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# The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130  
Austin, Texas 78746

Phone: (512) 614-0901  
Facsimile: (512) 900-2855

Michael Parsons  
[michael@carltonlawaustin.com](mailto:michael@carltonlawaustin.com)

January 17, 2024

VIA EMAIL: [Opinion.committee@oag.texas.gov](mailto:Opinion.committee@oag.texas.gov)

Ken Paxton  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

Re: RQ-0524-KP: Request for an attorney general opinion regarding the legality of certain actions of the Ector County Utility District Board of Directors

Dear Attorney General Paxton:

Ector County Utility District (ECUD or the District) submits this briefing in response to questions posed by Tristan Marques, County Auditor of Ector County, Texas. ECUD is a municipal utility district operating pursuant to Chapters 49 and 54 of the Texas Water Code. Your office sent ECUD a copy of the request because ECUD has a special interest in the subject matter and the outcome of this requested opinion. Mr. Marquez's request is numbered RQ-0524-KP.

ECUD's briefing will address each of the questions as posed to the Attorney General.

- 1) c.i. Does this action [of the Board of directors of ECUD] violates [sic] the Texas open Meetings Act according to Texas Government Code §551.002 whereas the meeting of this governmental body was not open to the public and public testimony was disallowed?*

Questions regarding the District's November 8, 2023 Board of Directors' meeting are issues of fact, not law. An Attorney General opinion is not the appropriate venue to determine disputed factual issues.<sup>1</sup> This meeting was not a closed meeting, and no one was

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<sup>1</sup> Tex. Att'y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

prohibited from giving testimony. Rather, it was an open meeting with an agenda posted at least 72 hours prior to the meeting. The meeting was held at 2:30 pm on November 8, 2023, and the agenda was posted at 2:01pm on November 3, 2023 at the Ector County Utility District office and the Ector County Courthouse, after it was provided to the County Clerk, as can be seen by the November 8, 2023 meeting agenda attached as **Exhibit A**. The meeting was held in the District's conference room at the Districts office located at 1039 N. Moss Avenue, Odessa, Ector County, Texas 79763.

An open meeting is one that the public is permitted to attend.<sup>2</sup> The public was permitted to attend this meeting. Members of the public were in attendance. More members of the public showed up to attend the meeting than were allowed to be in the meeting room due to fire code occupancy restrictions. The District did not prevent any member of the public from attending or testifying during the November 8, 2023 meeting. The District allowed as many members of the public inside of the meeting room as fire code occupancy limits allowed. Section 551.002 of the Texas Government Code can not be viewed as an exception to public safety. Public safety must take precedence in such a situation. A meeting is not closed when members of the public are permitted to attend.<sup>3</sup> Determination of "whether a meeting location is accessible to the public for purposes of the Open Meetings Act is ultimately a question of fact."<sup>4</sup>

To ensure everyone is accommodated in the future, the District is developing a plan to accommodate overflow if more people show up to attend a meeting than occupancy will allow. This accommodation may be accomplished with two-way audio and video set up in a dedicated space for overflow. In the alternative, the District could postpone, re-notice, and continue meetings at a location that can accommodate more people.

*1) c.ii. Does this [action of the Board of Directors] constitute a criminal offense pursuant to Texas Government code §551.144?*

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<sup>2</sup> Tex. Att'y Gen. Op. No. M-220 (1968) at 5, and Texas Government Code § 551.001(5) (defining "open")

<sup>3</sup> *Id.*

<sup>4</sup> Tex. Att'y Gen. Op. No. JC-0053 (1999) at 6

Again, this question is a fact issue, not a legal question.<sup>5</sup> This question requires resolution of disputed facts. As discussed above, the meeting was not a “closed meeting” because the public had access.<sup>6</sup> As a result, the meeting was not a criminal offense under Texas Government Code § 551.144. Even if the meeting was considered a closed meeting, determining whether there was a violation of Texas Government Code § 551.144(a) would require an inquiry into the individual states of mind of the directors on the Board.<sup>7</sup>

1) *c.iii. What action should be taken and under whose jurisdiction does this fall under [sic]?*

Whether any action should be taken necessitates resolution of disputed facts.<sup>8</sup> As to the law regarding jurisdiction for remedies and penalties for violations of the Open Meetings Act, the Open Meetings Act Handbook of 2024 published by your office answers that question clearly when it states the following:

The Act provides civil remedies and criminal penalties for violations of its provisions. District courts have original jurisdiction over criminal violations of the Act as misdemeanors involving official misconduct. As a general matter, the Act does not authorize the attorney general to enforce its provisions.<sup>9</sup>

As noted above, the meeting was an open meeting,<sup>10</sup> and the District permitted members of the public to attend and testify. There was no violation of Texas Government Code § 551.002 or § 551.144. If there was such a violation, the proper venue would be District Court in Ector County.

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<sup>5</sup> Tex. Att’y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

<sup>6</sup> Tex. Att’y Gen. Op. No. M-220 (1968) at 5 and Texas Government Code § 551.001(5) (defining “open”)

<sup>7</sup> Tex. Att’y Gen. Op. No. GA-0896 (2011) at 3

<sup>8</sup> Tex. Att’y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

<sup>9</sup> *Open Meetings Act Handbook 2024*, The Office of the Attorney General of Texas, (2024) at 68.

<sup>10</sup> Tex. Att’y Gen. Op. No. M-220 (1968) at 5 and Texas Government Code § 551.001(5) (defining “open”)

- 2) *a.iii.1. Did the preexistence of Mr. Ervin's felony convictions result in an automatic vacancy, or to put another way, the perpetuation of the vacancy of the position he assumed on the Board of directors?*

The questions regarding Mr. Ervin's felony conviction, Governor Clements's 1989 grant of clemency to Mr. Ervin for the felony conviction, the Attorney General's and Texas Ranger's prior dismissal of this very issue surrounding Mr. Ervin's pardoned conviction, and his eligibility to serve on the District's Board of Directors are all fact issues.<sup>11</sup>

RQ-0524-KP contends that Mr. Ervin was convicted in the 1970s and that Mr. Ervin improperly held the office for the 16 years prior to Mr. Ervin's resignation from the Board in November 2023. But, Mr. Ervin's ineligibility to hold office under Texas Election Code §141.001(a)(4) is a factually disputed issue, not an issue ripe for a legal opinion from the Attorney General.<sup>12</sup>

Governor Clements granted Mr. Ervin clemency in 1989, as can be seen by the attached Department of Public Safety Criminal Conviction database, attached as **Exhibit B**. When District Attorney Dusty Gallivan of Ector County requested Department of Public Safety to investigate Mr. Ervin's conviction and eligibility to serve in public office, Major Wayne Mathews of the Texas Rangers responded that the "allegations did not rise to the level of Texas Ranger Involvement." He further stated that he referred the question to your office and "upon the OAG's assessment, they declined to investigate this matter." This response letter is attached as **Exhibit C**.

