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William E Evans

D383021 TEXAS WATER QUALITY BOARD  
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Austin, Texas 78701

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ORDER  
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ORDER NO. 70-1120-12

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AN ORDER of the Texas Water Quality Board establishing a water quality zone in the Cypress Creek Watershed; promulgating rules and regulations for the control of sewage within this zone, which is not disposed of in organized disposal systems; providing for licensing of septic tank systems; and designating the San Jacinto River Authority and its General Manager as the agent of the Board to perform administrative functions related to the rules and regulations set forth herein.

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PREAMBLE

Board Order No. 69-54 designated the San Jacinto River Authority as the entity which is to construct and operate a regional waste disposal system to serve the Cypress Creek Watershed. Cypress Creek is within the San Jacinto Watershed and drains directly into Lake Houston. Lake Houston and the San Jacinto Watershed provide an important source for municipal water for the City of Houston, and the City of Houston and other cities in the immediate area will become increasingly dependent on the San Jacinto Watershed as a source of municipal water in the future.

Among the potential sources of pollution which must be controlled in order to maintain a good quality of water is sewage from subdivisions and individual dwellings within the Cypress Creek Watershed. Sewage discharged into public disposal systems is regulated through the waste control order system of the Board; therefore, this order is concerned with control of sewage not discharged into public disposal systems.

Sewage not discharged into public disposal systems is of special concern because of two factors. First, the area within Cypress Creek Watershed is expected to rapidly increase in population density until it becomes a closely developed suburban area. Second, preliminary soil investigation indicates that much of the soil found in the area surrounding the lake does not possess absorption characteristics suitable for septic tank

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systems and that none of the soil types found in the area will permit small lot subdivisions with septic tank systems.

A public hearing was held to receive evidence relative to the adoption of water pollution control regulations for the protection of waters in the Cypress Creek Watershed. Following this public hearing, the Hearing Commission prepared a report on evidence presented during the hearing.

The Board has considered the evidence presented to the Hearing Commission. Based on this evidence, and the Board's evaluation of the pertinent information and data, the Board explicitly finds that because of the nature of the soil and drainage of the Cypress Creek Watershed, this order is required to prevent pollution which may directly or indirectly injure public health.

This order has been entered following consultation with and has the concurrence of the Commissioner of Health of the State Department of Health. Now, therefore,

BE IT ORDERED BY THE TEXAS WATER QUALITY BOARD:

I. DEFINITIONS FOR THIS ORDER

- A. "Authority" means the San Jacinto River Authority of Texas.
- B. "Board" means the Texas Water Quality Board.
- C. "Executive Director" means the Executive Director of the Texas Water Quality Board.
- D. "Cypress Creek Watershed" means the area in Harris, Waller and Montgomery Counties from which surface waters drain into Cypress Creek or into Spring Creek below the confluence of Cypress Creek and Spring Creek.
- E. "Organized Disposal System" means any public or private system for the collection, treatment and disposal of sewage operated in accordance with the terms and conditions of a waste control order from the Texas Water Quality Board.
- F. "Septic tank" means a vented, watertight tank which serves as

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a sedimentation and sludge digestion chamber which is placed between the house sewer and the soil absorption field.

- G. "Septic tank system" means a system for disposing of sewage through soil absorption and consisting of the following components: the house sewer; the septic tank; and the soil absorption field.
- H. "Sewage" means waterborne human or other domestic waste.
- I. "Soil absorption field" is that part of a septic tank system consisting of drainage tiles and surrounding permeable soil used for the subsurface disposal of septic tank effluent.
- J. "Subdivision" means (1) a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or (2) any four (4) or more contiguous lots or tracts, each of which is less than one (1) acre in size.

#### II. SEWERAGE FACILITIES

No sewerage facilities of any kind may be located within the Cypress Creek Watershed except for those of organized disposal systems authorized by valid waste control orders issued by the Texas Water Quality Board and septic tank systems licensed in accordance with this order.

#### III. DISCHARGE OF SEWAGE

No sewage discharges of any kind may be made in the Cypress Creek Watershed except as follows:

- A. Organized Disposal Systems. Discharges of sewage may be made into organized disposal systems operating under valid waste control orders issued by the Texas Water Quality Board.
- B. Licensed Septic Tank Systems. Discharges of sewage may be made into septic tank systems licensed in accordance with the provisions of this order.

