

**Subject:** Docket No. 2013-1245-DIS; Riviera Water Control and Improvement District of Kleberg County; Petition for Conversion to a Municipal Utility District. Pursuant to Texas Water Code Chapters 49 and 54 and Title 30 Texas Administrative Code Chapter 293.
TCEQ Internal Control No. D-02252013-022 (TC)
CN: 6006443399 RN: 101198141

## A. GENERAL INFORMATION

On February 25, 2013, the Texas Commission on Environmental Quality (TCEQ) received the above referenced application from Riviera Water Control and Improvement District of Kleberg County (the "District"). The resolution within the application requests TCEQ approval to convert the District from a water control and improvement district to a municipal utility district.

### History

The District is 248 acres and was created during the 69th Legislative Session, to provide wastewater capacity, treatment and facilities to serve the residents of the unincorporated community of Riviera located in southern Kleberg County along U.S. Highway 77. According to application material, the District is proposing to convert to a municipal utility district in order to purchase the existing local water system. The District has applied for a Texas Community Development Block Grant and a United States Department of Agriculture Rural Development Loan to purchase the existing water system. The operation of the water system will be paid for by water customer fees. Also, the District does not intend on utilizing drainage and recreational powers as granted under Chapter 54 of the Texas Water Code.

Exhibit "A"

## B. ENGINEERING ANALYSIS

1. Water Supply

The District does not currently provide water services to its residents. According to application material, the District intends to provide water services to its residents in the future.

2. Wastewater Treatment

District customers receive wastewater treatment capacity from a 60,000 gallon per day plant. The plant is located in the southwest section of the District and treated effluent is permitted to discharge into Los Olmos Creek. The collection system includes 6-inch and 8-inch lines and force mains along with five lift stations. The District currently provides wastewater services to 186 residential connections and eight commercial connections.

## C. PROJECT FEASIBILITY

1. Status of Development

The District currently serves wastewater services to 186 residential connections and eight commercial connections and the population within the District is expected to increase slightly over the next ten years. The District is not proposing any capital improvements. According to the engineering report, the District's current assessed valuation is $7,070,382 and the District does not levy a tax on its property owners.

2. Water and Wastewater Rates

Based on the information provided, the estimated monthly fee for 10,000 gallons of water and wastewater would be $61.50.

## D. SPECIAL CONSIDERATIONS

District Name Change

By board resolution, the District did not request to change its name upon conversion.

## E. CONCLUSIONS

1. The conversion to a MUD would be a benefit to the land and serve the best interest of the District.

2. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

## F. RECOMMENDATIONS

Grant the request of Riviera Water Control and Improvement District for its conversion from a water control and improvement district operating under Chapters 49 and 51 of the Texas Water Code to a municipal utility district operating under Chapters 49 and 54 of the Texas Water Code.

## G. ADDITIONAL INFORMATION

The District's representative is listed below:

Mr. Horacio Castillo – Riviera WCID – 119 North 7th Street – Kingsville, Texas 78363-4538

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## An order granting the conversion of Riviera Water Control and Improvement District into a Municipal Utility District

## DOCKET NO. 2013-1245-DIS

On December 11, 2013, the Texas Commission on Environmental Quality (hereafter "Commission") met in regular session at its offices in Austin, Texas to consider the application of Riviera Water Control and Improvement District (hereafter "District") for conversion into a Municipal Utility District pursuant to TEX. WATER CODE §§ 54.030 - 54.036 and 30 TEX. ADMIN. CODE § 293.15.

## FINDINGS OF FACT

1. On February 25, 2013, an application (including the District's Resolution) requesting the conversion of the District into a Municipal Utility District was filed with the Commission pursuant to TEX. WATER CODE Chapter 54 and 30 TEX. ADMIN. CODE Chapter 293.

2. The Resolution adopted by the governing body of the District on February 7, 2013, declares that in the judgment of the governing body, conversion of the District into a Municipal Utility District would be a benefit to the land and property included in the District, and requests that the Commission hold a public hearing on the question of conversion of the District into a Municipal Utility District.

3. The Executive Director reviewed the application and found that conversion to a municipal utility district would serve the best interests of the District.

4. Proper notice of the application was given by publication on September 25, 2013, and October 2, 2013, in the Kingsville Record & Bishop News regularly published and generally circulated in Kleberg County, where the district is located, pursuant to TEX. WATER CODE § 54.032 and 30 TEX. ADMIN. CODE § 293.15.

