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DOCKET NO. 51973

Petition of Rodney Earl Mohnke, et al to * Before the Public Utility Commission
Amend HMW Special Utility District's Water * of Texas
Certificate of Convenience and Necessity in *
Harris County by Expedited Release *

Response to Petition Approved as Administratively Complete

Comes now the HMW Special Utility District of Harris and Montgomery Counties("HMW"), filing its Response to the Petition of Rodney Earl Mohnke, et al ("Petition"), approved as administratively complete by Order No. 5 of the Public Utility Commission("PUC"), and states as follows:

I..

The Petition seeks to decertify approximately 99 acres adjacent to Decker Prairie-Rosehill Road in Harris County, Texas (the "Property"), that is now part of HMW's Certificate of Convenience and Necessity("CCN") No. 10342, based on Texas Water Code Subsection 13.2541(b). The relevant portion of Subsection (b) provides as follows:

"As an alternative to decertification or expedited release under Section 13.254, the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity in the manner provided by this section and is entitled to that release if the landowner's property is located in a county with a population of". (Emphasis supplied).

Therefore, the two overriding fact issues under Subsection 13. 2541(b) are (1) whether Petitioner is the owner, and (2) whether the Property is receiving water service.

Subsection 13.2541(f) provides further that in the event of decertification, the PUC may require "an award of compensation by the petitioner to the certificate holder.....".

Subject to any determination by the PUC that decertification may occur, which HMW opposes and does not concede, HMW is entitled to substantial compensation as provided by Subsection 13.2541(f) and the additional provisions that implement the amount of compensation.

The PUC's Order No. 5 determined the Petition to be administratively complete and ordered the filing of HMW's substantive response on or before August 4, 2021, with additional deadlines to occur in the event of an award of compensation. As provided by Order No. 5, this Response is limited to whether decertification may lawfully occur.

ii.

At the outset, HMW asserts that the Petition is not and cannot be administratively complete. HMW incorporates by reference the facts and argument in its prior responses on this issue, and asserts the additional arguments set forth below on both the merits of the Petition and whether it is administratively complete.

iii.

HMW is a Texas water district and political subdivision under Chapters 49 and 65, Texas Water Code. Its original predecessor is Coe Utilities, Inc., a Texas corporation ("Coe"). Coe's business was to provide water service to subdivisions in the area that were expected to grow by increasing numbers over time. As a privately-owned utility, and unlike HMW, Coe was required to obtain and maintain a CCN and add to its territory in the locations where it conducted operations. Coe acquired its CCN No. 10342 beginning in 1980. By 1996, CCN 10342 encompassed approximately forty geographic territories in northwest Harris and southwest Montgomery Counties.

On October 1, 1996, Coe sold its assets to HMW Water Supply Corporation (the "WSC"), a non-profit entity authorized by Chapter 67, Texas Water Code. CCN 10342 was one of its assets.¹ Thereafter, the WSC filed its application to convert to a water district on September 2, 1997, as provided by Chapter 65, Texas Water Code. See also Texas Natural Resource Conservation Commission ("TNRCC") Docket No. 97-0964-DIS.

iv.

Pursuant to the WSC's application, HMW was created on May 2, 1998, as the result of a favorable confirmation election authorized by the TNRCC in its order dated March 13, 1998. The TNRCC was the then predecessor of the PUC with jurisdiction of all matters pertaining to certificates of convenience and necessity("CCN's").² The TNRCC order transferred CCN 10342 to HMW in its Paragraph 8., which further provided as follows:

"In order to ensure continued service for all customers currently served by the WSC under Coe Utilities certificates of convenience and necessity, CCN's 10342 and 20734 will be issued....in the name of H-M-W Special Utility District". (Emphasis supplied). See Exhibit 1.

The foregoing language appears as a separate paragraph and a condition of the TNRCC order. Its plain meaning is properly interpreted to mean all geographic areas within CCN 10342 at that time, including the subject property. The PUC is required to follow that plain meaning. See Aboutahoum v. Dow Chemical Company, cited in Section VI. below, Public Utility Commission of Texas v. City Public Service Board of San Antonio, 53 SW3d 310, 316(Tex. Sup. 2001), and Cornyn v. Universe Life Ins. Co., 988 SW2d 376, 378-379(Tex. App.-Austin 1999).

¹ See Page 17 of 19 of the Correction Warranty Deed from the WSC to HMW dated March 2, 1999, recorded at Harris County Clerk Files No. T657063 and T689526.

²See Conclusion of Law No. 2 of the TNRCC order, attached as Exhibit 1. The TNRCC subsequently became the Texas Commission on Environmental Quality("TCEQ").

In addition, Paragraph 8. is consistent with and complements the TNRCC's Finding of Fact No. 7., which describes HMW's boundary as a new water district. *Id.* The boundary follows the then existing CCN 10342. See Exhibit 1, Property H-3.

Paragraph 8. of the order is an express finding by the TNRCC that CCN 10342, as constituted on March 13, 1998, was required to ensure continuous service to all current customers of the WSC and its successor district. Further, the TNRCC's Finding of Fact No. 9 states that its order, including Paragraph 8., "will be a benefit to the land in the District." *Id.*

Based on its plain meaning and the remainder of the order, no portion of CCN 10342 may be decertified without violating this express condition of Paragraph 8. of the order.³ Moreover, the voters of the new district, HMW, confirmed its formation based on the TNRCC order, including Paragraph 8. Thus, as a matter of law, the TNRCC's order and its confirmation by the voters requires that CCN 10342, in its entirety at the time, was and is required for HMW to "ensure continued service for all customers...".

The TNRCC's order has added significance because HMW also succeeded to the rights and obligations of Texas water districts when the conversion was ratified on May 2, 1998. See Water Code Sections 49.001(a)(1), 49.002 and 65.011. The TNRCC order confirms this in Paragraph 3. of its order.

One of the rights provided to water districts appears in Water Code Section 49.215, which governs the rights of districts to expand their service. Specifically, Section 49.215 permits districts to expand without geographic limits and without possessing a CCN.

The Petitioner and his probable successor, which is highly likely to be a water provider, will either already possess or be required to obtain a CCN. See Water Code Section 13.242. An additional provision that governs CCN's, Water Code Section 13.252, prohibits interference by the holder of a CCN with the operations of another.

Section 13.252 provides as follows:

"If a retail public utility furnishes, makes available, renders, or extends retail water or sewer utility service to any portion of the service area of another retail public utility that has been granted or is not required to possess a certificate of convenience and necessity, the utility commission may issue an order prohibiting the construction, extension, or provision of service or prescribing terms and conditions for locating the line, plant, or system affected or for the provision of service." (Emphasis supplied).

Consequently, the effect of the requested decertification would be to set up a likely conflict under Section 13.252 between HMW and the Petitioner or his successors where it does not now exist, and in the process deny the ability of HMW to expand its service in violation of Section 49.215.

³ As further explained in Section V., a decertification would be a prohibited, unconstitutional taking of property.

While the PUC has argued that the language of Section 13.252 is discretionary, it is in fact state policy. See Water Code Section 13.001. Together with the other provisions of Water Code Subchapter 13.G., it is part of the comprehensive regulatory scheme for CCN's enacted by the legislature in the Texas Water Code. See Sections 13.001(b)(1), (b)(2) and (3). Its obvious intent is to prevent unrestricted competition to provide water service in areas in which a CCN has been issued. Subchapter 13.G. of the Water Code, which includes Sections 13.252 and 13.2541, makes it clear that possessors of CCN's are intended to operate only in their certificated areas. It follows that in discharging its responsibilities under the provisions of Subchapter 13.G., the PUC is not authorized to set up a likely conflict between the Petitioner or his successors and HMW, which does not require a CCN to operate. Neither is it authorized to deny or limit HMW's ability to expand service as provided by Section 49.215. To summarize, the PUC cannot disregard either Section 13.252 or Section 49.215 in its determination of the Petition.⁴

Case law regarding legislative intent from the Texas Supreme Court requires the same conclusion. See F.F.P. Operating Partners, L.P. v. Duenez, 237 SW3d 680, 683 and 689-693(Tex. Sup. 2007); City of San Antonio v. City of Boerne, 111 SW3d 22, 29(Tex. Sup. 2003); and Liberty Mutual Insurance Company v. Adcock, 412 SW3d 492, 494-496(Tex. Sup. 2013). The PUC must apply the Water Code in its entirety and give effect to its legislative intent based on the pleadings and evidence before it. *Id.*

The PUC is also subject to the Texas Code Construction Act, Government Code Chapter 311. Based on these facts, the PUC must resolve the application of Sections 13.252 and 49.215, as well as 13.2541, to determine the Petition. In so doing it must prefer the public interest over any private interest. In this case that means, at minimum, the preferment of the comprehensive regulatory scheme over the private interests of the Petitioner and his successors. See Government Code Section 311.021(2) and (5).

Accordingly, the Petitioner's request for decertification cannot stand because it seeks to deprive HMW of the right to expand into the area subject of the Petition.

Moreover, the TNRCC's order created a reasonable expectation, on which HMW could and did rely, in the conduct of its operations after March 13, 1998. As noted in Section VII. below, HMW is capable today of connecting the Property to an active, existing HMW water line by installing a water connecting line in an existing public right of way. No other water provider is positioned to provide such service. The loss by decertification of the ability to serve the Property constitutes a surprise to HMW, reduces its opportunity to serve additional customers in the area, and violates Water Code Sections 13.252 and 49.215. It would also duplicate service from the same water source and serve neither the Petitioner nor the public interest.

In addition, the TNRCC order overcomes the argument that a CCN is a mere license to operate, rather than a right akin to a property right.⁵ In addition, prior agency orders are entitled to enforcement

⁴In this Response, "PUC" means either the Administrative Law Judge or the full commission, as the context requires.

⁵ The PUC has argued this position based on Creedmoor-Maha Water Supply Corp. v. Texas Commission on Environmental Quality, 307 SW3d 505, 525-526 (Tex. App.-Austin 2007) ("Creedmoor"); and Texas General Land

in the public interest on any reasonable basis, especially after decades of undisturbed application and reliance. See Public Utility Commission of Texas v. Southwestern Bell Telephone Co., 960 SW2d 116, 120-123(Tex. App.-Austin 1997), no pet., and the Correction Warranty Deed referenced in Note 1 above.

In this case the TNRCC explained its reasoning in its order. As a right created by an agency order, on which HMW had a right to rely, it may not be taken by another party by decertification under Water Code Section 13.2541. Neither may it be dismissed as a mere license to operate. To the contrary, the TNRCC order is entitled to deference in its entirety as a prior agency action and is binding in this instance on the PUC.

In addition to the foregoing arguments on the both the merits and whether the Petition is administratively complete, HMW asserts that the PUC is without authority to (1) disregard the conditions of the TNRCC order dated March 13, 1998, including its authority as precedent and the nature of the rights they created in HMW, or (2) disregard the application of Water Code Sections 13.252 and 49.215, either individually or as a part of the comprehensive regulatory scheme enacted by the Water Code.

V.

In addition, Article I., Section 16 of the Texas Constitution provides as follows:

“No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made”. (Emphasis supplied).

The decertification of the Property by the PUC would constitute a prohibited retroactive application of the decertification statute, to the detriment of both the rights held by HMW and the conditions established by its founding order and confirmation by the voters. See Texas Constitution, Article I., Section 16. The retroactive application of new statutes is strongly disfavored in Texas law. See Houston Independent School District v. Houston Chronicle Publishing Co., 798 SW2d 580, 585 (Tex. App.-Houston 1st 1990), writ den.

See also Texas Water Rights Commission v. Wright, 464 SW2d 642, 648-649 (Tex. Sup. 1971); and Southwestern Bell Telephone Company v. Public Utility Commission of Texas, 615 SW2d 947, 956-957(Tex. App.-Austin 1981), which would deny retroactive application to substantial rights on which a party has relied. The rules stated in the Wright and Southwestern Bell decisions further comport with the holding of the Texas Supreme Court in Robinson v. Crown Cork & Seal Co., 335 SW3d 126, 137-140 and 145-146 (Tex. Sup. 2010), which suggests the need to advance a major legislative purpose to permit retroactive application.

In addition, the combination of the TNRCC’s order, which at the time had and has today a legitimate regulatory purpose, its confirmation by the voters, reliance thereon by HMW and the application of Article I., Section 16, combine to create a right protectable by the Texas Constitution. As

Office v. Crystal Clear Water Supply Corporation, 449 SW3d 130, 145 (Tex. App.-Austin 2014) (“Crystal Clear”). These cases are distinguishable from the facts presented here. HMW does not concede that CCN 10342 is not a property right. See Section V.

such, the approval of this decertification would be a denial of due process and violate Article I., Section 13 of the Texas Constitution, which prohibits the taking of property without due process.