C. Other Facilities. Sewage may be discharged into other facilities if a special license therefor has been issued by the Board.

IV. RULES GOVERNING LICENSES FOR SEPTIC TANKS IN CYPRESS CREEK WATERSHED

- A. No septic tank system or part thereof may be installed or used in the Cypress Creek Watershed unless a license therefor has been issued in accordance with this order.
- B. Except as provided in Paragraph IV D, a subdivision lot which lies wholly or partially within the Cypress Creek Watershed and which has a minimum lot size of less than one (1) acre must be connected to an organized disposal system operating under a valid waste control order issued by the Board and may not be served by a septic tank system. A subdivision lot which has a minimum lot size of at least one (1) acre may be served by a septic tank system provided that the Executive Director finds after appropriate tests and inspections that the nature of the soils and the drainage of the area will permit the use of a septic tank.
- C. A lot or tract located wholly or partially within the Cypress Creek Watershed which is not part of a subdivision may be served by a septic tank system located within the Cypress Creek Watershed, provided the lot or tract in question contains at least 15,000 square feet and the Executive Director finds after appropriate inspections and tests that the nature of the soils and the drainage of the area will permit the use of a septic tank. In making such determination, the Executive Director shall consider the location of the property, the proposed use of the property, the proposed location of the septic tank system on the property, the proposed loading of the system, and the probable density of development in the area, together with other relevant factors. No license shall be issued for any septic tank system,

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and connection to an organized disposal system will be required when any part of the system is closer than 300 feet in horizontal distance to an organized disposal system, unless it is shown to the satisfaction of the Executive Director that it is not feasible for the organized disposal system to provide service to the tract or lot in question.

- D. The Executive Director may issue a temporary license for a septic tank for a period not to exceed two (2) years under circumstances otherwise prohibited herein if he finds that the installation of such a septic tank for such a period will not cause pollution or injury to public health. The Executive Director may grant an extension of a license issued in accordance with this paragraph for a period of up to two years if he finds that continued operation of the septic tank system will not cause pollution or injury to public health.

V. PROCEDURE FOR OBTAINING APPROVAL FOR PLANNED SEPTIC TANK SUBDIVISIONS

Any developer or other person in interest desiring to create a subdivision using septic tank systems for disposal of sewage shall obtain the Executive Director's prior approval for such septic tank development. An application for such approval shall be filed with the Executive Director and shall set forth the name and address of the person making it, the address or location of the subdivision, and a map or plat showing the boundary lines of the subdivision and of the lots within the subdivision, and such soil percolation test results and such other data as may be necessary to permit the determination of the matters required by Paragraph IV B. A copy of the application shall be furnished the Authority. All soil percolation tests must be certified by a Registered Professional Engineer or soil testing laboratory approved by the Authority, and the Authority shall be given an

opportunity to witness the tests of the soil as they are conducted. The Authority shall examine the application and make such additional inspections and tests as the Authority shall consider necessary, and shall forward the application to the Executive Director together with its written recommendation. A copy of the Authority's written recommendation shall be furnished the applicant. If the Executive Director finds that the subdivision has a minimum lot size of at least one (1) acre and that septic tank development would be suitable within the subdivision, he shall so advise the applicant. If the Executive Director finds that a portion of a subdivision is suitable for septic tank development and the remainder is not suitable, he may specify those lots which are found suitable and those which are not found suitable. The Executive Director's approval of a subdivision, or of a part thereof, for septic tank development shall not constitute a license for septic tank systems within the subdivision but shall be a prerequisite to the filing of an application for a license within a subdivision and all septic tank systems installed within the subdivision must be licensed in the manner provided below. Any fees charged by the Authority for performance of the functions provided in this paragraph shall not exceed \$5.00 for each lot in the subdivision.

VI. SEPTIC TANK LICENSE PROCEDURE

The following procedures shall govern the issuance of licenses for septic tank systems within the Cypress Creek Watershed.

