

DOCKET NO. 2016-0469-WR

APPLICATION BY	§	
MONTGOMERY COUNTY	§	BEFORE THE TEXAS
MUD NOS. 8 & 9	§	COMMISSION ON
FOR A BED AND BANKS PERMIT	§	ENVIRONMENTAL QUALITY
APPLICATION NO. 12510	§	

**CITY OF HOUSTON'S REPLY TO THE RESPONSES
TO THE CITY'S HEARING REQUEST OF
MUDS 8 & 9, ED & OPIC**

TO THE HONORABLE COMMISSIONERS:

COMES NOW the City of Houston ("Houston") and files this Reply in support of its request for a contested case hearing, and the recommendations of the Executive Director (the "ED") of Commission and the Office of Public Interest Counsel ("OPIC") of the Commission to grant Houston's request, in the matter of TCEQ Docket No. 2016-0469-WR and the MUDs 8 & 9's (the "MUDs") response to the same.

In accordance with Houston's timely filed hearing request dated April 26, 2011, the ED and OPIC determined that Houston's Certificates of Adjudication in the San Jacinto River Basin provides the basis for Houston's personal justiciable interest that has the potential to be impacted by the MUDs' Application No. 12510, thereby entitling Houston to party status and a contested case hearing.

Houston holds six separate water rights in the San Jacinto River Basin that are potentially impacted by the MUD's Application – Certificates of Adjudication Nos. 10-4963, 10-4965, 10-5807, 10-5808, 10-5826 and 10-5827. These water rights authorize the City to beneficially use more than 700,000 ac-ft of water per year, including the right to maintain and operate Lake Conroe and Lake Houston. Houston's rights in Lake Conroe, which is the proposed situs for the discharge, transport and diversion of the MUD's reuse authorization, is jointly owned by

the City with the San Jacinto River Authority ("SJRA"). The City and SJRA own Lake Conroe, COA No. 10-4963 and the associated water rights proportionately, with the City possessing a 2/3rds interest.

Attached hereto as Appendix "A" is a table summarizing the City's six water rights in the San Jacinto River Basin describing the volume of water authorized for beneficial use and the purposes of use. Also attached hereto for general reference is the map prepared by the Executive Director and appended to its Response to the City's and SJRA's hearing requests as Attachment "B." The map generally depicts the locations of the City's water rights, beginning with the shared rights in Lake Conroe (COA No. 10-4963), and the location of the City's other rights downstream.

Additionally, Houston supports the ED's and OPIC's recommendation based upon their separate review and analysis to grant Houston's request for a contested case hearing regarding the Application of MUD Nos. 8 and 9 for a Bed and Banks authorization (the "Application"). Houston concurs with the determination of both the ED and OPIC that Houston's hearing request meets the requirements of Title 30, Sections 55.250-55.256 of the Texas Administrative Code, and more specifically, that Houston is an "affected person" pursuant to the Commission's Rules and that the City's request should be granted and the Application be referred to the State Office of Administrative Hearings for a contested case hearing.

The location of the MUD's proposed reuse project, which is physically to be located on, at and in the City and SJRA's Lake Conroe, poses physical impacts on the City's and SJRA's legal and regulatory rights and duties, in addition to their respective real property rights associated with and/or appurtenant to Lake Conroe. Accordingly, the Commission must consider those impacts in addition to the impacts on the City's and SJRA's multiple separate water rights.

Referral of the MUDs' Application to SOAH for a contested case is the appropriate vehicle to address these issues. Alternatively, SJRA and Houston have been working with the MUDs to resolve issues raised by the MUDs' Application since 2011. Houston remains open to continued negotiation with the MUDs, as well as mediation with the MUDs and SJRA. Houston looks forward to continuing to work with the MUDs, ED, OPIC and SJRA to resolve the issues raised by the MUDs' Application. If no resolution is forthcoming, Houston is prepared to participate to resolve this matter through a contested case hearing.

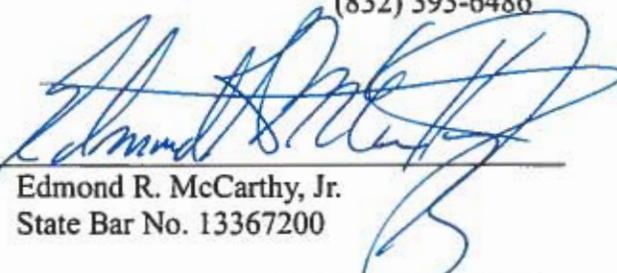
For the foregoing reasons, Houston respectfully requests that the Commissioners of the Texas Commission on Environmental Quality grant Houston's request for contested case hearing relating to the MUDs' Application.

Respectfully submitted,

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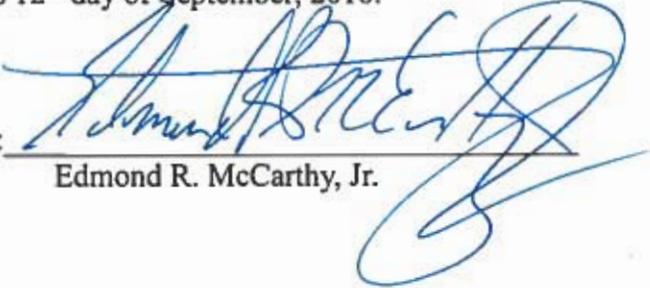
By: 
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ATTORNEYS FOR CITY OF HOUSTON

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the above and foregoing Reply to the Responses to Hearing Requests was served via electronic mail or U.S. mail on all parties whose names appear on the attached mailing list on this 12th day of September, 2016.