Mr. Ervin has been pardoned and released from the resulting disabilities of a felony conviction and is therefore eligible to hold office under Texas Election Code §141.001(a)(4). As can be seen by the attached voter registration information from the Texas Secretary of State website, attached as **Exhibit D**, Mr. Ervin is registered to vote in Ector County, his status is active, and the registration has been effective since January 20,

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<sup>11</sup> Tex. Att'y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

<sup>12</sup> *Id.*

1994. This fact existed long before Mr. Ervin held any sort of public office for the District. Additionally, a copy of Mr. Ervin's voter registration and Ector County voting history are attached as **Exhibit E**. He has been released from the resulting disabilities of a 1976 felony conviction.

RQ-0524-KP asserts that Texas Local Government Code § 87.031 is a basis for removal of Mr. Ervin from the District's board of directors; however, Chapter 87 of the Texas Local Government Code only applies to acts committed while in office.<sup>13</sup> The preexistence of a felony conviction would by definition not be grounds for removal under Texas Local Government Code § 87.031.<sup>14</sup> Mr. Ervin's felony conviction, which he was pardoned for, was from 1976. This is well before he ever held any position on the District's board. Mr. Ervin never served on the board of the District while ineligible; therefore, no automatic vacancy existed. Again, this a factual question, not an issue for a legal opinion from your office.<sup>15</sup>

2) *b.iii.1. Does improper filing of candidate forms, without the elements required by Texas Election Code §141.001(a), §141.031, and §144.,[sic] result in an illegitimate claim to office for positions B, D, and E?*

Again, any determination about whether candidates completed improper candidate forms is a question of fact.<sup>16</sup> RQ-0524-KP makes statements about the election applications without proof. A trier of fact would need to determine whether the candidate forms were improper. Even if so, an Attorney General opinion is not the proper forum for making this factual determination.<sup>17</sup>

Texas law states "An application for a place on the ballot may not be challenged for compliance with the applicable requirements as to form, content, and procedure *after*

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<sup>13</sup> Texas Local Government Code § 87.001

<sup>14</sup> *Id.*

<sup>15</sup> Tex. Att'y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

<sup>16</sup> Tex. Att'y Gen. Op. No. GA-0643 (2008) at 9

<sup>17</sup> Tex. Att'y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

*the 50th day before the date of the election for which the application is made.*<sup>18</sup> The challenges addressed by this question are form, content, and procedure. Therefore, the deadline to challenge the form, content, or procedure of an application was the 50<sup>th</sup> day before the election, which deadline occurred long ago. No challenge to the applications were made prior to said deadline. As a result, any improper completion of a form does not result in an illegitimate claim to the office for Director positions B, D, and E.

2) *c.iii.1. Due to the vacancies of positions B, D, and E lasting over 60 days, does this disqualify the Board of directors from appointing to fill the vacancies?*

Whether Director positions B, D, and E were vacant and whether the vacancies lasted more than 60 days are again issues of fact, not law.<sup>19</sup> The requester's simple statement that positions were vacant is not enough to conclude whether the positions were vacant or how to proceed if the positions were vacant. This question is another issue of disputed fact that necessitates a different venue to resolve.<sup>20</sup>

If there were a vacancy, Texas Water Code § 49.105 states:

“(a) Except as otherwise provided in this code, a vacancy on the board and in other offices shall be filled for the unexpired term by appointment of the board not later than the 60th day after the date the vacancy occurs.

(b) If the board has not filled a vacancy by appointment before the 61st day after the date the vacancy occurs, a petition, signed by more than 10 percent of the registered voters of the district, requesting the board to fill the vacancy by appointment may be presented to the board.

(c) If the number of directors is reduced to fewer than a majority or if a vacancy continues beyond the 90th day after the date the vacancy occurs, the vacancy or vacancies may be filled by appointment by the commission if the district is required by Section 49.181 to obtain commission approval of its bonds or by the county commissioners court if the district was created by the county commissioners court,

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<sup>18</sup> Tex. Elec. Code §141.034 (emphasis added).

<sup>19</sup> Tex. Att'y Gen. Op. No. GA-0643 (2008) at 9

<sup>20</sup> Tex. Att'y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

regardless of whether a petition has been presented to the board under Subsection (b). An appointed director shall serve for the unexpired term of the director he or she is replacing.

(d) In the event of a failure to elect one or more members of the board of a district resulting from the absence of, or failure to vote by, the qualified voters in an election held by the district, the current members of the board or temporary board holding the positions not filled at such election shall be deemed to have been elected and shall serve an additional term of office, or, in the case of a temporary board member deemed elected under this subsection, the initial term of office.”<sup>21</sup>

Subsection (b) allows for a petition by more than ten percent of the registered voters of the district requesting the vacancy be filled to be presented to the board if the vacancy has not been filled by appointment of the board by the 61<sup>st</sup> day after the vacancy occurs. Subsection (c) allows the Texas Commission on Environmental Quality (TCEQ) to fill the vacancy by appointment if the vacancy continues beyond 90 days, as Texas Water Code Section 49.181 requires the TCEQ to approval of its bonds. Subsections (b) and (c) are permissive and not mandatory. The mandatory aspect of Subsection (a) means that the District’s Board of Directors has the exclusive opportunity to fill the vacancy for the first 60 days, then the registered voters are permitted to take action, and then the TCEQ is permitted to take action after 90 days. Subsection (a) allows the board the exclusive opportunity to fill the vacancy within the first 60 days. Whether there were any vacancies and how long those vacancies lasted are factual questions.

