

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 1, 2014

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. 2014-0551-DIS. Consideration of an application from the Board of Directors of Matagorda County Water Control and Improvement District No. 2, for conversion of Matagorda County Water Control and Improvement District No. 2 in Matagorda 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 August 20, 2014, agenda item on the above referenced matter:

1. Staff Memorandum;
2. Proposed Order;
3. Resolution for Conversion of Matagorda County from a WCID to a MUD;
4. Notice of Hearing;
5. Mailing List;
6. Caption.

These materials will supplement any backup materials previously filed by staff.

Please do not hesitate to contact me at (512) 239-0676 if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Horng".

Linda Horng  
Staff Attorney  
Environmental Law Division

Enclosure

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

To: *4/23/14*  
Tammy Benter, Manager  
Utilities and Districts Section

Date: April 23, 2014

Thru: *2/25/14*  
Seyed Miri, P.E., Leader  
Districts Creation Review Team

From: *4/23/14*  
Ren Berra  
Districts Creation Review Team

Subject: Docket No. 2014-0551-DIS; Matagorda County Water Control and Improvement District No. 2; 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-12032013-009 (TC)  
CN: 600662670 RN: 101221281

### A. GENERAL INFORMATION

On December 3, 2013, the Texas Commission on Environmental Quality (TCEQ) received the above reference application from Matagorda County Water Control and Improvement District No. 2 (District). The District Board's Resolution within the application requests TCEQ approval to convert the District from a Water Control and Improvement District (WCID) to a Municipal Utility District (MUD).

#### History

The District was created as a WCID by Order of the State Board of Water Engineers on November 8, 1954, to provide water supply facilities for property owners within the District.

The District is composed of a total of 540, 50-foot wide, platted lots. Of the approximately 126 existing residential units, less than 30 are permanent residents. The remainders are weekend or vacation residences. Up until a few years ago, the Gulf shoreline of the District was actively eroding. The U.S. Army Corps of Engineers have since constructed an erosion barrier on the Gulf side of the lots in the District.

On February 2, 2012, the Texas Water Development Board (TWDB) approved by resolution a \$500,000 loan from the TWDB Fund to the District to finance water system improvements. In May 2012, the District issued unlimited tax bonds in the amount of \$500,000 for the purpose of utility improvements for existing residents and other lands located within the boundaries of the District.

### Location

The District, containing 759.6 acres of land more or less, is situated between the Gulf of Mexico and the Intracoastal Canal. It encompasses the unincorporated community of Sargent Beach, south of Freeport and 50 miles southeast of Galveston in Matagorda County. In general, the boundary of the District extends from the crossing of State Highway 457 over the Intercoastal Waterway, for a distance of approximately 2-1/2 miles, then northeasterly, up the coast via County Road 230 (Canal Drive).

## **B. ENGINEERING ANALYSIS**

### 1. Water Supply

Information provided indicates that the District's water supply is groundwater provided by two owned/operated water plants. Water Plant No. 1, located near the middle of the District, consists of a well, a ground storage tank, two hydro-pneumatic tanks, and two booster pumps. Water Plant No. 2, located at the southwesterly end of the distribution system, consists of a well and a hydro-pneumatic tank. The District has recently secured funding for the much needed water distribution system improvements.

### 2. Wastewater Treatment

Residential units in the District are served individually by private on-site sewage facilities (OSSF).

### 3. Storm Water Drainage

The District naturally drains to the Gulf of Mexico or Intracoastal Canal.

## **C. PROJECT FEASIBILITY**

### 1. Status of Development

The District is currently serving approximately 146 equivalent single-family connections (ESFCs). The construction/completion of the Gulf shoreline erosion barrier, along with a general increase in coastal property values has reportedly accelerated an interest in the construction of new structures in the District. However, due to the lack of a local wastewater treatment facility, the necessity for utilization of individual OSSFs will, for the foreseeable future, limit development to a maximum density of one residential unit per two platted lots, or 270 units. Further, the physical location of the District will tend to limit development primarily to "resort community residences".

According to information provided by the District, the January 1, 2013 certified taxable assessed valuation is \$36,528,673. With a reported June 30, 2013 outstanding bond debt of \$505,520 (\$500,000 debt plus \$5,520 accrued interest) from the District's Series 2012, \$500,000 unlimited tax bonds; the District maintains a total tax rate per \$100 assessed valuation of \$0.1749 (\$0.0634

Tammy Benter, Manager  
Page 3  
April 23, 2014

debt service plus \$0.1115 maintenance/operations tax rates).

Based on the District's combined projected tax rate of \$0.1749 and the year 2013 overlapping tax rates on land within the District, the project is considered economically feasible.

## 2. Water Rates

Based on information provided with the application, the District's charge for water is \$75.00 per quarter per single family residence.

## **D. SPECIAL CONSIDERATIONS**

### District Name Change

By Board Resolution dated August 16, 2013, the District requested that the name of the District remain the same after conversion.

