

The Texas Natural Resource Conservation Commission (commission) adopts the repeal of §§351.111-351.113, without changes to the proposed text as published in the November 26, 1996, issue of the *Texas Register* (21 TexReg 11438). Sections 351.111-351.113 relate to the designation of the regional area included for the Upper Brushy Creek Watershed.

EXPLANATION OF ADOPTED RULE

The repeal of §§351.111-351.113 removes the designation of the Upper Brushy Creek Watershed as a Regional Area and the designation of the Brushy Creek Water Control and Improvement District No. 1 of Williamson and Milam Counties (District) as the regional entity responsible for providing wastewater services. This would allow for the implementation of a recent agreement among the City of Austin, the City of Round Rock, the Lower Colorado River Authority (LCRA), and the Brazos River Authority (BRA) providing for one regional wastewater treatment facility to be built by LCRA and operated by BRA.

The Watershed area includes the area in southwest Williamson County, which includes the cities of Cedar Park, Leander, Round Rock, portions of the extraterritorial jurisdiction of the City of Austin, and the unincorporated areas surrounding those cities. The District is designated as the entity responsible for the planning, construction, operation, and maintenance of an integrated wastewater treatment system for the area designated as the Upper Bushy Creek Watershed.

The designation was made in 1985 pursuant to Texas Water Code §§26.081-26.087; however, no election was held to confirm the designation. Since then, participants have withdrawn from the plan.

The remaining parties along with the District have jointly petitioned the commission to repeal the designation. The repeal would allow a regional facility to be built and operated by the LCRA and BRA respectively, while also allowing for interested entities to continue discussing regional wastewater system plans with other interested parties.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, Section 2007.043. The following is a summary of the assessment. The specific purpose of the proposed repeal is to remove the designation the Upper Brushy Creek Watershed as a regional area. The proposed repeal of these rules will not affect private real property which is the subject of the rules.

HEARING AND COMMENTERS

A public hearing was held on December 6, 1996, in Austin, Texas. No public testimony was offered at the hearing. The public comment period closed on December 27, 1996. No written public comments were received.

STATUTORY AUTHORITY

These sections are adopted under the Texas Water Code, §5.102 which provides the commission with the general powers to carry out duties under the Texas Water Code, and §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the powers and the duties under the provisions of the Texas Water Code and other laws of this state.

UPPER BRUSHY CREEK WATERSHED

These repeals are adopted under the Texas Water Code, §5.102 which provides the commission with the general powers to carry out duties under the Texas Water Code and §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the powers and the duties under the provisions of the Texas Water Code and other laws of this state.

§351.111. Definitions.

§351.112. Designation of Regional Area.

§351.113. Designation of Regional Entity.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on