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CITY OF HORSESHOE BAY



October 17, 2014

Mr. Richard Hyde
Executive Director
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087



Re: Petition for Rulemaking

Dear Mr. Hyde:

Please find enclosed one (1) original and seven (7) copies of a Petition for Rulemaking (the "Petition") filed on behalf of the City of Horseshoe Bay (the "City") seeking to amend 30 TAC Chapter 311, Subchapter F, to include the transportation of treated reuse water, in certain defined creek drainage basins above the normal pool level, for the purpose of replacing existing raw water irrigation demands with reuse water. In addition to the Petition and its attachments, please find enclosed a resolution of support for this initiative adopted by the City of Horseshoe Bay.

We respectfully request that this Petition be set for consideration and Commission action and look forward to working with all concerned on this matter.

If you have any questions, please do not hesitate to contact me at (830) 598-9981.

Yours truly,

Stephen T. Jordan, Mayor
City of Horseshoe Bay

PETITION FOR RULEMAKING §
BY THE CITY OF HORSESHOE BAY §
 § BEFORE THE TEXAS COMMISSION
 § ON ENVIRONMENTAL QUALITY
TO MODIFY PORTIONS OF
30 TEX. ADMIN. CODE CHAPTER
311 SUBCHAPTER F RELATED TO
THE AUTHORIZATION FOR USE
OF RECLAIMED WATER

ORIGINAL PETITION FOR RULEMAKING TO THE HONORABLE COMMISSIONERS:

Now comes the City of Horseshoe Bay (the "City" or "Petitioner"), and pursuant to the provisions of 30 Texas Administrative Code ("TAC") Chapter 20 hereby presents this Petition for Adoption of an Amendment to a Rule (the "Petition") to the Texas Commission on Environmental Quality ("the Commission") seeking to amend 30 TAC Chapter 311, Subchapter F (collectively, the "Rule") and respectfully request that the Commission consider this Petition and the proposed amendment as set out herein (the "Amendment") and initiate proceedings necessary to adopt the Amendment. Pursuant to the provisions of 30 TAC §20.15, the City would respectfully show the following:

I. Public Policy Benefits

This petition is submitted in the interest of advancement of the statewide public policy of efficiently utilizing and conserving existing water supply resources. As our state population grows, the task of developing alternative sources of water is and will continue to be a high level of responsibility for public policy development. Maximizing the benefit of a finite water resource has always been a challenge, and as our economy and population grows, changes in public policy must be considered. Balancing expanding demands with limited supply creates challenges that require changing existing rules to accommodate innovative projects.

The existing 30 TAC Chapter 311, Subchapter F rule restricts the possibility of any innovative opportunities to utilize reclaimed water within the watershed of Lake LBJ, except through the construction of a closed pipe system. In most cases the economic burden of piping reclaimed water is too great of a deterrent for the development of reuse of reclaimed water as an alternative water source. Reclaimed water is regularly utilized in many parts of the state to offset demands and advance conservation of the limited water supply.

This petition is requesting that the Rule be amended to allow for the discharge of treated reclaimed water into a portion of Lake LBJ's natural drainage area, with the intention of removing the same volume prior to the lake pool level, for the sole purpose of replacing existing demands on the water supply. This rule amendment will provide a means for advancing the public policy goal of efficient use of water and water conservation.

In addition, the release of reclaimed water under this Amendment to the intermittent Dry Branch, a secondary tributary of Lake LBJ, would enhance the hydrologic conditions and would not degrade the water quality conditions in the watercourse. Dry Branch is typically dry or intermittent for much of the year, and the flow augmentation from reclaimed water would improve the aquatic habitat.

II. Petitioners' Names and Addresses City of Horseshoe Bay

The City is a home rule municipality that provides retail water and wastewater services. For the purposes of this Petition, contact with the City can be made by directing all correspondence to the following:

City of Horseshoe Bay
c/o Mr. Jeff Koska
#1 Community Drive
PO Box 7765
Horseshoe Bay, Texas 78657

III. Brief Explanation of the Amendment

The City proposes the Amendment as an effort to promote conservation and the efficient use of existing water resources. The Amendment would allow a portion of the City's reclaimed water to be discharged on an as-needed basis into Lake LBJ's natural drainage area with the purpose of recovering a similar volume prior to passage into lake pool level. The Amendment would create a beneficial and efficient means for reducing the existing demands placed on the current surface water supply by supplementing the surface water demands of local golf courses with reclaimed water, without major capital construction costs related to a transmission pipeline to do the same. The intermittent discharge provided under the amendment will reduce stagnation and create a more consistent aquatic habitat for the native wildlife of the currently intermittent Dry Branch drainage basin area.

