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Item Number: 18

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DOCKET NO. 44849

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APPLICATION OF VM NEIGHBORS WATER GROUP FOR EXEMPT UTILITY REGISTRATION

**PUBLIC UTILITY COMMISSION OF
TEXAS**

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## APPLICANT'S RESPONSE TO ORDER NO. 7

Comes now, applicant VM Neighbors Water Group (Applicant) and would show the following in response to Order No. 7 of the Public Utility Commission of Texas (the Commission).

## I. INTRODUCTION

On June 16, 2015, Applicant filed its Application for Exempt Utility Registration (the Application). The Commission found the Application administratively incomplete for various reasons then abated this docket on August 20, 2015, at Applicant's request. Applicant subsequently filed its Motion to Lift Abatement and Supplement to Application on July 27, 2017, and the Commission lifted the abatement on August 1, 2017 in Order No. 6.

On August 28, 2017, Commission Staff recommended that the Application be found administratively incomplete because the requested exempt utility area is within the boundaries of the Middle Trinity Groundwater Conservation District (Middle Trinity District), and Applicant had not received written authorization from the Middle Trinity District.<sup>1</sup> Staff recommended that Applicant be given until September 27, 2017 to file the required authorization. The Commission concurred, issuing Order No. 7 on August 29, 2017, finding the Application incomplete and setting September 27, 2017 as the deadline for Applicant's response.

<sup>1</sup> See 16 Tex. Admin. Code § 24.103(e)(1)(D) (TAC).

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## II. LEGAL AUTHORITIES AND DISCUSSION

Contrary to the Commission's stance, Applicant is not required to obtain written authorization from the Middle Trinity District. Applicant applied for an exempt registration to provide water utility service without obtaining a certificate of convenience and necessity. Pursuant to Commission Rule,

A water utility or water supply corporation is exempt from the requirement to possess a CCN to provide retail water utility service if it:

- (A) has less than 15 potential service connections;
- (B) is not owned by or affiliated with a retail public water utility, or any other entity, that provides potable water service;
- (C) is not located within the certificated service area of another retail public water utility; and
- (D) *is not within the corporate boundaries of a district . . . unless it receives written authorization from the district . . .*

..<sup>2</sup>

For purposes of the Commission's substantive rules applicable to water providers, "district has the meaning assigned to it by T[exas] W[ater] C[ode] § 49.001(a)."<sup>3</sup> Texas Water Code Section 49.001(a) defines district as

any district or authority created by authority of either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of how created. The term "district" *shall not include any . . . conservation and reclamation district governed by Chapter 36* unless a special law creating the district or amending the law creating the district states that this chapter applies to that district.<sup>4</sup>

The definition contains three provisions – a general rule, an exception, and an exception to the exception. The general rule, that "district" means any district or authority created by Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI of the Texas Constitution, does not apply here, because the exception applies.

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<sup>2</sup> 16 TAC § 24.103(e) (emphasis added).

<sup>3</sup> 16 TAC § 24.3(23).

<sup>4</sup> Tex. Water Code § 49.001(a)(1) (TWC).

The exception is that “district,” as defined in TWC § 49.001(a) and therefore Commission Rule 24.103(e)(1)(D), does not include a district governed by TWC Chapter 36 of the Water Code. The exception to this exception would be if “a special law creating the district or amending the law creating the district states that [TWC Chapter 49] applies to that district.”<sup>5</sup>

The exception applies here. The Middle Trinity District was created in 2001 by House Bill 3665 (the “District Enabling Act”) to regulate groundwater in counties including Bosque County<sup>6</sup> and is governed by Chapter 36 of the Texas Water Code (TWC).<sup>7</sup> The District Enabling Act specifically states “Chapter 49, Water Code, *does not* apply to the district.”<sup>8</sup> The current law is reflected in Special District Local Laws Code Chapter 8862, attached here as Exhibit B, and the codification does not reflect any amendment to the original District Enabling Act stating that TWC Chapter 49 applies to the Middle Trinity District.<sup>9</sup>

Accordingly, the term “district” as used in Commission Rule 24.103(e)(1)(D) does not include the Middle Trinity District, and the Commission Rules do not require that Applicant secure written authorization from the Middle Trinity District in order to qualify as an exempt utility.