Neither is it arguable as a practical matter that a CCN, or even a portion of one, is not an asset of great value to its holder in the Texas regulatory scheme. For the utilities that hold them, CCN's are intended to permit the orderly expansion of service to areas not previously served as population growth fuels demand for water or sewer service. They also act to preserve the value of a utility's existing investment in land and equipment that serve current customers, as well as future customers occasioned by growth.

Also, regardless of the argument about whether a CCN is itself a property right, no doubt can exist that this decertification would diminish the value of HMW's existing water lines, equipment, and property by limiting the use of their capacity to serve additional customers, and thus their return on investment. Decertification would amount to an unlawful taking of their value without due process. See Texas Constitution, Article I., Section 13.

As such, CCN 10342 is in fact both a property right and a right protected by due process from the retroactive application of Water Code 13.2541(b). The same is the case for HMW's existing physical plant that could serve the Property. To be abundantly clear, HMW asserts that a decertification in this case would be a taking of property without due process in violation of the Texas and federal constitutions that prohibit such takings.

Based on the foregoing, HMW reasserts that the PUC is without authority to grant decertification in this instance and based on these facts.

VI.

Alternatively, the Petitioner has not and cannot prove his ownership of the Property.

HMW objects to the PUC's ruling on the administrative completeness of the Petition and incorporates by reference its arguments in opposition to that ruling. Subject to foregoing, HMW further asserts the following.

The Commission Staff position is in error on the deed that is a principal title issue for the Petition.

First, the mere unsourced notation on the deed dated May 26, 1967, from M. A. Quilter and wife, Lydia Quilter to Max E. Mohnke, is insufficient to show that Max Mohnke is the same person as Max Mohnke, Jr. See PUC Document 4, Page 17. Very simply, the notation identified by the Commission Staff is hearsay, to which HMW objects. PUC Document 15, Page 2. See Hartford Accident & Indemnity Co. v. McCordell, 369 SW2d 331, 337 (Tex. Sup. 1963). As such, it does not constitute evidence of anything over any party's objection. Id. See also Rule 802, Texas Rules of Evidence. Consequently, the Petition has not proved a conveyance to the correct Max Mohnke.

Second, the chain of title as set forth by Petitioner cannot establish ownership of the Property.

The undisputed facts are that Petitioner does not own and has not asserted that he owns the mineral estate that constitutes, with the surface estate, the entire interest in the Property. See the Petitioner's Response to Order No. 2, which does not allege ownership of the entire mineral interest.

See PUC Document 7. The Commission Staff agrees. See the Supplemental Recommendation on Administrative Completeness, PUC Document 15, Page 2.

In addition to the Petitioner's concession, the conveyances attached to the Petition do not show the disposition of the mineral interest reserved by the Quilters. PUC Documents 1 and 2, Pages 13-53 and 17-57, respectively.

Regarding the decertification statute, "owner" is not defined in Subsection 13.2541(b). Therefore, its common meaning applies unless the context requires otherwise or the common meaning leads to an absurd result. See Aboutahoun v. Dow Chemical Company, 463 SW3d 42, 45-47 (Tex. Sup. 2015).

The additional context here, as well as common knowledge in Texas and elsewhere, is that the ownership of real property means the complete unity of both the surface and subsurface (or mineral) estates. A century of case law agrees. See Harris v. Currie, 176 SW2d 302,304-305 (Tex. Sup. 1943).

Moreover, the Texas Legislature is presumed to have known the plain meaning of "owner" and "ownership" when the statute was enacted. See Reames v. Police Officers Pension Board of City of Houston, 928 SW2d 628, 632 (Tex. App.- Houston 14th 1996).

The PUC is not at liberty to disregard what the legislature was presumed to know, and likely did know, when the most recent decertification statute was enacted in 2019. See Aboutahoun, supra.

While it recognized the obvious problem, the Commission Staff⁶ nevertheless offered the wrong solution in its recommendation that the Petition be ruled administratively complete. See PUC Document 15, Pages 2 and 6.

The Commission Staff's position is erroneous. Based on the plain meaning of the statute, ownership of only the surface estate is not sufficient to support decertification of the Property. Based on the Petition's undisputed facts, the Property cannot be decertified from CCN 10342. The Petition should have been recommended for dismissal. Regardless of the recommendation, the PUC should have dismissed the Petition.

In addition, following the plain meaning of the statute carries practical consequences.

If ownership of the surface and mineral estates is separated by conveyance (meaning that a "severance" has occurred), the owners of the two estates possess differing "bundles of rights". See Lemar v. Garner, 121 Tex. 502, 511-512 (Tex. Sup. 1932). Moreover, such rights are often in conflict, as evidenced by the substantial body of oil and gas law that originates in Texas and other states. See Plainsman Trading Co. v. Crews, 898 SW2d 348, 352 (Tex. Sup. 1971).

Such conflicts also occur in water law. While the owner of the surface estate enjoys the right to reduce groundwater to its possession, the mineral estate below the same surface boundary is dominant. As a rule, this means that the mineral estate owner has the dominant right to extract subsurface minerals to the detriment of the servient surface estate. See Acker v. Guinn, 464 SW2d 348, 352 (Tex. Sup. 1971). Among the potential conflicts that may arise are the drilling of water wells, a right held by

⁶ In this Response, "Commission Staff" means the staff of the PUC.

the surface owner, in contrast to the mineral estate's right to extract oil, gas, coal, and other minerals from the same geographic location.

The possibility of such a conflict is visible in this case from the Quilter deed, which contains language regarding the rights appurtenant to the reserved mineral interest that plainly carry the potential for litigation. See PUC Document 4, Pages 13-17.

The lack of logic in the Commission staff's position is further illustrated by the fact that if it prevails, the user of the decertified CCN would be required to use it by invading the subsurface of the Property, which would not be part of the decertified property, and indeed cannot be decertified, through the drilling of water wells and use of underground lines and equipment, to provide two examples. This approach would set up an absurd outcome that would be likely to ensure litigation to define the parties' respective rights.

In any case, the legislature is presumed to have known the legal consequence of its choice of the word "owner" in Subsection 13.2541, based on both a century of real estate, oil and gas and, more recently, water law on this subject. The PUC should not and is not authorized to disregard both legislative intent and the plain meaning of Subsection 13.2541.

VII.

Alternatively, HMW can and will provide service to the Property through an expanded water system that is across the street and slightly to the south and west of the Property.⁷ See also Exhibit 2, the Affidavit of Rachel Broom, P.E., and its attachments. As noted below, using the public right of way to install a water line approximately 0.75 miles from an existing, in use HMW line to the Property is a relatively simple process that would take minimal time to accomplish.

The Petitioner could have but did not contact HMW to ascertain whether service was available to the Property prior to the filing of its Petition. In fact, no water service at all has been sought by the Petitioner or any other person for the Property. Further, Petitioner has offered no evidence that HMW is unable to provide water service, because he has made no such inquiry.

The PUC has argued that "receiving water service" requires a current connection in the area sought to be decertified, in addition to the legal right to do so, based on the Crystal Clear and Creedmoor decisions⁸, See Crystal Clear, supra., at 137-138; and Creedmoor, supra., at 520-521. This approach is not universally accepted, and the two cases are factually and legally distinguishable from those in this case.

Specifically, neither Creedmoor nor Crystal Clear involved an applicant for decertification that both required and possessed a CCN. The opposing party in Creedmoor was a developer, Jona Acquisition, Inc. while the opponent in Crystal Clear was the state government. Unlike the Petitioner in this case, neither entity required a CCN. Thus, no issue arose or could arise under Water Code Sections 13.252 or 49.215. In addition, neither of these cases involved a longstanding order of the TNRCC, acting as the PUC's predecessor agency, that protects HMW's CCN.

⁷ That is, the extension of a water system already in use.

⁸ For the full citations, see Note 5.

These differences obviate the application of Creedmoor and Crystal Clear as precedent in this case. Moreover, the Texas Supreme Court has never addressed the meaning of “water service” in Subsection 13.2541 or its predecessor statutes. To summarize, the PUC cannot rely on either Creedmoor or Crystal Clear as authority for holding that HMW was not providing or is unable to provide water service.

In contrast, a recent en banc decision by the U.S. Court of Appeals for the Fifth Circuit challenges the conclusion that water service under Subsection 13.2541 requires an existing connection, holding instead that the test is the ability provide service within a reasonable time. See Green Valley Special Utility District v. City of Schertz, Texas Public Utility Commission, et al, 969 F. 3d 460, 475-477 (5th Cir. 2020). The Fifth Circuit reasons further that the Creedmoor case incorporates this approach. Id., at 476.

In fact, HMW has “pipes in the ground” within a short distance of the Property. To finalize water service to the Property, HMW needs only to install a water line that extends from an existing, in use water line to the east along Tomball-Waller Road, then north along Decker Prairie-Rosehill Road to a point across from the Property, with both extensions being in the public right of way, and then beneath Decker Prairie-Rosehill Road to one or more distribution points on the Property. The total distance is approximately 0.75 miles. See Exhibit 2.

Creedmoor and Crystal Clear are distinguishable and, more broadly speaking, wrongly decided on the question of providing water service. If applied here, they will lead to the absurd result of the Petitioner seeking the construction of a duplicate water system, rather than obtaining it from an existing and capable water source, probably on an earlier timeline. The fact is that HMW is far closer to providing water service to the Property than any other entity with which the Petitioners may have or obtain a contract of sale or a contingent agreement to provide water service.

VIII.

Concurrently herewith, HMW will seek discovery to ascertain whether the Petitioner has already arranged for water service through an entity that holds a CCN. If such an arrangement exists or is contingent on decertification, any such entity will have likely interfered with HMW’s operation of its water system in violation of Water Code Section 13.252.

IX.

To conclude, the proposed decertification cannot proceed for the following reasons:

1. It is preempted by the TNRCC order,
2. It violates the rights of HMW under Water Code Sections 13.252 and 49.215,
3. It is an unlawful and unconstitutional taking of property, without due process,
4. It is an unconstitutional retroactive application of Water Code Section 13.2541,
5. The Petitioner cannot show ownership of the Property, and

6. HMW is providing water service.

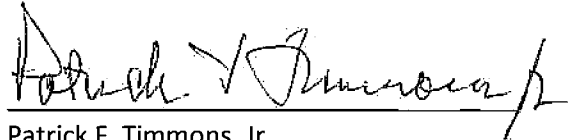
X.

Alternatively, and without conceding its contentions that the proposed decertification is unlawful and cannot proceed, HMW asserts that compensation should be awarded under Water Code Subsection 13.2541(f), in the amount of the present value of HMW's entire projected return on investment attributable to a residential subdivision to be developed and built on the Property.

Wherefore, premises considered, the PUC's Order No. 5 should be withdrawn, and the Petition dismissed, or the Petition should be denied on its merits, together with such other and further relief as the PUC deems just.

Respectfully submitted,

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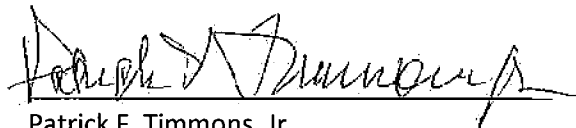
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Certificate of Service

I hereby certify that a true copy of the foregoing Motion was served on the Applicant, PUC staff and all other parties on this 4th day of August, 2021, both electronically and by facsimile transmission, as provided by 16 TAC Section 22.74.



Patrick F. Timmons, Jr.

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



THE COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Natural Resource Conservation Commission document, which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
Eugene K. Brumm MAR 17 1998
Eugene K. Brumm, Chief Clerk
Texas Natural Resource Conservation Commission

DOCKET NO. 97-0964-DIS

AN ORDER GRANTING A REQUEST FOR CONVERSION TO AND CREATION OF H-M-W SPECIAL UTILITY DISTRICT OF HARRIS AND MONTGOMERY COUNTIES; APPOINTING TEMPORARY DIRECTORS; AND AUTHORIZATION TO ISSUE CERTIFICATES OF CONVENIENCE AND NECESSITY NO. 10342 AND 20734 TO H-M-W SPECIAL UTILITY DISTRICT OF HARRIS AND MONTGOMERY COUNTIES

On March 4, 1998, the Texas Natural Resource Conservation Commission (the "Commission") met in regular session at its offices in Austin, Texas, notice of the meeting having been distributed in compliance with the Open Meetings Act, TEX. GOV'T CODE ANN. Title 5, Chapter 551 (Vernon 1994 & Supp. 1998) and the Administrative Procedure Act, TEX. GOV'T CODE ANN. Title 10, Chapter 2001 (Vernon Pamph. 1998), to consider a petition from H-M-W Water Supply Corporation (the "WSC") requesting conversion to H-M-W Special Utility District of Harris and Montgomery Counties (the "District").