IV. Text of the Repeal

The text of the Amendment is provided hereto as Attachment A.

V. Statement of Legal Authority for the Amendment

The Amendment is proposed to be adopted pursuant to the following authority:

- a. Texas Water Code §§5.102 and 5.103, which authorize the Commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code.
- b. Texas Water Code §5.013(a)(3), which grants the Commission jurisdiction over the state's water quality program, including the issuance of permits and other necessary authorizations.
- c. Texas Water Code §26.121, which regulates the discharge of pollutants into or adjacent to waters of the State.
- d. Texas Water Code §26.027, which authorizes the Commission to issue permits that regulate the discharge of pollutants into or adjacent to waters of the State.
- e. Texas Water Code §11.046(c), which authorizes the use and beneficial reuse of reclaimed water before discharge or disposal.
- f. Texas Water Code §11.002(8), which defines conservation as those practices, techniques and technologies that will improve the efficiency in the use of water.

g. Texas Water Code §11.1271(e), which requires the Commission to develop model water conservation programs that suggest best management practices for achieving the highest practicable levels of water conservation and efficiency.

h. The 2012 State Water Plan, Water for Texas 2012, which recognizes that reuse is an important water management strategy to meet the growing needs for water by the people of Texas.

VI. Injury or Inequity Resulting From Failure to Adopt the Amendment

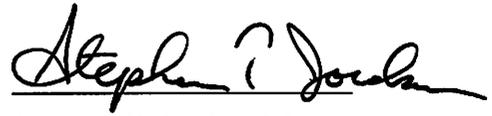
The Amendment is important to the City for the following reasons:

1. The Amendment proposes to reduce existing surface water demand within the Basin through supplementing golf course irrigational use with reclaimed water.
2. Operating under existing Texas Land Application rules (Ch. 309), the city is forced to procure/construct ever increasing effluent storage capacity and irrigation land for use in disposal of wastewater at substantial expense. This expansion is particularly burdensome in an urbanizing area, creating negative property value impacts and restrictive use for future land development as the City expands. The Amendment would enable the City to better utilize existing properties that currently require surface water for irrigation, rather than securing additional land just for the sake of expansion.
3. Although reclaimed water may be delivered by pipe, the major capital construction costs create a financial barrier to making reuse projects feasible. The current regulations under Ch. 311 are inequitable as currently written with no options for reuse through the use of natural drainage as currently allowed within the remaining areas of the State of Texas.

VI. Prayer

WHEREFORE, premises considered, the City respectfully requests that the Commission consider this Petition, and the Amendment as proposed herein, and initiate proceedings necessary to adopt the Amendment. The City further prays for any and all other relief to which they may be entitled.

Respectfully submitted,

A handwritten signature in black ink, reading "Stephen T. Jordan". The signature is written in a cursive style with a horizontal line underneath the name.

Stephen T. Jordan, Mayor
City of Horseshoe Bay

Attachment A

Proposed Amendment to 30 TEXAS ADMINISTRATIVE CODE §311, Subchapter F

311.57. Allowable Reclaimed Water Discharges

This section authorizes specific activities within the Lake Lyndon B. Johnson Water Quality Area for the purpose of beneficial reuse of treated reclaimed water.

