

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



THE STATE OF TEXAS
 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

La Donna Castañuela JUL 11 2000

La Donna Castañuela, Chief Clerk
 Texas Natural Resource
 Conservation Commission

IN THE MATTER OF THE APPLICATION § BEFORE THE EXECUTIVE
 FOR THE UPPER NECHES RIVER § DIRECTOR OF THE TEXAS
 MUNICIPAL WATER AUTHORITY FOR A § NATURAL RESOURCE
 TEXAS HEALTH AND SAFETY CODE § CONSERVATION COMMISSION
 §366.031 ORDER

On JUN 09 2000 the Executive Director of the Texas Natural Resource
 Conservation Commission ("Commission" or "TNRCC"), considered the application of the
 Upper Neches River Municipal Water Authority, ("Applicant" or "UNRMWA"), for an Order
pursuant to §366.031, Texas Health and Safety Code ("Code"), and 30 Texas Administrative
Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive
 Director, on behalf of the Commission, is satisfied that the Applicant has satisfied the
 requirements of §366.031 of the Code and, therefore, the Commission finds that the
 UNRMWA Order should be approved.

FINDINGS OF FACT

1. The Upper Neches River Municipal Water Authority drafted a proposed order to regulate on-site sewage facilities.
2. On April 27, 2000, the Upper Neches River Municipal Water Authority caused notice to be published, in a newspaper regularly published and of general circulation, in UNRMWA's area of jurisdiction, of a public meeting to be held on Thursday, May 4, 2000.
3. The Upper Neches River Municipal Water Authority held a public meeting to discuss the proposed order on May 4, 2000.
4. Upper Neches River Municipal Water Authority Order regulating on-site sewage facilities was adopted on May 17, 2000.
5. A certified copy of the minutes was submitted to the Texas Natural Resource Conservation Commission.
6. A certified copy of Upper Neches River Municipal Water Authority Order was submitted to the Texas Natural Resource Conservation Commission.

7. The order is at least equivalent to the standards of the Texas Natural Resource Conservation Commission.

CONCLUSIONS OF LAW

1. The above facts are conditions sufficient to issue this order pursuant to §366.031 of the Code.
2. Section 5.102 of the Texas Water Code authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of Chapter 366 of the Health and Safety Code.
3. Issuance of this order will effectuate the purposes of Chapter 366 of the Code.

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

1. The Upper Neches River Municipal Water Authority is hereby authorized to implement Upper Neches River Municipal Water Authority Order which regulates on-site sewage facilities.
2. Any amendments to Upper Neches River Municipal Water Authority Order must be approved by the Texas Natural Resource Conservation Commission.
3. The Chief Clerk of the Commission is directed to forward a copy of this Order to the Applicant and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: JUN 09 2000

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION


For The Commission

Consider for Adoption Resolution Amending Rules of the Upper Neches River Municipal Water Authority for On-Site Sewage Facilities in the Water Quality Zone of Lake Palestine on the Neches River in Henderson, Smith, Cherokee and Anderson County, Texas.

The General Manager recommended the Board of Directors adopt by resolution a revised water quality order of the Upper Neches River Municipal Water Authority for on-site sewage facilities in the water quality zone of Lake Palestine in Anderson, Cherokee, Henderson and Smith Counties. The following resolution was presented for adoption.

AN ORDER ADOPTING RULES OF THE
UPPER NECHES RIVER MUNICIPAL WATER AUTHORITY
FOR ON-SITE SEWAGE FACILITIES IN THE WATER QUALITY
ZONE OF LAKE PALESTINE ON THE NECHES RIVER IN
HENDERSON, SMITH, CHEROKEE AND ANDERSON COUNTY, TEXAS

PREAMBLE

WHEREAS, the Texas Natural Resource Conservation Commission has established design criteria for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation codified as Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage disposal facilities in its jurisdiction in order to abate or prevent pollution, or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a meeting, and public hearing to determine whether the Board of Directors of the Upper Neches River Municipal Water Authority should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the Water Quality Zone of Lake Palestine on the Neches River in Smith, Henderson, Anderson and Cherokee Counties, Texas; and

WHEREAS, said meeting and public hearing were held in accordance with the notice thereof, and the evidence and arguments there presented were considered by the Board of Directors of the Upper Neches River Municipal Water Authority; and

WHEREAS, the Board of Directors of the Upper Neches River Municipal Water Authority finds that the use of on-site sewage facilities in the Water Quality Zone of Lake Palestine, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Board of Directors of the Upper Neches River Municipal Water Authority has considered the matter and deems it appropriate to enact an order adopting Rules regulating on-site sewage facilities to abate or prevent pollution or injury to public health in the Water Quality Zone of Lake Palestine on the Neches River in Smith, Henderson, Anderson and Cherokee County, Texas.

NOW THEREFORE, be it ordered by the Board of Directors of the Upper Neches River Municipal Water Authority:

Section 1: That the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

Section 2: That the use of on-site sewage facilities in the Water Quality zone of Lake Palestine on the Neches River is causing or may cause pollution or is injuring or may injure the public health;

Section 3: That an order for the Water Quality Zone of Lake Palestine on the Neches River in Henderson, Smith, Anderson and Cherokee County, Texas be adopted entitled "On-Site Sewage Disposal" which shall read as follows:

AN ORDER ENTITLED ON-SITE SEWAGE DISPOSAL

Section 4: CONFLICTS

All orders or parts of Orders of the Upper Neches River Municipal Water Authority not consistent with or in conflict with the provisions of this order are hereby repealed.