## **E. CONCLUSIONS**

1. Based on a review of application material, and the combined projected tax rate of \$0.1749 per \$100 assessed valuation, the conversion to a MUD meets the requirements of the economic feasibility rules of 30 Texas Administrative Code § 293.59.
2. The conversion to a MUD would be a benefit to the land and serve the best interest of the District.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

## **F. RECOMMENDATIONS**

Grant the request of Matagorda County Water Control and Improvement District No. 2 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 consultants are listed as follows:

- Mr. Michael Willis – Sanford Kuhl Hagan Kugle Parker Kahn LLP – 1980 Post Oak Blvd, Suite 1380 – Houston, Texas 77056-3970  
Mr. John D. Mercer, P.E. – John D. Mercer & Associates Inc. – 7002A Harborside Drive (Brady Building) -- Galveston, Texas 77554

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**DOCKET NO. 2014-0551-DIS**

## **AN ORDER GRANTING THE CONVERSION OF MATAGORDA COUNTY WATER CONTROL AND IMPROVMENT DISRICT NO. 2 INTO A MUNICIPAL UTILITY DISTRICT**

On August 20, 2014, the Texas Commission on Environmental Quality (Commission) met in regular session at its offices in Austin, Texas, to consider the application of Matagorda County Water Control and Improvement District No. 2 (District) for conversion into a municipal utility district pursuant to TEX. WATER CODE ANN. §§ 54.030 - 54.036 and 30 TEX. ADMIN. CODE § 293.15.

The Commission has jurisdiction to consider this matter and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation:

### **FINDINGS OF FACT**

1. On December 3, 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 Chapters 49 and 54 and 30 TEX. ADMIN. CODE chapter 293.
2. The Resolution adopted by the governing body of the District on August 16, 2013, declared that in the judgment of the governing body, conversion of the District into a municipal utility district would serve the best interests of the District and would be of benefit to the land and property within its boundaries, and the governing body requested that the Commission hold a hearing on the question of the conversion of the District pursuant to TEX. WATER CODE § 54.030.
3. The Executive Director reviewed the application and found that conversion to a municipal utility district would serve the best interests of the District and would be a benefit to the land within the District's boundaries. The Executive Director recommended approving the District's application.
4. Proper notice of the application was given by publication on June 8, 2014, and June 15, 2014, in *The Bay City Tribune* newspaper regularly published and generally circulated in Matagorda County, where the District is located, pursuant to TEX. WATER CODE ANN. § 54.032 and 30 TEX. ADMIN. CODE § 293.15.

5. The appropriate and necessary deposits and fees associated with the filing of the application 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; is 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 operating under TEX. WATER CODE Chapters 49 and 54 is hereby approved.

The Utilities and District's Section's memorandum dated April 23, 2014, is hereby attached as Exhibit "A" and incorporated as part of this order.

The District shall file a copy of this Commission Order in the deed records of Matagorda 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:

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For the Commission

RESOLUTION DECLARING DISTRICT BE CONVERTED TO A  
MUNICIPAL UTILITY DISTRICT AND REQUESTING HEARING ON CONVERSION

THE STATE OF TEXAS

COUNTY OF MATAGORDA

MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2

WHEREAS, Matagorda County Water Control and Improvement District No. 2 (the "District") has heretofore been duly created as a water control and improvement district and is organized and operating pursuant to the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code (the "Code"), as amended; and

WHEREAS, Sections 54.030 to 54.036 of the Code, both inclusive, permit a water control and improvement district to be converted into a municipal utility district to be governed by the provisions of Chapter 54 of the Code; and

WHEREAS, the Board of Directors (the "Board") of the District has considered the matter and has found that it would serve the best interest of the District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by the provisions of Chapters 49 and 54 of the Code, and Article XVI, Section 59, Texas Constitution; and

WHEREAS, the Board desires to request the Texas Commission on Environmental Quality ("TCEQ") to hold a hearing on the question of the conversion of the District,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2 THAT:

Section 1: The matters and facts recited in the preamble to this Resolution are hereby found and declared to be true and correct.

Section 2: In the judgment of the Board of Directors of Matagorda County Water Control and Improvement District No. 2, it would serve the best interest of the District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by Chapters 49 and 54, Texas Water Code, as amended, and Article XVI, Section 59, Texas Constitution.

Section 3: The Board, by and through this Resolution, specifically requests, pursuant to 30 T.A.C. 293.15(b)(3), that the TCEQ waive the requirement that the District submit a preliminary plan showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project, as this Resolution does not contemplate a project, and is simply for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 4: The Board, by and through this Resolution, specifically requests, pursuant to 30 T.A.C. 293.15(b)(4), that the TCEQ waive the requirement that the District submit a preliminary

EXHIBIT "A"

engineering report, as this Resolution is for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 5: The Board, by and through this Resolution, specifically requests the TCEQ to hold a hearing on the question of the conversion of the District into a municipal utility district.

Section 6: If, after the hearing, the TCEQ finds that it would serve the best interest of the District and would be a benefit to the land and property in the District for the District to be converted from a water control and improvement district into a municipal utility district, and if the TCEQ enters its order so converting the District, the Board hereby requests that the TCEQ include in its order a provision declaring that the name of the District remain the same after the conversion.

Section 7: There are no specific powers applicable to water control and improvement districts which the Board of the District deems necessary to the proper operation and functioning of the District which are not otherwise adequately provided for by the laws applicable to municipal utility districts.

Section 8: The President and Secretary of the Board, or the Vice-President and any Assistant Secretary, are authorized to:

(1) petition the TCEQ pursuant to the provisions of Sections 54.030 to 54.036 of the Code for a hearing to be held on the question of conversion of the District into a municipal utility district;

(2) testify at the hearing for and on behalf of the Board of the District in favor of the conversion of the District and relate the reasons for the Board's finding that the best interest of the District will be served and the land and property included therein will be benefited by converting the District into a municipal utility district;

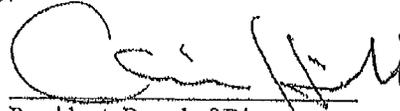
(3) request that the name of the District remain the same after conversion;

(4) advise the TCEQ that there are no specific powers granted to water control and improvement districts which the Board of the District feels are necessary to be retained for the effectual operation of the District; and

(5) make such prayers for and on behalf of the Board as are proper, necessary and in keeping with the purposes of this Resolution.

