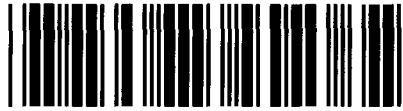




Control Number: 50209



Item Number: 3

Addendum StartPage: 0

PUC DOCKET NO. 50209

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PETITION OF HARLAN PROPERTIES, INC. §
TO AMEND HIGH POINT WATER SUPPLY §
CORPORATION'S WATER CERTIFICATE §
OF CONVENIENCE AND NECESSITY NO. 10841 §
IN KAUFMAN COUNTY BY EXPEDITED RELEASE §

**HIGH POINT WATER SUPPLY CORPORATION'S
AND HIGH POINT SPECIAL UTILITY DISTRICT'S
MOTION TO INTERVENE**

High Point Water Supply Corporation ("High Point WSC") and High Point Special Utility District of Kaufman and Rockwall Counties ("High Point SUD"), collectively "Respondents", file this Motion to Intervene and would respectfully show the following:

I. INTRODUCTION

Respondents seek to intervene, comment and fully participate in Public Utility Commission Docket No. 50209, pursuant to Sections 22.101 through 22.104 of the Commission's Procedural Rules. As set forth below, Respondents have a justiciable interest that may be adversely affected by the outcome of this proceeding.

II. AUTHORIZED REPRESENTATIVE

The name and address of the movants is:

High Point Special Utility District
c/o Linda Stewart, General Manager
16983 Valley View
Forney, TX 75126

Respondents' authorized representative for service of all pleadings and other documents in this docket and legal representative is:

James W. Wilson
James W. Wilson & Associates, PLLC
103 W. Main Street

Allen, Texas 75013
Tel: (972) 727-9904
Fax: (972) 755-0904
Email: jwilson@jww-law.com

All pleadings, motions and other documents in this proceeding should be served on Respondents' representative.

III. TIMELINESS OF INTERVENTION

Pursuant to Order No. 1, the deadline for affected persons to file a written protest or motion to intervene and file comments on the Petition is December 6, 2019. Therefore, this motion is timely filed.

IV. JUSTICIABLE INTEREST

High Point WSC is a member-owned, Texas nonprofit water supply corporation organized under TEX. REV. CIV. ST. art 1434a and now operating under TEXAS WATER CODE Chapter 67. High Point WSC holds Certificate of Convenience and Necessity ("CCN") No. 10841 under which it provides retail public water utility service to the public in Kaufman and Rockwall Counties, Texas.

High Point WSC is in the process of converting into High Point SUD under the terms and conditions of Article XVI, Section 59 of the Texas Constitution and TEX. WATER CODE Chapter 65. On November 8, 2017, the Texas Commission on Environmental Quality (TCEQ) issued An Order Granting a Request for Conversion to and Creation of High Point Special Utility District of Kaufman and Rockwall Counties and Appointing Temporary Directors (the "Order").¹ On May 5, 2018, an election was held within the boundaries of the proposed district confirming the conversion to and creation of High Point SUD and electing permanent directors.

¹ A copy of the Order is attached to this motion as Exhibit "A".

On November 22, 1989, High Point WSC closed on a loan from the United States Department of Agriculture, Rural Development Division (collectively "USDA/RD"), in the original principal amount of \$751,300.00 (the "Loan").² The final installment is due on November 22, 2027. High Point WSC is working towards obtaining USDA/RD approval to transfer the Loan to High Point SUD. Following the Loan transfer, High Point WSC will be dissolved and High point SUD will ask the Public Utility Commission (PUC) to issue CCN No. 10841 in its name.

The Petitioner in this proceeding, Harlan Properties, Inc., seeks to remove approximately 213 acres of land from High Point WSC's CCN. High Point WSC has an interest in maintaining its CCN area and protecting its infrastructure investments to serve current and future customers.

V. INITIAL COMMENTS

TEXAS WATER CODE § 13.2541³ is preempted by 7 U.S.C. §1926(b). Granting the Petition is prohibited by federal law and would violate the Supremacy Clause of the United States Constitution. U.S. CONST. art. VI, cl. 2. High Point WSC has an existing Loan issued by the USDA/RD pursuant to Section 1926(b) to construct water infrastructure. As such, High Point WSC is a federally indebted utility with its service area protected by federal law. Respondents reserve the right to file additional comments on the Petition.

PRAYER

WHEREFORE, PREMISES CONSIDERED, High Point WSC and High Point SUD request that this Motion to Intervene be granted and that Respondents be granted party status.

² USDA/FmHA Case No. 50-029-0751251613

³ The court in *Crystal Clear Special Util. Dist. v. Walker*, No. 1:17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019) declared TEX. WATER CODE §§ 13.254(a-5) and (a-6) void relative to entities that enjoy the protection of Section 1926(b)). TEX. WATER CODE § 13.254(a-5) was redesignated as TEX. WATER CODE § 13.2541(b) and TEX. WATER CODE § 13.254(a-6) was redesignated as TEX. WATER CODE § 13.2541(c-f). The redesignations became effective on September 1, 2019.

Respectfully submitted,

JAMES W. WILSON & ASSOCIATES, PLLC
103 W. Main Street
Allen, Texas 75013
Tel: (972) 727-9904
Fax: (972) 755-0904

By: 

JAMES W. WILSON
State Bar No. 00791944
Email: jwilson@jww-law.com

MARIA HUYNH
State Bar No. 24086968
Email: mhuynh@jww-law.com

ATTORNEYS FOR HIGH POINT WATER
SUPPLY CORPORATION AND HIGH POINT
SPECIAL UTILITY DISTRICT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on the following party of record on December 5, 2019, in accordance with 16 TAC § 22.74.