2) *c.iii.2. Since the vacancies continued beyond the 90<sup>th</sup> day after the vacancy occurs, does the Ector County Commissioners Court have the sole authority to appoint a director to fill the vacancy?*

Again, the question of whether any vacancy occurred beyond 60 days, let alone 90 days, is a fact question. Whether the District is required by Water Code Section 49.181 to

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<sup>21</sup> Texas Water Code § 49.105

obtain TCEQ approval for bonds is also a fact question. Finally, whether a subsequent appointment or election has occurred negating any issue is also a fact question.

While Section 49.105 (c) may allow a commissioners court of a county that created a district to appoint a director if the vacancy continues beyond the 90th day after the vacancy occurs under certain circumstances, the commissioners court's ability to fill a vacancy is permissive, not mandatory, and not exclusive. The legislature did not place exclusive authority on a commissioners court to fill vacancies on a board of directors under Section 49.105(c). The legislature's intent can be seen by the replacement of the word "shall" in Section 49.105(c) with "may" in S.B. 902 in 2013.<sup>22</sup> This fact leads to the conclusion that, if there were a vacancy, the commissioners court may have had the ability to appoint after the 90<sup>th</sup> day, but the commissioners court does not have sole authority to do so.

- 2) *c.iii.3. If appointments by the ECUD Board of directors has [sic] taken place after the 60<sup>th</sup> day, in direct contradiction with the expressed powers of Texas Water Code §49.105(a), does this mean that the director that was appointed is not legally holding office?*

Again, this question involves issues of fact on whether any Director vacancy continued beyond the 60-day deadline for the Board to act and whether such vacancy even existed. See discussion above regarding appointments to fill vacancies. Furthermore, Water Code 49.105(d) addresses the issue. That section provides that the current members of the Board holding the positions not filled shall be deemed to have been elected and shall serve out the term.

- 2) *d.iii.1. Is it the legislative intent to either allow or require the Commissioners Court to correct improper and extended vacancies of director offices of ECUD which was formed by the County Commissioners Court pursuant to Chapter 51 of the Texas Water Code?*

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<sup>22</sup> Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 9, eff. September 1, 2013



Ector County Utility District is not a water control and improvement district subject to Chapter 51 of the Water Code. Rather, the District is a municipal utility district subject to Chapters 49 and 54. While originally created pursuant to Chapter 51 of the Texas Water Code, the residents of the District converted it to a Municipal Utility District under Chapter 54 of the Texas Water Code in 1981 by order of the board. The Texas Water Commission order converting the District to a Municipal Utility District, dated March 10, 1981 and filed and recorded in the Ector County Deed Records March 16 and 17, 1981, is attached as **Exhibit F**. Section 54.034 states that “a district which is converted into a district operating under this chapter shall:

- (1) be constituted a municipal utility district operating under and governed by this chapter;
- (2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and
- (3) have and may exercise all the powers, authority, functions, duties, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.”<sup>23</sup>

The District operates under and is governed by Chapter 54 of the Water Code. Chapter 51 no longer applies to the District and does not govern how a vacancy is filled.

Furthermore, the provisions in Chapter 51 regarding appointment of directors apply to the initial directors *only*. Section 51.026(a) grants a commissioners court the authority to appoint the *initial* five directors who shall serve until their successors are elected or appointed. Section 51.026(d) allows the commissioners court to appoint a different, initial director if the originally appointed director fails to qualify for the position.

Finally, our Texas Supreme Court has stated “when a statute is clear and unambiguous... we do not resort to extrinsic interpretive aides, such as legislative history,

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<sup>23</sup> Texas Water Code § 54.034

‘because the statute’s plain language is the surest guide to the Legislature’s intent.’”<sup>24</sup>  
Justice Willett went on to state in another case that the reader should “hold tight to the word of the law.”

This maxim, fittingly the lead epigraph to Reading Law, capture the foremost take of legal interpretation: divining what the law is, not what the interpreter wishes it to be.... If a case can be decided according to the statute itself, it must be decided according to the statute itself. This is a bedrock principle.<sup>25</sup>

The statute is unambiguous, and there is no need to look toward legislative intent. While the requester may wish the interpretation to be that Chapter 51 of the Water Code grants county commissioners with the ability to “correct” what the requester may believe is an improper appointment of a director, that is not what the law states. Chapter 51 of the Water Code does not apply to a municipal utility district such as ECUD.

2) *d.iii.2. Do the following positions for the following reasons constitute justification for replacement by Commissioners Court:*

*a. Position A due to a greater than 90-day vacancy (16 years) and improper filing of candidate forms;*

Whether position A was vacant for 16 years is a factual dispute for a court of competent jurisdiction to decide. As stated above, Mr. Ervin was eligible to serve in the position. He was pardoned and has been released from the disabilities of a felony conviction. Additionally, a challenge to form, content, and procedure of an application for a place on the ballot must be made by the 50<sup>th</sup> day before the election.<sup>26</sup> The appropriate time to make this challenge has passed. Action taken by a district is conclusively presumed valid if three years have passed since the action was taken and no lawsuit to annul or invalidate the action has been filed within three years from the action.<sup>27</sup>

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<sup>24</sup> *Paxton v. City of Dallas*, 509 S.W.3d 247, 257 (Tex. 2017).

<sup>25</sup> *BankDirect Capital Fin., LLC v. Plasma Fab, LLC*, 519 S.W.3d 76, 77 (Tex. 2017).

<sup>26</sup> Texas Election Code §141.034.

