

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

January 10, 2014

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

Re: Application from Northwest Dallas County Flood Control District (FCD) for authorization to proceed in federal bankruptcy in Dallas County, Texas; TCEQ Docket No. 2013-1384-DIS

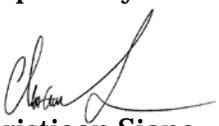
Dear Ms. Bohac:

Enclosed for filing with the Texas Commission on Environmental Quality (Commission) is the original plus seven copies of the following backup materials for the January 29, 2014, agenda item on the above referenced matter:

1. Staff technical memorandum;
2. Caption;
3. Northwest Dallas County FCD application (cover letter and resolution only) filed on December 27, 2012, and declared administratively complete on January 02, 2013;
4. Public comment filed in response to the application; and
5. Proposed order.

Please do not hesitate to contact me at (512) 239-6743 if you have any questions regarding this material. Thank you for your attention to this matter.

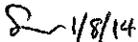
Respectfully submitted,


Christiaan Siano
Staff Attorney
Environmental Law Division

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: ^{1/8/14}  Texas Commission on Environmental Quality Date: January 08, 2014

Thru: Tammy Benter, Manager, Utilities & Districts Section
^{1/8/14}  Seyed Miri P.E., Team Leader, District Creation Team

From:  Beatriz Flores
¹⁻⁹⁻¹⁴ Districts Creation Team

Subject: Docket No. 2013-1384-DIS: Application by Northwest Dallas County Flood Control District for Approval to Proceed under Federal Bankruptcy Code Chapter 9 (11 U.S.C. Sections 901-946) pursuant to Texas Water Code Section 49.456
TCEQ Internal Control No. D-12272012-022; CN: 600650584; RN: 101206654

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received an application from Northwest Dallas County Flood Control District (District) requesting authorization for the District to proceed with filing a petition in bankruptcy, pursuant to Chapter 9 of the Federal Bankruptcy Code.

Notice required by 30 Texas Administrative Code (30 TAC) § 293.88(b) was evidenced by proof of publication in the *Texas Bond Reporter* on September 27, 2013, in the *Coppell Gazette* on September 29 and October 6, 2013, and an affidavit provided by the Chief Clerk's office indicating that notice was provided to appropriate parties as listed in the District's application. The comment period ended on November 5, 2013. The TCEQ has received one comment from bondholder, Mr. Milford L. Sharp.

The District was created pursuant to Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 57 of the Texas Water Code through an order issued by the TCEQ on June 30, 1985. The primary function of the district was to finance the construction of certain flood control and drainage projects to reclaim land in the District. The District contains approximately 611 acres located wholly within Dallas County and within the city limits of Coppell, Texas, of which approximately 564 acres were to be developed under a master planned community. According to the District's audited financial statements and under a bankruptcy plan, United States Bankruptcy Court Northern District of Texas, Dallas Division Case No: 392-31469-RCM-9 (April 13, 1992), the District is precluded from issuing any additional bonds payable in whole or part from ad valorem taxes for any purpose so long as the Limited Tax Modified Capital Appreciation Refunding Bonds, Series 1992 are outstanding.

The District previously filed bankruptcy in 1992 and has been discharged from bankruptcy court. The plan of reorganization effectively forgave much of the interest on the bonded indebtedness but did not release the District from obligations to pay the outstanding principal balance of \$8,424,000. The last maturity date for these bonds is May 1, 2025. Based on application material, principal amounts due from May 1, 2012 through May 1, 2025 are all due and unpaid.

The District is seeking reorganization in bankruptcy under Chapter 9 of the Bankruptcy Code which includes discharge of all obligations to pay the compounded interest outstanding.

The District's attorney for collection of delinquent accounts reported at the time the application was filed that the District has cumulative unpaid and accrued 1992 Bond Interest balance as of September 30, 2012, had reached the level of \$6,588,933, with additional unpaid interest compounding to this deficit at a rate in excess of \$275,000 per year. It is estimated that the accrued, unpaid, compounding obligation will reach approximately \$17,184,960, at the currently scheduled maturity of the Bonds in 2025.