### III. PRAYER

Because the Middle Trinity District is not a district of the type from which Applicant needs written authorization to operate, Applicant respectfully requests that the Commission find the Application is administratively complete, and upon further review, issue the exempt registration.

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<sup>5</sup> *Id.*

<sup>6</sup> See Act of May 16, 2001, 77<sup>th</sup> R.S., ch. 1362, 2001 Tex. Gen. Laws 3371 (codified at Spec. Dist. Loc. Laws § 8862.001 *et seq.*) (hereinafter “District Enabling Act”). A copy of the District Enabling Act is attached as Exhibit A.

<sup>7</sup> See Spec. Dist. Loc. Laws Code § 8862.101 (explaining rights and duties of district, including those granted by Chapter 36 of the Texas Water Code); *Id.* § 8862.102 (authorizing district to enforce its rules and provisions of TWC Chapter 36, as authorized by Chapter 36.).

<sup>8</sup> *Id.* § 5(c).

<sup>9</sup> See A Nonsubstantive Revision of Local Laws Relating to Special Districts Submitted to the 83<sup>rd</sup> Legislature, R.S., 1122 - 1140, at 1127 (Tex. 2013) (explaining the codification omits District Enabling Act section 5(c) as unnecessary because the District Enabling Act does not affirmatively specify TWC Chapter 49 applies). The relevant pages of the foregoing revisor’s notes are attached here as Exhibit C.

Respectfully Submitted,

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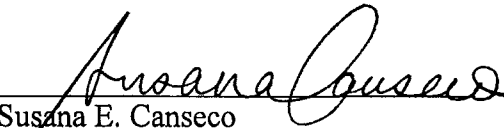
By: 

SUSANA E. CANSECO

Attorney for Applicant VM Neighbors Water Group

### CERTIFICATE OF SERVICE

I, Susana E. Canseco, attorney for applicant VM Neighbors Water Group, certify that a copy of this document was served on all parties of record in this proceeding on September 25, 2017, in accordance with 16 TAC § 22.74.

  
Susana E. Canseco

## Exhibit A

## 77th LEGISLATURE-REGULAR SESSION

## Ch. 1362, § 8

## CHAPTER 1362

## H.B. No. 3665

## AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Middle Trinity Groundwater Conservation District.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. CREATION. (a) A groundwater conservation district, to be known as the Middle Trinity Groundwater Conservation District, is created in Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties, subject to a confirmation election under Section 10 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the Middle Trinity Groundwater Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 5. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.1071 through 36.108, Water Code;
- (2) Sections 36.159, 36.160, and 36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) Chapter 49, Water Code, does not apply to the district.

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of not fewer than five or more than 16 directors.

(b) Temporary directors named under Section 8 of this Act serve until initial directors are elected under Section 10 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 11 of this Act.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION 7. COMPENSATION OF DIRECTORS. A director may not receive compensation for service on the board but is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

SECTION 8. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of:

## Ch. 1362, § 8

## 77th LEGISLATURE-REGULAR SESSION

- (1) Calvin Rueter and Truman Blum, from Bosque County;
- (2) Bryan Farmer and Cecil Barton, from Callahan County;
- (3) Jack Wall and Lyle Zoeller, from Coryell County;
- (4) Brad Stephenson and Ron Bailey, from Eastland County;
- (5) Tab Thompson and John Moser, from Erath County;
- (6) Walter Maynard and Jeff Mackey, from Somervell County;
- (7) Lance Wilkerson and John Robert Adcock, from Comanche County; and
- (8) Joe McGowen and Charlie Thomas, from Hamilton County.

(b) If a temporary director fails to qualify for office, the commissioners court that appointed the director shall appoint a person to fill the vacancy.

SECTION 9. METHOD OF ELECTING DIRECTORS. (a) Two directors shall be elected from each county in the district as provided by this section.