<sup>27</sup> Texas Water Code §49.235(a)(1-2)

*b. Position B due to a historical vacancy over 90 days;*

Whether position B was vacant is also a factual dispute. Please see the prior argument for interpretation of Texas Water Code § 49.105. Additionally, a challenge to form, content, and procedure of an application for a place on the ballot must be made by the 50<sup>th</sup> day before the election.<sup>28</sup> The appropriate time to make this challenge has passed. Action taken by a district is conclusively presumed valid if three years have passed since the action was taken and no lawsuit to annul or invalidate the action has been filed within three years from the action.<sup>29</sup>

*c. Position C due to improper filing of candidate forms;*

Similarly, whether position C was vacant is a factual dispute. Please see the prior argument for interpretation of Texas Water Code § 49.105. Additionally, a challenge to form, content, and procedure of an application for a place on the ballot must be made by the 50<sup>th</sup> day before the election.<sup>30</sup> The appropriate time to make this challenge has passed. Action taken by a district is conclusively presumed valid if three years have passed since the action was taken and no lawsuit to annul or invalidate the action has been filed within three years from the action.<sup>31</sup>

*d. Position D due to a historical vacancy over 90 days; and*

Yet again, whether position D was vacant is a factual dispute. Please see the prior argument for interpretation of Texas Water Code § 49.105. Additionally, a challenge to form, content, and procedure of an application must be made by the 50<sup>th</sup> day before the election.<sup>32</sup> The appropriate time to make this challenge has passed. Action taken by a district is conclusively presumed valid if three years have passed since the action was taken

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<sup>28</sup> Texas Election Code §141.034

<sup>29</sup> Texas Water Code §49.235(a)(1-2)

<sup>30</sup> Texas Election Code §141.034

<sup>31</sup> Texas Water Code §49.235(a)(1-2)

<sup>32</sup> Texas Election Code §141.034

and no lawsuit to annul or invalidate the action has been filed within three years from the action.<sup>33</sup>

*e. Position E due to both a historical vacancy over 90 days and improper filing of candidate forms?*

Finally, whether position E was vacant is a factual dispute. Please see the prior argument for interpretation of Texas Water Code § 49.105. Additionally, a challenge to form, content, and procedure of an application must be made by the 50<sup>th</sup> day before the election.<sup>34</sup> The appropriate time to make this challenge has passed. Action taken by a district is conclusively presumed valid if three years have passed since the action was taken and no lawsuit to annul or invalidate the action has been filed within three years from the action.<sup>35</sup>

*3. e.i. Has the threshold of misconduct, as defined in Chapter §178.053(3), been crossed due to the actions of the ECUD Board of Directors due to:*

Local Government Code, Chapter 178 does not apply to the ECUD Board because those directors were not appointed by the Ector County Commissioners Court. Section 178.053(a)(2) states the director must have been appointed by the commissioners court in order for the commissioners court to have authority to remove the director,<sup>36</sup> and Local Government Code Section 178.001(3) states that the actions committed under subsections (A) and (B) must be done intentionally and knowingly.<sup>37</sup> While a commissioners court may be allowed under certain circumstances to remove appointed directors under Chapter 178, the Ector County Commissioners Court is not so authorized for ECUD. This provision in the Local Government Code is not applicable to the questions presented below.

*1. Open Meetings Act Violation on 11/8/2023; and/or*

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<sup>33</sup> Texas Water Code §49.235(a)(1-2)

<sup>34</sup> Texas Election Code §141.034

<sup>35</sup> Texas Water Code §49.235(a)(1-2)

<sup>36</sup> Texas Local Government Code § 178.053(a)(2)

<sup>37</sup> Texas Local Government Code Section 178.001(3)

This is an issue of fact that must be decided by a trier of fact.<sup>38</sup> The opinion request simply alleges the actions were committed.

Even assuming that the ECUD board members were subject to removal by the Ector County Commissioners Court, the argument has been laid out above why there was not an Open Meetings Act violation on November 8, 2023, or any other violation under the law. The meeting was open to the public according to prior opinion from the Attorney General and Texas Government Code § 551.001.<sup>39</sup> There was no violation, so there was no misconduct.

*2. Violations of statutes regarding who is eligible for office and appointment processes; and/or*

Again, these are again disputed facts. Mr. Ervin was eligible to serve on the board when he did and he is still eligible to serve today even though he resigned. There was no vacancy to fill.

*3. Not reporting to their oversight agency of TCEQ their boundaries in 31 years as is required by Texas Administrative Code; and/or*

Although Chapter 178 does not apply, if this action were to be considered violating a law relating to the office of a director, for this action to rise to misconduct under Local Government Code Section 178.001 it must have been done knowingly or intentionally.<sup>40</sup> If this was done by mistake or oversight it is not misconduct under Section 178.001. This would take a trier of fact to determine. Mere allegation of an act does not show the mental state behind it.

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<sup>38</sup> Tex. Att’y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

<sup>39</sup> Tex. Att’y Gen. Op. No. M-220 (1968) at 5 and Texas Government Code § 551.001(5) (defining “open”)

<sup>40</sup> Texas Local Government Code 178.001(3)(A)

Furthermore, the TCEQ, not the Ector County Commissioners Court, has the legal authority to enforce any violation of TCEQ rules codified in Title 30 of the Texas Administrative Code, including any requirement regarding notice of district boundaries.

*4. Violations of their own bylaws on October 11, 2023; and/or*

Section 49.057 of the Water Code allows the board of directors of a district to adopt bylaws;<sup>41</sup> however, nothing in that statute authorizes a board to adopt bylaws that may circumvent state rules or statutes. Moreover, the alleged violation of the District's bylaws does not constitute action covered by Section 178.001(3). Even if Chapter 178 applied, and assuming this accusation is factually accurate, this action would result merely in a voidable action subject to the discretion of the board. It does not rise to misconduct. Such action is not knowingly or intentionally violating a law relating to the office of director.

*5. Overcollections of Bond Revenues by taxing citizens after paying of a bond issuance?*

This question is another dispute of facts that should not be decided through an Attorney General opinion.<sup>42</sup> A district is authorized by Chapter 49 of the Water Code to collect taxes after approval of the voters. The voters of the District have approved both an ad valorem tax to pay bond debts as well as a tax for operation and maintenance expenses. Furthermore, the TCEQ has existing rules for how to use excess bond money if any exists. As stated in Attorney General Opinion JM-142, if a district has collected excess bond money and has surplus fund, the board of the district has two methods to dispose of excess funds: refund the excess to taxpayers if practical or transfer the monies to the District's general operating fund.<sup>43</sup> Under the TCEQ rules, the District is also authorized to request use of the excess funds collected for debt service toward other capital improvement projects.

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<sup>41</sup> Texas Water Code § 49.057

<sup>42</sup> Tex. Att'y Gen. Op. Nos. KP-0020 (2015) at 2, GA-0896 (2011) at 1 and 3, GA-0756 (2010) at 4, JC-0020 (1999) at 2, M-187 (1968) at 3

<sup>43</sup> Tex. Att'y Gen. Op. No. JM-0142 (1984) at 7

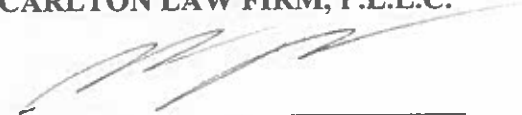
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to initiate suit. As can be seen in RQ-0524-KP, there is no evidence. It is just statement after statement alleging actions without offering anything to show the validity of them.