After considering all the arguments presented at agenda, the Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On September 2, 1997, a petition requesting the conversion of H-M-W Water Supply Corporation to H-M-W Special Utility District of Harris and Montgomery Counties was filed with the Commission.
2. Proper notice of the application on this petition was given by publishing a copy thereof on January 30, 1998, and February 6, 1998, in the Houston Chronicle, a newspaper regularly published in Harris County and generally circulated in Harris and Montgomery Counties, Texas, counties in which the proposed District is to be located.
3. All customers and other affected parties in the proposed District were notified by mail of the hearing on the petition requesting conversion to and creation of the District.
4. The appropriate and necessary deposits and fees associated with the filing of the petition requesting conversion to and creation of the District have been paid to the Commission.



5. According to the WSC's petition for conversion, the proposed District's initial board of directors will consist of the following seven persons each of whom is qualified to be a director pursuant to Section 65.102 of the Texas Water Code:

Mark Pinter
Joe Conely
Deborah Stachowiak
Diana Sansing
Lance Stahl
Mike Jackson
Bill Wittner

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 Commission an application for consideration of appointment as temporary director in the form and substance required by the Rules of the Commission.
7. The boundary description of the proposed District as described in Exhibit "A", a copy of which is attached hereto, has been examined by Commission staff and found to form an acceptable boundary for the proposed District. Exhibit "A" consists of a 33-page boundary description submitted on September 22, 1997, and a revised Tract H-13 boundary description attached to the District engineer's letter dated January 30, 1998.
8. The resolution adopted by the WSC requesting conversion to and creation of the District conforms to the requirements of TEX. WATER CODE ANN. §65.015 (Vernon 1988).
9. 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.
10. The proposed District and its system and subsequent development within the District will not have an unreasonable effect on the following: topography, floodplain, land elevations, subsidence, groundwater levels, recharge capabilities of a groundwater source, natural runoff rates and drainage, and water quality.

CONCLUSIONS OF LAW

1. The public hearing regarding the petition was held under the authority of and in accordance with TEX. WATER CODE ANN., Chapter 65 and the applicable provisions of the Texas Natural Resource Conservation Commission Permanent Rules.

2. The Commission has jurisdiction to consider this petition and is authorized to make and enter its Findings of Fact, Conclusions of Law, and Orders with respect to the request for conversion of the WSC to and creation of the District.
3. All of the land and property proposed may properly be included within the District.
4. By Order dated January 20, 1998, the Commission determined that a certificate of convenience and necessity for H-M-W Water Supply Corporation was not necessary, waived Title 30 TAC §293.11(h)(6), and declared the application technically complete.
5. All statutory and regulatory requirements for conversion of H-M-W Water Supply Corporation to H-M-W Special Utility District of Harris and Montgomery Counties, have been fulfilled, in accordance with TEX. WATER CODE ANN., Chapter 65 and Title 30 TAC Section 281.19.

NOW THEREFORE, BE IT ORDERED BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION THAT:

1. The petition for the conversion of H-M-W Water Supply Corporation to H-M-W Special Utility District of Harris and Montgomery 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 ANN., 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 Texas Natural Resource Conservation Commission and the general laws of the State of Texas relating to special utility districts.
4. 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:

Mark Pinter
Joe Conely
Deborah Stachowiak
Diana Sansing
Lance Stahl
Mike Jackson
Bill Wittner


5. 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.

6. The District's Board of Directors is directed to send to the Commission's District Administration Section an order canvassing the confirmation election returns not later than 30 days after the election.
7. Upon a successful confirmation election, the WSC is directed to transfer assets and debts to the District as expeditiously as practicable and to institute dissolution proceedings immediately after such transfer.
8. In order to ensure continued service for all customers currently served by the WSC under Coe Utilities certificates of convenience and necessity, Certificates of Convenience and Necessity No. 10342 and 20734 will be issued by the Commission in the name of H-M-W Special Utility District of Harris and Montgomery Counties, contingent upon a successful confirmation election, and Commission receipt of evidence that the WSC has been dissolved.
9. 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 petition, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration.
10. The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.
11. 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.

Issued Date: **MAR 13 1998**

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



For the Commission

September 22, 1997

Proposed Boundary of H-M-W Special Utility District

Boundary Description of the Proposed
H-M-W SPECIAL UTILITY DISTRICT

BEING all of those certain tracts or parcels of land lying and being situated in Harris and Montgomery Counties, Texas, and being more particularly described by metes and bounds or by features as follows:

TRACT M1

Part of Sendera Lake Water System
Including Sendera Lake Estates and Sendera Farms Subdivisions

BEGINNING at a point at the intersection of the centerlines of Cimarron Way and F.M. 1488 and following the centerline of F.M. 1488 in a easterly direction 1852 feet, more or less, to the Southeast corner of TRACT M1 and POINT OF BEGINNING;

THENCE following the centerline of F. M. 1488 in a westerly direction 8697 feet, more or less, crossing Cimarron Way, Lago Drive, and Sendera Drive to a point for corner;

THENCE N 2° 53' W, 2525 feet, more or less, to a point for corner;

THENCE N 86° 18' E, 5697 feet, more or less, to a point for corner;

THENCE N 1° 45' W, 343 feet, more or less, to a point for corner;

THENCE N 87° 16' E, 3067 feet, more or less, crossing Cimarron Way to a point for corner;

THENCE S 1° 28' E, 3330 feet, more or less, to a point in the centerline of F.M. 1488 in the southeast corner of TRACT M1 and POINT OF BEGINNING and containing 580 acres or 0.91 square miles of land, more or less.

TRACT M2

Part of Sendera Lake Water System
Including Oak Crest Estates II Subdivision

BEGINNING at a point of intersection in the northeast corner of **TRACT M2**, also being the intersection of the centerlines of Tamina and F.M. 1488, also being the northeast corner of Oak Crest Estates Subdivision for the **POINT OF BEGINNING**;

THENCE following the centerline of Tamina in a southerly direction 1572 feet, more or less, to a point for corner;

THENCE S 87° 17' W, 1932 feet, more or less, crossing Bear Branch to a point for corner;

THENCE N 3° 28' E, 1662 feet, more or less, crossing Bear Branch to the centerline of F.M. 1488 to a point for corner;

THENCE following the centerline of F.M. 1488 in an easterly direction 1945 feet, more or less, to the centerline of Tamina and the **POINT OF BEGINNING** and containing 72 acres or 0.11 square miles of land, more or less.

TRACT M3

Part of Greenwood Country Water System
Including Galleria Oaks Section I and Cripple Creek Farms North Subdivisions

BEGINNING at the intersection of the centerlines of Tudor and F.M. 1774 and proceeding along the centerline of F.M. 1774 in a southeasterly direction 974 feet, more or less, to the southeasterly corner of **TRACT M3** and the **POINT OF BEGINNING**;

THENCE following the centerline of F.M. 1774 in a northwesterly direction 4132 feet, more or less, crossing Cripple Creek Road to a point for corner;

THENCE N 87° 41' E, 942 feet, more or less, to a point for corner;

THENCE N 21° 48' E, 788 feet, more or less, to a point for corner;

THENCE S 70° E, 1138 feet, more or less, to the centerline of Cripple Creek Road and a point for corner;

THENCE proceeding in a northerly direction along the centerline of Cripple Creek Road a distance 2185 feet, more or less, crossing Cole Valley and Pierce Hill to a point for corner;

THENCE N 87° 29' E, 1105 feet, more or less, to a point for corner;

THENCE S 47° 17' E, 3045 feet, more or less, to the intersection of the centerlines of Robin George and Meadow Edge, to a point for corner;

THENCE following the centerline of Meadow Edge, 3518 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 293 acres of 0.46 square miles of land, more or less.

TRACT M4

Part of Greenwood County Water System

Including Greenwood County, Millwood, and Galleria Oaks Section 2 Subdivisions

BEGINNING at a point of intersection of the centerlines of F.M. 1774 and Tudor and following the centerline of Tudor in a southerly direction 5288 feet, more or less, crossing Hazy Hollow to a point for corner;

THENCE S 87° 45' W, 2292 feet, more or less, to a point in the centerline of Sulphur Branch for corner;

THENCE along the meanders of the centerline of Sulphur Branch, in a northwesterly direction, 4851 feet, more or less, to a point for corner;

THENCE S 86° 57' W, 90 feet, more or less, to a point for corner;

THENCE S 87° 38' W, 430 feet, more or less, to a point for corner;

THENCE N 3° 6' W, 692 feet, more or less, crossing Sulphur Branch to a point for corner;

THENCE N 74° 22' E, 1150 feet, more or less, crossing an unnamed tributary to Sulphur Branch to a point for corner;

THENCE following the centerline of Beyette, 837 feet, more or less, to a point for corner;

THENCE N 3° 5' W, 265 feet, more or less, to a point for corner;

THENCE S 86° 5' W, 49 feet, more or less, to a point for corner;

THENCE N 3° 5' W, 485 feet, more or less, to a point for corner;

THENCE S 84° 5' E, 125 feet, more or less, to a point for corner;

THENCE S 81° 48' E, 160 feet, more or less, to a point for corner;

THENCE S 86° 58' E, 269 feet, more or less, to a point for corner;

THENCE S 61° 11' E, 109 feet, more or less, to a point for corner;

THENCE S 50° 54' E, 261 feet, more or less, to a point for corner;

THENCE following the centerline of Beyette, 1128 feet, more or less, to the intersection of Beyette and F.M. 1774 to a point for corner;

THENCE following F.M. 1774 in a southeasterly direction, 2576 feet, more or less, to a point for corner and the **POINT OF BEGINNING** and containing 456 acres or 0.71 square miles of land, more or less.

TRACT M5

Hunter's Retreat Water System Including Hunter's Retreat Sections 1 & 2 Subdivision

BEGINNING at the intersection of the centerlines of Naomi and the F.M. 1774 and proceeding along the the centerline of F.M. 1774 in a southeasterly direction 1000 feet, more or less, to a point in the most easterly corner of **TRACT M5** for **POINT OF BEGINNING**;

THENCE S 42° 7' W, 4692 feet, more or less, to a point for corner;

THENCE N 49° 32' W, 961 feet, more or less, to a point for corner;

THENCE N 39° 25' E, 511 feet, more or less, to a point for corner;

THENCE N 47° 47' W, 1447 feet, more or less, to a point for corner;

THENCE N 42° 13' E, 367 feet, more or less, to a point for corner;

THENCE N 47° 47' W, 503 feet, more or less, to a point for corner;

THENCE N 42° 13' E, 633 feet, more or less, to a point for corner;

THENCE N 47° 47' W, 289 feet, more or less, to a point for corner;

THENCE N 42° 13' E, 2568 feet, more or less, to the centerline of F.M. 1774 to a point for corner;

THENCE following the centerline of F.M. 1774, in a southwesterly direction, 3278 feet, more or less, crossing Russell and Arlene to a point for corner and **POINT OF BEGINNING** and containing 288 acres or 0.45 square miles of land, more or less.