Via E-mail: seidman@winstead.com

Scott W. Eidman
Winstead PC
2728 N. Harwood Street, Suite 500
Dallas Texas 75201
Attorney for Petitioner


James W. Wilson

EXHIBIT "A"

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
DOCUMENT WHICH IS FILED IN THE PERMANENT RECORDS

NOV 16 2017

OF THE COMMISSION GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON

Bridget C. Blum
BRIDGET C. BLUM, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**AN ORDER GRANTING A REQUEST FOR CONVERSION TO
AND CREATION OF HIGH POINT SPECIAL UTILITY DISTRICT OF KAUFMAN AND ROCKWALL
COUNTIES AND APPOINTING TEMPORARY DIRECTORS**

A resolution by High Point Water Supply Corporation (WSC) was presented to the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for consideration of approval of the creation of High Point Special Utility District (SUD) of Kaufman and Rockwall Counties (District), and the appointment of directors for the District pursuant to TEX. WATER CODE Chapters 13, 49 and 65; TEX. ADMIN. CODE Chapter 293; and the procedural rules of the TCEQ.

The TCEQ, 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 29, 2016, an application (including a resolution) requesting the conversion of High Point WSC to the proposed District was filed with the TCEQ pursuant to TEX. WATER CODE Chapter 65.
2. The resolution adopted by High Point WSC dated July 17, 2014, requesting conversion to and creation of the proposed District contains the matters required by TEX. WATER CODE § 65.015.
3. Proper notice of the application was given pursuant to TEX. WATER CODE § 49.011 and 30 TEX. ADMIN. CODE § 293.12.
 - a. Proper notice of the application was published on August 10, 2017, and August 17, 2017, in the *Forney Messenger* a newspaper regularly published and generally circulated in Kaufman County, Texas, the county in which the proposed District is to be located.
 - b. Proper notice of the application was published on August 11, 2017, and August 18, 2017, in the *Rockwall Herald Banner* a newspaper regularly published and generally circulated in Rockwall County, Texas, the county in which the proposed District is to be located.
 - c. Proper notice was posted at the Kaufman County Courthouse on August 16, 2017, and the Rockwall County Courthouse on August 16, 2017.
 - d. In accordance with 30 TEX. ADMIN. CODE § 293.12(e), the Executive Director of the TCEQ waived the mailed notice requirement to customers because High Point WSC noticed and held public meetings on the subject of the conversion.

- e. The TCEQ did not receive a request for a hearing on the resolution filed by High Point WSC.
4. The appropriate and necessary deposits and fees associated with the filing of the resolution have been paid to the TCEQ.
 5. The affidavits of the proposed temporary directors of the proposed District have been received. The application requesting conversion also requested that the following persons be considered for the initial board of directors:

Susie Taylor	Mickey Stewart	Samantha Keats	Kim Ewell
Dewey Samuels	David Lewis	David Hetherington	
 6. Each of the persons named in Finding of Fact No. 5 is qualified to serve as a temporary director of the proposed District as each (1) is over the age of 18 years, (2) is a resident of the State of Texas, (3) either owns land subject to taxation within the proposed District, is a user of the facilities of the proposed District, or is a qualified voter of the proposed District, and (4) has completed and filed with the TCEQ an application for consideration of appointment as temporary director in the form and substance required by the Rules of the TCEQ.
 7. The proposed District boundary contains approximately 36.16 square miles (23,141 acres) of predominantly rural areas located in Kaufman and Rockwall Counties.
 8. The boundary description of the proposed District as reflected by Certificate of Convenience and Necessity (CCN) No. 10841, has been examined by TCEQ staff and found to form an acceptable boundary for the proposed District.
 9. The boundaries of the proposed District should reflect the nine-page boundary description received with the application as shown in Exhibit "A," a copy of which is attached hereto.
 10. The request for conversion to and creation of the District is feasible and practicable and is necessary and will be a benefit to the land included in the District.
 11. The proposed District and its system and subsequent development within the proposed District will not have an unreasonable effect on the following: topography, flood plain, land elevation, subsidence, and groundwater level within the region, recharge capability of a groundwater source, natural runoff rates and drainage, and water quality.

CONCLUSIONS OF LAW

1. The TCEQ 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 High Point WSC and creation of the proposed District.
2. All of the land and property proposed may properly be included within the proposed District.
3. All statutory and regulatory requirements for conversion of High Point WSC to the proposed District have been fulfilled in accordance with TEX. WATER CODE Chapters 49 and 65 and TEX. ADMIN. CODE § 293.11.

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The resolution for the conversion of High Point WSC to the High Point SUD of Kaufman and Rockwall Counties is hereby granted.
2. The District is created under the terms and conditions of Article XVI, Section 59 of the Texas Constitution and TEX. WATER CODE Chapter 65.
3. The District shall have all of the rights, powers, privileges, authority, and functions conferred and shall be subject to all duties imposed by the TCEQ on and the general laws of the State of Texas relating to special utility districts.
4. The District is directed that if fees to be assessed meet the definition of an impact fee as stated in 30 TEX. ADMIN. CODE § 293.171, then requirements spelled out in 30 TEX. ADMIN. CODE §§ 293.171 - 293.176 need to be satisfied prior to assessing the fee.
5. The boundaries of the District are in accordance with the nine-page boundary description received with the application as shown in Exhibit "A".
6. A memorandum was prepared on the application for the conversion of High Point WSC to the High Point SUD of Kaufman and Rockwall Counties, dated October 3, 2017, and a copy is attached as exhibit "B" and made a part hereof.
7. The following persons are hereby named and appointed as temporary directors of the District, to serve until their successors are elected or have been appointed in accordance with applicable law:

Susie Taylor	Mickey Stewart	Samantha Keats	Kim Ewell
Dewey Samuels	David Lewis	David Hetherington	

8. The foregoing temporary directors shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oath of office. All such bonds shall be approved by the Board of Directors of the District and each bond and oath shall be filed with the District and retained in its records.
9. Before the District may issue bonds or other obligations, a confirmation and director election shall be held within the boundaries of the proposed District to determine if the proposed District shall be established and to elect permanent directors of the proposed District. The District's Board of Directors is directed to send to the Districts Section of the TCEQ and the Public Utility Commission (PUC) a certified copy of the order canvassing the confirmation election returns not later than 30 days after the election.
10. Upon a successful confirmation election, assets and debts of High Point WSC are to be transferred to the District as expeditiously as practicable and dissolution proceedings of the High Point WSC are to be commenced immediately after such transfer.
11. CCN No. 10841 will be issued by the PUC in the name of High Point Special Utility District of Kaufman and Rockwall Counties, contingent upon a successful confirmation election and receipt of evidence by the TCEQ and PUC that the WSC has been dissolved in order to ensure continued service for all customers currently served by the WSC.
12. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the Resolution, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration.

13. The Chief Clerk of the TCEQ shall forward a copy of this Order to all affected persons.
14. 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: November 8, 2017

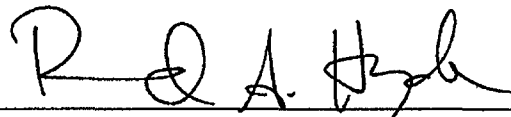

For the Commission

Exhibit A

HIGH POINT WATER SUPPLY CORPORATION

Beginning at the intersection of Farm to Market Road 550 and Smith Road; Thence, northeasterly along the centerline of Farm to Market Road 550 approximately 66 feet to the point of beginning;

Thence, south 44 degrees 49 minutes 53 seconds east along a line approximately 1115 feet to a point for a corner;

Thence, south 48 degrees 29 minutes 59 seconds east along a line approximately 1875 feet to a point for a corner;

Thence, north 50 degrees 37 minutes 57 seconds east along a line approximately 146 feet to a point for a corner;

Thence, north 46 degrees 4 minutes 25 seconds east along a line approximately 148 feet to a point for a corner;

Thence, north 41 degrees 42 minutes 50 seconds east along a line approximately 476 feet to a point for a corner;

Thence, north 42 degrees 40 minutes 20 seconds east along a line approximately 163 feet to a point for a corner;

Thence, north 45 degrees 0 minutes 38 seconds east along a line approximately 1864 feet to a point for a corner;

Thence, south 44 degrees 56 minutes 20 seconds east along a line approximately 2824 feet to a point for a corner;

Thence, north 43 degrees 7 minutes 6 seconds east along a line approximately 788 feet to a point for a corner;

Thence, south 40 degrees 19 minutes 28 seconds east along a line approximately 321 feet to a point for a corner;

Thence, north 49 degrees 3 minutes 55 seconds east along a line approximately 743 feet to a point for a corner;

Thence, north 48 degrees 31 minutes 36 seconds east along a line approximately 1088 feet to a point for a corner;

Thence, south 47 degrees 26 minutes 34 seconds east along a line approximately 644 feet to a point for a corner;

Thence, south 46 degrees 41 minutes 15 seconds east along a line approximately 1454 feet to a point for a corner;

Thence, south 46 degrees 35 minutes 5 seconds east along a line approximately 1032 feet to a point for a corner;

Thence, north 43 degrees 47 minutes 23 seconds east along a line approximately 479 feet to a point for a corner;

Thence, north 47 degrees 14 minutes 48 seconds east along a line approximately 1698 feet to a point for a corner;

Thence, south 47 degrees 49 minutes 58 seconds east along a line approximately 170 feet to a point for a corner;

Thence, south 42 degrees 17 minutes 59 seconds east along a line approximately 308 feet to a point for a corner;

Thence, south 55 degrees 44 minutes 28 seconds east along a line approximately 268 feet to a point for a corner;

Thence, south 48 degrees 39 minutes 47 seconds east along a line approximately 680 feet to a point for a corner;

Thence, north 45 degrees 27 minutes 28 seconds east along a line approximately 829 feet to a point for a corner;

Thence, south 46 degrees 42 minutes 29 seconds east along a line approximately 1579 feet to a point for a corner;

Thence, south 44 degrees 46 minutes 51 seconds east along a line approximately 1649 feet to a point for a corner;

Thence, south 53 degrees 27 minutes 31 seconds east along a line approximately 1268 feet to a point for a corner;

Thence, north 7 degrees 37 minutes 46 seconds east along a line approximately 403 feet to a point for a corner and the beginning of a counter clockwise curve;

Thence, along said curve a distance of approximately 745 feet to a point, which chord bears north 20 degrees 40 minutes 31 seconds west approximately 718 feet to a point for a corner;

Thence, north 49 degree 36 minutes 51 seconds west along a line approximately 329 feet to a point for a corner;

Thence, north 45 degree 41 minutes 56 seconds west along a line approximately 1321 feet to a point for a corner;

Thence, north 44 degree 19 minutes 27 seconds east along a line approximately 649 feet to a point for a corner;

Thence, south 47 degrees 23 minutes 51 seconds east along a line approximately 3679 feet to a point for a corner;

Thence, south 0 degree 45 minutes 43 seconds east along a line approximately 2120 feet to a point for a corner;

Thence, south 88 degrees 43 minutes 14 seconds west along a line approximately 564 feet to a point for a corner;

Thence, south 45 degrees 14 minutes 32 seconds east along a line approximately 355 feet to a point for a corner;