- (a) The discharge of reclaimed water from domestic wastewater treatment facilities into a natural or constructed watercourse into the waters in the state, in conjunction with a beneficial use project, may be authorized by a Texas Pollutant Discharge Elimination System (“TPDES”) permit if such discharge meets the following requirements:
- (1) Introduction of the reclaimed water into the natural watercourse must not degrade the hydrologic and water quality conditions within the watercourse.
 - (2) Such reclaimed water must be subsequently withdrawn from the natural watercourse for beneficial reuse. Any proposed plan must minimize releases of reclaimed water to Lake Lyndon B. Johnson. The discharge/withdrawal facilities shall be designed such that at least 75% of the reclaimed water discharged is subsequently recovered for the intended beneficial use. The recovery requirement must recognize that some amount of channel losses and bypassing of natural flow will occur.
 - (3) The process of discharge and withdrawal shall be accomplished under the terms of a Bed and Banks permit issued by the TCEQ under 295.113.
 - (4) Withdrawal of reclaimed water from the conveyance watercourse must occur at an elevation above the normal pool elevation (825 ft) of Lake Lyndon B. Johnson.
 - (5) Discharge of reclaimed water directly into Lake Lyndon B. Johnson is prohibited.
- (b) Only domestic wastewater treatment facilities operating under the provisions of a Texas Land Application Permit may participate in the activities described in this section. Reclaimed water projects to be approved under this provision require a new or amended waste discharge permit from the Commission. Any currently permitted domestic treatment facility in the Lake Lyndon B. Johnson Water Quality Area may continue operation in accordance with the terms and conditions of their existing Texas Land Application Permit, and the utilization of reclaimed water under this section shall be accomplished under a separate outfall designation that authorizes the TPDES component. Facilities permitted for reclaimed water beneficial use will thereby have available an alternate means of disposal during times when there is no demand for the use of the reclaimed water.

(c) In this section, reclaimed water shall consist of effluent produced by a domestic wastewater treatment plant, with the following effluent quality parameters, at a minimum:

(1) CBOD5 less than or equal to 5 mg/L

(2) TSS less than or equal to 5 mg/L

(3) NH3N less than or equal to 2 mg/L

(4) TP less than or equal to 0.5 mg/L

These effluent parameters are established as 30-day average values.

(d) For the purposes of this section, a beneficial use project may only include the following uses to reduce demands on surface water usage:

(1) use of reclaimed water for irrigation of golf courses

(2) use of reclaimed water for landscape irrigation

(e) An existing TLAP holder who wishes to participate under this section must submit a permit amendment application under 305.62, with a full description of the plan and operation of the reclaimed water beneficial use system, to the TCEQ permitting staff for review and approval prior to implementation.

CITY OF HORSESHOE BAY

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF HORSESHOE BAY, TEXAS, TO
SUPPORT A PETITION FOR RULEMAKING BEFORE THE TEXAS
COMMISSION ON ENVIRONMENTAL QUALITY**

WHEREAS, the City Council acknowledges the importance, both locally and statewide, of efficient use and conservation of existing water supply resources; and

WHEREAS, the City Council has developed an innovative plan (the “Dry Branch Plan”) to enhance local water conservation, as well as the provide a more consistent aquatic habitat and enhanced hydrologic conditions within the Dry Creek watercourse of Lake Lyndon B. Johnson (“Lake LBJ”); and

WHEREAS, the Dry Branch Plan would involve discharging treated reclaimed water into Dry Branch, a secondary tributary of Lake LBJ within its natural draining area, with the intention of removing the same volume prior to the lake pool level; and

WHEREAS, 30 Texas Administrative Code (“TAC”) 311, Subchapter F requires construction of a costly closed pipe system in connection with the use of reclaimed water within the Lake LBJ watershed; and

WHEREAS, amending 30 TAC 311, Subchapter F to accommodate the Dry Branch Plan would allow the City to carry out such plan; and

WHEREAS, the City Council has determined that implementation of the Dry Branch Plan is in the best interests of the City;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY:

The City Council hereby instructs the City Manager to prepare a Petition for Rulemaking by the City of Horseshoe Bay before the Texas Commission on Environmental Quality consistent with the recitals above and the Dry Branch Plan. Further, the City Council authorizes the City Manager, or such representative or representatives as the City Manager in his discretion may appoint, to act as the City’s duly authorized representative in connection with such petition. Further, the City Council authorizes the City Manager and such authorized representative to file such petition with the Texas Commission on Environmental Quality at such time, in the City Manager’s discretion, as appropriate to accomplish the ends contemplated herein. Further, the City Council authorizes the City Manager and such authorized representative to file and execute such documents, and take such other acts, as are necessary or advisable to accomplish the ends contemplated herein.

ADOPTED AND APPROVED on this 21st day of October, 2014 by a vote of the City Council of the City of Horseshoe Bay, Texas.

CITY OF HORSESHOE BAY, TEXAS

Stephen T. Jordan, Mayor

ATTEST:

Teresa L. Moore, City Secretary

Adopted Resolution and City Council Minutes will be provided after the October 21, 2014 Council Meeting

**MINUTES FOR A REGULAR MEETING OF
THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY**

Adopted Resolution and City Council Minutes will be provided after the October 21, 2014 Council Meeting