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.]

EXECUTED as of this 16th day of August, 2013.



President, Board of Directors

ATTEST:



Secretary, Board of Directors

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



### NOTICE OF DISTRICT HEARING TCEQ Docket No. 2014-0551-DIS

**APPLICATION.** The Texas Commission on Environmental Quality (TCEQ) will conduct a hearing on an application for conversion of Matagorda County Water Control and Improvement District No. 2 (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, August 20, 2014  
Building E, Room 201S  
12100 Park 35 Circle  
Austin, Texas

The District contains approximately 759.6 acres of land within Matagorda 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 as a water control and improvement district by the State Board of Water Engineers on November 8, 1954, with the powers authorized by Texas Water Code §51.331, under Article XVI, Section 59 of the Texas Constitution with the authority to provide water service, dispose of waste and control storm water. The Applicant adopted and entered in its minutes a resolution in which the Applicant determined that conversion to 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 August 16, 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 § 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](http://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: May 29, 2014

**Mailing List**  
**Docket No. 2014-0551-DIS**  
**Matagorda County WCID No. 2**  
**TCEQ Internal Control No. D-12032013-009**

Mr. Christian Hill, President  
Matagorda County WCID No. 2  
1283 County Road 230  
Sargent, Texas 77414-4697

Mr. Michael R. Willis  
Sanford Kuhl Hagan Kugle Parker Kahn LLP  
1980 Post Oak Blvd., Ste. 1380  
Houston, Texas 77056-3970

Mr. John D. Mercer, P.E.  
John D. Mercer & Associates Inc.  
7002A Harborside Dr. (Brady Bldg.)  
Galveston, Texas 77554

Ms. Ashley K. Wadick, Regional Director  
TCEQ Region 12  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

Ms. Janet Hickl, County Clerk  
Matagorda County  
1700 7th St., Rm 202  
Bay City, Texas 77414-5094

Mr. Jack Steele, Executive Director  
Houston-Galveston Area Council  
P.O. Box 22777  
Houston, Texas 77227-2777

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

Todd Galiga, Environmental Law Division, MC-173  
Linda Horng, Environmental Law Division, MC-173  
Ren Berra, Utilities and Districts Section, Water Supply Division, MC-152  
Seyed Miri, P.E., 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

**Docket No. 2014-0551-DIS.** Consideration of an application from the Board of Directors of the **Matagorda County Water Control and Improvement District No. 2** ("District") for the conversion of the District to a Municipal Utility District, pursuant to the Texas Water Code, Chapters 49 and 54, and 30 Texas Administrative Code Section 293.15. Pursuant to Texas Water Code Section 54.032, the Commission will allow all interested persons to appear and offer testimony for or against the proposed conversion. The District is comprised of approximately 759.6 acres of land in **Matagorda County**, Texas. (Linda Horng, Ren Berra)

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**To:** Commissioners of the Texas Commission on Environmental Quality **Date:** May 12, 2104

**Thru:** Seyed Miri, P.E., Leader  
Districts Creation Review Team

**From:** Districts Creation Review Team

**Subject:** Docket No. 2014-0551-DIS; Matagorda County Water Control and Improvement District No. 2; 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-12032013-009  
CN: 600662670 RN: 101221281

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CHIEF CLERK'S OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

### AGENDA EXECUTIVE SUMMARY

#### DESCRIPTION OF APPLICATION

**Applicant:** Matagorda County Water Control and Improvement District No. 2 (District)

**Request:** Convert District to a municipal utility district.

**Type:** Conversion.

**Authority:** Texas Water Code §§ 54.030 - 54.036 and 30 Texas Administrative Code § 293.15.

#### STAFF RECOMMENDATIONS

Grant the request of Matagorda County Water Control and Improvement District No. 2 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.

#### TECHNICAL INFORMATION

**General:** The District was created as a WCID by Order of the State Board of Water Engineers on November 8, 1954, to provide water supply facilities for property owners within the District.

The District, containing 759.6 acres of land more or less, is situated between the Gulf of Mexico and the Intracoastal Canal. It encompasses the unincorporated community of Sargent Beach, south of Freeport and 50 miles southeast of Galveston in Matagorda County. It is composed of a total of 540, 50-foot wide, platted lots. Of the approximately 126 existing residential units, less than 30 are permanent residents. The remainders are weekend or vacation residences. Up

May 12, 2014

until a few years ago, the Gulf shoreline of the District was actively eroding. The U.S. Army Corps of Engineers have since constructed an erosion barrier on the Gulf side of the lots in the District.

ANTICIPATED RESPONSE

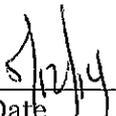
General agreement with the staff's recommendation.

CONTACT

Ren Berra, Technical Manager, Districts Creation Review Team, 239-6009.

Prepared by:

  
\_\_\_\_\_  
Districts Review Team

  
\_\_\_\_\_  
Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER GRANTING THE CONVERSION OF MATAGORDA COUNTY  
WATER CONTROL AND IMPROVMENT DISTRICT NO. 2  
INTO A MUNICIPAL UTILITY DISTRICT**

**DOCKET NO. 2014-0551-DIS**

On August 20, 2014, the Texas Commission on Environmental Quality (Commission) met in regular session at its offices in Austin, Texas, to consider the application of Matagorda County Water Control and Improvement District No. 2 (District) for conversion into a municipal utility district pursuant to TEX. WATER CODE ANN. §§ 54.030 - 54.036 and 30 TEX. ADMIN. CODE § 293.15.