(b) To be qualified to be a candidate for or to serve as director, a person must be a registered voter in the county the person seeks to represent.

(c) The initial or permanent directors may revise the number of directors as necessary or appropriate, subject to Section 6(a) of this Act, to exclude directors representing counties that do not confirm the establishment of the district, to include directors representing counties that are annexed to the district, or to maintain compliance with the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), as amended. The initial or permanent directors may appoint an at-large director to maintain an odd number of directors. An at-large director must be a registered voter in the district.

(d) The initial or permanent directors may revise the number of directors to be elected from each county, subject to Section 6(a) of this Act, if necessary to provide for better representation of the residents of the district on the board of directors.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election in each county in the district to confirm establishment of the district and to elect initial directors to represent the county.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot in each county the names of any candidates filing for an initial director's position from that county and blank spaces to write in the names of other persons.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(e) The district is established if a majority of the votes cast at the election in at least one county favors the establishment of the district. A county is included in the district and may elect directors to the board only if a majority of the votes cast at the election in that county favors the establishment of the district. Counties included in the district are not required to be contiguous.

SECTION 11. ELECTION OF PERMANENT DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in each county in the district for the election of permanent directors. The initial directors in each participating county shall draw lots to determine which permanent director from that county shall serve a two-year term and which permanent director from that county shall serve a four-year term.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

SECTION 12. DISTRICT REVENUES. The board of directors may impose taxes annually to pay the maintenance and operating expenses of the district at a rate not to exceed five cents on each \$100 of assessed valuation.

## 77th LEGISLATURE-REGULAR SESSION

## Ch. 1363, § 1

SECTION 13. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 14. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under Section 10 of this Act before September 1, 2003, this Act expires on that date.

Passed by the House on May 5, 2001, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 3665 on May 25, 2001, by a non-record vote; passed by the Senate, with amendments, on May 22, 2001, by a viva-voce vote.

Approved June 16, 2001.

Effective September 1, 2001.

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CHAPTER 1363

H.B. No. 3667

AN ACT

relating to insurance for, and a fireworks sales tax for the support of, certain volunteer fire departments.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 614, Government Code, is amended by adding Subchapter F to read as follows:

**SUBCHAPTER F. RURAL VOLUNTEER FIRE DEPARTMENT INSURANCE PROGRAM**

*Sec. 614.071. DEFINITIONS. In this subchapter:*

- (1) "Director" means the director of the Texas Forest Service.
- (2) "Fund" means the rural volunteer fire department insurance fund.
- (3) "Partially paid fire department" means a fire department operated by its members that includes:
  - (A) some volunteer members; and
  - (B) not more than 20 paid members.
- (4) "Program" means the rural volunteer fire department insurance program.
- (5) "Service" means the Texas Forest Service, an agency of The Texas A&M University System.



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Exhibit B

Vernon's Texas Statutes and Codes Annotated  
Special District Local Laws Code (Refs & Annos)  
Title 6. Water and Wastewater  
Subtitle H. Districts Governing Groundwater  
Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter A. General Provisions

V.T.C.A., Special Districts Code § 8862.001

§ 8862.001. Definitions

Effective: April 1, 2015  
Currentness

In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Middle Trinity Groundwater Conservation District. (Acts 77th Leg., R.S., Ch. 1362, Sec. 2.)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.001, TX SPEC DIST § 8862.001

Current through the end of the 2017 Regular and First Called Sessions of the 85th Legislature

Vernon's Texas Statutes and Codes Annotated  
Special District Local Laws Code (Refs & Annos)  
Title 6. Water and Wastewater  
Subtitle H. Districts Governing Groundwater  
Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter A. General Provisions

V.T.C.A., Special Districts Code § 8862.002

§ 8862.002. Nature of District

Effective: April 1, 2015  
Currentness

The district is a groundwater conservation district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. (Acts 77th Leg., R.S., Ch. 1362, Secs. 1(a) (part), (b).)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.002, TX SPEC DIST § 8862.002

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Title 6. Water and Wastewater  
Subtitle H. Districts Governing Groundwater  
Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter A. General Provisions