TRACT M6

Combination of Kipling Oaks 1 and Kipling Oaks 2, 3, & 4 Water Systems
including Pinehurst Village, Oakhill Acres Sections 1, 2, & 3,
Oak Crest 2, Kipling Oaks Sections 1, 2, 3, & 4,
Cripple Creek Farms West, and Timbergreen Subdivisions

BEGINNING at the intersection of the centerlines of F.M. 1774, F.M. 249, and F.M. 149 and proceeding in a northwesterly direction along the centerline of F.M. 1774, 102 feet, more or less, to a point in the most northern corner of **TRACT M6** and **POINT OF BEGINNING**;

THENCE following centerline of boundary roadways in a southeasterly direction 4964 feet, more or less, including F.M. 1774 for 102 feet, more or less, and F.M. 249 for 4871 feet, more or less, crossing Goodson Prairie, Weakley, Baltzell, and Rolling Wood Drive to the intersection of F.M. 249 and Coe to a point for corner;

THENCE following the centerline of Coe in a southwesterly direction 7620 feet, more or less, crossing Bernice, Michelle, and Goodson Branch, to a point for corner;

THENCE S 20° 46' E, 536 feet, more or less, crossing Decker Branch, to a point for corner;

THENCE S 81° 19' W, 384 feet, more or less, to a point for corner;

THENCE S 1° 14' E, 609 feet, more or less, to a point for corner;

THENCE N 87° 53' E, 2454 feet, more or less, to a point for corner;

THENCE S 2° 7' E, 1683 feet, more or less, to a point for corner;

THENCE S 87° 53' W, 5269 feet, more or less, to a point for corner;

THENCE N 2° 22' W, 1675 feet, more or less, to a point for corner;

THENCE N 87° 33' E, 1294 feet, more or less, to a point for corner;

THENCE N 0° 13' E, 371 feet, more or less, to a point for corner;

THENCE S 88° 42' W, 1311 feet, more or less, to a point for corner;

THENCE N 48° 40' E, 2308 feet, more or less, crossing Decker Branch, to a point for corner;

THENCE N 49° 59' E, 1441 feet, more or less, to a point for corner;

THENCE N 50° 32' E, 810 feet, more or less, to a point for corner;

THENCE N 45° 2' E, 2334 feet, more or less, crossing Goodson Branch, to a point for corner;

THENCE N 45° 11' W, 474 feet, more or less, to a point for corner;

THENCE N 47° 42' W, 461 feet, more or less, to a point for corner;

THENCE N 42° 20' E, 169 feet, more or less, to a point for corner;

THENCE N 47° 47' W, 1377 feet, more or less, to a point for corner;

THENCE N 45° 33' W, 1362 feet, more or less, to a point for corner;

THENCE N 41° 9' E, 3149 feet, more or less, crossing an unnamed tributary of Goodson Branch to a point for corner and **POINT OF BEGINNING** and containing 785 acres or 1.23 square miles of land, more or less.

TRACT M7

Parts of Meadowood and Coe Country Water Systems
Including Cripple Creek Farms, Lazywood, Woodlake, and Logtowne Subdivisions

BEGINNING at the intersection of the centerlines of Partridge and F.M. 249 and proceeding along the centerline of F.M. 249 in a northwesterly direction 3008 feet, more or less, to most north and west corner of **TRACT M7** for **POINT OF BEGINNING**;

THENCE N 87° 47' E, 5095 feet, more or less, crossing an unnamed tributary of Decker Branch, and the Union Pacific Railroad, to a point for corner;

THENCE S 3° 2' E, 4320 feet, more or less, crossing the Union Pacific Railroad, to a point for corner;

THENCE N 84° 6' E, 231 feet, more or less, to a point for corner;

THENCE S 56° 47' E, 718 feet, more or less, to a point for corner;

THENCE S 4° 17' E, 2040 feet, more or less, to the north boundary of the right-of-way of Hardin Store Road, to a point for corner;

THENCE following the north boundary of the right-of-way of Hardin Store Road in a southwesterly direction, 473 feet, more or less, to a point for corner;

THENCE N 4° 17' W, 868 feet, more or less, to a point for corner;

THENCE S 85° 43' W, 270 feet, more or less, to a point for corner;

THENCE N 2° 26' W, 923 feet, more or less, to a point for corner;

THENCE S 85° 43' W, 1374 feet, more or less, to the centerline of Cripple Creek Drive, to a point for corner;

THENCE following the centerline of Cripple Creek Drive in a southerly direction 1996 feet, more or less, to the intersection of the centerlines of F.M. 249 and Cripple Creek Drive, to a point for corner;

THENCE following the centerline of F.M. 249 in a northwesterly direction 8207 feet, more or less, crossing Decker Branch, Lazy-Pine Wood Burr, Woodlake, Partridge, an unnamed tributary

to Decker Branch to a point for corner and the **POINT OF BEGINNING** and containing 505 acres or 0.79 square miles of land, more or less.

TRACT M8

Rimwick Forest and Rustic Oaks Water Systems
Including Rimwick Forest and Rustic Oaks Subdivisions

BEGINNING at a point at the intersection of the centerlines of Hardin Store Road and Anderson Road, and being the most easterly corner of **TRACT M8** for **POINT OF BEGINNING**;

THENCE following the centerline of Hardin Store Road in a southwesterly direction, 2443 feet, more or less, crossing Cow Branch, Neidigk Sawmill Road, Hooten, the Burlington Northern Railroad, and Andy to a point with the Union Pacific Railroad;

THENCE following the Union Pacific Railroad in a northwesterly direction 2398 feet, more or less, to a point for corner;

THENCE North, 1859 feet, more or less, to a point for corner;

THENCE N 41°30' W, 601 feet, more or less, to a point in the centerline of an unnamed tributary of Cow Branch and point for corner;

THENCE North, 1488 feet, more or less, to a point for corner;

THENCE West, 400 feet, more or less, to a point for corner;

THENCE North, 207 feet, more or less, to a point for corner;

THENCE West, 1108 Feet, more or less, to a point for corner;

THENCE North, 515 feet, more or less, to a point for corner;

THENCE N 43° 2' E, 1541 feet, more or less, crossing Cow Branch, to a point for corner;

THENCE N 43° 3' E, 546 feet, more or less, to a point in the centerline of the Burlington Northern Railroad for point for corner;

THENCE following the Burlington Northern Railroad in a southeasterly direction 5345 feet, more or less, to a point for corner;

THENCE N 89° 41' E, 415 feet, more or less, to a point in the centerline of Cow Branch for point for corner;

THENCE N 2° 42' W, 966 feet, more or less, to a point for corner;

THENCE N 87° 30' E, 1001 feet, more or less, to a point for corner;

THENCE N 3° 10' E, 936 feet, more or less, to a point for corner;

THENCE N 86° 50' E, 291 feet, more or less, to a point for corner;

THENCE N 3° 10' W, 200 feet, more or less, to a point for corner;

THENCE N 86° 50' E, 102 feet, more or less, to a point in the centerline of Anderson Road and point for corner;

THENCE along Anderson Road in a southerly direction 825 feet, more or less, to the intersection of Hardin Store Road and Anderson Road and **POINT OF BEGINNING** containing 307 acres or 0.48 square miles of land, more or less.

TRACT M9

Mink Valley Branch Water System Including Mink Valley Branch Subdivision

BEGINNING at a point at the intersection of the centerlines of Nichols Sawmill and Mink Lake Drive and following Mink Lake Drive in a easterly direction 196 feet, more or less, to a point in the west boundary of **TRACT M9**;

THENCE N 3° 24' E, 250 feet, more or less, to a point for corner and **POINT OF BEGINNING**;

THENCE S 86° 36' E, 249 feet, more or less, to a point for corner;

THENCE N 65° 12' E, 390 feet, more or less, to a point for corner;

THENCE N 88° 13' E, 385 feet, more or less, to a point for corner;

THENCE S 0° 11' E, 230 feet, more or less, to a point for corner;

THENCE N 88° 22' E, 412 feet, more or less, to a point for corner;

THENCE N 60° 7' E, 110 feet, more or less, to a point for corner;

THENCE N 41° 6' E, 142 feet, more or less, to a point for corner;

THENCE N 56° 0' E, 87 feet, more or less, to a point for corner;

THENCE N 5° 11' W, 347 feet, more or less, to a point for corner;

THENCE N 84° 49' E, 400 feet, more or less, to a point for corner;

THENCE S 5° 11' E, 329 feet, more or less, to a point for corner;

THENCE S 54° 44' E, 961 feet, more or less, to a point for corner;

THENCE S 15° 53' E, 172 feet, more or less, to a point for corner;

THENCE S 12° 39' W, 276 feet, more or less, to a point for corner;

THENCE S 36° 25' W, 290 feet, more or less, to a point for corner;

THENCE S 68° 6' W, 207 feet, more or less, to a point for corner;

THENCE S 82° 58' W, 423 feet, more or less, to a point for corner;

THENCE N 67° 11' W, 133 feet, more or less, to a point for corner;

THENCE N 44° 58' W, 109 feet, more or less, to a point for corner;

THENCE N 16° 10' W, 197 feet, more or less, to a point for corner;

THENCE N 48° 24' W, 66 feet, more or less, to a point for corner;

THENCE N 81° 16' W, 144 feet, more or less, to a point for corner;

THENCE N 67° 13' W, 262 feet, more or less, to a point for corner;

THENCE N 54° 23' W, 179 feet, more or less, to a point for corner;

THENCE N 83° 56' W, 130 feet, more or less, to a point for corner;

THENCE N 54° 46' W, 195 feet, more or less, to a point for corner;

THENCE N 0° 17' E, 71 feet, more or less, to a point for corner;

THENCE S 88° 15' W, 105 feet, more or less, to a point for corner;

THENCE S 65° 12' W, 414 feet, more or less, to a point for corner;

THENCE N 86° 36' W, 375 feet, more or less, to a point for corner;

THENCE N 3° 24' E, 500 feet, more or less, crossing Mink Lake Drive to a point for corner and
POINT OF BEGINNING and containing 54 acres or 0.085 square miles of land, more or less.

TRACT M10

Pleasant Forest Water System
Including Pleasant Forest and Country Woods Subdivisions

BEGINNING at the intersection of the centerlines of Waller and Butera Road and following Butera Road in an easterly direction 62 feet, more or less, to a point in the most westerly corner of TRACT M10 for the POINT OF BEGINNING;

THENCE following Butera Road in an easterly direction 1649 feet, more or less, crossing an unnamed tributary of Walnut Creek and Sea Turtle and continuing to a point for corner;

THENCE N 2° 58' W, 1396 feet, more or less, crossing an unnamed tributary of Walnut Creek and continuing to a point for corner;

THENCE N 87° 2' E, 335 feet, more or less, to a point for corner;

THENCE S 2° 58' E, 1401 feet, more or less, to Butera Road and a point for corner;

THENCE following Butera Road in a westerly direction 52 feet, more or less, crossing Sunset to a point for corner;

THENCE S 0° 39' E, 573 feet, more or less, to a point for corner;

THENCE S 86° 26' E, 95 feet, more or less, to a point for corner;

THENCE S 83° 19' E, 96 feet, more or less, crossing an unnamed tributary of Walnut Creek, to a point for corner;

THENCE S 43° 10' E, 151 feet, more or less, to a point for corner;

THENCE S 49° 24' W, 690 feet, more or less, crossing an unnamed tributary of Walnut Creek and Meadow, to a point for corner;

THENCE S 23° 51' W, 852 feet, more or less, crossing Country Bend, to a point for corner;

THENCE S 30° 54' W, 88 feet, more or less, to a point for corner;

THENCE S 11° 56' E, 148 feet, more or less, to a point for corner;

THENCE S 22° 42' W, 127 feet, more or less, to a point for corner;

THENCE S 2° 47' E, 282 feet, more or less, to a point for corner;

THENCE S 84° 50' W, 496 feet, more or less, to a point for corner;

THENCE N 6° 33' W, 498 feet, more or less, crossing Country Crest, to a point for corner;

THENCE S 89° 13' W, 1374 feet, more or less, to a point for corner;

THENCE N 2° 9' W, 2047 feet, more or less, crossing Country Woods to a point for corner and POINT OF BEGINNING and containing 107 acres or 0.17 square miles of land, more or less.

TRACT M11

Armadillo Woods and Magnolia Oaks Water System
Including Armadillo Woods, Magnolia Oaks, and Pinion Creek Subdivisions

BEGINNING at the intersection of the centerlines of Weir and Butera Road and following the centerline of Butera Road in an easterly direction 64 feet, more or less, to a point being the most northerly corner of TRACT M11 and POINT OF BEGINNING;

THENCE following the centerline of Butera Road in an easterly direction 2885 feet, more or less, and crossing McIntosh Road to a point for corner;

THENCE S 2° E, 438 feet, more or less, to a point for corner;

THENCE S 88° W, 1083 feet, more or less, to a point for corner;

THENCE S 2° 21' E, 1396 feet, more or less, to a point for corner;

THENCE N 86° 2' E, 2677 feet, more or less, crossing an unnamed tributary of Walnut Creek, to a point for corner;

THENCE S 39° 28' W, 664 feet, more or less, to a point for corner;

THENCE S 0° 24' W, 429 feet, more or less, crossing Longneck to a point for corner;

THENCE S 88° 48' W, 969 feet, more or less, to a point for corner;

THENCE S 0° 46' W, 367 feet, more or less, to a point for corner;

THENCE S 87° W, 4613 feet, more or less, to a point for corner;

THENCE N 0° 11' W, 1183 feet, more or less, to a point for corner;

THENCE N 86° 45' E, 1764 feet, more or less, to a point for corner;

THENCE N 3° 9' W, 2669 feet, more or less, crossing Oak, and continuing to a point in Butera Road to the **POINT OF BEGINNING** and containing 241 acres or 0.37 square miles of land, more or less.