The Commission has jurisdiction to consider this matter and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation:

**FINDINGS OF FACT**

1. On December 3, 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 Chapters 49 and 54 and 30 TEX. ADMIN. CODE chapter 293.
2. The Resolution adopted by the governing body of the District on August 16, 2013, declared that in the judgment of the governing body, conversion of the District into a municipal utility district would serve the best interests of the District and would be of benefit to the land and property within its boundaries, and the governing body requested that the Commission hold a hearing on the question of the conversion of the District pursuant to TEX. WATER CODE § 54.030.
3. The Executive Director reviewed the application and found that conversion to a municipal utility district would serve the best interests of the District and would be a benefit to the land within the District's boundaries. The Executive Director recommended approving the District's application.
4. Proper notice of the application was given by publication on June 8, 2014, and June 15, 2014, in *The Bay City Tribune* newspaper regularly published and generally circulated in Matagorda County, where the District is located, pursuant to TEX. WATER CODE ANN. § 54.032 and 30 TEX. ADMIN. CODE § 293.15.

5. The appropriate and necessary deposits and fees associated with the filing of the application 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; is 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 Utilities and District's Section's memorandum dated April 23, 2014, is hereby attached as Exhibit "A" and incorporated as part of this order. 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 operating under TEX. WATER CODE Chapters 49 and 54 is hereby approved.

The District shall file a copy of this Commission Order in the deed records of Matagorda 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:

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For the Commission

DEPT. OF ENVIRONMENTAL QUALITY

APR 23 2014 8:33:23

STATE OF TEXAS  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
COMMISSION

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

**To:** *4/23/14* Tammy Benter, Manager  
Utilities and Districts Section

**Date:** April 23, 2014

**Thru:** *2/25/14* Seyed Miri, P.E., Leader  
Districts Creation Review Team

**From:** *4/23/14* Ren Berra  
Districts Creation Review Team

**Subject:** Docket No. 2014-0551-DIS; Matagorda County Water Control and Improvement District No. 2; 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-12032013-009 (TC)  
CN: 600662670 RN: 101221281

### A. GENERAL INFORMATION

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#### History

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The District is composed of a total of 540, 50-foot wide, platted lots. Of the approximately 126 existing residential units, less than 30 are permanent residents. The remainders are weekend or vacation residences. Up until a few years ago, the Gulf shoreline of the District was actively eroding. The U.S. Army Corps of Engineers have since constructed an erosion barrier on the Gulf side of the lots in the District.

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Exhibit "A"

### Location

The District, containing 759.6 acres of land more or less, is situated between the Gulf of Mexico and the Intracoastal Canal. It encompasses the unincorporated community of Sargent Beach, south of Freeport and 50 miles southeast of Galveston in Matagorda County. In general, the boundary of the District extends from the crossing of State Highway 457 over the Intercoastal Waterway, for a distance of approximately 2-1/2 miles, then northeasterly, up the coast via County Road 230 (Canal Drive).

## **B. ENGINEERING ANALYSIS**

### 1. Water Supply

Information provided indicates that the District's water supply is groundwater provided by two owned/operated water plants. Water Plant No. 1, located near the middle of the District, consists of a well, a ground storage tank, two hydro-pneumatic tanks, and two booster pumps. Water Plant No. 2, located at the southwesterly end of the distribution system, consists of a well and a hydro-pneumatic tank. The District has recently secured funding for the much needed water distribution system improvements.

### 2. Wastewater Treatment

Residential units in the District are served individually by private on-site sewage facilities (OSSF).

### 3. Storm Water Drainage

The District naturally drains to the Gulf of Mexico or Intracoastal Canal.

## **C. PROJECT FEASIBILITY**

### 1. Status of Development

The District is currently serving approximately 146 equivalent single-family connections (ESFCs). The construction/completion of the Gulf shoreline erosion barrier, along with a general increase in coastal property values has reportedly accelerated an interest in the construction of new structures in the District. However, due to the lack of a local wastewater treatment facility, the necessity for utilization of individual OSSFs will, for the foreseeable future, limit development to a maximum density of one residential unit per two platted lots, or 270 units. Further, the physical location of the District will tend to limit development primarily to "resort community residences".

According to information provided by the District, the January 1, 2013 certified taxable assessed valuation is \$36,528,673. With a reported June 30, 2013 outstanding bond debt of \$505,520 (\$500,000 debt plus \$5,520 accrued interest) from the District's Series 2012, \$500,000 unlimited tax bonds; the District maintains a total tax rate per \$100 assessed valuation of \$0.1749 (\$0.0634

Tammy Benter, Manager  
Page 3  
April 23, 2014

debt service plus \$0.1115 maintenance/operations tax rates).

Based on the District's combined projected tax rate of \$0.1749 and the year 2013 overlapping tax rates on land within the District, the project is considered economically feasible.

## 2. Water Rates

Based on information provided with the application, the District's charge for water is \$75.00 per quarter per single family residence.

## **D. SPECIAL CONSIDERATIONS**

### District Name Change

By Board Resolution dated August 16, 2013, the District requested that the name of the District remain the same after conversion.