The District appreciates the Attorney General's previously-stated recognition that an opinion would only answer questions of law and not resolve issues of fact. There is no question of law in RQ-0524-KP that can be answered without resolving an issue of fact.

Sincerely,

**THE CARLTON LAW FIRM, P.L.L.C.**



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Michael Parsons

cc: Mr. Tristan Marquez  
Ector County Auditor  
1010 East 8<sup>th</sup> Street, Rm. 121  
Odessa, Texas 79761  
*(via first class mail)*

Request RQ-0524-KP is nothing more than a unsubstantiated claim that the District is continuing to collect property taxes to pay on the District's debt. The Attorney General's office should not be asked to render an opinion on hypothetical facts but still attach a real district's name to it. These are disputed factual situations that need resolution through a court of competent jurisdiction, if at all.

3. *e.ii. If this threshold has been reached, what should be the process for removal of Directors?*

This threshold has not been reached. Each section above states why it has not. *If* the threshold had been reached and if that statutory requirement actually applied to the District, then the process is laid out in Local Government Code Chapter 178.

3. *e.iii. Has the threshold been met under Civil Practice and Remedies Code § Quo Warranto for the District Attorney or Attorney General to take action towards initiation a suit against the board of directors based on the corpus of evidence provided throughout this document?*

Again, this is disputed fact. The District has laid out in detail above why the actions alleged throughout RQ-0524-KP are false. The District has used the statutes cited by RQ-0524-KP and those left out by the requestor to show why the District has been in conformity with the law. Civil Practice and Remedies Code 66.002 states that probable ground for the proceeding must exist before there can be an initiation of suit. This is analogous to burden of proof in criminal law, where a conviction can only be reached after a verdict of guilty beyond a reasonable doubt, while a lesser burden of probable cause is required to charge a defendant with a criminal offense. While a case need not be proven before suit is brought, there is a threshold burden that must be achieved prior to initiating suit. There is no evidence in the "*corpus of evidence*" as suggested by the requestor. There is merely statement and conjecture. This request meets no burden and no threshold.

The entire opinion request raises issues of disputed fact and asks the Attorney General to issue an opinion on hypotheticals or falsehoods. It is wholly improper for a requestor to use an Attorney General opinion that has unsubstantiated allegations as a basis



# Exhibit A

**NOTICE OF REGULAR BOARD MEETING OF THE  
ECTOR COUNTY UTILITY DISTRICT**

Notice is hereby given that on the 8th day of November 2023; the Board of Directors of the Ector County Utility District of Ector County will hold a Regular Board Meeting at 2:30 P.M. in the District's Board Room located at 1039 N. Moss Avenue, Odessa, Ector County, Texas 79763. The subjects to be discussed are listed on the November 8th, 2023, regular meeting agenda. Public comment on individual agenda items is considered (limit 3 minutes per person).

**SPECIAL PRESENTATIONS/REQUESTS/RESOLUTIONS**

1. To consider, discuss, and take any necessary action to approve minutes from October 11th, 2023, board meeting.  
Margaret Burton- Secretary

**CONTRACTS/ AGREEMENTS/ GRANTS**

2. To consider, discuss, and take any necessary action to Approve the Annexation Petition of Boxhouse Logistics Yard LLC for 10.0 acre tract out of section 10, block 43, T-2-S (card #3).  
Debi Hays- General Manager

An authorized Ector County Utility District representative to sign all documents associated with this agenda item.

Debi Hays – General Manager

3. To consider, discuss, and take any necessary action to Approve the Annexation Petition of Luis Francisco Gallegos Orona for Block 8, Lot 1, Western Hills Subdivision, a subdivision of Ector County, Texas.

An authorized Ector County Utility District representative to sign all documents associated with this agenda item.

Debi Hays – General Manager

**BUDGET/FINANCIAL**

4. To consider, discuss and take any necessary action to approve Accounts Payable for November 8th, 2023, and review district financial statements and reports.  
Debi Hays- General Manager

**PERSONNEL REQUEST / BOARD REQUEST**

5. To consider and discuss the re-election of three new officers for this upcoming February.  
Troy Walker- Board Director

6. To consider, discuss, and take any necessary action to accept the retirement and resignation letter from Tommy Ervin as ECUD Board member and Elected ECUD President.  
ECUD Board
7. To consider, discuss, and take any necessary action to approve an ECUD Board Director to serve the remaining term of Tommy Ervin.  
ECUD Board
8. To consider, discuss, and take any necessary action to elect 2024 Fiscal Year ECUD officers.  
ECUD Board

## EXECUTIVE SESSION

The District reserves the right to change the agenda item order.

If, during the course of the meeting covered by this notice, the Board of Directors is required, then such closed or executive meeting of session as Title 5, Chapter 551, Government Code of Texas will be held by the Board of Directors at the date, hour, and place given in this notice or as soon after the commencement of the meeting covered by this notice as the Board of Directors may conveniently meet in such closed or executive meeting or session concerning any and all subjects and for any and all purposes permitted by Section 551 of said Government Code, including, but not limited to:

- § 551.071 For the purpose of a private consultation with the board's attorney.
- § 551.072 For the purpose of discussing the purchase, exchange, lease, or value of real property.
- § 551.073 For the purpose of discussing negotiated contracts for prospective gifts, or donations.
- § 551.074 For the purpose of considering the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.
- § 551.076 To consider the deployment, or specific occasions for implementation, of security personnel or devices or a security audit.
- § 551.084 For the purpose of excluding any witnesses from a hearing during examination of another witness.
- § 551.087 For the purpose of discussing economic development information received from a business seeking to locate in or near the District, and offers of a financial and other intentions to a business prospect.
- § 551.089 For the purpose of discussing security assessments of development of information resources technology, security personnel, critical infrastructure or security devices.

Should any final action, final decision, or final vote be required in the opinion of the Board of Directors with regard to any matter considered in such closed or executive meeting or session, then such final action, final decision, or final vote shall be at either:


- (a) The open meeting covered by the notice upon the reconvening of this public meeting; or

(b) At a subsequent public meeting of the Board upon notice thereof; as the Board of Directors shall determine.