B. FINANCIAL ANALYSIS

The District indicated in its application that it does not collect enough revenues to pay for operations and to make payments on principal and interest for the outstanding bonds without jeopardizing operations. Moreover, the District also indicated in its application that it is unable to make payments on the outstanding bonds. The following facts are noted from the audited financial statements:

1. The District currently owes \$8,424,000 in principal and \$6,588,933 compounded interest for a total of \$15,012,933 for its 1992 Bond Series.
2. If the original principal sum is amortized, as allowed in Chapter 9 bankruptcy, through periodic redemptions, then by maturity of 2025, a substantial portion, if not all, of the \$8,424,000 will be repaid.
3. The District is currently in default on debt service payments, paying only interest and no principal on an annual basis.
4. The District's total revenues are \$1,153,805 for the year ending September 30, 2012. Property taxes represent 99.9% of total revenues, which are levied on October 1 of each year, due and payable at that time.
5. The District's total expenses are \$1,373,651 of which 86% went to pay interest on long-term debt and 14% went for operations, which exceeds total revenues by \$219,846. The District is experiencing negative cash flows on an annual basis.
6. The District's economic situation depends on the future costs to repair and maintain infrastructure and the ability to meet its debt service requirements. The District's tax rate is fixed at \$0.30 for each \$100 of assessed valuation of taxable property within the District, of which \$0.25 went to finance the payment of principal and interest on long-term debt, and \$0.05 went to finance general government services. This rate cannot increase as long as any of the Refunding Bonds or interest thereon is outstanding and unpaid.

C. ENGINEERING ANALYSIS

Not applicable to this application.

D. CONCLUSIONS

1. Based on review of the audited financial statements and the District's application and assertions, the District cannot, through the full exercise of its rights and powers under the law of this state, reasonably expect to meet its debts and other obligations as they mature.
2. Based on review of the amended documents of the District's application and assertions, the District cannot, through the full exercise of its rights and powers under the law of this state, reasonably expect to meet its debts and other obligations as they mature.
3. Based upon the application and information provided, the District has fully exercised its rights and powers under the law in attempts to collect revenues for payment of debts and other obligations.
4. The recommendation is made under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

E. RECOMMENDATION

Staff recommends approval of the District's application to proceed under Federal Bankruptcy Code, Chapter 9.

CAPTION: Docket No. 2013-1384-DIS. Consideration of an Application from Northwest Dallas County Flood Control District (District), in Dallas County, for Approval to Proceed under Federal Bankruptcy Code Chapter 9 (11 U.S.C. Sections 901-946) pursuant to Texas Water Code Section 49.456. (Justin Taack; Christiaan Siano)

Northwest Dallas County Flood Control District
3960 Broadway Boulevard, Suite 220-O
Garland, Texas 75043

December 20, 2012

Ms. Tammy Benter
Manager of Utilities & Districts
Texas Commission on Environmental Quality
Utilities & Districts (MC 152)
P.O. Box 13087
Austin, Texas 78711-3087

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D-12272012-022

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UTILITIES & DISTRICTS
SECTION

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Re: Request for Authorization to Proceed Under Chapter 9 of the Federal Bankruptcy Code

Dear Ms. Benter:

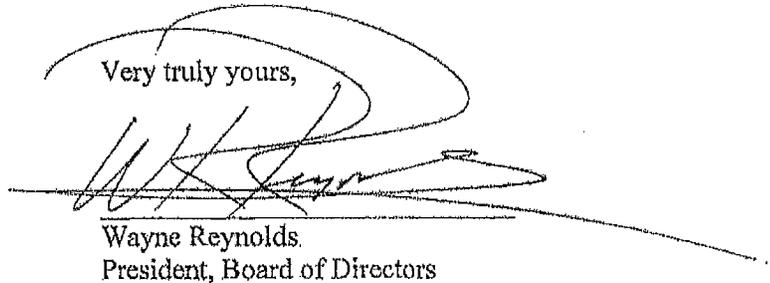
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Pursuant to Section 49.486, Texas Water Code and the rules of the Texas Commission on Environmental Quality (the "Commission") found at 31 Texas Administrative Code Section 293.88 ("Section 293.88"), enclosed are a resolution of the Board of Directors of Northwest Dallas County Flood Control District (the "District") making application to the Commission for authorization for the District to proceed under chapter 9, Adjustment of Debts of a Municipality, of the Federal Bankruptcy Code, and the documents and information set forth in Section 293.88.

The District is in compliance with the rules and regulations of the Commission applicable to the District.

If you have any questions or need additional information, please contact the District's General Counsel, Pete Eckert, 3960 Broadway Blvd., Suite 220-O, Garland, Texas 75043, (972) 271-3201.

Very truly yours,



Wayne Reynolds
President, Board of Directors

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTY OF DALLAS §

I, the undersigned officer of the Northwest Dallas County Flood Control District (the "District"), hereby certify as follows:

1. The Board of Directors of the District (the "Board") convened in a SPECIAL MEETING ON THE 11th DAY OF DECEMBER, 2012, at Oaks Riverchase, 777 Fairway Drive, Coppell, Texas at 12:00 p.m. (noon) (the "Meeting"), and the roll was called of the duly constituted officers and members of the Board, as follows:

Wayne Reynolds, President
Jerry Ragsdale, Secretary
Larry Jones

and all of such persons were present, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

RESOLUTION REQUESTING TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AUTHORIZATION FOR PROCEEDING IN BANKRUPTCY; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

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

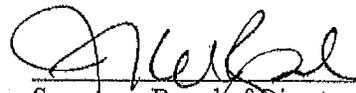
AYES: All members of the Board shown present above voted "Aye".
NOES: None.
ABSTENTIONS: None.