V.T.C.A., Special Districts Code § 8862.003

§ 8862.003. Findings of Public Use and Benefit

Effective: April 1, 2015

Currentness

(a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the works and projects accomplished by the district under the powers conferred by Section 59, Article XVI, Texas Constitution. (Acts 77th Leg., R.S., Ch. 1362, Sec. 4.)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.003, TX SPEC DIST § 8862.003

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Subchapter A. General Provisions

V.T.C.A., Special Districts Code § 8862.004

§ 8862.004. District Territory

Effective: April 1, 2015  
Currentness

The district's boundaries are coextensive with the boundaries of Erath, Comanche, Bosque, and Coryell Counties, unless the district's territory has been modified under:

- (1) Subchapter J or K, Chapter 36, Water Code; or
- (2) other law. (Acts 77th Leg., R.S., Ch. 1362, Sec. 3; New.)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.004, TX SPEC DIST § 8862.004  
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Subchapter B. Board of Directors

V.T.C.A., Special Districts Code § 8862.051

§ 8862.051. Composition of Board; Terms

Effective: April 1, 2015

Currentness

(a) Except as provided by Subsection (c) and Sections 8862.055 and 8862.056, the district is governed by a board of six directors.

(b) Directors serve staggered four-year terms.

(c) The board by resolution may change the number of directors elected from a county in the district for the purpose of equalizing representation of the residents of the district.

(d) Section 36.051(a), Water Code, does not apply to the district. (Acts 77th Leg., R.S., Ch. 1362, Secs. 6(a), (d), (g), 9(c).)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.051, TX SPEC DIST § 8862.051

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Subchapter B. Board of Directors

V.T.C.A., Special Districts Code § 8862.052

§ 8862.052. Election of Directors

Effective: April 1, 2015  
Currentness

Except as provided by Sections 8862.051(c) and 8862.056, three directors shall be elected from each county in the district.  
(Acts 77th Leg., R.S., Ch. 1362, Sec. 9(a).)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.052, TX SPEC DIST § 8862.052

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Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter B. Board of Directors

V.T.C.A., Special Districts Code § 8862.053

§ 8862.053. Election Date

Effective: April 1, 2015

Currentness

Except as provided by Sections 8862.055 and 8862.056, each even-numbered year, on the uniform election date in May or another date authorized by law, the appropriate number of directors shall be elected. (Acts 77th Leg., R.S., Ch. 1362, Sec. 11(b).)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.053, TX SPEC DIST § 8862.053

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Subchapter B. Board of Directors

V.T.C.A., Special Districts Code § 8862.054

§ 8862.054. Qualification for Office

Effective: April 1, 2015  
Currentness

To be qualified to be a candidate for or serve as director, a person must be a registered voter in the county the person seeks to represent. (Acts 77th Leg., R.S., Ch. 1362, Sec. 9(b).)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.054, TX SPEC DIST § 8862.054

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Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter B. Board of Directors

V.T.C.A., Special Districts Code § 8862.055

§ 8862.055. Composition of Board and Election of Directors Following Annexation of One or Two Counties

Effective: April 1, 2015  
Currentness

- (a) This section applies only following the annexation by the district under Subchapter J, Chapter 36, Water Code, of the territory of one or two additional counties.
- (b) Not later than the 90th day after the date of an election in which the annexation of a county to the district is ratified by a majority vote of the voters of that county, the commissioners court of the annexed county shall appoint three temporary directors to the board. Temporary directors serve until initial permanent directors are elected under Subsection (c).
- (c) In the first odd-numbered year following the election in which annexation of a county is ratified, on the uniform election date in May or another date authorized by law, initial permanent directors shall be elected from that county. The initial permanent directors from the county shall draw lots to determine who will serve a four-year term and who will serve a two-year term.
- (d) In each odd-numbered year following the election of initial permanent directors under Subsection (c), on the uniform election date in May or another date authorized by law, the appropriate number of directors from the annexed county shall be elected. (Acts 77th Leg., R.S., Ch. 1362, Sec. 11A.)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.055, TX SPEC DIST § 8862.055  
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Subtitle H. Districts Governing Groundwater  
Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter B. Board of Directors

V.T.C.A., Special Districts Code § 8862.056

§ 8862.056. Composition of Board and Election of Directors Following Annexation of More Than Two Counties

Effective: April 1, 2015  
Currentness

(a) This section applies only following the annexation by the district under Subchapter J, Chapter 36, Water Code, of the territory of a third additional county or the simultaneous or subsequent annexation of the territory of other additional counties.