5. The appropriate and necessary deposits and fees associated with the filing of the petition have been paid to the Commission.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction to consider the application and is authorized to make and enter its Findings of Fact, Conclusions of Law, and Orders with respect to the request for conversion of the District into a Municipal Utility District.

2. The application of the District conforms in all respects to TEX. WATER CODE § 54.030 and 30 TEX. ADMIN. CODE § 293.15 in proper and legal form, and the purposes thereof are lawful.

3. All statutory and regulatory requirements for conversion of the District into a Municipal Utility District have been fulfilled pursuant to TEX. WATER CODE §§ 54.030 - 54.036 and 30 TEX. ADMIN. CODE § 293.15.

NOW THEREFORE BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the District's request for conversion of the District from a Water Control and Improvement District operating under TEX. WATER CODE Chapters 49 and 51 to a Municipal Utility District (MUD) operating under TEX. WATER CODE Chapters 49 and 54 is hereby approved.

The District did not request a name change as a part of its conversion. Therefore, Rivera Water Control and Improvement District shall retain its original name.

The Utilities and District Section's memorandum dated August 23, 2013, is hereby attached as Exhibit "A" and incorporated into this Order.

The District shall file a copy of this Commission Order in the deed records of Kleberg County, Texas.

The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.

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:

_____

For the Commission

**RESOLUTION FOR THE CONVERSION OF THE RIVIERA WATER CONTROL AND IMPROVEMENT DISTRICT TO A MUNICIPAL UTILITY DISTRICT**

THE STATE OF TEXAS

COUNTY OF KLEBERG

WHEREAS, the Riviera Water Control and Improvement District ("District"), was created pursuant to Article XVI, Section 59, of the Texas Constitution and pursuant to the provisions of the 69th Legislature, Regular Session, Chapter 586, and

WHEREAS, under Section 54.030 of the Texas Water Code, and Section 293.15 of the rules of the Texas Commission on Environmental Quality (TCEQ), the District is authorized to request from the TCEQ conversion into a Municipal Utility District; and

WHEREAS, the District intends to provide public water services to the residents within the District in the future in addition to wastewater services currently authorized and being provided; Now, Therefore,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF RIVIERA WATER CONTROL AND IMPROVEMENT DISTRICT THAT:

Section 1: The conversion from the existing Water Control and Improvement District to a Municipal Utility District would serve the best interests of the District and would be a benefit to the land and property included in the District.

Section 2: The Texas Commission on Environmental Quality is requested to hold a public hearing on the question of conversion of the District into a Municipal Utility District.

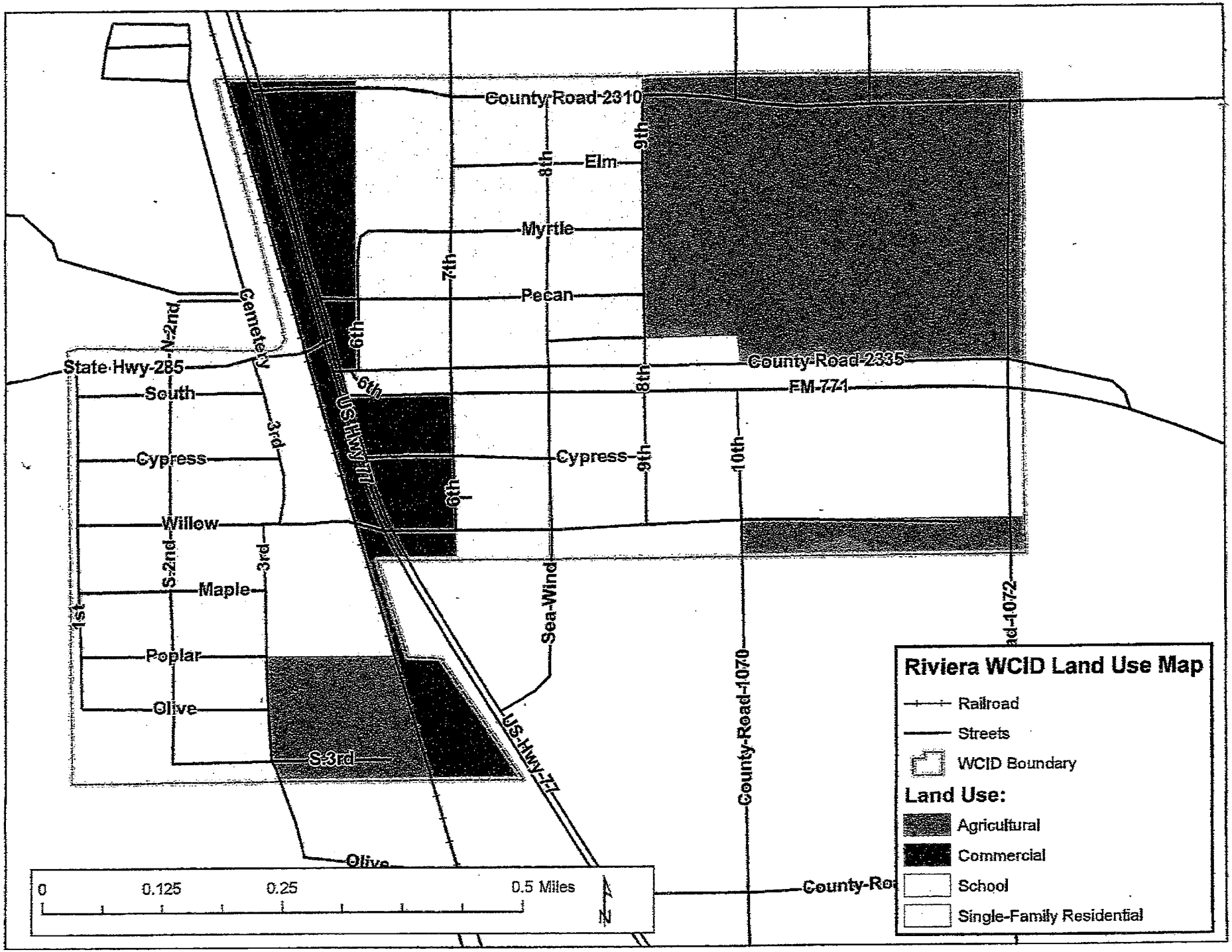
PASSED AND APPROVED this 7 day of February, 2013.

