

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on



*Bridget C. Bohac* MAR 06 2012

Bridget C. Bohac, Chief Clerk  
Texas Commission on Environmental Quality

AN ORDER GRANTING THE REQUEST FOR CONVERSION TO AND CREATION OF  
LAKE KIOWA SPECIAL UTILITY DISTRICT OF COOKE COUNTY AND  
APPOINTING TEMPORARY DIRECTORS

A resolution by Kiowa Homeowners Water Supply Corporation (hereafter "WSC") was presented to the Executive Director of the Texas Commission on Environmental Quality (hereafter "Commission") for consideration of approval of the creation of Lake Kiowa Special Utility District of Cooke County (hereafter "District"), and the appointment of directors for the District, pursuant to TEX. WATER CODE Chapters 13, 49, and 65.

The Commission, after having considered the resolution, application material, and memorandum from the Executive Director's staff dated January 24, 2012, copy of which is attached as Exhibit "B," finds that the resolution for creation should be approved.

The conversion to and creation of the proposed District is feasible and practicable, and each purpose for which the District is created is necessary and would be a benefit to the land proposed to be included in the District.

All of the land and property proposed may properly be included within the proposed District.

All statutory and regulatory requirements for conversion of the WSC to the proposed District have been fulfilled in accordance with TEX. WATER CODE Chapters 49 and 65 and 30 TEX. ADMIN. CODE §§ 293.11-12. In accordance with 30 TEX. ADMIN. CODE § 293.12(d), the Executive Director waived the mailed notice requirement.

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

1. The petition for the conversion of the Kiowa Homeowners Water Supply Corporation to the Lake Kiowa Special Utility District of Cooke County is hereby granted.
2. The District is created under the terms and conditions of Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE Chapter 65.
3. The District shall have all of the rights, powers, privileges, authority, and functions conferred and shall be subject to all duties imposed by the Commission on and the general laws of the State of Texas relating to special utility districts; however, the District is created for the purpose of providing water service, as requested.
4. The District is directed that if fees to be assessed meet the definition of an impact fee as stated in 30 TEX. ADMIN. CODE § 293.171, then requirements spelled out in 30 TEX. ADMIN. CODE §§ 293.171-176 need to be satisfied prior to assessing the fee.

**EXHIBIT A**  
**LAKE KIOWA SPECIAL UTILITY DISTRICT**  
**METES & BOUNDS BOUNDARY DESCRIPTION**  
Revised August 1, 2011

BEGINNING at a point in the center of FM 902 that is Southeast of the intersection of FM 902 and FM 3496 a distance of 3778.35 ft.;

THENCE Southeasterly along the centerline of FM 902 a distance of 2000.46 ft. to a point for a corner;

THENCE South 88d43'25" East a distance of 1445.39 ft. to a point for a corner;

THENCE South 0d1'17" West a distance of 934.36 ft. to a point in the center of FM 902 for a corner;

THENCE Southeasterly along the centerline of FM 902 a distance of 854.96 ft. to a point for a corner;

THENCE South 80d36'25" East a distance of 658.02 ft. to a point for a corner;

THENCE South 88d34'59" East a distance of 2149.32 ft. to a point for a corner;

THENCE North 84d21'57" East a distance of 564.74 ft. to a point for a corner;

THENCE North 7d15'38" East a distance of 3.50 ft. to a point for a corner;

THENCE North 82d1'39" East a distance of 133.78 ft. to a point for a corner;

THENCE North 4d32'46" East a distance of 365.05 ft. to a point for a corner;

THENCE South 87d47'40" East a distance of 303.80 ft. to a point for a corner;

THENCE North 5d6'27" East a distance of 202.06 ft. to a point for a corner;

THENCE South 86d43'9" East a distance of 1243.89 ft. to a point in the center of CR 211 for a corner;

THENCE Northeasterly along the centerline of CR 211 a distance of 873.35 ft. to a point for a corner;

THENCE South 81d14'11" East a distance of 225.50 ft. to a point for a corner;

THENCE North 7d29'16" West a distance of 655.73 ft. to a point in the center of CR 211 for a corner;

THENCE Northwesterly along the centerline of CR 211 a distance of 6263.74 ft. to a point at the intersection of CR 211 and CR 2134 for a corner;

THENCE West along the centerline of CR 2134 a distance of 710.75 ft. to a point;

THENCE North 89d40'33" West a distance of 865.26 ft. to a point for a corner;