Thence, south 45 degrees 14 minutes 34 seconds east along a line approximately 2820 feet to a point for a corner;

Thence, south 45 degrees 53 minutes 47 seconds east along a line approximately 343 feet to a point for a corner;

Thence, south 46 degrees 32 minutes 30 seconds east along a line approximately 5324 feet to a point for a corner;

Thence, south 45 degrees 20 minutes 25 seconds east along a line approximately 1072 feet to a point for a corner;

Thence, south 45 degrees 44 minutes 34 seconds east along a line approximately 9149 feet to a point for a corner;

Thence, south 43 degrees 46 minutes 59 seconds west along a line approximately 1043 feet to a point for a corner;

Thence, south 46 degrees 16 minutes 26 seconds east along a line approximately 2384 feet to a point for a corner;

Thence, south 44 degrees 8 minutes 10 seconds west along a line approximately 153 feet to a point for a corner;

Thence, north 72 degree 55 minutes 45 seconds west along a line approximately 3831 feet to a point for a corner;

Thence, south 7 degrees 37 minutes 6 seconds west along a line approximately 5768 feet to a point for a corner;

Thence, south 44 degrees 2 minutes 17 seconds west along a line approximately 908 feet to a point for a corner;

Thence, north 46 degree 36 minutes 11 seconds west along a line approximately 2113 feet to a point for a corner;

Thence, south 44 degrees 17 minutes 6 seconds west along a line approximately 1576 feet to a point for a corner;

Thence, north 45 degrees 15 minutes 33 seconds west along a line approximately 1428 feet to a point for a corner;

Thence, south 43 degrees 37 minutes 38 seconds west along a line approximately 4244 feet to a point for a corner;

Thence, north 49 degree 39 minutes 49 seconds west along a line approximately 882 feet to a point for a corner;

Thence, north 45 degree 27 minutes 57 seconds west along a line approximately 6205 feet to a point for a corner;

Thence, south 41 degrees 40 minutes 22 seconds west along a line approximately 1247 feet to a point for a corner;

Thence, north 45 degree 9 minutes 19 seconds west along a line approximately 1946 feet to a point for a corner;

Thence, north 45 degree 9 minutes 18 seconds west along a line approximately 8401 feet to a point for a corner;

Thence, north 43 degree 24 minutes 17 seconds east along a line approximately 5723 feet to a point for a corner;

Thence, north 44 degree 55 minutes 58 seconds west along a line approximately 2542 feet to a point for a corner;

Thence, south 44 degrees 43 minutes 48 seconds west along a line approximately 1694 feet to a point for a corner;

Thence, south 44 degrees 18 minutes 29 seconds west along a line approximately 2076 feet to a point for a corner;

Thence, south 44 degrees 18 minutes 56 seconds west along a line approximately 3206 feet to a point for a corner;

Thence, south 44 degrees 53 minutes 4 seconds east along a line approximately 6258 feet to a point for a corner;

Thence, south 46 degrees 1 minute 25 seconds west along a line approximately 7554 feet to a point for a corner;

Thence, south 45 degrees 17 minutes 37 seconds east along a line approximately 5696 feet to a point for a corner;

Thence, south 8 degrees 49 minutes west along a line approximately 2581 feet to a point for a corner;

Thence, south 43 degrees 48 minutes 28 seconds west along a line approximately 924 feet to a point for a corner;

Thence, south 89 degrees 9 minutes 10 seconds east along a line approximately 535 feet to a point for a corner;

Thence, south 11 degrees 17 minutes 32 seconds west along a line approximately 82 feet to a point for a corner;

Thence, north 89 degree 9 minutes 9 seconds west along a line approximately 5313 feet to a point for a corner;

Thence, north 46 degree 34 minutes 52 seconds west along a line approximately 1121 feet to a point for a corner;

Thence, south 88 degrees 47 minutes east along a line approximately 1678 feet to a point for a corner;

Thence, north 1 degree 12 minutes 58 seconds east along a line approximately 350 feet to a point for a corner;

Thence, south 88 degrees 4 minutes 5 seconds east along a line approximately 337 feet to a point for a corner;

Thence, southerly along the west right of way of Windmill Farms Blvd. approximately 756 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 57 seconds east along a line approximately 120 feet to a point for a corner;

Thence, northerly along the east right of way of Windmill Farms Blvd. approximately 1107 feet to a point for a corner;

Thence, south 83 degrees 31 minutes 46 seconds west along a line approximately 120 feet to a point for a corner;

Thence, northerly along the west right of way of Windmill Farms Blvd. approximately 2621 feet to a point for a corner;

Thence, north 77 degrees 1 minute west along a line approximately 1001 feet to a point for a corner and the beginning of a clockwise curve;

Thence, along said curve a distance of approximately 471 feet to a point, which chord bears north 69 degrees 8 minutes 56 seconds west approximately 461 feet to a point for a corner;

Thence, south 60 degrees 25 minutes 31 seconds west along a line approximately 362 feet to a point for a corner and the beginning of a counterclockwise curve;

Thence, along said curve a distance of approximately 592 feet to a point, which chord bears north 79 degrees 34 minutes 19 seconds west approximately 581 feet to a point for a corner;

Thence, south 81 degrees 50 minutes 36 seconds west along a line approximately 324 feet to a point for a corner;

Thence, south 87 degrees 10 minutes 21 seconds west along a line approximately 198 feet to a point for a corner;

Thence, north 87 degrees 29 minutes 53 seconds west along a line approximately 403 feet to a point for a corner;

Thence, southerly along the east right of way of Iron Gate Blvd. approximately 2882 feet to a point for a corner;