## **E. CONCLUSIONS**

1. Based on a review of application material, and the combined projected tax rate of \$0.1749 per \$100 assessed valuation, the conversion to a MUD meets the requirements of the economic feasibility rules of 30 Texas Administrative Code § 293.59.
2. The conversion to a MUD would be a benefit to the land and serve the best interest of the District.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

## **F. RECOMMENDATIONS**

Grant the request of Matagorda County Water Control and Improvement District No. 2 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 consultants are listed as follows:

Mr. Michael Willis – Sanford Kuhl Hagan Kugle Parker Kahn LLP – 1980 Post Oak Blvd, Suite 1380 – Houston, Texas 77056-3970  
Mr. John D. Mercer, P.E. – John D. Mercer & Associates Inc. – 7002A Harborside Drive (Brady Building) -- Galveston, Texas 77554

Mailing List  
Docket No. 2014-0551-DIS  
Matagorda County WCID No. 2  
TCEQ Internal Control No. D-12032013-009

Mr. Christian Hill, President  
Matagorda County WCID No. 2  
1283 County Road 230  
Sargent, Texas 77414-4697

Mr. Michael R. Willis  
Sanford Kuhl Hagan Kugle Parker Kahn LLP  
1980 Post Oak Blvd., Suite 1380  
Houston, Texas 77056-3970

Mr. John D. Mercer, P.E.  
John D. Mercer & Associates Inc.  
7002A Harborside Drive (Brady Building)  
Galveston, Texas 77554

Ms. Ashley K. Wadick, Regional Director  
TCEQ Region 12  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

Ms. Janet Hickl, County Clerk  
Matagorda County  
1700 7th Street, Room 202  
Bay City, Texas 77414-5094

Mr. Jack Steele, Executive Director  
Houston-Galveston Area Council  
P.O. Box 22777  
Houston, Texas 77227-2777

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

Todd Galiga, Environmental Law Division, MC-173  
Linda Horng, Environmental Law Division, MC-173  
Ren Berra, Utilities and Districts Section, Water Supply Division, MC-152  
Seyed Miri, P.E., 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

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

Applicant Name: MATAGORDA COUNTY WCID 2  
TCEQ Tracking No. 2014-0551-DIS CID Item No. 91811  
Application Type: NOTICE OF DISTRICT HEARING

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2014 JUL -7 AM 9:55  
CHIEF CLERKS OFFICE

**AFFIDAVIT OF PUBLICATION**

STATE OF TEXAS §  
COUNTY OF: Matagorda §

Before me, the undersigned authority, on this day personally appeared  
Susanne Phillips, who being by me duly  
(name of newspaper representative)

sworn, deposes and says that (s)he is the Administrative Assistant  
(title of newspaper representative)

of the The Bay City Tribune; that said newspaper is  
(name of newspaper)

regularly published or circulated in matagorda County/Countries,  
(name of county or counties)

Texas; that the attached notice was published in said newspaper on the following dates:

June 8, 2014  
(date or dates of publication)

Susanne Phillips  
Newspaper Representative's Signature

Subscribed and sworn to before me this the 10<sup>th</sup> day of June,  
20 14, to certify which witness my hand and seal of office.

Jessica Ann Wright  
Notary Public in and for the State of Texas

Jessica Ann Wright  
Print or type Name of Notary Public

My Commission Expires 10-26-15

(Seal)



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**NOTICE OF DISTRICT HEARING**  
**TCEQ Docket No. 2014-0551-DIS**

**APPLICATION.** The Texas Commission on Environmental Quality (TCEQ) will conduct a hearing on an application for conversion of Matagorda County Water Control and Improvement District No. 2 (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, August 20, 2014  
 Building E, Room 2018  
 12100 Park 35 Circle  
 Austin, Texas

The District contains approximately 759.6 acres of land within Matagorda 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 as a water control and improvement district by the State Board of Water Engineers on November 8, 1954, with the powers authorized by Texas Water Code §51.331, under Article XVI, Section 59 of the Texas Constitution with the authority to provide water service, dispose of waste and control storm water. The Applicant adopted and entered in its minutes a resolution in which the Applicant determined that conversion to 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 August 16, 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 § 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](http://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.

RESOLUTION DECLARING DISTRICT BE CONVERTED TO A MUNICIPAL UTILITY DISTRICT AND REQUESTING HEARING ON CONVERSION

THE STATE OF TEXAS

COUNTY OF MATAGORDA

MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2

WHEREAS, Matagorda County Water Control and Improvement District No. 2 (the "District") has heretofore been duly created as a water control and improvement district and is organized and operating pursuant to the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code (the "Code"), as amended; and

WHEREAS, Sections 54.030 to 54.036 of the Code, both inclusive, permit a water control and improvement district to be converted into a municipal utility district to be governed by the provisions of Chapter 54 of the Code; and

WHEREAS, the Board of Directors (the "Board") of the District has considered the matter and has found that it would serve the best interest of the District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by the provisions of Chapters 49 and 54 of the Code, and Article XVI, Section 59, Texas Constitution; and

WHEREAS, the Board desires to request the Texas Commission on Environmental Quality ("TCEQ") to hold a hearing on the question of the conversion of the District;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2 THAT:

Section 1: The matters and facts recited in the preamble to this Resolution are hereby found and declared to be true and correct.

Section 2: In the judgment of the Board of Directors of Matagorda County Water Control and Improvement District No. 2, it would serve the best interest of this District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by Chapters 49 and 54, Texas Water Code, as amended, and Article XVI, Section 59, Texas Constitution.