2. That a true, full and correct copy of the Resolution passed at the Meeting is attached to and follows this Certificate; that the Resolution has been duly recorded in the Board's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the Board's minutes of the Meeting pertaining to the passage of the Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the Board as indicated therein; that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the Meeting, and that the Resolution would be introduced and considered for passage at the Meeting, and each of such officers and members consented, in advance, to the holding of the Meeting for such purpose, and that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

3. That the President of the Board has approved and duly signed the Resolution; that the Secretary of the Board has duly signed the Resolution; and that the Secretary of the Board hereby declares that his signing of this Certificate shall constitute the signing of the attached and following copy of the Resolution for all purposes.

4. That the Resolution has not been modified, amended or repealed and is in full force and effect on and as of the date hereof.

SIGNED this



Secretary, Board of Directors
Northwest Dallas County Flood Control District

NORTHWEST DALLAS COUNTY FLOOD CONTROL DISTRICT

RESOLUTION NO. 12-03

RESOLUTION REQUESTING TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AUTHORIZATION FOR PROCEEDING IN BANKRUPTCY; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, Northwest Dallas County Flood Control District (the "District") is a conservation and reclamation district created in 1985 pursuant to Article XVI, Section 59, Texas Constitution, and Chapter 472, 69th Legislature, R.S., 1985, now codified as Chapter 7806, Texas Special Districts Code;

WHEREAS, in accordance with the District's Plan of Adjustment of Debts (the "1992 Plan") and an Order Confirming Plan of Adjustment of Debts of the District, as adopted by a United States Bankruptcy Court in 1992, the District issued its Limited Tax Modified Capital Appreciation Bonds, Series 1992 (the "1992 Bonds"), in the original aggregate principal amount of \$8,424,000;

WHEREAS, this Board of Directors has reviewed the financial position of the District, including its assets, liabilities and sources of revenues and has found that the District cannot, through the full exercise of its rights and powers under the Constitution and subject to the limitations of the 1992 Plan, reasonably expect to meet its debts and other obligations as they mature;

WHEREAS, Section 49.456, Texas Water Code, as amended, requires that a district created under Article XVI, Section 59, Texas Constitution, must obtain the approval of the Texas Commission on Environmental Quality to proceed under the Bankruptcy Code;

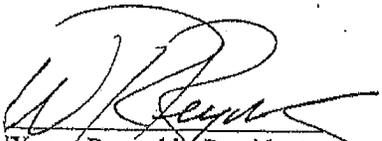
WHEREAS, this Board of Directors has determined that a voluntary reorganization under Chapter 9 of the Federal Bankruptcy Code, is the only effective means to overcome its financial difficulties; and

WHEREAS, it is hereby officially found and determined: that public notice of the time, place, and purpose of said meeting was given, all as required by Texas Government Code, Chapter 551, now therefore,

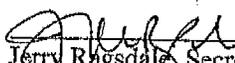
BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NORTHWEST DALLAS COUNTY FLOOD CONTROL DISTRICT:

1. An application is hereby approved and authorized to be filed with the Texas Commission on Environmental Quality requesting approval of the Texas Commission on Environmental Quality for the District to proceed with a voluntary plan of reorganization under Chapter 9 of the Federal Bankruptcy Code
2. The District's legal counsel and financial advisors are hereby authorized and directed to aid and assist in the preparation and submission of such application and appear on behalf of and represent the District before the Texas Commission on Environmental Quality on such application.
3. This Resolution shall become effective immediately upon adoption.

PASSED AND APPROVED THIS 11th DAY OF DECEMBER, 2012



Wayne Reynolds, President



Jerry Ragsdale, Secretary

DIS
88481

10-17-2013

To: Texas Commission on Environmental Quality
Attn: Office of Chief Clerk

Re: Northwest Dallas County Flood Control District
(TCEQ Docket No. 2013-1384-DIS, Internal
Control No. D-12272012-022)

In 1986 I purchased two \$100,000 bonds from the district. In 1992 the district, through bankruptcy proceedings, redeemed one bond for \$80,000 requiring me to take a \$20,000 loss. The other bond was cancelled and a new bond with face value of \$80,000 was issued & required me to absorb an additional \$20,000 loss. I still hold this bond, Cuaip #667436BUZ.