This notice was telephoned or mailed to all members of the news media who had previously requested such notice, and an original copy was posted on the bulletin boards at the first floor of Ector County Courtroom and the Ector County Utility District office on the \_\_\_ day of November 2023, at 2:01 P.M., said time being more than seventy-two (72) hours prior to the time at which the subject meeting will be convened and called to order.

  
Margaret Burton  
Secretary

Posted: 11-3-23 2:01pm 2023 at Ector County Courthouse

By:   
Deputy County Clerk  
Jennifer Martin, County Clerk  
Ector County, Texas

# Exhibit B

- Account Management
  - My Account
  - Add Additional User
- Application
  - Search Database
  - Search History
  - Purchase Credits by Credit Card
  - Purchase Credits by Check/Money Order
  - Purchase History

SID: 02113780

[Back to Results](#)

Search Criteria

Batch [REDACTED]  
 Search [REDACTED]  
 SID [REDACTED]  
 Searched for 'ERVIN, THOMAS'  
 Searched on 12/20/2023 2:39:10 PM

Helpful Links

- [Search Database](#)
- [View Search History](#)
- [View Other Searches in this Batch](#)
- [View Other Hits from this Search](#)

ERVIN, THOMAS GLENN (SID: [REDACTED])

SID [REDACTED]  
 DATE LAST UPDATED 6/7/2023  
 SEX MALE  
 RACE WHITE  
 HEIGHT 5'8"  
 WEIGHT 195\_LBS  
 EYES BROWN  
 HAIR GRAY OR PARTIALLY GRAY  
 PLACE OF BIRTH TEXAS  
 FBI# [REDACTED]

NAME(S) ERVIN, THOMAS GLENN (PRIMARY)  
 ERVIN, TOMMY  
 BIRTH DATE(S) [REDACTED] (PRIMARY)

ARREST SUMMARY

DATE OF ARREST	SEQUENCE CODE	TRACKING NUMBER	AGENCY DESCRIPTION
8/20/1976	A		ECTOR CO SO ODESSA

*Searches based on names, date of birth and other alphanumeric identifiers are not always accurate. The only way to positively link someone to a criminal record is through fingerprint identification. It is your responsibility to make sure the records you access through this site pertain to the person about whom you are seeking information. Extreme care should be exercised in using any information obtained from this Web site. DPS and the State of Texas shall not be responsible for any errors or omissions produced by secondary dissemination of this data.*

ARREST DATE 8/20/1976 (1 CHARGES)

ARREST DETAIL

ARREST DATE 8/20/1976  
 SEQUENCE CODE A  
 ARRESTING AGENCY ECTOR CO SO ODESSA (TX0680000)

ARREST DATE 8/20/1976 (CHARGE \*001)

OFFENSE RECORD

INTERNAL AGENCY PERSON NUMBER [REDACTED]  
 ARREST OFFENSE COCAINE-(FREE TEXT) (35330000)  
 ARREST OFFENSE LITERAL COCAINE - DELIVERY  
 ARREST OFFENSE CITATION X

COURT STATUS A

COURT OFFENSE DANGEROUS DRUGS-(FREE TEXT) (35000000)  
 COURT OFFENSE LITERAL DANGEROUS DRUGS - DELIVERY CONTROLLED SUBST 4 C  
 COURT OFFENSE CITATION X  
 COURT DISPOSITION CONVICTED (310)  
 COURT CONFINEMENT 540ID  
 COURT PROVISION LITERAL TO RUN CONC ON EACH COUNT

CUSTODY RECORDS

Custody

DATE OF OFFENSE 8/20/1976  
 CUSTODIAL AGENCY/ORI DEPT OF CRIMINAL JUSTICE HUNTSVILLE [REDACTED]  
 PERSONAL ID NUMBER [REDACTED]  
 STATUS STARTING DATE 1/5/1989  
 STATUS SUPERVISION DISCHARGED (409)  
 STATUS SUPERVISION LITERAL [REDACTED]

Custody

DATE OF OFFENSE 8/20/1976  
 CUSTODIAL AGENCY/ORI DEPT OF CRIMINAL JUSTICE HUNTSVILLE [REDACTED]  
 PERSONAL ID NUMBER [REDACTED]  
 STATUS STARTING DATE 5/4/1979  
 STATUS SUPERVISION PAROLED (417)  
 STATUS SUPERVISION LITERAL TO ECTOR COUNTY UNTIL 1-23-89  
 PAROLED UNTIL DATE 1/23/1989

Custody

DATE OF OFFENSE 8/20/1976  
 CUSTODIAL AGENCY/ORI DEPT OF CRIMINAL JUSTICE HUNTSVILLE [REDACTED]  
 PERSONAL ID NUMBER [REDACTED]  
 STATUS STARTING DATE 10/6/1976  
 STATUS SUPERVISION RECEIVED (421)

[Collapse](#) [Expand](#)

Server Info

DPSWEB1  
 12/20/2023 2:39:27 PM  
 206.196.123.202

# Exhibit C

# TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

[www.dps.texas.gov](http://www.dps.texas.gov)



STEVEN C. McCRAW  
DIRECTOR  
FREEMAN F. MARTIN  
DWIGHT D. MATHIS  
JEFF WILLIAMS  
DEPUTY DIRECTORS



COMMISSION  
STEVEN P. MACH, CHAIRMAN  
NELDA L. BLAIR  
STEVE H. STODGHILL  
DALE WAINWRIGHT

Dusty Gallivan  
300 N. Grant, Room 305  
Odessa, Texas 79761

Subject: Tommy Ervin, Complaint

DA Gallivan,

I have received your correspondence dated 11-16-2022. My apologies for the delay in responding to this matter. Upon receipt, I reviewed the information and determined the merits of the allegation did not rise to a level of Texas Ranger investigative involvement. In an abundance of caution, I referred the matter to a peer at the Texas Attorney General's Office. Their expertise in these types of cases availed an additional review and evaluation. I provided their office with the information given to me. Upon the OAG's assessment, they declined to investigate this matter. Thank you for the visibility and consideration regarding potential violations requiring our assistance.

Respectfully,

A handwritten signature in cursive script that reads "Wayne Matthews".