Section 3: The Board, by and through this Resolution, specifically requests, pursuant to 30 T.A.C. 293.15(b)(3), that the TCEQ waive the requirement that the District submit a preliminary plan showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to this project, as this Resolution does not contemplate a project, and is simply for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 4: The Board, by and through this Resolution, specifically requests, pursuant to 30 T.A.C. 293.15(b)(4), that the TCEQ waive the requirement that the District submit a preliminary engineering report, as this Resolution is for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 5: The Board, by and through this Resolution, specifically requests the TCEQ to hold a hearing on the question of the conversion of the District into a municipal utility district.

Section 6: If, after the hearing, the TCEQ finds that it would serve the best interest of the District and would be a benefit to the land and property in the District for the District to be converted from a water control and improvement district into a municipal utility district, and if the TCEQ enters its order so converting the District, the Board hereby requests that the TCEQ include in its order a provision declaring that the name of the District remain the same after the conversion.

Section 7: There are no specific powers applicable to water control and improvement districts which the Board of the District deems necessary to the proper operation and functioning of the District which are not otherwise adequately provided for by the laws applicable to municipal utility districts.

Section 8: The President and Secretary of the Board, or the Vice-President and any Assistant Secretary, are authorized to:

- (1) petition the TCEQ pursuant to the provisions of Sections 54.030 to 54.036 of the Code for a hearing to be held on the question of conversion of the District into a municipal utility district;
- (2) testify at the hearing for and on behalf of the Board of the District in favor of the conversion of the District and relate the reasons for the Board's finding that the best interest of the District will be served and the land and property included therein will be benefited by converting the District into a municipal utility district;

(3) request that the name of the District remain the same after conversion.

(4) advise the TCEQ that there are no specific powers granted to water control and improvement districts which the Board of the District feels are necessary to be retained for the effectual operation of the District; and

(5) make such prayers for and on behalf of the Board as are proper, necessary and in keeping with the purposes of this Resolution.

EXECUTED as of this 16th day of August, 2013.

ATTEST:

*[Signature]*  
President, Board of Directors

*[Signature]*  
Secretary, Board of Directors

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY


**NOTICE OF DISTRICT HEARING**  
**TCEQ Docket No. 2014-0551-DIS**

**APPLICATION.** The Texas Commission on Environmental Quality (TCEQ) will conduct a hearing on an application for conversion of Matagorda County Water Control and Improvement District No. 2 (District) to a Municipal Utility District (Application). The Application was filed with the TCEQ and included a certified copy of a resolution of 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, August 20, 2014  
 Building E, Room 2018  
 12100 Park 35 Circle  
 Austin, Texas

The District contains approximately 759.6 acres of land within Matagorda 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 as a water control and improvement district by the State Board of Water Engineers on November 8, 1954, with the powers authorized by Texas Water Code §51.331, under Article XVI, Section 59 of the Texas Constitution with the authority to provide water service, dispose of waste and control storm water. The Applicant adopted and entered in its minutes a resolution in which the Applicant determined that conversion to 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 August 16, 2013 is attached as Exhibit "A"

**HEARING.** As required by the Texas Water Code Chapter § 54.032 and Title 30 of Texas Administrative Code § 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 of 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 an 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 site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

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

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**RESOLUTION DECLARING DISTRICT BE CONVERTED TO A  
MUNICIPAL UTILITY DISTRICT AND REQUESTING HEARING ON CONVERSION**

THE STATE OF TEXAS

COUNTY OF MATAGORDA

MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2

WHEREAS, Matagorda County Water Control and Improvement District No. 2 (the "District") has heretofore been duly created as a water control and improvement district and is organized and operating pursuant to the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code (the "Code"), as amended; and

WHEREAS, Sections 54.030 to 54.036 of the Code, both inclusive, permit a water control and improvement district to be converted into a municipal utility district to be governed by the provisions of Chapter 54 of the Code; and

WHEREAS, the Board of Directors (the "Board") of the District has considered the matter and has found that it would serve the best interest of the District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by the provisions of Chapters 49 and 54 of the Code, and Article XVI, Section 59, Texas Constitution; and

WHEREAS, the Board desires to request the Texas Commission on Environmental Quality ("TCEQ") to hold a hearing on the question of the conversion of the District;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2 THAT:

Section 1: The matters and facts recited in the preamble to this Resolution are hereby found and declared to be true and correct.

Section 2: In the judgment of the Board of Directors of Matagorda County Water Control and Improvement District No. 2, it would serve the best interest of the District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by Chapters 49 and 54, Texas Water Code, as amended, and Article XVI, Section 59, Texas Constitution.

Section 3: The Board, by and through this Resolution, specifically requests, pursuant to 36 T.A.C. 293.15(b)(3), that the TCEQ waive the requirement that the District submit a preliminary plan showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project, as this Resolution does not contemplate a project, and is simply for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 4: The Board, by and through this Resolution, specifically requests, pursuant to 36 T.A.C. 293.15(b)(4), that the TCEQ waive the requirement that the District submit a preliminary engineering report, as this Resolution is for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 5: The Board, by and through this Resolution, specifically requests the TCEQ to hold a hearing on the question of the conversion of the District into a municipal utility district.

Section 6: If, after the hearing, the TCEQ finds that it would serve the best interest of the District and would be a benefit to the land and property in the District for the District to be converted from a water control and improvement district into a municipal utility district, and if the TCEQ enters its order so converting the District, the Board hereby requests that the TCEQ include in its order a provision declaring that the name of the District remain the same after the conversion.

Section 7: There are no specific powers applicable to water control and improvement districts which the Board of the District deems necessary to the proper operation and functioning of the District which are not otherwise adequately provided for by the laws applicable to municipal utility districts.