Why must the district go through another bankruptcy at this time. They have to pay annually only what the fixed tax proceeds will facilitate until 2025. They are not in default.

If the bond holders are going to take additional losses, lets wait until 2025.

REVIEWED

OCT 23 2013

By [Signature]

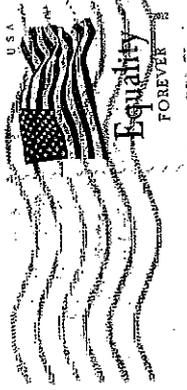
Sincerely
Melfred L. Sharp
P.O. Box 8613
Horsham Bay TX 78657

CHIEF CLERKS OFFICE

2013 OCT 23 AM 10:12

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

M. L. Sharp
P.O. Box 8613
Horseshoe Bay, TX 78657



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TCEQ MAIL CENTER
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Office of the Chief Clerk

MC 105, TCEQ

P.O. Box 13087

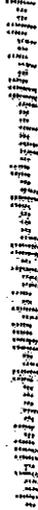
Austin, TX 78711-3087

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CHIEF CLERKS OFFICE

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



DOCKET NO. 2013-1384-DIS

AN ORDER AUTHORIZING DISTRICT BANKRUPTCY PROCEEDINGS

On January 29, 2014, the Texas Commission on Environmental Quality (hereafter "Commission") considered an application submitted by Northwest Dallas County Flood Control District (hereafter "District") for authorization to proceed under Federal Bankruptcy Code Chapter 9, and found that it has merit. After considering the following findings of fact and conclusions of law, the Commission has determined that the application should be GRANTED.

FINDINGS OF FACT

1. On December 27, 2012, the District filed an application with the Commission requesting authorization to proceed in bankruptcy under Chapter 9 of the Federal Bankruptcy Code.
2. Notice. The Chief Clerk provided notice of the application in the following manner:
 - a. By Mail. Written notice was mailed to all creditors shown in the district's application, all developers and their lien-holders and the top ten taxpayers shown in the district status report, the city in whose corporate limits or extraterritorial jurisdiction the district is located, if any, and the county in which the district is located.
 - b. By Publication. The published notice appeared on September 29 and October 6, 2013, in the *Coppell Gazette*, a newspaper of general circulation in Dallas County; and in the *Texas Bond Reporter* on September 27, 2013.
3. The Commission examined the application materials and the District's financial condition, including its assets, liabilities, and sources of revenues.
4. The Commission further considered the District's resolution to proceed in bankruptcy and the January 8, 2014, memorandum from the Executive Director regarding the application, a copy of which is attached as Exhibit "A" and is incorporated herein.
5. The District currently owes the original \$8,424,000 in principal, with an

interest rate of 8% per year, and \$6,588,933 in an accrued compounded interest, for a total of \$15,012,933 for its Series 1992 Bond.

6. If the original principal sum is retained, the interest rate decreased, previously accrued compounded interest discharged, while the property tax base remains intact, as allowed in Chapter 9 bankruptcy, through the proposed periodic principle payments or redemptions, the \$8,424,000 outstanding original principal can then feasibly be repaid.
7. The District is currently in default on debt service payments, paying only interest and no principal on an annual basis.
8. The District's major source of income is from residential property taxes, representing 99.9% of total revenues, which are levied on October 1 of each year, due and payable at that time. District total revenues available to pay debt service on the Series 1992 Bonds \$1,153,805 for the year ended September 30, 2012.
9. District total expenses are \$1,373,651, of which 86% went to pay interest on long-term debt and 14% was for operations, which exceeds total revenues by \$219,846. The District is experiencing negative cash flows on an annual basis.
10. The District's ability to meet its debt service requirements for the Series 1992 Bonds was and is dependent upon tax revenues increasing in subsequent years.
11. The tax rate cannot increase as long as the Refunding Bonds or interest is unpaid due to tax rate cap, and given that the District is now almost completely developed, further growth in its tax base is not reasonably foreseeable. Therefore, any increase in tax revenues will depend on increases in the property valuation above what is presently foreseeable.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to consider the request for authorization for the District to proceed with filing a petition in bankruptcy, pursuant to TEX. WATER CODE § 49.456, and 30 TEX. ADMIN. CODE § 293.88.
2. The Commission, after having considered the above findings of fact, concludes that the District cannot, through the full exercise of its rights and powers under the laws of this state, reasonably expect to meet its debts and other obligations as they mature.
3. The notice requirements of 30 TEX. ADMIN. CODE § 293.88(b) were met.

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

1. The request by Northwest Dallas County Flood Control District for

authorization to proceed under Federal Bankruptcy Code Chapter 9 is granted.

2. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this order to the parties.
3. 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

Bryan W. Shaw, Ph.D., Chairman