President, Board of Directors

ATTEST:

Secretary, Board of Directors

EXHIBIT "A"


Riviera WCID Land Use Map
Railroad
Streets
WCID Boundary
Land Use:
Agricultural
Commercial
School
Single-Family Residential
County Road 2310
Elm
Myrtle
Pecan
County Road 2335
FM 771
Cypress
Willow
Maple
Poplar
Olive
S 3rd
State Hwy 285
South
Cemetery
N 2nd
S 2nd
1st
3rd
6th
7th
8th
9th
10th
US Hwy 77
Sea Wind
County Road 1070
0
0.125
0.25
0.5 Miles
N

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**NOTICE OF DISTRICT HEARING**
**TCEQ Docket No. 2013-1245-DIS**

**APPLICATION.** The Texas Commission on Environmental Quality (TCEQ) will conduct a hearing on an application for conversion of Riviera Water Control and Improvement District of Kleberg County (District) to a Municipal Utility District (Application). The Application was filed with the TCEQ and included a certified copy of a resolution by the District's Board of Directors (Applicant). The TCEQ will conduct this hearing under the authority of Chapters 49 and 54 of the Texas Water Code, Title 30, Chapter 293 of the Texas Administrative Code and the procedural rules of the TCEQ. The TCEQ will conduct the hearing at:

9:30 a.m., Wednesday, December 11, 2013
Building E, Room 201S
12100 Park 35 Circle
Austin, Texas

The District contains 248 acres of land within Kleberg County. The District's boundaries and properties currently excluded from the District are set forth in property descriptions available for public review upon request at either the District's office or at the TCEQ's office. A copy of the District's site map is available for public review upon request at either the District's office or at the TCEQ's office. The District was created during the 69th Legislative Session, to provide wastewater capacity, treatment and facilities to the residents of the unincorporated community of Riviera located in southern Kleberg County along U.S. Highway 77, as a water control and improvement district under Article XVI, Section 59 of the Texas Constitution. The Applicant adopted and entered in its minutes a resolution in which the Applicant determined that conversion into a municipal utility district would serve the District's best interest and would be a benefit to land and property included in the District. The Board's Resolution, executed February 7, 2013 is attached as Exhibit "A".

**HEARING.** As required by the Texas Water Code Chapter § 54.032 and Title 30 of the Texas Administrative Code Section § 293.15, the above hearing regarding this application will be held no earlier than 14 days after notice of this hearing is published in a newspaper with general circulation in the county or counties in which the District is located. The purpose of this hearing is to provide all interested persons the opportunity to appear and offer testimony for or against the proposal contained in the resolution.