Section 8: The President and Secretary of the Board, or the Vice-President and any Assistant Secretary, are authorized to:

(1) petition the TCEQ pursuant to the provisions of Sections 54.030 to 54.036 of the Code for a hearing to be held on the question of conversion of the District into a municipal utility district;

(2) testify at the hearing for and on behalf of the Board of the District in favor of the conversion of the District and relate the reasons for the Board's finding that the best interest of the District will be served and the land and property included therein will be benefited by converting the District into a municipal utility district;

(3) request that the name of the District remain the same after conversion;

(4) advise the TCEQ that there are no specific powers granted to water control and improvement districts which the Board of the District feels are necessary to be retained for the official operation of the District; and

(5) make such prayers for and on behalf of the Board as are proper, necessary and in keeping with the purposes of this Resolution.

EXECUTED as of this 16th day of August, 2013.

ATTEST:

  
Secretary, Board of Directors

  
President, Board of Directors

## Affidavit of Publication

2014 JUL -7 AM 9:55

STATE OF TEXAS  
COUNTY OF MATAGORDA

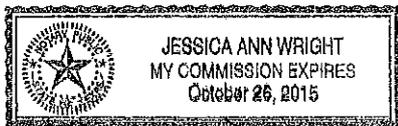
CHIEF CLERKS OFFICE

Before me, the undersigned authority, on this day personally appeared Susanne Phillips who on his/her oath stated: I am the Administrative Assistant of The Bay City Tribune, a newspaper of general circulation in Matagorda County, Texas, and know the facts herein stated to be true and correct: attached is a printed copy of publication of the notice/citation of which it purports to be a copy, as the same appeared in such newspaper in the respective issue of  
15<sup>th</sup> day of June 2014

  
Administrative Assistant

Sworn to before me this  
25<sup>th</sup> day of June 2014

  
Notary Public in and for Matagorda County, Texas



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## CERTIFICATE SETTING HEARING

I, Bridget C. Bohac, Chief Clerk of the Texas Commission on Environmental Quality, do hereby establish the following date, time, and place for the public hearing on the Petition for Conversion of Matagorda County Water Control and Improvement District No. 2 to Matagorda County Municipal Utility District. **TCEQ Docket No. 2014-0551-DIS** has been assigned to this matter.

**DATE:** Wednesday, August 20, 2014  
**TIME:** 9:30 a.m.  
**PLACE:** Building E, Room 201S  
121 Park 35 Circle, Austin, Texas

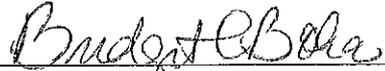
Applicant's Attorney: Mr. Michael Willis  
Sanford Kuhl Hagan Kugle Parker Kahn LLP  
1980 Post Oak Boulevard, Suite 1380  
Houston, Texas 77056-3790

TCEQ Staff Attorney: Linda Horng

TCEQ Technical Staff : Ren Berra

A copy of the Notice of Hearing was mailed to each party on the attached Mailing List on May 29, 2014. All cities which have extraterritorial jurisdiction in the county or counties in which the proposed district is located and which have formally requested notice have been included in the attached Service List.

Signed this the 29<sup>th</sup> day of May, 2014.

  
Bridget C. Bohac, Chief Clerk

Texas Commission on Environmental Quality

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF DISTRICT HEARING TCEQ Docket No. 2014-0551-DIS

---

**APPLICATION.** The Texas Commission on Environmental Quality (TCEQ) will conduct a hearing on an application for conversion of Matagorda County Water Control and Improvement District No. 2 (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, August 20, 2014  
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 § 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](http://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: May 29, 2014

RESOLUTION DECLARING DISTRICT BE CONVERTED TO A  
MUNICIPAL UTILITY DISTRICT AND REQUESTING HEARING ON CONVERSION

THE STATE OF TEXAS

COUNTY OF MATAGORDA

MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2

§  
§  
§  
§  
§

WHEREAS, Matagorda County Water Control and Improvement District No. 2 (the "District") has heretofore been duly created as a water control and improvement district and is organized and operating pursuant to the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 51 of the Texas Water Code (the "Code"), as amended; and

WHEREAS, Sections 54.030 to 54.036 of the Code, both inclusive, permit a water control and improvement district to be converted into a municipal utility district to be governed by the provisions of Chapter 54 of the Code; and

WHEREAS, the Board of Directors (the "Board") of the District has considered the matter and has found that it would serve the best interest of the District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by the provisions of Chapters 49 and 54 of the Code, and Article XVI, Section 59, Texas Constitution; and

WHEREAS, the Board desires to request the Texas Commission on Environmental Quality ("TCEQ") to hold a hearing on the question of the conversion of the District.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MATAGORDA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2 THAT:

Section 1: The matters and facts recited in the preamble to this Resolution are hereby found and declared to be true and correct.

Section 2: In the judgment of the Board of Directors of Matagorda County Water Control and Improvement District No. 2, it would serve the best interest of the District and would be a benefit to the land and property included in the District for the District to be converted from a water control and improvement district into a municipal utility district operating under and governed by Chapters 49 and 54, Texas Water Code, as amended, and Article XVI, Section 59, Texas Constitution.

Section 3: The Board, by and through this Resolution, specifically requests, pursuant to 30 T.A.C. 293.15(b)(3), that the TCEQ waive the requirement that the District submit a preliminary plan showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project, as this Resolution does not contemplate a project, and is simply for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 4: The Board, by and through this Resolution, specifically requests, pursuant to 30 T.A.C. 293.15(b)(4), that the TCEQ waive the requirement that the District submit a preliminary

EXHIBIT "A"

engineering report, as this Resolution is for conversion of the District to a municipal utility district operating under Chapters 49 and 54, Texas Water Code, as amended.