Thence, south 83 degrees 14 minutes 4 seconds west along a line approximately 85 feet to the centerline of Iron Gate Blvd. to a point for a corner;

Thence, southerly along the centerline of Iron Gate Blvd. approximately 134 feet to a point for a corner;

Thence, south 45 degrees 39 minutes 51 seconds east along a line approximately 355 feet to a point for a corner;

Thence, south 43 degrees 53 minutes 43 seconds west along a line approximately 76 feet to a point for a corner;

Thence, north 45 degrees 42 minutes 36 seconds west along a line approximately 5354 feet to a point for a corner;

Thence, south 17 degrees 33 minutes 43 seconds west along a line approximately 1410 feet to a point for a corner;

Thence, north 89 degree 44 minutes 15 seconds west along a line approximately 202 feet to a point for a corner and the beginning of a counterclockwise curve;

Thence, along said curve a distance of approximately 1113 feet to a point, which chord bears north 27 degrees 40 minutes 47 seconds west approximately 1105 feet to a point for a corner;

Thence, north 45 degrees 2 minutes 8 seconds west along a line approximately 3734 feet to a point for a corner;

Thence, south 45 degrees 24 minutes 42 seconds west along a line approximately 390 feet to a point for a corner;

Thence, north 46 degrees 0 minutes 56 seconds west along a line approximately 464 feet to a point for a corner;

Thence, south 44 degrees 56 minutes 49 seconds west along a line approximately 379 feet to a point for a corner;

Thence, north 45 degree 20 minutes 57 seconds west along a line approximately 450 feet to a point for a corner;

Thence, north 44 degrees 10 minutes 16 seconds east along a line approximately 274 feet to a point for a corner;

Thence, north 46 degrees 50 minutes 5 seconds west along a line approximately 2077 feet to a point for a corner;

Thence, north 46 degrees 48 minutes 55 seconds west along a line approximately 3829 feet to a point for a corner;

Thence, north 44 degree 12 minutes 29 seconds east along a line approximately 3611 feet to a point for a corner;

Thence, south 45 degrees 25 minutes 44 seconds east along a line approximately 3866 feet to a point for a corner;

Thence, north 44 degree 33 minutes 26 seconds east along a line approximately 3434 feet to a point for a corner;

Thence, south 45 degrees 31 minutes 54 seconds east along a line approximately 2569 feet to a point for a corner;

Thence, north 44 degree 28 minutes 13 seconds east along a line approximately 4197 feet to a point for a corner;

Thence, north 45 degrees 11 minutes 32 seconds west along a line approximately 6741 feet to a point for a corner;

Thence, south 44 degrees 14 minutes 30 seconds west along a line approximately 9454 feet to a point for a corner;

Thence, north 46 degrees 21 minutes 8 seconds west along a line approximately 1876 feet to a point for a corner;

Thence, north 0 degrees 38 minutes 31 seconds west along a line approximately 2015 feet to a point for a corner and the beginning of a Clockwise curve;

Thence, along said curve a distance of approximately 224 feet to a point, which chord bears north 20 degrees 39 minutes 31 seconds east approximately 219 feet to a point for a corner;

Thence, north 43 degrees 47 minutes 38 seconds east along a line approximately 7107 feet to a point for a corner;

Thence, north 42 degrees 37 minutes 20 seconds west along a line approximately 7510 feet to a point for a corner;

Thence, north 29 degrees 36 minutes 23 seconds east along a line approximately 193 feet to a point for a corner;

Thence, north 88 degrees 43 minutes 37 seconds east along a line approximately 7981 feet to a point for a corner;

Thence, north 44 degree 57 minutes 29 seconds east along a line approximately 353 feet to a point for a corner;

Thence, north 45 degrees 33 minutes 29 seconds west along a line approximately 3007 feet to a point for a corner;

Thence, north 44 degree 55 minutes 35 seconds east along a line approximately 3820 feet to a point for a corner and the beginning of a clockwise curve;

Thence, along said curve a distance of approximately 657 feet to a point, which chord bears north 56 degrees 2 minutes 23 seconds east approximately 652 feet to a point for a corner;

Thence, north 1 degree 30 minutes 3 seconds east along a line approximately 230 feet to a point for a corner;

Thence, north 18 degrees 8 minutes 36 seconds west along a line approximately 935 feet to a point for a corner;

Thence, north 44 degrees 20 minutes 43 seconds east along a line approximately 2889 feet to a point for a corner;

Thence, north 46 degrees 14 minutes 45 seconds east along a line approximately 40 feet to a point for a corner;

Thence, southeasterly along the north right of way of Farm-to-Market Road 550 approximately 3079 feet to a point for a corner;

Thence, south 51 degrees 40 minutes 10 seconds east along a line approximately 51 feet and back to the point of beginning.

The following area is included in the aforementioned High Point WSC SUD boundary:

Beginning at the intersection of Farm to Market Road 548 and State Highway 205; Thence, north 0 degrees 22 minutes 11 seconds west approximately 528 feet to the point of beginning;

Thence, north 46 degrees 40 minutes 33 seconds west along a line approximately 1187 feet to a point for a corner;

Thence, north 45 degrees 21 minutes 27 seconds east along a line approximately 395 feet to a point for a corner;

Thence, north 46 degrees 16 minutes 47 seconds west along a line approximately 2154 feet to a point for a corner;

Thence, north 14 degrees 40 minutes 17 seconds east along a line approximately 208 feet to a point for a corner;

Thence, south 47 degrees 16 minutes 55 seconds east along a line approximately 3438 feet to a point for a corner;

Thence, south 44 degrees 19 minutes 8 seconds west along a line approximately 628 feet and back to the point of beginning.