TRACT M12

Shady Acres Water System
Including Shady Acres Subdivision

BEGINNING at the intersection of the centerlines of Walnut Springs and Butera Road and following the centerline of Butera Road in an easterly direction 960 feet, more or less, to the northwest corner of **TRACT M12** for **POINT OF BEGINNING**;

THENCE N 87° E, 536 feet, more or less, crossing Shady Drive, to a point for corner;

THENCE S 3° 32' E, 1840 feet, more or less, to a point for corner;

THENCE S 88° 40' W, 536 feet, more or less, to a point for corner;

THENCE N 3° 32' W, 1824 feet, more or less, to a point for corner at Butera Road and POINT OF BEGINNING, and containing 22.5 acres or 0.035 square miles of land, more or less.

TRACT M13

Allenwood Water System
Including Allenwood and Walnut Creek Forest Subdivisions

BEGINNING at the intersection of the centerlines of Stagecoach Road and Alton Wright and following the centerline of Alton Wright 71 feet, more or less, to the most northerly corner of **TRACT M13** for the **POINT OF BEGINNING**;

THENCE S 46° 55' E, 768 feet, more or less, to a point for corner;

THENCE S, 53 feet, more or less, to a point for corner;

THENCE S 50° 24' E, 4890 feet, more or less, crossing 2 unnamed tributaries of Walnut Creek, to a point for corner;

THENCE S 2° 5' E, 190 feet, more or less, to a point for corner;

THENCE N 87° 55' E, 3437 feet, more or less, crossing an unnamed tributary of Walnut Creek, to a point for corner;

THENCE S 1° 52' E, 3697 feet, more or less, crossing Silver Leaf to centerline of Decker Prairie Rosehill Road, for a point for corner;

THENCE following centerline of Decker Prairie Rosehill Road in a westerly direction 995 feet, more or less, crossing Lori and Brautigan to a point for corner;

THENCE N 1° 16' W, 1970 feet, more or less, to a point for corner;

THENCE S 86° 5' W, 812 feet, more or less, to a point in an unnamed tributary of Walnut Creek for corner;

THENCE following the meanders of an unnamed tributary of Walnut Creek upstream 852 feet, more or less, for a point for corner;

THENCE S 87° 7' W, 689 feet, more or less, to a point for corner;

THENCE N 4° 6' W, 250 feet, more or less, to a point for corner;

THENCE S 87° 55' W, 1220 feet, more or less, to a point for corner;

THENCE S 2° 5' E, 1580 feet, more or less, crossing Walnut Creek, to a point for corner;

THENCE S 87° 55' W, 2250 feet, more or less, to a point for corner;

THENCE S 18° 22' W, 1375 feet, more or less, to a point for corner;

THENCE S 89° 7' W, 775 feet, more or less, to a point for corner;

THENCE N 0° 54' W, 3296 feet, more or less, crossing a tributary of Walnut Creek, to a point in Walnut Creek for corner;

THENCE following the meanders of Walnut Creek upstream 755 feet, more or less, to a point for corner;

THENCE S 33° 47' W, 488 feet, more or less, to a point for corner;

THENCE N 3° 37' W, 2181 feet, more or less, crossing Walnut Creek to a point for corner;

THENCE N 87° 37' E, 110 feet, more or less, to a point for corner;

THENCE N 3° 43' W, 2022 feet, more or less, to a point in Alton Wright and **POINT OF BEGINNING** and containing 563 acres or 0.88 square miles of land, more or less.

TRACT M14

Parts of Meadowood and Coe Country Water Systems
Including Meadowood, Coe Country, Lexington Estates, Decker Heights,
Foxwood, Coe Acres, Autumn Wood, New Redwood Place, Decker Pines, Leisurewood,
Decker Prairie Industrial Park, and New Montgomery County Industrial Park

BEGINNING at the intersection of the centerlines of Decker Prairie Rosehill Road and F.M. 249 (West Montgomery) and following the centerline of F.M. 249 in a northwesterly direction 18 feet, more or less, to a **POINT OF BEGINNING**;

THENCE N 88° 23' E, 2489 feet, more or less, to a point for corner;

THENCE S 2° 44' E, 200 feet, more or less, to a point for corner;

THENCE N 88° 23' E, 2194 feet, more or less, crossing an unnamed tributary of Spring Creek and Vallie to a point for corner;

THENCE S 4° 14' E, 1194 feet, more or less, crossing an unnamed tributary of Spring Creek to a point for corner;

THENCE S 86° 36' W, 751 feet, more or less, to a point for corner;

THENCE S 2° 33' E, 2293 feet, more or less, to a point in Spring Creek for corner;

THENCE following the meanders of Spring Creek in an upstream, southwesterly direction crossing under F.M. 249 3209 feet, more or less, to a point for corner;

THENCE S 68° 21' W, 1308 feet, more or less, to a point for corner;

THENCE S 32° 35' W, 306 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 1128 feet, more or less, to a point for corner;

THENCE S 2° 33' E, 1304 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 655 feet, more or less, to a point in Spring Creek for corner;

THENCE following the meanders of Spring Creek in an upstream, southwesterly direction 1772 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 645 feet, more or less, to a point for corner;

THENCE N 2° 34' W, 265 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 389 feet, more or less, to a point for corner;

THENCE S 2° 34' E, 265 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 843 feet, more or less, to a point for corner;

THENCE N 2° 34' W, 265 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 738 feet, more or less, to a point for corner;

THENCE N 2° 34' W, 2026 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 253 feet, more or less, to a point for corner;

THENCE N 2° 34' W, 2550 feet, more or less, to a point for corner;

THENCE S 87° 26' W, 1655 feet, more or less, to a point in Decker Prairie Rosehill Road for corner;

THENCE N 2° 34' W, 499 feet, more or less, to a point for corner;

THENCE N 86° 26' E, 1615 feet, more or less, crossing and then following Decker Prairie Rosehill Road to a point for corner;

THENCE N 2° 34' W, 3054 feet, more or less, to a point in the centerline of Decker Prairie Rosehill Road for corner;

THENCE following the centerline of Decker Prairie Rosehill Road in an easterly direction 2505 feet, more or less, and crossing Peden, to a point for corner;

THENCE S 3° 18' E, 836 feet, more or less, to a point for corner;

THENCE N 86° 42' E, 557 feet, more or less, to a point for corner;

THENCE S 3° 18' E, 464 feet, more or less, to a point for corner;

THENCE N 86° 1' E, 841 feet, more or less, to a point in the centerline of Decker Prairie Rosehill Road for corner;

THENCE following the centerline of Decker Prairie Rosehill Road 1248 feet, more or less, to a point at the intersection of the centerlines of Decker Prairie Rosehill Road and Stagecoach Road for corner;

THENCE N 88° 33' E, 1467 feet, more or less, to a point in the centerline of F.M. 249 for corner;

THENCE following the centerline of F.M. 249 739 feet, more or less, to the POINT OF BEGINNING and containing 1438 acres or 2.25 square miles of land, more or less.

TRACT M15

Deer Ridge Water System
Including Deer Ridge Subdivision

BEGINNING at the intersection of Turtle Creek and Doe Trails and following Doe Trails in a southerly direction 126 feet, more or less, to a point in the north boundary of **TRACT M15**;

THENCE following the north boundary of **TRACT M15** in a easterly direction 225 feet, more or less, to the most northeasterly corner of **TRACT M15** to the **POINT OF BEGINNING**;

THENCE S 0° 13' W, 317 feet, more or less, to a point for corner;

THENCE S 39° 23' W, 608 feet, more or less, to a point for corner;

THENCE S 1° 49' E, 2262 feet, more or less, to a point for corner;

THENCE S 89° 24' W, 1401 feet, more or less, crossing Spencer Blvd., to a point for corner;

THENCE N 1° 36' W, 2641 feet, more or less, to a point for corner;

THENCE N 89° 25' E, 1129 feet, more or less, to a point for corner;

THENCE N 39° 23' E, 331 feet, more or less, to a point for corner;

THENCE N 0° 13' E, 157 feet, more or less, to a point for corner;

THENCE S 89° 47' E, 450 feet, more or less, crossing Doe Trails, to a point for corner and **POINT OF BEGINNING** and containing 91 acres or 0.14 square miles of land, more or less.

TRACT M16

Part of Towering Oaks Water System
Including Hide-A-Way Estates Subdivision

BEGINNING at the intersection of Chalet Drive and Walnut Springs Road and following Walnut Springs Road in a northerly direction 1079 feet, more or less, to the **POINT OF BEGINNING**;

THENCE N 87° 38' E, 780 feet, more or less, to a point for corner;

THENCE S 0° 51' E, 1407 feet, more or less, to a point for corner;

THENCE S 88° 12' W, 749 feet, more or less, to a point for corner;

THENCE N 2° 6' W, 1399 feet, more or less, crossing Chalet Drive, to a point for corner and POINT OF BEGINNING and containing 25 acres or 0.038 square miles of land, more or less.

TRACT M17

Part of Towering Oaks Water System
Including Towering Oaks Subdivision

BEGINNING at the intersection of the centerlines of Lonesome Pine and Coe Loop and following Coe Loop in a southerly direction 207 feet, more or less; to a point in the north boundary of TRACT M17;

THENCE following the north boundary of TRACT M17 in a westerly direction 1602 feet, more or less, to a point in the northwestern corner of TRACT M17 for the POINT OF BEGINNING;

THENCE N 87° 16' E, 1433 feet, more or less, to a point for corner;

THENCE N 87° 33' E, 3802 feet, more or less, crossing Coe Loop, to a point on the centerline of Coe Loop for corner;

THENCE S 1° 54' E, 2904 feet, more or less, to a point in Spring Creek for corner;

THENCE following the meanders of Spring Creek in an upstream, southwesterly direction 6543 feet, more or less, to a point for corner;

THENCE N 1° 54' W, 4630 feet, more or less, crossing 2 unnamed tributaries of Spring Creek, to a point for corner and POINT OF BEGINNING and containing 432 acres or 0.67 square miles of land, more or less.

TRACT M18

Woodloch Water System
Including Woodloch Sections 1 & 2 Subdivisions

BEGINNING at the intersection of centerlines of Coe Loop and Decker Prairie Rosehill Road and a point for corner in the west boundary of TRACT M18 for POINT OF BEGINNING;

THENCE N 2° 37' W, 2345 feet, more or less, to a point for corner;

THENCE N 88° 8' E, 1995 feet, more or less, to a point for corner;

THENCE S 2° 43' E, 4284 feet, more or less, crossing Decker Prairie Rosehill Road, to a point for corner;

THENCE S 88° 2' W, 2084 feet, more or less, to a point in centerline of Decker Prairie Rosehill Road for corner;

THENCE following the centerline of Decker Prairie Rosehill Road in a northerly direction 1945 feet, more or less, to the POINT OF BEGINNING containing 199 acres or 0.31 square miles of land, more or less.

TRACT H1

Kickapoo Farms Water System
Including Kickapoo Farms Subdivision

BEGINNING at the intersection of centerlines of Kickapoo Road and Burton Cemetery Road and the north and east corner of TRACT H1 for POINT OF BEGINNING;

THENCE following centerline of Kickapoo Road in a southerly direction 2260 feet, more or less, crossing Pueblo and Cherokee to a point at the intersection of Kickapoo Road and Aztec for corner;

THENCE S 87° 51' W, 1881 feet, more or less, following Aztec to a point for corner;

THENCE N 2° 59' W, 2252 feet, more or less, to a point on the centerline of Burton Cemetery Road for corner;

THENCE following Burton Cemetery Road in an easterly direction 1883 feet, more or less; to a point for corner and POINT OF BEGINNING containing 97 acres or 0.15 square miles of land, more or less.