Section 5: The Board, by and through this Resolution, specifically requests the TCEQ to hold a hearing on the question of the conversion of the District into a municipal utility district.

Section 6: If, after the hearing, the TCEQ finds that it would serve the best interest of the District and would be a benefit to the land and property in the District for the District to be converted from a water control and improvement district into a municipal utility district, and if the TCEQ enters its order so converting the District, the Board hereby requests that the TCEQ include in its order a provision declaring that the name of the District remain the same after the conversion.

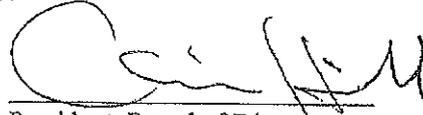
Section 7: There are no specific powers applicable to water control and improvement districts which the Board of the District deems necessary to the proper operation and functioning of the District which are not otherwise adequately provided for by the laws applicable to municipal utility districts.

Section 8: The President and Secretary of the Board, or the Vice-President and any Assistant Secretary, are authorized to:

- (1) petition the TCEQ pursuant to the provisions of Sections 54.030 to 54.036 of the Code for a hearing to be held on the question of conversion of the District into a municipal utility district;
- (2) testify at the hearing for and on behalf of the Board of the District in favor of the conversion of the District and relate the reasons for the Board's finding that the best interest of the District will be served and the land and property included therein will be benefited by converting the District into a municipal utility district;
- (3) request that the name of the District remain the same after conversion;
- (4) advise the TCEQ that there are no specific powers granted to water control and improvement districts which the Board of the District feels are necessary to be retained for the effectual operation of the District; and
- (5) make such prayers for and on behalf of the Board as are proper, necessary and in keeping with the purposes of this Resolution.

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.]

EXECUTED as of this 16th day of August, 2013.



President, Board of Directors

ATTEST:



Secretary, Board of Directors

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 29, 2014

Mr. Christian Hill  
Matagorda County WCID 2

1283 CR 230  
Sargent, Texas 77414-4697

Re: TCEQ Docket No. 2014-0551-DIS; TCEQ Internal Control No. D-120320136-009  
Publication of Notice of District Hearing regarding conversion of Matagorda County Water Control and Improvement District No. 2 to Matagorda County Municipal Utility District

Dear Mr. Hill:

Enclosed is a copy of the Notice of District Hearing for the conversion of Matagorda County WCID 2. Please carefully review the notice for accuracy prior to publication. Contact Ren Berra in the District Administration Office, at 512-239-6009, if the notice is found to be in error.

The notice (including the Board's Resolution) must be published in a newspaper (or newspapers) regularly published or circulated in the county or counties in which the proposed district is located. **Publication shall be once a week for two consecutive weeks. The first publication should take place no later than June 5, 2014.**

After the notice has been published please submit the original affidavit of publication, together with an original tear sheet from the newspaper in which you published the notice, to the Office of the Chief Clerk (Mail Code 105). **The Chief Clerk's Office should receive the affidavits no later than July 18, 2014.**

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

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac  
Chief Clerk

BCB/is

Enclosures

cc: To all on attached mailing list

Mailing List  
Docket No. 2014-0551-DIS  
Matagorda County WCID No. 2  
TCEQ Internal Control No. D-12032013-009

Mr. Christian Hill, President  
Matagorda County WCID No. 2  
1283 County Road 230  
Sargent, Texas 77414-4697

Mr. Michael R. Willis  
~~Sanford Kuhl Hagan Kugle Parker Kahn LLP~~  
1980 Post Oak Blvd., Suite 1380  
Houston, Texas 77056-3970

Mr. John D. Mercer, P.E.  
John D. Mercer & Associates Inc.  
7002A Harborside Drive (Brady Building)  
Galveston, Texas 77554

Ms. Ashley K. Wadick, Regional Director  
TCEQ Region 12  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

Ms. Janet Hickl, County Clerk  
Matagorda County  
1700 7th Street, Room 202  
Bay City, Texas 77414-5094

Mr. Jack Steele, Executive Director  
Houston-Galveston Area Council  
P.O. Box 22777  
Houston, Texas 77227-2777

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

Todd Galiga, Environmental Law Division, MC-173  
Linda Horng, Environmental Law Division, MC-173  
Ren Berra, Utilities and Districts Section, Water Supply Division, MC-152  
Seyed Miri, P.E., 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

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

Applicant Name: MATAGORDA COUNTY WCID 2  
TCEQ Tracking No. 2014-0551-DIS CID Item No. 91811  
Application Type: NOTICE OF DISTRICT HEARING

**AFFIDAVIT OF PUBLICATION**

STATE OF TEXAS §

COUNTY OF: \_\_\_\_\_ § \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_, who being by me duly  
*(name of newspaper representative)*

sworn, deposes and says that (s)he is the \_\_\_\_\_  
*(title of newspaper representative)*

of the \_\_\_\_\_ ; that said newspaper is  
*(name of newspaper)*

regularly published or circulated in \_\_\_\_\_ County/Countries,  
*(name of county or counties)*

Texas; that the attached notice was published in said newspaper on the following dates:

\_\_\_\_\_  
*(date or dates of publication)*

\_\_\_\_\_  
Newspaper Representative's Signature

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

(Seal)

\_\_\_\_\_  
Print or type Name of Notary Public

My Commission Expires \_\_\_\_\_