The following area is excluded in the aforementioned High Point WSC SUD boundary:

Beginning at the intersection of US Highway 80 and Windmill Farms Blvd.; Thence, north 35 degrees 34 minutes 4 seconds west approximately 5903 feet to the point of beginning;

Thence, northwesterly along the north right of way of Reeder Rd. approximately 3350 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 16 seconds east along a line approximately 166 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 48 seconds east along a line approximately 97 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 21 seconds east along a line approximately 110 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 40 seconds east along a line approximately 50 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 16 seconds east along a line approximately 160 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 4 seconds east along a line approximately 10 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 14 seconds east along a line approximately 110 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 40 seconds east along a line approximately 30 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 16 seconds east along a line approximately 160 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 46 seconds east along a line approximately 51 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 14 seconds east along a line approximately 271 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 51 seconds east along a line approximately 70 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 16 seconds east along a line approximately 271 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 41 seconds east along a line approximately 53 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 15 seconds east along a line approximately 271 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 55 seconds east along a line approximately 35 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 16 seconds east along a line approximately 110 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 36 seconds east along a line approximately 25 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 15 seconds east along a line approximately 271 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 39 seconds east along a line approximately 42 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 12 seconds east along a line approximately 161 feet to a point for a corner;

Thence, south 81 degrees 59 minutes 39 seconds east along a line approximately 27 feet to a point for a corner;

Thence, north 8 degrees 0 minutes 15 seconds east along a line approximately 177 feet to a point for a corner;

Thence, north 9 degrees 33 minutes 24 seconds east along a line approximately 48 feet to a point for a corner;

Thence, north 12 degrees 53 minutes 44 seconds east along a line approximately 64 feet to a point for a corner;

Thence, north 16 degrees 44 minutes 31 seconds east along a line approximately 94 feet to a point for a corner;

Thence, south 85 degrees 17 minutes 43 seconds east along a line approximately 88 feet to a point for a corner and the beginning of a clockwise curve;

Thence, along said curve a distance of approximately 168 feet to a point, which chord bears south 80 degrees 17 minutes 47 seconds east approximately 100 feet to a point for a corner;

Thence, south 72 degrees 52 minutes 28 seconds east along a line approximately 110 feet to a point for a corner;

Thence, south 19 degrees 9 minutes 21 seconds west along a line approximately 50 feet to a point for a corner;

Thence, south 49 degrees 51 minutes 27 seconds east along a line approximately 115 feet to a point for a corner and the beginning of a clockwise curve;

Thence, along said curve a distance of approximately 171 feet to a point, which chord bears south 39 degrees 12 minutes 1 second east approximately 100 feet to a point for a corner;

Thence, south 61 degrees 31 minutes 52 seconds east along a line approximately 87 feet to a point for a corner;

Thence, south 8 degrees 0 minutes 15 seconds west along a line approximately 91 feet to a point for a corner;

Thence, south 34 degrees 22 minutes 49 seconds east along a line approximately 103 feet to a point for a corner;

Thence, south 3 degrees 3 minutes 24 seconds west along a line approximately 103 feet to a point for a corner;

Thence, south 32 degrees 40 minutes 11 seconds west along a line approximately 190 feet to a point for a corner;

Thence, south 60 degrees 40 minutes 17 seconds east along a line approximately 100 feet to a point for a corner;

Thence, north 34 degrees 19 minutes 45 seconds east along a line approximately 267 feet to a point for a corner;

Thence, north 44 degrees 51 minutes 15 seconds east along a line approximately 295 feet to a point for a corner;

Thence, south 60 degrees 39 minutes 33 seconds east along a line approximately 183 feet to a point for a corner;

Thence, south 16 degrees 1 minutes 26 seconds east along a line approximately 179 feet to a point for a corner;

Thence, south 44 degrees 1 minutes 17 seconds west along a line approximately 254 feet to a point for a corner and the beginning of a clockwise curve;

Thence, along said curve a distance of approximately 554 feet to a point, which chord bears south 58 degrees 54 minutes 23 second east approximately 547 feet to a point for a corner;

Thence, south 52 degrees 33 minutes 49 seconds east along a line approximately 77 feet to a point for a corner;

Thence, south 59 degrees 48 minutes 56 seconds east along a line approximately 77 feet to a point for a corner;

Thence, south 64 degrees 24 minutes 50 seconds east along a line approximately 160 feet to a point for a corner;

Thence, south 64 degrees 26 minutes 40 seconds east along a line approximately 321 feet to a point for a corner;

Thence, south 25 degrees 33 minutes 23 seconds west along a line approximately 126 feet to a point for a corner;

Thence, south 64 degrees 26 minutes 15 seconds east along a line approximately 26 feet to a point for a corner and the beginning of a clockwise curve;

Thence, along said curve a distance of approximately 94 feet to a point, which chord bears south 47 degrees 49 minutes 9 seconds east approximately 81 feet to a point for a corner;

Thence, south 64 degrees 26 minutes 34 seconds east along a line approximately 144 feet to a point for a corner;

Thence, south 25 degrees 33 minutes 21 seconds west along a line approximately 153 feet to a point for a corner;

Thence, south 64 degrees 26 minutes 38 seconds east along a line approximately 191 feet to a point for a corner;

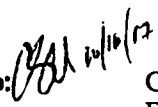
Thence, south 31 degrees 10 minutes 29 seconds east along a line approximately 289 feet to a point for a corner and the beginning of a clockwise curve;

Thence, along said curve a distance of approximately 480 feet to a point, which chord bears south 3 degrees 40 minutes 2 seconds east approximately 467 feet to the beginning of a counterclockwise curve;

Thence, along said curve a distance of approximately 789 feet to a point, which chord bears south 6 degrees 57 minutes 24 seconds west approximately 777 feet to a point for a corner and back to the point of beginning.