TRACT H2

Unserved, Vacant Area
Certificated as Matt Buckley Property by TNRCC

BEGINNING at the intersection of the centerlines of Roberts Cemetery Road and F.M. 2920, also known as Waller-Tomball Road, and following the centerline of F.M. 2920 in a north easterly direction 111 feet, more or less, to the most northerly corner of **TRACT H2** for **POINT OF BEGINNING**;

THENCE following the centerline of F.M. 2920 in a north easterly direction 51 feet, more or less, to a point for corner;

THENCE S 36° 17' E, 1895 feet, more or less, to a point for corner;

THENCE S 3° 53' E, 1960 feet, more or less, to a point for corner;

THENCE S 85° 57' W, 1908 feet, more or less, to a point for corner;

THENCE N 3° 52' W, 1353 feet, more or less, to a point for corner;

THENCE N 84° 22' E, 825 feet, more or less, to a point for corner;

THENCE N 3° 15' W, 2162 feet, more or less, to a point in the centerline of F.M. 2920 and **POINT OF BEGINNING** containing 95 acres or 0.15 square miles of land, more or less.

TRACT H3

New Kentucky, 2920 West, Rosewood Hills, and Holly Lake Estates Water Systems
Including Village of New Kentucky, 2920 West, Rosehill Pines, Castle Hills,
Rosewood Hills, Holly Creek, and Estates of Holly Lake Subdivisions

BEGINNING at the intersection of centerlines of Roberts Cemetery Road and F.M. 2920, also known as Waller-Tomball Road, and following the centerline of F.M. 2920 in a southeasterly direction 675 feet, more or less, to a point in the southwest corner of **TRACT H3** for **POINT OF BEGINNING**;

THENCE N 2° 52' W, 5273 feet, more or less, to a point in Spring Creek and point for corner;

THENCE following the downstream meanders of Spring Creek in a northeasterly direction 30,646 feet, more or less, to a point for corner;

THENCE S 2° 24' E, 7951 feet, more or less, to a point in the centerline of F.M. 2920 and point for corner;

THENCE following the centerline of F.M. 2920 in a easterly direction, 25,696 feet, more or less, crossing intersections with Holly Creek Trail, Holly Lakes Drive, Rosehill, Rosehill Church, Decker Prairie Rosehill Road, Rosewood Trail, Main, Mueschke, Pine Tree, Cardinal, New Kentucky Village, and Roberts Cemetery Road to a point for corner and POINT OF BEGINNING and containing 3524 acres or 5.51 square miles of land, more or less.

TRACT H4

Treichel Woods Water System
Including Treichel Woods Subdivision

BEGINNING at the intersection of the centerlines of Tomball Cemetery Road and F.M. 2920, also known as Waller-Tomball Road, and following the centerline of F.M. 2920 in a northeasterly direction 446 feet, more or less, to a point in the most northeastern corner of TRACT H4 along F.M. 2920 for POINT OF BEGINNING;

THENCE N 82° 39' E, 929 feet, more or less, to a point for corner;

THENCE S 3° 42' E, 766 feet, more or less, to the centerline of Treichel Road to a point for corner;

THENCE following the centerline of Treichel Road 464 feet, more or less, to a point for corner;

THENCE S 3° 42' E, 548 feet, more or less, to a point for corner;

THENCE S 86° 18' W, 410 feet, more or less, to a point for corner;

THENCE S 3° 42' E, 1127 feet, more or less, to a point for corner;

THENCE S 86° 18' W, 591 feet, more or less, to a point for corner;

THENCE N 3° 42' W, 411 feet, more or less, to a point for corner;

THENCE S 86° 18' W, 354 feet, more or less, to a point for corner;

THENCE N 3° 42' W, 975 feet, more or less, to a point for corner;

THENCE 82° 39' W, 1087 feet, more or less, to a point for corner;

THENCE N 7° 21' W, 289 feet, more or less, to a point in F.M. 2920 for corner;

THENCE following the centerline of F.M. 2920 in a north easterly direction 1323 feet, more or less, to the **POINT OF BEGINNING** and containing 70 acres or 0.11 square miles of land, more or less.

TRACT H5

Alice Acres Water System
Including Alice Acres Subdivision

BEGINNING at the intersection of the centerlines of Alice Road and F.M. 249, also known as Tomball Parkway, and following the centerline of Alice Road in a westerly direction 560 feet, more or less, to a point in the north of the east most boundary of **TRACT H5** for **POINT OF BEGINNING**;

THENCE S 3° 21' E, 760 feet, more or less, to a point for corner;

THENCE S 86° 39' W, 2957 feet, more or less, to a point for corner;

THENCE N 3° 21' W, 2257 feet, more or less, to a point in the centerline of Mary Jane Hirschfield for corner;

THENCE following the centerline of Mary Jane Hirschfield in a easterly direction 2022 feet, more or less, to a point for corner;

THENCE S 3° 23' E, 1580 feet, more or less, to a point in the centerline of Alice Road for corner;

THENCE following Alice Road in a easterly direction 1024 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 123 acres or 0.19 square miles of land.

TRACT H6

Part of Red Oak Terrace Water System
Including McKinney Place Subdivision

BEGINNING at the intersection the centerlines of McKinney Drive and Zion Road and following the centerline of Zion Road in an easterly direction 244 feet, more or less, to a point in the southeast corner of **TRACT H6** for **POINT OF BEGINNING**;

THENCE N 3° 16' W, 1400 feet, more or less, to a point for corner;

THENCE S 86° 44' W, 488 feet, more or less, to a point for corner;

THENCE S 3° 16' E, 1400 feet, more or less, to a point in the centerline of Zion Road for corner;

THENCE following the centerline of Zion Road 488 feet, more or less, crossing McKinney Drive to a point for corner and **POINT OF BEGINNING** and containing 16 acres or 0.025 square miles of land; more or less.

TRACT H7

Part of Red Oak Terrace Water System
Including Red Oak Terrace Subdivision

BEGINNING at the intersection of the centerlines of Ulrich and Mercer Drive and following the centerline of Ulrich in a northerly direction 174 feet, more or less, to the northwest corner of **TRACT H7** for the **POINT OF BEGINNING**;

THENCE N 88° 17' E, 877 feet, more or less, to a point for corner;

THENCE S 2° 39' E, 1025 feet, more or less, to a point for corner;

THENCE S 86° 38' W, 870 feet, more or less, to a point in the centerline of Ulrich for corner;

THENCE following the centerline of Ulrich in a northerly direction 1050 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 21 acres or 0.033 square miles of land, more or less.

TRACT H8

Part of Coe Industrial Park Water System
Including Coe Industrial Park Subdivision

BEGINNING at the intersection the centerlines of F.M. 2978; also known as Hufsmith-Kohrville Road, and Dement Road also being the southwest corner of **TRACT H8** for **POINT OF BEGINNING**;

THENCE following the centerline of F.M. 2978 in a northerly direction 1015 feet, more or less, to a point for corner;

THENCE N 87° 4' E, 714 feet, more or less, to a point for corner;

THENCE S 30° 7' E, 1135 feet, more or less, to a point for corner;

THENCE S 86° 50' W, 1233 feet, more or less, to a point in the centerline of F.M. 2978 for corner and **POINT OF BEGINNING** and containing 23 acres or 0.035 square miles of land, more or less.

TRACT H9

Part of Coe Industrial Park Water System
Including Rolling Meadows Subdivision

BEGINNING at the intersection of the centerlines of Kuykendahl Hufsmith Road and Rolling Meadows and following the centerline of Kuykendahl Hufsmith Road in a southeasterly direction 128 feet, more or less, to a point in the north and east corner of **TRACT H9** for **POINT OF BEGINNING**;

THENCE S 3° 7' E, 1399 feet, more or less, to a point for corner;

THENCE S 88° 17' E, 792 feet, more or less, to a point for corner;

THENCE N 3° 7' W, 1584 feet, more or less, to a point for corner;

THENCE N 88° 17' E, 506 feet, more or less, following a portion of the centerline of Deer Meadows to a point in the intersection of the centerlines of Deer Meadows and Kuykendahl Hufsmith Road for corner;

THENCE following the centerline of Kuykendahl Hufsmith Road in a southeasterly direction 344 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 28 acres or 0.044 square miles of land, more or less.

TRACT H10

Timberwilde Water System
Including Timberwilde Sections 1 & 2 Subdivisions

BEGINNING at the intersection of the centerlines of Kuykendahl Road and Timberwilde Drive and following the centerline of Kuykendahl Road in a northerly direction 577 feet, more or less, to a point in the northwest corner of **TRACT H10** for **POINT OF BEGINNING**;

THENCE N 89° 42' E, 3662 feet, more or less, crossing Metzler Creek to a point for corner;

THENCE S 0° 18' E, 1130 feet, more or less, to a point for corner;

THENCE S 89° 1' W, 3680 feet, more less, crossing Metzler Creek to a point in the centerline of Kuykendahl Road for corner;

THENCE following the centerline of Kuykendahl Road 3680 feet, more or less, crossing Timberwilde Drive to a point for corner and **POINT OF BEGINNING** and containing 97 acres or 0.15 square miles of land, more or less.

TRACT H11

Willow Oaks Water System
Including Willow Oaks Subdivision

BEGINNING at the intersection of the centerlines of Kuykendahl Road and Willow Path being the most easterly corner of **TRACT H11** for **POINT OF BEGINNING**;

THENCE S 39° 19' W, 1096 feet, more or less, and following the centerline of Willow Path to a point for corner;

THENCE S 42° 37' W, 1544 feet, more or less, to a point for corner;

THENCE N 47° 53' W, 951 feet, more or less, crossing Willow Path to a point for corner;

THENCE N 72° 36' E, 137 feet, more or less, to a point for corner;

THENCE N 29° 32' E, 318 feet, more or less, to a point for corner;

THENCE N 50° E, 341 feet, more or less, to a point for corner;

THENCE N 35° 34' E, 270 feet, more or less, to a point for corner;

THENCE N 52° 38' E, 585 feet, more or less, to a point for corner;

THENCE N 17° 7' E, 355 feet, more or less, to a point for corner;

THENCE N 42° 28' E, 248 feet, more or less, to a point for corner;

THENCE N 0° 55' W, 424 feet, more or less, to a point on the centerline of Kuykendahl Hufsmith Road for corner;

THENCE following the centerline of Kuykendahl Hufsmith Road in a south easterly direction, becoming Kuykendahl Road 1250 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 57 acres or 0.089 square miles of land, more or less.

TRACT H12

Tomball Industrial Park Water System Including Tomball Industrial Park Subdivision

BEGINNING at the intersection of the centerlines of Commercial Lane and Stuebner - Airline Road and following the centerline of Stuebner - Airline Road in a southeasterly direction 170 feet, more or less, to a point in the east corner of **TRACT 12** for **POINT OF BEGINNING**;

THENCE S 41° 29' W, 1063 feet, more or less, to a point for corner;

THENCE N 48° 31' W, 602 feet, more or less, to a point for corner;

THENCE N 41° 29' E, 1063 feet, more or less, to a point in the centerline of Stuebner - Airline Road for corner;

THENCE following Stuebner - Airline Road in a southeasterly direction 602 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 14.7 acres or 0.023 square miles of land, more or less.

TRACT H13

Trailwood Water System
Including Trailwood Subdivision

BEGINNING at the intersection of the centerlines of Dowdell and Trailwood and following the centerline of Dowdell in a northeast direction 20 feet, more or less, to the north corner of **TRACT 13** for **POINT OF BEGINNING**;

THENCE S 48° 16' E, 1718 feet, more or less, to a point for corner;

THENCE S 73° 1' E, 377 feet, more or less, to a point for corner;

THENCE S 48° 16' E, 1026 feet, more or less, to the centerline of Boudreaux to a point for corner;

THENCE N 41° 50' E, following the centerline of Boudreaux 650 feet, more or less, to a point for corner;

THENCE S 48° 10' E, 300 feet, more or less, to a point for corner;

THENCE S 41° 50' W, 2231 feet, more or less, to a point for corner;

THENCE N 48° 10' W, 526 feet, more or less, to a point on the centerline of Boudreaux for corner;

THENCE N 40° 54' W, 740 feet, more or less, to a point for corner;

THENCE N 41° 43' E, 785 feet, more or less, to a point for corner;

THENCE N 48° 16' W, 2097 feet, more or less, to a point in Dowdell for corner;

THENCE following the centerline of Dowdell in a northeast direction 543 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 77 acres or 0.12 square miles of land, more or less.