(b) After annexation, two directors shall be elected from each county in the district as provided by this section.

(c) Not later than the 90th day after the date of an election in which the annexation of a county is ratified by a majority vote of the voters of that county, the commissioners court of each annexed county shall appoint two temporary directors to the board. Temporary directors serve until initial permanent directors are elected under Subsection (d).

(d) In the first odd-numbered year following the election in which annexation of a county is ratified, on the uniform election date in May or another date authorized by law, initial permanent directors shall be elected from that county. The initial permanent directors from the county shall draw lots to determine who will serve a four-year term and who will serve a two-year term.

(e) On the date of the next regularly scheduled directors' election in an even-numbered year following the election in which annexation of a county is ratified:

(1) one director position from Comanche County and one director position from Erath County are abolished; and

(2) the terms of the directors serving in those positions expire on the date of the election.

(f) On the date of the next regularly scheduled directors' election in an odd-numbered year following the election in which annexation of the county is ratified:

(1) one director position from each of the first two counties annexed by the district is abolished; and

(2) the terms of the directors serving in those positions expire on the date of the election.

(g) If more than one position described by Subsection (e)(1) or (f)(1) is scheduled for election in Comanche County, Erath County, or one of the first two counties annexed by the district, the directors of the county shall draw lots to determine which position shall be abolished in accordance with Subsections (e) and (f).

(h) Each odd-numbered year following the election of initial permanent directors under Subsection (d), on the uniform election date in May or another date authorized by law, the appropriate number of directors from the annexed county shall be elected. (Acts 77th Leg., R.S., Ch. 1362, Sec. 11B.)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.056, TX SPEC DIST § 8862.056

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Subtitle H. Districts Governing Groundwater  
Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter C. Powers and Duties

V.T.C.A., Special Districts Code § 8862.101

§ 8862.101. Groundwater Conservation District Powers and Duties

Effective: April 1, 2015

Currentness

The district has the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. (Acts 77th Leg., R.S., Ch. 1362, Sec. 5(a) (part).)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.101, TX SPEC DIST § 8862.101

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Subtitle H. Districts Governing Groundwater  
Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter C. Powers and Duties

V.T.C.A., Special Districts Code § 8862.102

§ 8862.102. District Rules; Enforcement

Effective: April 1, 2015

Currentness

(a) Any rules adopted by the district as authorized by this chapter and Chapter 36, Water Code, apply to all persons and entities except as exempted under Section 36.117, Water Code.

(b) The district may enforce its rules and the provisions of Chapter 36, Water Code, in the manner authorized by that chapter. In addition to the remedies provided under Section 36.102, Water Code, the district may impose a fee on a person or entity for violation of a rule of the district or failure to comply with an order issued by the district. (Acts 77th Leg., R.S., Ch. 1362, Sec. 13, as added Acts 81st Leg., R.S., Ch. 521.)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.102, TX SPEC DIST § 8862.102

Current through the end of the 2017 Regular and First Called Sessions of the 85th Legislature

Vernon's Texas Statutes and Codes Annotated  
Special District Local Laws Code (Refs & Annos)  
Title 6. Water and Wastewater  
Subtitle H. Districts Governing Groundwater  
Chapter 8862. Middle Trinity Groundwater Conservation District  
Subchapter D. General Financial Provisions

V.T.C.A., Special Districts Code § 8862.151

§ 8862.151. Maintenance and Operation Tax

Effective: April 1, 2015

Currentness

To pay the maintenance and operating expenses of the district, the board of directors may impose taxes annually at a rate not to exceed five cents on each \$100 of assessed valuation. (Acts 77th Leg., R.S., Ch. 1362, Sec. 12.)