Wayne Matthews, Major  
Texas Rangers  
Company "E" El Paso



# Exhibit D



Voter Information

Name: THOMAS GLENN ERVIN  
Address: [REDACTED]  
Gender: MALE  
Valid From: 01/01/2024  
Effective Date of Registration: 01/20/1994  
Voter Status: ACTIVE  
County: ECTOR  
Precinct: 102  
VUID: [REDACTED]

[Change your Address](#)

Upcoming Elections (Select Election for available polling information)

- [11/05/2024–2024 NOVEMBER 5TH GENERAL ELECTION](#)
- [03/05/2024–2024 MARCH 5TH DEMOCRATIC PRIMARY](#)
- [03/05/2024–2024 MARCH 5TH REPUBLICAN PRIMARY](#)

\*\*\*Eligibility is determined by Effective Date of Registration (Must be on or before Election Day)

Please Note: Polling places are subject to change. Always check your designated polling place location via this website or by contacting your county prior to going to vote.

ADDITIONAL QUESTIONS and FAQ

Note: Any questions now that you see your voter registration status? On Suspense? Don't live at that address anymore? Not sure what to do next? Check out our FAQ.

[Back](#)

# Exhibit E



ECTOR COUNTY, TEXAS

**ECTOR COUNTY**  
**VOTING HISTORY RECORD**

The following is the voting history on file in ECTOR COUNTY  
as of this 11th day of January, 2024

[REDACTED]  
THOMAS GLENN ERVIN  
[REDACTED]

BIRTHDATE: [REDACTED] CURRENT PRECINCT: 102 DATE OF RECORD: 03/01/2022

<u>Election Date</u>	<u>Description</u>	<u>Party Code</u>	<u>Vote Type</u>
11/07/2023	Const. Amendment & ECISD Bond		
05/06/2023	JOINT ELECTION FOR ECISD/ECHD		
11/08/2022	GENERAL & ECUD ELECTION		
05/24/2022	JOINT PRIMARY RUNOFF ELECTION		
05/07/2022	CONST. AMEND. & ECISD SPECIAL		
03/01/2022	Joint Primary Election 2022		
11/02/2021	CONSTITUTIONAL AMENDMENTS		
11/03/2020	General and City Election		
07/14/2020	JOINT PRIMARY RUN-OFF ELECTION		
03/03/2020	JOINT PRIMARY ELECTION 2020		
11/05/2019	Constitutional Amendments		
11/06/2018	GEN., COUNTY, CITY & ECISD		
03/06/2018	JOINT PRIMARY ELECTION 2018		
11/07/2017	AMEND, EC ASSIST DIST & ECISD		
05/06/2017	JOINT ELECTION MAY 6, 2017		
11/08/2016	GENERAL AND CITY ELECTION		
05/24/2016	PRIMARY RUNOFF ELECTION		
03/01/2016	JOINT PRIMARY ELECTION 2016		
11/03/2015	2015 CONST. AMENDMENT ELECTION		
11/04/2014	GENERAL AND SPECIAL AMENDMENT		
03/04/2014	PRIMARY ELECTION MARCH 4, 2014		
11/05/2013	Ector Co Bond/Const Amend Elec		
05/11/2013	JOINT ELECTION MAY 11, 2013		
11/06/2012	GEN. CO., CITY & SP. ECISD		
11/08/2011	CONSTITUTIONAL AMENDMENT ELECT		
11/02/2010	General Election		
03/02/2010	PRIMARY ELECTION		
11/04/2008	GENERAL ELECTION/SPECIAL		
04/08/2008	Primary Runoff		



ECTOR COUNTY, TEXAS

ECTOR COUNTY  
VOTING HISTORY RECORD

The following is the voting history on file in ECTOR COUNTY  
as of this 11th day of January, 2024

[REDACTED]  
THOMAS GLENN ERVIN  
[REDACTED]

BIRTHDATE: [REDACTED] CURRENT PRECINCT: 102 DATE OF RECORD: 03/01/2022

<u>Election Date</u>	<u>Description</u>	<u>Party Code</u>	<u>Vote Type</u>
03/04/2008	PRIMARY	[REDACTED]	[REDACTED]
11/07/2006	GENERAL ELECTION 2006	[REDACTED]	[REDACTED]
04/11/2006	JOINT PRIMARY RUNOFF	[REDACTED]	[REDACTED]
03/07/2006	Republican and Democratic Prim	[REDACTED]	[REDACTED]
11/08/2005	Constitutional Amend. Election	[REDACTED]	[REDACTED]
11/02/2004	general election	[REDACTED]	[REDACTED]
05/15/2004	SPECIAL JOINT	[REDACTED]	[REDACTED]
04/13/2004	REPUBLICAN PRIMARY RUNOFF	[REDACTED]	[REDACTED]
03/09/2004	PRIMARY ELECTION	[REDACTED]	[REDACTED]
02/17/2004	SPECIAL RUNOFF DIST 31 ELEC	[REDACTED]	[REDACTED]
11/05/2002	General Election	[REDACTED]	[REDACTED]
03/12/2002	PRIMARY ELECTION	[REDACTED]	[REDACTED]
11/07/2000	2000 GENERAL ELECTION	[REDACTED]	[REDACTED]
04/11/2000	RUNOFF ELECTION	[REDACTED]	[REDACTED]
03/14/2000	PRIMARY ELECTION	[REDACTED]	[REDACTED]
11/03/1998	GENERAL ELECTION	[REDACTED]	[REDACTED]
05/02/1998	SPECIAL ELECTION	[REDACTED]	[REDACTED]
04/14/1998	RUNOFF ELECTION	[REDACTED]	[REDACTED]
03/10/1998	PRIMARY ELECTION	[REDACTED]	[REDACTED]
11/05/1996	GENERAL ELECTION	[REDACTED]	[REDACTED]
11/08/1994	GENERAL ELECTION	[REDACTED]	[REDACTED]

SIGNED: 



VOTER REGISTRATION CERTIFICATE  
(Certificado de Registro Electoral)  
ECTOR COUNTY (Condado)

VUID (VUID)	Gender (Sexo)	Valid thru (Vigencia)
[REDACTED]	M	01/01/2024
Year of Birth (Año de Nacimiento)	Prec. No. (Dist. Pct.)	Vote Date
[REDACTED]	102	12/31/2025