At the hearing, pursuant to the Texas Water Code § 54.033 the Commission will determine if converting the current district into a municipal utility district, that operates under Texas Water Code Chapter 54 would serve the best interest of the District and would be a benefit to the land and property included in the District, or, if there is any opposition to the proposed conversion, the Commission may refer the application to the State Office of Administrative Hearings for a contested case hearing on the application.

**INFORMATION.** For information regarding the date and time this application will be heard before the Commission, please submit written inquiries to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087, or by phone at 1-512-239-3300. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Creation Review Team at 1-512-239-4691. General information regarding TCEQ can be found at our web site at www.tceq.texas.gov.

**Si desea información en Español, puede llamar al 1-512-239-0200.**

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the TCEQ Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD), at least one week prior to the hearing.

Issued: September 17, 2013

Print Form

TCEQ - Office of the Chief Clerk
MC-105 Attention: Notice Team
PO Box 13087
Austin TX 78711-3087

Applicant Name: RIVIERA WCID
TCEQ Tracking No. 2013-1245-DIS CID Item No. 88149
Application Type: NOTICE OF DISTRICT HEARING ON APPLICATION FOR CONVERSION

# AFFIDAVIT OF PUBLICATION

STATE OF TEXAS §
COUNTY OF: KLEBERG §

Before me, the undersigned authority, on this day personally appeared Christopher Maher (name of newspaper representative), who being by me duly sworn, deposes and says that (s)he is the Publisher (title of newspaper representative) of the Kingsville Record & Bishop News (name of newspaper); that said newspaper is regularly published or circulated in Kleberg (name of county or counties) County/Counties, Texas; that the attached notice was published in said newspaper on the following dates:

September 25, 2013 & October 2, 2013
(date or dates of publication)

Newspaper Representative's Signature

2013 OCT -7 AM 10:48
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Subscribed and sworn to before me this the 30th day of September, 2013, to certify which witness my hand and seal of office.

(Seal)

IRMA REYES
MY COMMISSION EXPIRES
June 26, 2014

Notary Public in and for the State of Texas

Irma Reyes
Print or type Name of Notary Public

My Commission Expires 6/26/14

September 25, 2013 October 2, 2013 THE KINGSVILLE RECORD AND BISHOP NEWS

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**NOTICE OF DISTRICT HEARING**
**TCEQ Docket No. 2013-1245-DIS**

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9:30 a.m., Wednesday, December 11, 2013
Building E, Room 201S
12100 Park 35 Circle
Austin, Texas

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**HEARING.** As required by the Texas Water Code Chapter § 54.032 and Title 30 of the Texas Administrative Code Section § 293.15, the above hearing regarding this application will be held no earlier than 14 days after notice of this hearing is published in a newspaper with general circulation in the county or counties in which the District is located. The purpose of this hearing is to provide all interested persons the opportunity to appear and offer testimony for or against the proposal contained in the resolution. At the hearing, pursuant to the Texas Water Code § 54.033 the Commission will determine if converting the current district into a municipal utility district, that operates under Texas Water Code Chapter 54 would serve the best interest of the District and would be a benefit to the land and property included in the District, or, if there is any opposition to the proposed conversion, the Commission may refer the application to the State Office of Administrative Hearings for a contested case hearing on the application.

**INFORMATION.** For information regarding the date and time this application will be heard before the Commission, please submit written inquiries to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087, or by phone at 1-512-239-3300. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Creation Review Team at 1-512-239-4691. General information regarding TCEQ can be found at our web site at www.tceq.texas.gov.

**Si desea información en Español, puede llamar al 1-512-239-0200.**

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the TCEQ Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD), at least one week prior to the hearing.

Issued: September 17, 2013

EXHIBIT "A"

RESOLUTION FOR THE CONVERSION OF THE RIVIERA WATER CONTROL AND IMPROVEMENT DISTRICT TO A MUNICIPAL UTILITY DISTRICT

THE STATE OF TEXAS

COUNTY OF KLEBERG

WHEREAS, the Riviera Water Control and Improvement District ("District"), was created pursuant to Article XVI, Section 59, of the Texas Constitution and pursuant to the provisions of the 69th Legislature, Regular Session, Chapter 586, and

WHEREAS, under Section 54.030 of the Texas Water Code, and Section 293.15 of the rules of the Texas Commission on Environmental Quality (TCEQ), the District is authorized to request from the TCEQ conversion into a Municipal Utility District; and

WHEREAS, the District intends to provide public water services to the residents within the District in the future in addition to wastewater services currently authorized and being provided; Now, Therefore,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF RIVIERA WATER CONTROL AND IMPROVEMENT DISTRICT THAT:

Section 1: The conversion from the existing Water Control and Improvement District to a Municipal Utility District would serve the best interests of the District and would be a benefit to the land and property included in the District.