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To:  10/16/17
Chris S. Ulmann, P.E., Manager
Districts Section

Date: October 3, 2017

Thru:  10/3/17
Seyed Miri, P.E., Leader
Districts Creation Review Team

From:  10/3/17
Samantha Alfonso
Districts Creation Review Team

Subject: Resolution for Conversion of High Point Water Supply Corporation to High Point Special Utility District of Kaufman and Rockwall Counties; Pursuant to Texas Water Code §§ 65.014 and 65.021, and 30 Texas Administrative Code § 293.11. TCEQ Internal Control No. D-12292016-034 (TC) CN: 600672315 RN: 101233070

A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a resolution from High Point Water Supply Corporation (WSC) requesting approval for conversion to High Point Special Utility District (SUD) of Kaufman and Rockwall Counties (District).

High Point WSC is a water supply corporation as defined by Texas Water Code (TWC) § 65.001(10)(B). High Point WSC is authorized to provide water service to approximately 1,750 active meters/households under Certificate of Convenience and Necessity (CCN) No. 10841.

A nine-page boundary description and map of the proposed District were provided with the preliminary engineering report. The proposed District would contain an area of approximately 36.16 square miles (23,141 acres) located in Kaufman and Rockwall Counties. There are no incorporated cities within the boundaries of the proposed District. The proposed District is generally bounded by the City of Terrell on the east and the City of Forney on the west. A map of the proposed District area was provided and reviewed, and appears to generally reflect the CCN No. 10841 boundary. Based on the information provided in the application, the proposed District does not propose to change the CCN boundary with this application. The proposed District boundaries are based on Resolution No. 2014-07-01R, signed July 17, 2014.

Pursuant to 30 Texas Administrative Code (30 TAC) § 293.11(h)(9), the proposed District has provided an acceptable order dated October 16, 2014, canvassing the vote of High Point WSC's membership, which indicates an affirmative vote to authorize conversion to a SUD (192 in favor, 6 against).

According to the application materials received, the proposed District's initial board of directors will consist of the following persons:

Susie Taylor
Dewey Samuels

Mickey Stewart
David Lewis

Samantha Keats
David Hetherington

Kim Ewell

According to the resolution, each of the above listed persons meets the director qualifications

established under TWC § 65.102. An executed affidavit for each of the proposed directors is on file.

The resolution further states that the assets and debts of High Point WSC and the related CCN will be transferred to the proposed District and that High Point WSC will be dissolved immediately upon said transfer.

B. SPECIAL CONSIDERATIONS

1. History and Boundary

High Point WSC was formed in 1979 to provide water supply to the members of the corporation. The Public Utility Commission (PUC) issued the corporation CCN No. 10841 on November 1, 1979. Upon creation of the proposed District, the CCN boundary originally held by High Point WSC will remain unchanged.

2. Proper Notice

In compliance with 30 TAC § 293.12(d), High Point WSC provided evidence of notice of its conversion resolution to its customers and other affected parties by letter dated August 18, 2016. Proper notice of the application was published on August 10, 2017, and August 17, 2017, in the *Forney Messenger*, a newspaper regularly published and generally circulated in Kaufman County. Proper notice of the application was also published on August 11, 2017 and August 18, 2017, in the *Rockwall Herald Banner*, a newspaper regularly published and generally circulated in Rockwall County. Proper notice was posted at the Kaufman County Courthouse and the Rockwall County Courthouse on August 16, 2017. The Executive Director of the TCEQ waived the mailed notice requirement to customers because High Point WSC noticed and held public meetings on the subject of the conversion.

3. Request for Hearing

TCEQ did not receive any requests for a contested case hearing related to the resolution filed by High Point WSC.

4. Potential Growth

Based on 2010-2014 census data indicating 2.76 persons per household and a membership of approximately 1,750 households, the current estimated population of the proposed District is 4,830 (1,750 x 2.76). The service area for the proposed District is predominantly rural. No major improvements are planned in association with conversion to a SUD, and no market study has been prepared. The conversion is feasible without any growth occurring.

C. GENERAL EFFECTS OF CONVERSION

Some general effects of conversion from a WSC to a SUD include the following:

1. A SUD is a political subdivision and can issue tax exempt revenue bonds on the open market or for purchase by the Texas Water Development Board.
2. A SUD is exempt from ad valorem taxes (usually county and school district) on its personal property, utility lines, and plant facilities.
3. A SUD is exempt from sales taxes on supplies and services.

4. A SUD is subject to the Open Meetings and Open Records Act.
5. A SUD must have an annual audit conducted and file the audit with the TCEQ.
6. A SUD must follow statutory bid advertisement and contract provisions for districts.
7. A SUD is subject to the continuing right of supervision by the TCEQ.

D. CONCLUSIONS

1. Based on TCEQ policy and its compliance with TCEQ rules, the proposed District is considered feasible, and would be necessary as a means to finance utilities and to provide utility service to current and future customers. Further, the proposed District's purposes are considered practicable and would be a benefit to the land within the proposed District.
2. Based on a review of the preliminary engineering report, financial report, and other supporting documents, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC § 293.59.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

E. RECOMMENDATIONS

1. Grant High Point WSC's application for conversion with the name of the District being High Point SUD of Kaufman and Rockwall Counties, with the boundary of the District in accordance with the nine-page boundary description (and attached map) received with the application.
2. The order granting the resolution should include the following statements:

"This order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the conversion application, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration".