Name and Permanent Residence Address (Nombre y dirección residencial permanente)

ERVIN, THOMAS GLENN

X *Thomas Glenn Ervin*

VOTER MUST PERSONALLY SIGN HIS/HER NAME IMMEDIATELY UPON RECEIPT, IF ABLE  
(El votante debe firmar esta tarjeta personalmente al recibirla, si puede)

Party Affiliation (Afiliación al Partido)

CONG.	SEN.	LEG.	COMM.	JP
11	31	81	01	01
CITY DIST.	SCHOOL	HOSPITAL	COLLEGE	MEGA
--	2	02	02	8

Name and Mailing Address (Nombre y dirección de correo)



9400049

T18 P2 \*\*\*\*\*AUTO\*\*5-DIGIT 79763 40655  
THOMAS GLENN ERVIN

[REDACTED]

# Exhibit F



True & Correct Copy of this document on file at Ector County Texas  
To verify the authenticity of this copy please visit:  
<https://ector.tx.publicsearch.us/verifycert/7P6HU9Cd>

Ector County Clerk

Digitally signed  
by Jennifer Martin  
Date: 2019.10.17  
08:22:49 -05:00

## Volume 812 Page 654 Deed Records Ector County, Texas

TEXAS DEPARTMENT OF WATER RESOURCES

TEXAS WATER COMMISSION  
4348

654



AN ORDER converting ECTOR COUNTY UTILITY  
DISTRICT into a municipal utility district.

On March 10, 1981, there came on for hearing before the Texas Water Commission, in regular session convened at its regular meeting place at 1700 North Congress Avenue, Stephen F. Austin State Office Building, Austin, Texas, a quorum of said Commission being present, as follows:

Commissioner Felix McDonald, Chairman

Commissioner Dorsey B. Hardeman

the matter of converting Ector County Utility District into a municipal utility district operating under and governed by Chapter 54, Texas Water Code.

After a hearing, the Commission finds in favor of the petition on all issues necessary and material for the conversion of said district, including, but not limited to, the following specific findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. Notice of this meeting was filed in accordance with Articles 6252-13a and 6252-17, V.A.T.C.S., and Section 54.032, Texas Water Code.
2. The petition was duly filed with this Commission and the statutory filing fee paid. The petition was presented to the Commission, and notice was issued setting a hearing thereon for March 10, 1981.
3. Notice of this hearing was duly given by publishing a copy thereof in the Odessa American, a newspaper of general circulation in Ector County, Texas, once a week for two consecutive weeks, the first publication thereof being made not less than fourteen (14) full days prior to the date of this hearing. The publisher's affidavit as to giving of notice is in proper form and the statements of fact therein are true.





True & Correct Copy of this document on file at Ector County Texas  
To verify the authenticity of this copy please visit:  
<https://ector.tx.publicsearch.us/verifycert/7P6HU9Cd>

Ector County Clerk

Digitally signed  
by Jennifer Martin  
Date: 2019.10.17  
08:22:49 -05:00

## Volume 812 Page 655 Deed Records Ector County, Texas

4. The conversion of the district will serve the best interest **655**  
of the district and will be a benefit to land and property in the  
district.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction to consider the petition for conversion of the district.
2. The petition for conversion of the district conforms in all respects to Section 54.030, Texas Water Code, is in proper and legal form, and the purposes thereof are lawful.
3. Notice of the hearing has been published in conformity with Section 54.032, Texas Water Code, and all other requirements of said Section have been met.
4. The district should be converted to a municipal utility district under the provisions of Chapter 54, Texas Water Code.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS WATER COMMISSION, as follows:

1. Said petition is granted in all respects and Ector County Utility District, a conservation and reclamation district heretofore operating under the authority of Chapter 51, Texas Water Code, shall hereafter be constituted a municipal utility district operating under and governed by Chapter 54, Texas Water Code;
2. Said district shall continue to have the power to issue bonds voted before the conversion but yet unissued and to levy and collect taxes which were voted before the conversion;
3. Said district shall retain the name of Ector County Utility District; and
4. In regard to the outstanding bonded indebtedness of Ector County Utility District of \$5,560,000 bond issue dated July 14, 1977, said converted District shall have the power and authority to levy and collect bond taxes and establish, amend and revise rates and charges for water and sewer services to produce net revenues adequate to pay the principal of and interest on the above described bonded indebtedness and comply and satisfy the covenants and provisions prescribed in the resolutions and orders authorizing the issuance of such bonds.



True & Correct Copy of this document on file at Ector County Texas  
 To verify the authenticity of this copy please visit:  
<https://ector.tx.publicsearch.us/verifycert/7P6HU9Cd>

Ector County Clerk

Digitally signed  
 by Jennifer Martin  
 Date: 2019.10.17  
 08:22:49 -05:00

**Volume 812 Page 656 Deed Records Ector County, Texas**

**656**

Executed and entered of record, this the 10th day of March, 1981.

TEXAS WATER COMMISSION

ATTEST:

/s/ Felix McDonald  
 Felix McDonald, Chairman

/s/ Mary Ann Hefner  
 Mary Ann Hefner, Chief Clerk

/s/ Dorsey B. Hardeman  
 Dorsey B. Hardeman, Commissioner

STATE OF TEXAS X  
 COUNTY OF TRAVIS X

I, Mary Ann Hefner, Chief Clerk of the Texas Water Commission of the Department of Water Resources, do hereby certify that the foregoing and attached is a true and correct copy of an Order of said Commission, the original of which is filed in the permanent records of said Commission of the Department.

Given under my hand and the seal of the Texas Water Commission, this the 12th day of March, 1981.

Mary Ann Hefner  
 Mary Ann Hefner, Chief Clerk  
 Texas Water Commission

FILED FOR RECORD THE 16 DAY OF March A.D., 19 81 AT 2 O'CLOCK P. M.  
 DULY RECORDED THE 17 DAY OF March A.D., 19 81 AT 10 O'CLOCK A. M.

INSTRUMENT NO: 4348

LUCILLE WOLZ, COUNTY CLERK

RETURN TO:

ECTOR COUNTY, TEXAS

Ector County Utility District  
 Will Call For

BY: Dorsey B. Hardeman DEPUTY