Section 2: The Texas Commission on Environmental Quality is requested to hold a public hearing on the question of conversion of the District into a Municipal Utility District.

PASSED AND APPROVED this 7th day of February, 2013.

/s/ Toby Yaklin, President

ATTEST:
/s/ Hilda Cantu, Secretary

Bryan W. Shaw, Ph.D., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 17, 2013

CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Mr. Toby Yalkin, President
Riviera WCID
PO Box 430
Riviera, Texas 78379-0430

Re: TCEQ Docket No. 2013-1245-DIS; TCEQ Internal Control No. D-02252013-022
Publication of Notice of District Petition regarding conversion of Riviera Water Control and Improvement District to Riviera Municipal Utility District

Dear Mr. Yalkin:

Enclosed is a copy of the notice for the above petition. Please carefully review the notice for accuracy prior to publication. Contact Craig Barnes in the District Administration Office, at 512/239-3708, if the notice is found to be in error.

The notice (including the Resolution "Exhibit A") must be published in a newspaper (or newspapers) regularly published or circulated in the county or counties in which the proposed district is be located. Publication shall be once a week for two consecutive weeks. The 30-day comment period will begin on the day after the date of the **second** publication. The **first publication** of this notice should occur **no later than September 27, 2013.**

After notice has been published and mailed, please **submit** the original affidavit of publication and an original affidavit of mailing **to the Office of the Chief Clerk (Mail Code 105)**. The original affidavit of publication must be submitted with an original tear sheet from the newspaper in which you published the notice. The Chief Clerk's Office should receive the affidavits no later than 14 days after the second publication of the notice in the newspaper (November 8, 2013 would be the latest date).

If you have any questions regarding these publication requirements, please contact Irma Salazar in this office at 512/239-1328.

Sincerely,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

CHIEF CLERKS OFFICE
2013 OCT -7 AM 10: 48
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

BCB/is

Enclosures

cc: To all on attached mailing list.

Riviera W.C.I.D.
P.O. Box 430
Riviera, TX 78379-0430

Equality Justice Freedom
FOREVER FOREVER FOREVER

RECEIVED
OCT 07 2013
TCEQ MAIL CENTER
MM

Office of the Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

## Irma Salazar

**From:** Irma Salazar
**Sent:** Tuesday, October 15, 2013 2:48 PM
**To:** Craig Barnes
**Cc:** Melissa Chao; Justin Taack; Brad Patterson
**Subject:** RIVIERA WCID / 2013-1245-DIS

We have received proof of newspaper publication for the above referenced, evidencing publication on September 25 and October 2, 2013 in the *Kingsville Record & Bishop News*. The affidavit states said newspaper is regularly published or circulated in Kleberg County, Texas.

The documents are being prepared for filing and will be available for viewing by requesting the file at the front desk of OCC within the next few days.

**MAILING LIST**

Riviera Water Control and Improvement District of Kleburg County
TCEQ Internal Control No. D-02252013-022

Mr. Toby Yalkin, President
Riviera WCID
PO Box 430
Riviera, Texas 78379-0430

Mr. Horacio Castillo
Riviera WCID
119 North 7th Street
Kingsville, Texas 78363-4538

Ms. Susan Clewis, Regional Director
TCEQ Region 14
NRC Building, Suite 1200
6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

Mr. Leo H. Alarcon, County Clerk
Kleberg County
PO Box 1327
Kingsville, Texas 78364

Mr. John P. Buckner, Executive Director
Coastal Bend Council of Governments
PO Box 9909
Corpus Christi, Texas 78469-909

Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711-3087

Craig Barnes, Utilities and Districts Section, Water Supply Division, MC-152
Justin Taack, Utilities and Districts Section, Water Supply Division, MC-152
Seyed Miri, Utilities and Districts Section, Water Supply Division, MC-152
Komal Patel, Utilities and Districts Section, Water Supply Division, MC-153
Blas Coy, Office of the Public Interest Counsel, MC-103

**Caption**
**Riviera Water Control and Improvement District of Kleberg County**
**TCEQ Internal Control No. D-02252013-022**

TCEQ Docket No. 2013-1245-DIS. Consideration of a resolution by the Board of Directors of Riviera Water Control and Improvement District (District) of Kleberg County, for conversion of the District to a municipal utility district. The District requests that the Commission convert the District pursuant to Texas Water Code, Chapters 49 and 54.