THENCE North 6d35'15" West a distance of 331.95 ft. to a point for a corner;

THENCE North 0d1'34" West a distance of 91.17 ft. to a point for a corner;

THENCE North 83d45'0" East a distance of 100.59 ft. to a point for a corner;

THENCE North 84d18'2" East a distance of 141.89 ft. to a point for a corner;

THENCE North 2d28'54" East a distance of 1389.20 to a point for a corner;

THENCE North 86d55'37" West a distance of 825.84 ft. to a point for a corner;

THENCE North 2d7'53" West a distance of 440.50 ft. to a point for a corner;

THENCE North 87d5'43" West a distance of 1139.32 ft. to a point for a corner;

THENCE North 0d59'30" West a distance of 1925.63 ft. to a point for a corner;

THENCE North 88d48'48" West a distance of 2538.76 ft. to a point in the center of CR 224 for a corner;

THENCE South 2d1'9" West a distance of 16.03 ft. to a point for a corner;

THENCE North 88d48'19" West a distance of 11.88 ft. to a point for a corner;

THENCE South 52d12'40" East a distance of 14.64 ft. to a point for a corner;

THENCE South 2d0'47" West a distance of 595.92 ft. to a point in the center of CR 224 for a corner;

THENCE South 25d32'40" West a distance of 796.40 ft. to a point for a corner;

THENCE Southeasterly along the centerline of CR 224 a distance of 3387.86 ft. to a point;

THENCE South 1d16'36" East a distance of 335.18 ft. to a point for a corner;

THENCE North 88d10'55" West a distance of 389.58 ft. to a point in the center of CR 224 for a corner;

THENCE Southeasterly along the centerline of CR 224 a distance of 1046.36 ft. to a point;

THENCE South 24d58'20" East a distance of 575.02 ft. to a point for a corner;

THENCE South 36d57'41" West a distance of 291.25 ft. to a point for a corner;

THENCE South 15d58'0" East a distance of 1685.70 ft. to a point for a corner;

THENCE South 63d21'43" West a distance of 109.35 ft. to a point for a corner;

THENCE South 2d51'22" West a distance of 983.11 ft. to a point for a corner;

THENCE North 88d15'20" West a distance of 1535.53 ft. to the Point of Beginning and containing approximately 1,452.64 acres of land.

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

**To:** Linda Brookins, Director  
Water Supply Division

**Date:** January 24, 2012

**Thru:** *ASB*  
*1/23/12* Tammy Benter, Manager  
Utilities and Districts Section

*ASB*  
*1/23/12* Anthony J. (Tony) Schneider, P.E., Team Leader  
Utilities & Districts Section  
*RN 1-25-12*

**From:** *PB*  
*01/25/12* Prabin Basnet  
Districts Bond Team

**Subject:** Petition for the Conversion of Kiowa Homeowners Water Supply Corporation to Lake Kiowa Special Utility District of Cooke County; Pursuant to Texas Water Code Sections 65.014 and 65.015, and 30 TAC Section 293.11. TCEQ Internal Control No. D-04122011-011 CN: 600622765 – RN: 101453504

### A. GENERAL INFORMATION

The Commission received a resolution (petition) from Kiowa Homeowners Water Supply Corporation (WSC) requesting approval for conversion to Lake Kiowa Special Utility District of Cooke County (the "District").

Kiowa WSC is a member-owned, member-controlled, nonprofit water supply corporation as defined by Section 65.001(10)(B) of the Texas Water Code (TWC). Kiowa WSC provides water service under Certificate of Convenience and Necessity (CCN) No. 11140 to approximately 1,223 active customer connections.

A one-page boundary description of the proposed District was provided with the preliminary engineering report. A revised boundary description dated August 1, 2011 has been provided. The proposed District would contain approximately 1,452.64 acres of territory located in eastern Cooke County around Lake Kiowa.

The proposed District is a predominately rural residential and agricultural. The northern side of the proposed District is generally bounded by County Roads 211 and 224. The western side is generally bounded by County Road 224. The southern side is generally bounded by FM Road 902. The eastern side is generally bounded by County Road 211. The proposed boundary of the Special Utility District (SUD) is the same as the existing Kiowa Homeowners WSC CCN No. 11140 boundary. Kiowa Homeowners WSC does not propose to change the CCN boundary with this application.