Section 5: ADOPTING CHAPTER 366, TEXAS HEALTH AND SAFETY CODE

The Upper Neches River Municipal Water Authority clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

Section 6: AREA OF JURISDICTION

- a. The rules shall apply to Lake Palestine, Texas on the Neches River in Henderson, Smith, Anderson and Cherokee County, Texas. The Water Quality Zone (area of jurisdiction) is the area in the lake drainage basin (including the lake basin), which lies within 525 linear feet of the 355.0' msl take line (Authority Property Line) measured horizontally away from the lake, except for the area regulated under an existing rule and the areas within incorporated cities.
- b. These rules shall apply only to those incorporated cities or towns that have executed intergovernmental contracts with the Upper Neches River Municipal Water Authority and then only to the extent that the incorporated city or town lies within the Water Quality Zone of Lake Palestine.

Section 7: ON-SITE SEWAGE FACILITY RULES

Any structure discharging sewage into an on-site sewage facility with the jurisdictional area of the Upper Neches River Municipal Water Authority's Lake Palestine must comply with the rules adopted in Section 8 of this order.

Section 8: ON-SITE SEWAGE FACILITY RULES ADOPTED

The Rules "Design Criteria for On-Site Sewage Facilities" and Administrative Rules 30 TAC 285.1-285.91, attached hereto, promulgated by the Texas Natural Resource Conservation Commission for on-site sewage systems are hereby adopted, and all employees and officials of

the Upper Neches River Municipal Water Authority having duties under said rules are authorized to perform such duties as are required of them under said rules.

Section 9: INCORPORATION BY REFERENCE

The design criteria and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these rules. A copy of the current design criteria is attached to these rules as Appendix I.

Section 10: AMENDMENTS

The Upper Neches River Municipal Water Authority, Lake Palestine, Texas wishing to adopt more stringent rules for its On-Site Sewage Facility Order understands that the more stringent conflicting local rule shall take precedence over the corresponding Texas Natural Resource Conservation Commission requirement. Listed below are the more stringent rules adopted by the Upper Neches River Municipal Water Authority.

- a. Laundry greywater as defined in 30 TAC 285.2 shall be treated as sewage in the Water Quality Zone of Lake Palestine and shall be routed to the approved on-site sewage facility.

Section 11: DUTIES AND POWERS

The Upper Neches River Municipal Water Authority is herewith declared the designated representative for the enforcement of these rules within its jurisdictional area. The appointed individual(s) must be approved and certified by the Texas Natural Resource Conservation Commission before assuming the duties and responsibilities of the designated representative of the Upper Neches River Municipal Water Authority.

Section 12: COLLECTION OF FEES

All fees collected for permits shall be made payable to the Upper Neches River Municipal Water Authority.

Section 13: APPEALS

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the general manager of the Upper Neches River Municipal Water Authority.

Section 14: PENALTIES

This order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities which includes but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 07 and 26 of the Texas Water Code and 30 TAC Chapter 285.

Section 15: SEVERABILITY

It is hereby declared to be the intention of the Upper Neches River Municipal Water Authority that the phrases, clauses, sentences, paragraphs, and sections of this order are severable, and if any phrase, clause, sentence, paragraph, or section of this order should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences,

paragraphs, or sections of this order, since the same would have been enacted by the Board of Directors without incorporation in this order of such unconstitutional phrase, clause, sentence, paragraph or section.

Section 16: EFFECTIVE DATE

This order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Natural Resource Conservation Commission.

AND IT IS SO ORDERED.

PASSED AND APPROVED THIS 17th Day of May 2000.

APPROVED:

S/S Joe Crutcher
President, Board of Director

ATTEST:

S/S T.G. Mallory
Assistant Secretary, Board of Director

SEAL

The foregoing resolution having been read in full, it was moved by Jesse D. Hickman and seconded by Joe Crutcher that the same be passed and adopted. Thereupon, the question being called for all directors voted "aye" and none voted "nay".

The President declared the resolution finally passed and adopted.

CERTIFICATE OF SECRETARY

THE STATE OF TEXAS}


COUNTY OF ANDERSON}

I, The undersigned assistant secretary of the Board of Directors of the UPPER NECHES RIVER MUNICIPAL WATER AUTHORITY, does hereby certify that the attached and foregoing is a true and correct copy of resolution adopted at Upper Neches River Municipal Water Authority Board of Directors meeting held the 17th day of May 2000 A.D., as appears of record in the Minutes of said Authority.

The foregoing resolution having been read in full, it was moved by Jesse D. Hickman and seconded by Joe Crutcher that the same be passed and adopted. Thereupon, the question being called for all directors voted "aye" and none voted "nay".

The President declared the resolution finally passed and adopted.

CERTIFIED, this 1st day of June 2000.



Assistant Secretary, Board of Directors,
Upper Neches River Municipal Water Authority

(S E A L)