TRACT H14

Brandywine Pines Water System
Including Brandywine Pines Subdivision

BEGINNING at the intersection of the centerlines of Spring Cypress Road and Slippery Rock and following the centerline of Spring Cypress Road in a northeast direction 43 feet, more or less, to a point in the west corner of **TRACT 14** for **POINT OF BEGINNING**;

THENCE following the centerline of Spring Cypress Road in a northeast direction 795 feet, more or less, crossing Pine Locke Lane, and Seals Gully, a tributary of Cypress Creek, to a point for corner;

THENCE S 50° 19' E, 245 feet, more or less, to a point for corner;

THENCE N 47° 45' E, 300 feet, more or less, to a point for corner;

THENCE S 48° 50' E, 284 feet, more or less, to a point for corner;

THENCE S 57° 3' E, 254 feet, more or less, to a point for corner;

THENCE S 78° 27' E, 115 feet, more or less, to a point for corner;

THENCE S 27° 57' E, 31 feet, more or less, to a point for corner;

THENCE S 80° 21' E, 100 feet, more or less, to a point for corner;

THENCE S 67° 38' E, 69 feet, more or less, to a point for corner;

THENCE S 36° 59' E, 244 feet, more or less, to a point for corner;

THENCE N 36° 31' E, 93 feet, more or less, to a point for corner;

THENCE N 53° 57' E, 482 feet, more or less, to a point for corner;

THENCE S 33° 14' E, 350 feet, more or less, to a point for corner;

THENCE S 53° 57' W, 2249 feet, more or less, crossing Seals Gully to a point for corner;

THENCE N 34° 17' W, 1322 feet, more or less, to a point in the centerline of Spring Cypress Road for corner and **POINT OF BEGINNING** and containing 47 acres or 0.074 square miles of land, more or less.

TRACT H15

Grant Road Estates Water System
Grant Road Estates Subdivision

BEGINNING at the intersection of the centerlines of Grant Road and Carraway and following the centerline of Grant Road in a southerly direction 350 feet, more or less, to a point in the southeast corner of **TRACT H15** for **POINT OF BEGINNING**;

THENCE S 86° 44' W, 2034 feet, more or less, to a point for corner;

THENCE N 3° 16' W, 562 feet, more or less, to a point for corner;

THENCE N 86° 44' E, 2044 feet, more or less, to a point in Grant Road for corner;

THENCE following Grant Road in a southerly direction 562 feet, more or less, crossing Carraway to a point for corner and **POINT OF BEGINNING** and containing 26 acres or 0.041 square miles of land, more or less.

TRACT H16

Cypress Pass Water System
Including Cypress Pass Subdivision

BEGINNING at the intersection of the centerlines of Jarvis Road and the east terminus of Cypress Pass Loop and following the centerline of Jarvis Road in an easterly direction 164 feet, more or less, to a point in the northeast corner of **TRACT H16** for **POINT OF BEGINNING**;

THENCE S 2° 29' E, 1710 feet, more or less, to a point for corner;

THENCE S 87° 31' W, 766 feet, more or less, to a point for corner;

THENCE N 2° 29' W, 1710 feet, more or less, to a point in the centerline of Jarvis Road for corner;

THENCE following the centerline of Jarvis Road in an easterly direction 766 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 30.1 acres or 0.047 square miles of land, more or less.

TRACT H17

Cypress Crossing Water System
Including Cypress Crossing Subdivision

BEGINNING at the intersection of the centerlines of Cypress Crossing Drive and Cypress - North Houston Road and following the centerline of Cypress - North Houston Road in a westerly direction 386 feet, more or less, to the southwest corner of **TRACT H17** for **POINT OF BEGINNING**;

THENCE N 3° 15' W, 1100 feet, more or less, to a point in Susquehannah for corner;

THENCE following Susquehannah in a northerly direction 590 feet, more or less, to a point for corner;

THENCE N 86° 45' E, 555 feet, more or less, to a point for corner;

THENCE S 3° 15' E, 1656 feet, more or less, to a point in the centerline of Cypress - North Houston Road for corner;

THENCE following the centerline of Cypress - North Houston Road in a westerly direction 750 feet, more or less, crossing Cypress Crossing Drive to a point for corner and **POINT OF BEGINNING** and containing 27 acres or 0.042 square miles.

TRACT H18

Brandywine Oaks Water System
Including Brandywine Oaks Subdivision

BEGINNING at the intersection of the centerlines of Cypress - North Houston Road and Cypress Trail and following the centerline of Cypress - North Houston Road in an easterly direction 386 feet, more or less, to a point in the northeast corner of **TRACT H18** for **POINT OF BEGINNING**;

THENCE S 3° 10' E, 1562 feet, more or less, to a point for corner;

THENCE S 86° 50' W, 609 feet, more or less, to a point for corner;

THENCE N 3° 10' W, 1562 feet, more or less, to a point in the centerline of Cypress - North Houston Road for corner;

THENCE following the centerline of Cypress - North Houston Road in an easterly direction 609 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 22 acres or 0.034 square miles of land, more or less.

TRACT H19

Unserved, Vacant Area
Certificated as Unidentified Areas 2 & 3 by TNRCC

BEGINNING at the intersection of the centerlines of Kuykendahl Road and Rayford and following the centerline of Kuykendahl Road in a southeastern direction 1654 feet, more or less, to a point in the west corner of **TRACT H19** for **POINT OF BEGINNING**;

THENCE N 46° 38' E, 4809 feet, more or less, crossing Metzler Creek, a tributary of Willow Creek, to a point for corner;

THENCE S 43° 22' E, 1228 feet, more or less, to a point for corner;

THENCE S 46° 30' W, 1528 feet, more or less, to a point for corner;

THENCE S 72° 01' W, 636 feet, more or less, across the meanders of Willow Creek to a point for corner;

THENCE S 75° 24' W, 381 feet, more or less, across the meanders of Willow Creek to a point for corner;

THENCE S 50° 56' W, 293 feet, more or less, to a point for corner;

THENCE S 47° 49' W, 2024 feet, more or less, across the meanders of Willow Creek to a point in the centerline of Kuykendahl Road for corner;

THENCE following the centerline of Kuykendahl Road in a northwest direction 714 feet, more or less, to a point for corner and **POINT OF BEGINNING** and containing 104 acres or 0.163 square miles, more or less.

TRACT H20

Unserved Area in Boudreaux Estates Subdivision
Certificated as Unidentified Area No. 1 by TNRCC

BEGINNING at the intersection of the centerlines of Lowell and Dijon and following Lowell in a northeasterly direction 695 feet, more or less, to a point in the west boundary of **TRACT H20**;

THENCE following the west boundary of **TRACT H20** in a northerly direction 1086 feet, more or less, crossing Willow Creek to the northwest corner for **TRACT H20** and **POINT OF BEGINNING**;

THENCE N 87° 32' E, 1942 feet, more or less, crossing Willow Creek, to a point for corner;

THENCE S 1° 12' E, 1757 feet, more or less, crossing La Fouche and St. Florent to a point for corner;

THENCE S 87° 14' W, 1958 feet, more or less, crossing Orleans, Bourgain, and Fountain Bleu to a point for corner;

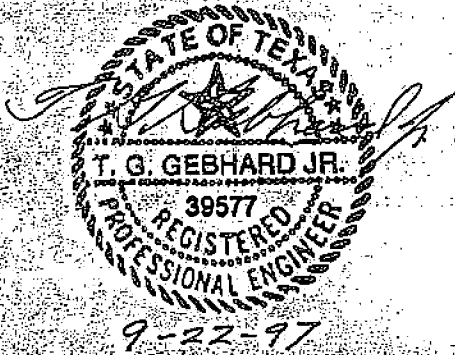
THENCE N 0° 42' W, 1768 feet, more or less, crossing Lowell and Willow Creek to a point for corner and **POINT OF BEGINNING** and containing 79 acres or 0.12 square miles of land, more or less.

Net area of the proposed H-M-W Special Utility District, inclusive of Tracts H-1 through H-20 and Tracts M-1 through M-18, being 11,036 acres or 17.244 square miles of land, more or less.

September 22, 1997

Proposed Boundary of H-M-W Special Utility District

I hereby certify that the foregoing boundary description was prepared by me using metes and bounds obtained, under my direct supervision, from electronic maps of the Texas Department of Transportation and was checked by me, and is true and correct to the best of my knowledge and belief.



GDS Associates, Inc.

T. G. Gebhard Jr.
Thomas G. Gebhard, Jr., P.E., Ph.D.
Registered Professional Engineer No. 39577
September 22, 1997

DOCKET NO. 51973

Petition of Rodney Earl Mohnke, et al to * Before the Public Utility Commission
Amend HMW Special Utility District's Water * of Texas
Certificate of Convenience and Necessity in *
Harris County by Expedited Release *

Affidavit of Rachel Broom, P.E.

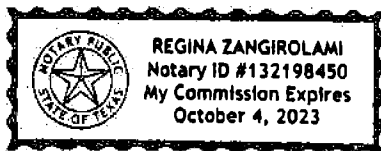
Rachel Broom, being duly sworn and on oath, deposes and says:

1. I, Rachel Broom, P.E., have been the District Engineer for five years for HMW Special Utility District and am capable of documenting its ongoing design and construction efforts as well as the capacities of its systems. Attached is my resume of projects as proof of competence in this area of expertise.
2. Construction of a water line to serve the reference property would be approximately 0.75 miles completely within public right-of-way from an existing active waterline. The design and construction of this waterline would be expeditiously accomplished and would provide service to the property.

Rachel Broom

Rachel Broom, P.E.
Cobb, Fendley & Associates
13430 Northwest Fwy, Suite 1100
Houston, Texas 77040

The foregoing affidavit was sworn to before me by Rachel Broom, P.E., on August 4, 2021.



Regina Zangirolami
Notary Public in and for Texas



RACHEL BROOM, PE

- **TPDES Discharge Permit Renewals, Various Owners.** Ms. Broom has applied for and received approval of over 10 TPDES discharge permit applications, renewals and amendments for wastewater treatment plants rated between 0.09 MGD and 2.5 MGD in the Houston area. Clients include Inspire Communities, Southern Montgomery County MUD, Grant Road PUD, Harris County MUD 50, City of Seabrook, City of Quintana, Fort Bend County MUD 162, and Montgomery County MUD 19.
- **TCEQ Bond Applications, Various Owners.** Ms. Broom has applied for and received approval of 5 bond applications for various developer and non-developer bonds ranging between \$1.9 Million and \$3.33 Million. Clients include Harris County MUD 46, Southern Montgomery County MUD, Harris County MUD 50, Spring Creek Forest PUD and Chambers County MUD 1. These projects included a report and drawings specific to the projects included in the bond.
- **District Engineer, HMW Special Utility District.** Ms. Broom serves as District Engineer for HMW which has 35 service areas and 43 water plant sites. Ms. Broom assists the District with several types of projects including design of water plant expansions as well as waterline relocations. These projects included agency review, design drawings, site drawings, specifications, and bid phase services. Ms. Broom also attends monthly board meetings for the District and completes budgets and analysis reports for the District concerning topics such as fire hydrants, land availability, future capacity and waterline sizes. June 2014 – Present.
- **T&W Water Service Company.** Ms. Broom assists the District with several projects including designing water plant expansions and complete water plants. These projects included submission to TCEQ, construction drawings, and specifications. June 2014 – present.
- **FM 249 Forcemain Improvements, Quadvest, L.P.** Ms. Broom served as Project Engineer designing approximately 800 feet of forcemain to connect two wastewater collection systems along FM 249. This project included design drawings, site drawings and specifications. January 2015 – November 2018.
- **Water Plant Services, Quadvest, L.P.** Ms. Broom served as Project Engineer assisting the client with several projects including designing water plant expansions and complete water plants. These projects included submission to TCEQ, construction drawings, and specifications. January 2015 – November 2017.
- **Seabrook Wastewater System Infrastructure Retrofit, City of Seabrook, Texas.** Ms. Broom served as Facility Design Lead and Project Manager. Ms. Broom designed the Pine Gully Wastewater Treatment Plant (PGWWTP), a 2.5 MGD wastewater treatment plant, as part of the overall project which also includes several lift stations and approximately 30,000 linear feet of proposed forcemain. As part of this project, Ms. Broom also prepared the Hazard Mitigation Grant Program (HMGP) Application for a total of over \$35 million.