**Credits**

Added by Acts 2013, 83rd Leg., ch. 112 (S.B. 1026), § 1.05, eff. April 1, 2015.

V. T. C. A., Special Districts Code § 8862.151, TX SPEC DIST § 8862.151

Current through the end of the 2017 Regular and First Called Sessions of the 85th Legislature

1 revised law also adds a reference to the general  
2 authority of the legislature to enact other laws under  
3 which the district's territory may change.

4 Revisor's Note  
5 (End of Subchapter)

6 (1) Section 5(a), Chapter 1362, Acts of the 77th  
7 Legislature, Regular Session, 2001, provides that the  
8 act prevails over general law in case of a conflict or  
9 other inconsistency. The revised law omits the  
10 provision because it substantively duplicates Section  
11 311.026, Government Code (Code Construction Act). The  
12 omitted law reads:

13 (a) . . . This Act prevails over any  
14 provision of general law that is in conflict  
15 or inconsistent with this Act.

16 (2) Section 5(b), Chapter 1362, Acts of the 77th  
17 Legislature, Regular Session, 2001, provides that  
18 certain provisions of the Water Code prevail over a  
19 conflicting or inconsistent provision of the act. The  
20 revised law omits Section 5(b) because it  
21 substantially duplicates Section 36.052(b), Water  
22 Code, which provides that the provisions of the Water  
23 Code referenced in Section 5(b), in addition to  
24 Section 36.107, Water Code, prevail over a conflicting  
25 or inconsistent provision of a special law that  
26 governs a specific district. Although Section 5(b)  
27 does not reference Section 36.107, Water Code, that  
28 section of Chapter 36 is not in conflict or  
29 inconsistent with any provision of this chapter. The  
30 omitted law reads:

31 (b) Notwithstanding Subsection (a)  
32 of this section, the following provisions  
33 prevail over a conflicting or inconsistent  
34 provision of this part:

- 35 (1) Sections 36.1071-36.108,  
36 Water Code;  
37 (2) Sections 36.159-36.161,  
38 Water Code; and  
39 (3) Subchapter I, Chapter 36,  
40 Water Code.



1           (3) Section 5(c), Chapter 1362, Acts of the 77th  
2       Legislature, Regular Session, 2001, provides that  
3       Chapter 49, Water Code, does not apply to the district.  
4       The revised law omits the provision as unnecessary.

5           Section 49.002(b), Water Code, provides that  
6       Chapter 49 does not apply to a district governed by  
7       Chapter 36 unless a special law creating the district  
8       or amending the law creating the district states that  
9       Chapter 49 applies to that district. The district is  
10      governed by Chapter 36, Water Code, under Section  
11      5(a), Chapter 1362, Acts of the 77th Legislature,  
12      Regular Session, 2001, revised in this chapter as  
13      Section 8862.101, and Section 36.001(1), Water Code.  
14      Because the district is governed by Chapter 36, Water  
15      Code, and the special law creating the district does  
16      not state that Chapter 49 of that code applies to the  
17      district, Chapter 49 does not apply to the district.  
18      The omitted law reads:

19                   (c) Chapter 49, Water Code, does not  
20                   apply to the district.

21           [Sections 8862.005-8862.050 reserved for expansion]

## 22                   SUBCHAPTER B. BOARD OF DIRECTORS

### 23                           Revised Law

24           Sec. 8862.051. COMPOSITION OF BOARD; TERMS. (a) Except as  
25      provided by Subsection (c) and Sections 8862.055 and 8862.056, the  
26      district is governed by a board of six directors.

27           (b) Directors serve staggered four-year terms.

28           (c) The board by resolution may change the number of  
29      directors elected from a county in the district for the purpose of  
30      equalizing representation of the residents of the district.

31           (d) Section 36.051(a), Water Code, does not apply to the  
32      district. (Acts 77th Leg., R.S., Ch. 1362, Secs. 6(a), (d), (g),  
33      9(c).)

### 34                           Source Law

35           Sec. 6. (a) Except as provided by Sections 10,