By:


Edmond R. McCarthy, Jr.

APPENDIX "A"

Chart summarizing Houston's San Jacinto River Basin Water Rights

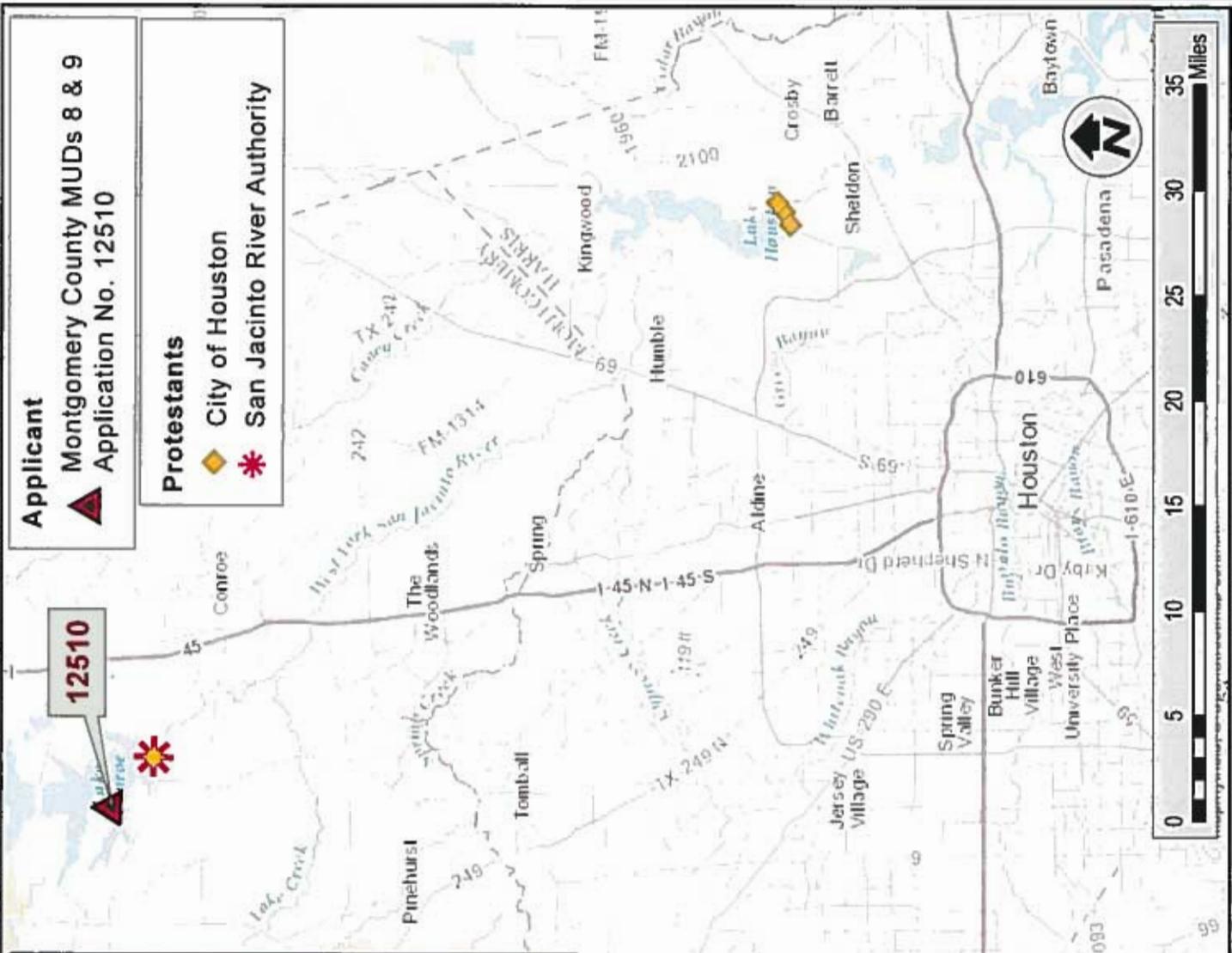
CITY OF HOUSTON
SAN JACINTO RIVER BASIN WATER RIGHTS

Certificate Of Adjudication	Permitted Use(s)	Source	Quantity	
			Acre Ft/Yr.	MGD
10-4965	Multiple Use	Lake Houston (1)	112,000	100
		Lake Houston (1)	56,000	50
		Sub-total	168,000	150
10-4963	Municipal	Lake Conroe (2)	44,000	39.3
	Industrial	Lake Conroe (2)	19,000	17
	Mining	Lake Conroe (2)	3,667	3.2
		Sub-total	66,667	59.5
10-5807	Multiple Use	Lake Houston	14,100	12.6
10-5808	Multiple Use	San Jacinto River	40,000	35.7
10-5826	Multiple Use	Mult. Bayous	130,000	
10-5827	Reuse	Mult. Bayous	290,462	
		TOTALS	709,229	257.8(+)

Notes: (1) Municipal, Industrial and Irrigation (Multiple Use)
(2) Houston's 2/3 undivided share by use

APPENDIX "B"

ED's map generally depicting the MUD's Project and
the City & SJRA's Water Rights



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NOS. 8 & 9
DOCKET NO. 2016-0469-WR; WRPERM 12510

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