Pursuant to 30 TAC Section 293.11(h)(9), the proposed District has provided an acceptable order dated December 16, 2010, canvassing the vote of Kiowa Homeowners WSC's membership, which indicates an affirmative vote to authorize conversion to a SUD (296 in favor, and 24 against), dissolve the existing water supply corporation, and transfer the assets and debts of the corporation to Lake Kiowa SUD.

with TWC, Chapter 65, contains a request for approval of an impact fee, the applicant shall comply with the notice provisions of Section 293.173 of this title." The resolution provided does not request approval of an impact fee.

### **C. GENERAL EFFECTS OF CONVERSION**

Some general effects of conversion from a water supply corporation to a special utility district include the following:

1. A SUD is a political subdivision and can issue tax-exempt revenue bonds on the open market or for purchase by the Texas Water Development Board. See Texas Water Code Section 65.503.
2. A SUD is exempt from ad valorem taxes (usually county and school district) on its personal property, utility lines, and plant facilities. See Local Government Code Section 422.014.
3. A SUD is exempt from sales taxes on supplies and services. See Local Government Code Section 422.014.
4. A SUD is subject to the Open Meetings and Open Records acts. See Texas Water Code Sections 49.064 and 49.065.
5. A SUD must have an annual audit conducted and file the audit with the Commission. See Texas Water Code Section 49.194.
6. A SUD must follow statutory bid advertisement and contract provisions for districts. See Texas Water Code Section 49.273.
7. A SUD is subject to the continuing right of supervision by the Commission. See Texas Water Code Section 5.013.

### **D. CONCLUSIONS**

1. Based on Commission policy, compliance with Commission rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, and would be necessary as a means to finance utilities and to provide utility service to current and future customers, and the proposed purpose (water supply) is considered practicable and would be a benefit to the land within the proposed District.
2. Based on a review of the preliminary engineering report and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC Section 293.59.

### **E. RECOMMENDATIONS**

1. Grant the petition for conversion of Kiowa Homeowners Water Supply Corporation to Lake Kiowa Special Utility District of Cooke County, with the boundary of the District in accordance with the one-page boundary description dated August 1, 2011 for the purpose of providing water service in accordance with Texas Water Code Sections 65.012(1).

Monthly Service Charge: \$13.50  
Minimum Monthly Charge: \$29.75 per connection

Usage Rate: \$1.75 per 1,000 gallons for each of the first 60,000 gallons;  
\$6 per 1,000 gallons, for each additional thousand gallons up to 80,000 gallons;  
\$10.50 per 1,000 gallons, for each additional thousand gallons up to 120,000 gallons;  
\$15.75 per 1,000 gallons, for each additional thousand gallons over 120,000 gallons.

Based on 10,000 gallons usage, the water rate would be \$60.75 per month. The corporation's other rates, fees, and operation rules and regulations are outlined in its approved tariff.

**G. PURPOSE**

According to Kiowa Homeowners WSC's engineer, the purpose of converting to a SUD is to become a public entity and a political subdivision of the State of Texas thereby having tax-exempt status, and to fund future improvements at lower interest rates, better ability to obtain additional quantities and sources of water, and be in a better position to participate in regional projects. Subsequent to conversion, the WSC's intent is to provide water service only.

According to the engineering report, the District will continue to provide the same services as Kiowa Homeowners WSC, and the corporation desires to convert due to added benefits of being a special utility district. Some of the benefits have been outlined in Section C of this memorandum.

Availability of Comparable Services

Kiowa Homeowners WSC is the certified water supplier to serve the area of the proposed District. Conversion to a SUD should not affect service as currently provided by Kiowa Homeowners WSC.

Water Supply Facilities

Water supply for Kiowa Homeowners WSC is ground water from three existing water wells. Water plant no. 1 consists of a 900 gallons per minute (gpm) water well, a 500,000 gallon ground storage tank, a 250,000 gallons elevated storage tank, and three 500 gpm booster pumps. Water plant no. 2 consists of a 700 gpm water well, and a 150,000 gallon ground storage tank, a 100,000 gallon elevated storage tank, and two 400 gpm booster pumps. Recently operational water plant no. 3 consists of 300 gpm water well, 150,000 gallon ground storage tank, and two 250 gpm booster pumps.

The distribution system consists of the following:

Line Diameter	Linear Feet (lf)
4"	45,090
6"	44,159
8"	24,947
10"	2,000

Wastewater Facilities

The service area for Kiowa Homeowners WSC is predominantly rural residential and agricultural.