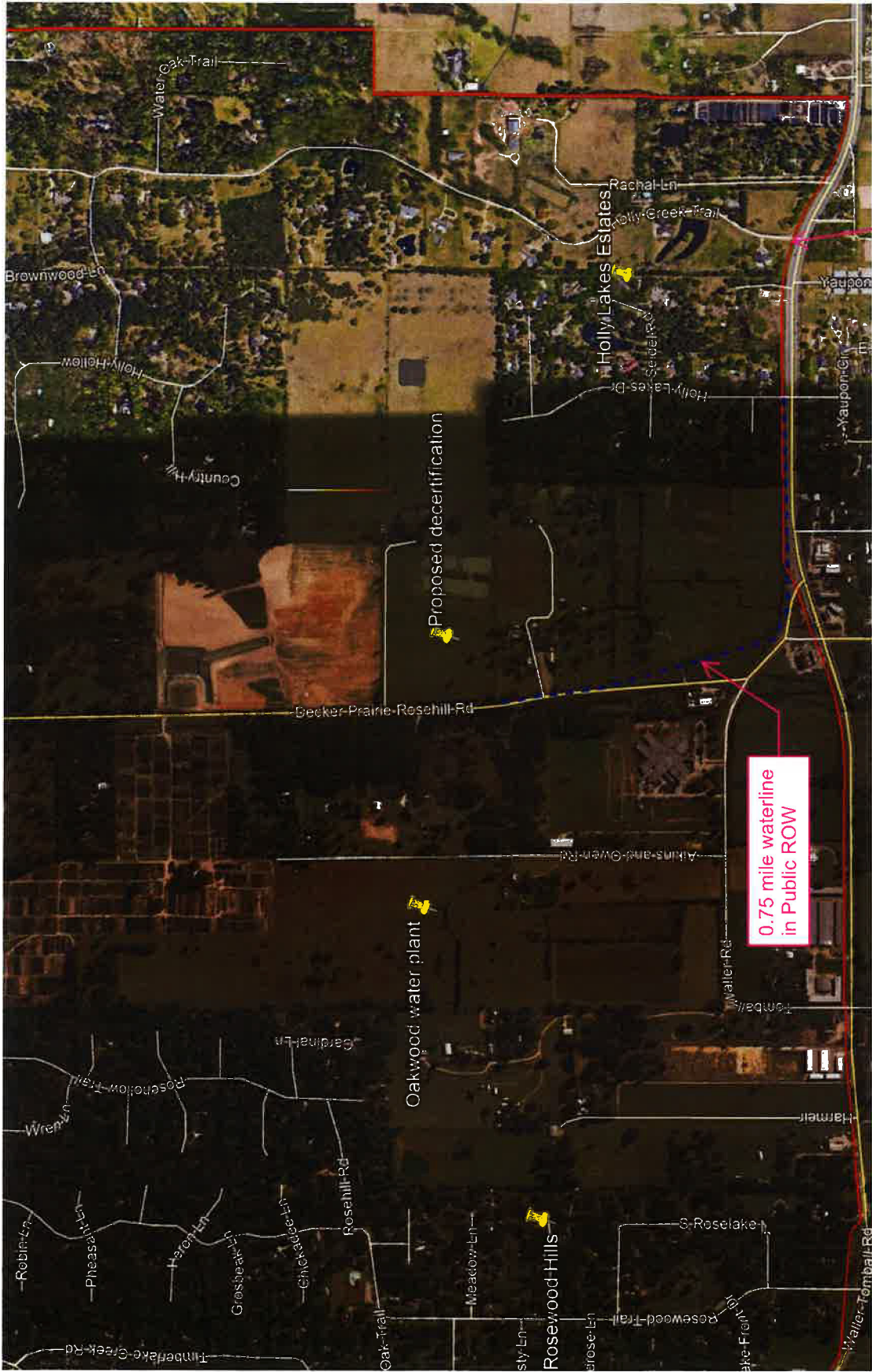
PGWWTP, which sits on 4.8 acres of City property, is made up of 10 concrete treatment units, several equipment buildings, and an office/storage building. This project included significant structural design for the foundations and walls of the treatment units as well as the buildings on site. Due to the location and height of the buildings required, Windstorm calculations were also performed to ensure the components can withstand the wind forces in the area.

This project includes process calculations, equipment selection, site plans and drawings, a report, overall mapping of the City sanitary sewer system, a phasing plan, and coordination with FEMA. April 2019 – Present
- **Preliminary Design Pine Gully Wastewater Treatment Plant, City of Seabrook, Texas.** Ms. Broom served as Project Engineer for the design of the 2.5 MGD Pine Gully Wastewater Treatment Plant. The project included full design of Phase 1A (0.25 MGD) of the plant as well as preliminary design of three additional phases to eventually replace and decommission the existing Main Street WWTP. Pine Gully WWTP Phases 1A and 1B will have steel package plant components including aeration basins, digesters, clarifiers, and a chlorine contact basin. In order to divert flow for Phase 1, Lift Station No. 20 will be modified and over a mile of 12-inch forcemain installed to the new WWTP site. Phases 2 and 3 will be constructed of concrete and include aeration basins, digesters, clarifiers, chlorine contact basins, de-chlorination, and a belt press. Three additional lift stations will be modified or built, including new forcemains, to redirect flow from different areas of the City to the new PGWWTP. This project includes a TPDES permit, HMGP grant application and management, survey, design, engineering reports, bidding and construction phase services. January 2017 – April 2019.

- **Wastewater Treatment Plant No. 2 Phase 1 and Phase 2, Harris County MUD No. 50.** Ms. Broom serves as Project Manager for the final design of a 0.18 MGD Wastewater Treatment Plant No. 2. The District secured funding by a Clean Water State Revolving Fund loan through Texas Water Development Board. WWTP No. 2 will be constructed to alleviate the loading at WWTP No. 1, and to serve new development in the District. Phase 1 is designed for 0.09 MGD, and Phase 2 will double capacity to 0.18 MGD. The project includes two lift stations, a 0.5-mile long forcemain, 10-inch gravity sewer line, steel wastewater treatment units, a TXDOT driveway permit, electrical design, and an environmental investigation document. February 2017 – Present.
- **Fort Bend County MUD 162 Alternative Capacity Request.** Ms. Broom served as Project Engineer for this project. She compiled all necessary information for the application to the TCEQ for alternative capacity requirements at the water plant serving approximately 1,000 connections. This project included a report and correspondence with the TCEQ. August 2016 – December 2016.
- **Fort Bend County MUD 162 Wastewater Treatment Plant Expansion.** Ms. Broom served as Project Engineer for this design. She assisted in the site layout design, capacity calculations and construction administration. This project included an engineering report, design drawings, site drawings, specifications, bid phase and construction phase services. June 2016 – January 2020.
- **Grant Road PUD Wastewater Treatment Plant Expansion.** Ms. Broom served as Project Engineer. Ms. Broom designed the new treatment facility around the existing treatment units including phasing and site improvements. The proposed facility doubled the size of the existing treatment capabilities and is a more efficient design and use of space. This project included design drawings, site drawings, specifications, bid phase services, and construction administration. July 2013 – January 2019.
- **Wastewater Treatment Plant Upgrades, Montgomery County MUD 19.** Ms. Broom serves as Project Manager for Wastewater Treatment Plant Upgrades at a 0.79 MGD activated sludge facility. The upgrades consist of replacement of the mechanical bar screen, abandonment and replacement of the on-site lift station, and associated piping and electrical modifications. The lift station wet well was undersized for the flow, so a 14' diameter wet well was designed to handle 4Q peak flow. The pumping system is a triplex configuration sized for 2.8 MGD peak daily flow. January 2018 – Present.
- **Wastewater Treatment Plant Upgrades Phase 2, City of Seabrook, Texas.** Ms. Broom served as Project Engineer by designing the proposed modifications to the existing wastewater treatment plant which would expand the existing lift station as well as replace the clarifier mechanism and redesign the existing clarifier to bring it to current standards. This project included design drawings and specifications as well as an engineering report, bidding and construction management. March 2017 – April 2019.
- **Aeration Walkway Air Header Replacement, Southern Montgomery County Municipal Utility District.** Ms. Broom serves as Project Manager by designing the proposed modifications to the existing wastewater treatment plant which replaced the walkway and air piping for the existing aeration basin as well as walkway improvements for the reclaimed water basin located at the wastewater treatment plant. This project included design drawings and specifications as well as bidding and construction phase services. July 2019 – Present.
- **WWTP Alkalinity Improvements, Southern Montgomery County MUD.** Ms. Broom served as Project Engineer. Ms. Broom designed the improvements to treat surface water with lower alkalinity than well water. This included determining flow rates of chemicals and treatment options for the facility. This project included design drawings, site drawings, specifications, and bid phase services. January 2015 – November 2017
- **Lift Station and Force Main Improvements, Cathedral Lakes Development.** Ms. Broom served as Project Engineer in charge of designing the 1.7 MGD lift station as well as the required forcemain improvements for the additional capacity in the system. This lift station will serve a large commercial development. This project also included providing reclaimed water to the development. This project included design drawings, site drawings, specifications, and bid phase services. July 2014 – April 2015.
- **CWSRF18 Projects – Wastewater System Improvements, HCMUD 50.** Ms. Broom served as Project Manager by designing and permitting the wastewater system improvements throughout the District. The wastewater collection system, approximately 80,000 linear feet was cleaned and evaluated by a CCTV inspection. CobbFendley prepared a comprehensive sanitary sewer evaluation based on the NASSCO rating system. Final design includes repairs to the defects rated 4 and 5. Methods for repair include point repairs, manhole replacement, manhole repairs, cured

in place pipe, and pipe bursting. The project is funded by TWDB Clean Water State Revolving Fund. This project included design drawings and specifications, bid phase and construction phase services. February 2017 – Present.

- **Goose Creek Lift Station and Pump Station, Castlerock Communities.** Ms. Broom served as Project Engineer. Ms. Broom designed the pump station, lift station and the forcemain for the proposed development. This lift station and pump station will serve a large residential development. This project included 60% and 100% design drawings, site drawings, specifications, and bid phase services. August 2015 – October 2018.
- **Sewer System Repairs, Southern Montgomery County MUD.** Ms. Broom served as Project Engineer. Ms. Broom determined from CCTV which sewer lines in the District's collection system needed repair and then designed those repairs. This project included site drawings, specifications, and bid phase services. July 2014 – August 2015.
- **Washington Lift Station and Forcemain Improvements, City of Waller, Texas.** Ms. Broom served as Project Engineer. Ms. Broom designed the lift station improvements which included pump replacement and sizing. This project included TCEQ submission, drawings, specification and bid phase services. February 2018 – Present.
- **DWSRF16 Projects – Water Plant Projects, HCMUD 50.** Ms. Broom served as Project Engineer by designing and submitting necessary information for the upgrades to two water plants at Harris County MUD 50 for a Texas Water Development Board (Drinking Water State Revolving Fund) funded Water Plant Improvements project. Water Plant No. 1 will receive four 550 gpm booster pumps, new motor control center, disinfection room, and yard piping modifications. Water Plant No. 2 upgrades include an 83,000-gallon galvanized ground storage tank, three 300 gpm booster pumps, a 15,000-gallon hydropneumatic tank, new motor control center, disinfection system, and yard piping modifications. Other upgrades include painting, fence replacement, and rehabilitated driveways. Water Plant No. 3 will be expanded in the future so the loan proceeds will be used to acquire land for future use. August 2017 – Present.
- **Grand Parkway Segments H&I Utility Relocation.** Ms. Broom served as Project Manager. This project included design of water and sanitary sewer distribution system relocations for seven different entities along the pathway of the Grand Parkway between New Caney, Texas and Baytown, Texas as well as a replacement water plant in New Caney, Texas. Ms. Broom managed the design and submittals of this project including several engineering reports and separate drawing and specification packages for each owner. September 2017 – Present.
- **Town of Quintana Water Plant Improvements.** Ms. Broom served as Project Engineer by designing the two-phase water quality system for the Town of Quintana's main water treatment facility. This project included a preliminary engineering report as well as plans and specifications for each phase of the project. January 2018 – Present.
- **Water Plant Relocation, City of Seabrook, Texas.** Ms. Broom served as Project Engineer by designing the proposed water plant modifications to two water plants in the City of Seabrook water distribution system. These modifications included sizing a ground storage tank, booster pumps, and water lines for the two sites. An exception request for TCEQ was also completed by Ms. Broom for blending of chlorinated and chloraminated water. The project included TCEQ submission, drawings, specifications, bid phase services, and construction phase services. December 2015 – August 2018.
- **Chloramine Conversion Project, City of Seabrook, Texas.** Ms. Broom served as Project Manager for this project. Ms. Broom performed the calculations and submitted the necessary information to TCEQ for the conversion of the three City water plants from chlorine treatment to chloramine treatment. This project included design drawings and specifications, bid phase and construction phase services. February 2019 – Present.



HMW CCN
Boundary

0.75 mile waterline
in Public ROW

Proposed decertification

Oakwood water plant