"Upon a successful confirmation election, the assets and debts of High Point WSC are to be transferred to High Point SUD of Kaufman and Rockwall Counties as expeditiously as practicable and dissolution proceedings of High Point WSC are to be commenced immediately after such transfer".
3. Appoint the following to serve as temporary directors of the District:

Susie Taylor	Mickey Stewart	Samantha Keats	Kim Ewell
Dewey Samuels	Wynne Breeden	David Hetherington	
4. Direct the Board of Directors to canvass the confirmation election returns and submit such canvassing to the Districts Section of the TCEQ and to the PUC within thirty (30) days of the board meeting at which such returns are canvassed.

5. Direct the Board of Directors, that upon a vote of the populace confirming the creation of the district, to take action necessary to dissolve the WSC and submit documentation evidencing such to the TCEQ's Districts Section when available.
6. Contingent upon a successful confirmation election and dissolution of the WSC, water CCN No. 10841 will be issued by the TCEQ in the name of High Point SUD of Kaufman and Rockwall Counties in order to ensure continued service for all customers currently served by High Point WSC.
7. Direct the District that if fees to be assessed meet the definition of an impact fee as stated in 30 TAC § 293.171, then requirements stated in 30 TAC § 293.171 through 30 TAC § 293.176 need to be satisfied prior to assessing the fee.

F. FEASIBILITY

The engineering report, dated December 2016, indicates that the number of High Point WSC's connections is expected to increase moderately. No specific development plan was assumed in examining the feasibility of the proposed District.

According to the engineering report, the service rates in effect at the time of the conversion will be charged to District customers. The rates are detailed as follows:

Water Rates

As provided in the engineering report, the current water rates the High Point WSC charges for standard service are as follows:

Minimum Monthly Charge :	\$30.00	5/8" and 3/4" meter
	\$45.00	3/4" meter
	\$75.00	1" meter
	\$150.00	1 1/2" meter
	\$240.00	2" meter

Usage Rate:	\$30.00 minimum for each of the first 3,000 gallons
	\$4.50 for each additional thousand gallons 3,001 gallons - 10,000 gallons
	\$6.00 for each additional thousand gallons 10,001 gallons - 15,000 gallons
	\$9.75 for each additional thousand gallons over 15,001 gallons

Based on 10,000 gallons usage, the water rate would be \$61.50 per month. High Point WSC's other rates, fees, operation rules and regulations are outlined in its approved tariff.

G. PURPOSE

According to the engineering report, the purpose of converting to a SUD is to obtain tax-exempt status which will give them the ability to fund future improvements at lower interest rates, to better its ability to obtain additional quantities and sources of water, and to be in a better position to participate in regional projects.

According to the engineering report, the District will continue to provide the same services as High Point WSC, and High Point WSC desires to convert for the added benefits of being a special utility district as outlined in Section C of this memorandum.

Availability of Comparable Services

The engineering report indicates that there is no entity other than the proposed District providing, or capable of providing, the capacity to serve the same area with comparable services. Additionally, since High Point WSC is the certificated water supplier for the area, no other entity other than the proposed District presently has the ability to serve the proposed District area. Conversion to a SUD should not affect service as currently provided by High Point WSC.

Water Supply Facilities

The water distributed by High Point WSC is purchased from the City of Forney and the City of Terrell. The existing High Point WSC water storage and distribution facilities are as follows:

<u>Facility</u>	<u>Capacity</u>
Pump Station #1	
Ground Storage Tank	300,000 gal
Ground Storage Tank	7,500 gal
Ground Storage Tank	5,000 gal
Pressure Tanks (2)	8,000 gal/each
Booster Pumps (2)	500 gpm/each
Pump Station #2	
Ground Storage Tank	320,000 gal
Ground Storage Tanks (2)	100,00 gal/each
Pressure Tanks (2)	8,00 gal/each
Booster Pumps (2)	500 gpm/each
Booster Pump	600 gpm
Ranch Road Pump Station	
Ground Storage Tank	80,000 gal
Booster Pumps (2)	750 gpm/each

Water is distributed from the referenced facilities through water lines of various lengths and diameters as noted on the following table:

<u>Line Diameter</u>	<u>Linear Feet (lf)</u>
1.5"	41,833 lf
2"	45,584 lf
2.5"	12,755 lf
3"	52,150 lf
4"	157,075 lf
6"	119,272 lf
8"	66,400 lf

Wastewater Facilities

Currently there is no centralized wastewater collection and treatment system within the proposed District. On-site wastewater systems such as septic and aerobic systems are utilized. On-site wastewater systems are inspected and approved through the appropriate counties.

Although wastewater service may be provided by the proposed District at a future time, no such service is currently contemplated.

Drainage

There is no stormwater drainage system administered by the High Point WSC. The area is predominantly rural, and natural drainage patterns are sufficient for conveyance of stormwater. The proposed District does not plan to provide drainage service at this time.

H. DESCRIPTION AND IMPACT ON NATURAL RESOURCES

Creation of the proposed District is expected to have a negligible effect on land elevation, subsidence, groundwater levels, recharge capability of groundwater, run-off rates and drainage, and water quality on land within the proposed District.

Floodplain

According to the engineering report, flooding within the boundaries of the proposed District is limited to areas adjacent to existing rivers and creeks. The 100-year flood levels vary depending on elevation and proximity to the creeks and rivers. All of the corporation's facilities are located above the 100-year flood plain. There are no planned facilities which would alter drainage or flooding patterns. No FEMA information was provided with the engineering report.

I. ADDITIONAL INFORMATION

High Point WSC's professional representatives are:

Attorney: Mr. James Wilson – Gay, McCall, Isaacks, Gordon & Roberts

Engineer: Mr. Eddy Daniel, P.E. – Daniel & Brown Inc.