- A. Application forms may be obtained from the offices of the County Judge of Harris, Waller and Montgomery Counties, or from the offices of the Authority. The form of the application shall be specified by the Executive Director. In order to initiate action on application for a license, the completed application must be filed with the office of the Authority. The application shall

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include the name and address of the person making the application, the address or location of the property on which the system is to be built, the legal description and the dimensions of the property, the proposed use of the property including a description of the structure or structures proposed to be served, the plans for the septic tank system, a plot plan showing the location of the system in relation to boundary lines of the lot, the proposed loading of the system, and the applicant's certificate that the system is designed in accordance with the latest edition of A Guide to the Disposal of Household Sewage, as published by the Texas State Department of Health. If the property involved is not part of a recorded subdivision, the application shall be accompanied by a map or aerial photograph of sufficient detail to clearly locate the land on which the system will be constructed, with the location of the system shown thereon.

- B. Within thirty (30) days after receipt of the application, the Authority will perform such inspections and tests as it may deem necessary, which may include percolation tests as prescribed in A Guide to the Disposal of Household Sewage, a site inspection and other such tests and inspections as the Authority may consider appropriate. As soon as practicable after completion of all inspections and tests, the Authority will forward the application to the Executive Director with its written recommendation. If the Executive Director approves the application, he shall so notify the applicant. If the application is approved, the septic tank system may be constructed in accordance with the plans submitted with the application. If the application is disapproved as submitted, but the Executive Director is of the opinion that a septic tank system of a different design may be constructed on the property, he shall advise the applicant in writing of the necessary changes.

C. All septic tank systems shall be constructed in accordance with the plans approved by the Executive Director, and any deviation from the plans must be approved by the Executive Director. The construction of the system shall be subject to inspection by the Authority at all reasonable times, and upon completion of construction but before the system is backfilled, the Authority shall make a final inspection to insure compliance with this order. The license shall be issued to the applicant by the Executive Director when advised by the Authority that all requirements have been met.

D. Any fees charged by the Authority for the performance of the functions provided in this paragraph shall not exceed \$100 per application.

#### VII. TERM OF LICENSE

Licenses for septic tank systems issued under this order other than temporary licenses issued pursuant to Paragraph IV D shall be effective for a term of ten (10) years. Licenses may be renewed for successive terms of ten (10) years if the Executive Director finds that the lot or tract in question may continue to be served by the septic tank system without causing pollution which may directly or indirectly injure public health. Any license issued under this order shall automatically terminate if there is a subdivision or re-subdivision of the property served by the septic tank system, or if the property is used for a purpose other than that described in the license, or if the loading of the system is increased beyond that stated in the license. In addition, the Executive Director may amend, revoke or suspend any license issued hereunder for good cause shown pursuant to Rule 625.3(b)(4).

#### VIII. OPERATION AND MAINTENANCE

Septic tank systems licensed under this order shall be operated

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and maintained in accordance with A Guide to the Disposal of Household Sewage or any subsequent revision thereof. All maintenance and servicing of septic tanks shall be performed by the Authority or by servicing organizations approved by the Authority. All wastes removed from septic tank systems must be hauled to an organized disposal system for final disposal. Policies for acceptance of all sewage, sludge or other waste will be established by the owner of the organized disposal system receiving the wastes. All septic tank systems licensed under this order shall be subject to inspection by the Authority at all reasonable times for the purpose of determining compliance with the terms of the license and this order.

IX. REVIEW

All actions taken hereunder shall be subject to review by the Board. Any person aggrieved by an action of the Authority or the Executive Director under this order may appeal to the Board for relief in the manner provided in Rule 600.2 (1970 edition).

X. EXISTING SEWAGE DISPOSAL FACILITIES AND EXISTING SUBDIVISIONS

Septic tank systems existing within the Cypress Creek Watershed as of the date of this order are not required to be licensed hereunder so long as the system is not changed, the loading on the system is not increased from that existing at the date of this order, or there is no subdivision or re-subdivision of the property served by the system. This order shall apply to the undeveloped portions of existing subdivisions as well as to subdivisions which are hereafter developed; however, the Board may grant exceptions for existing subdivisions on such conditions as the Board may prescribe if it finds that because of partial development prior to the date of this order it is not feasible to connect the undeveloped portions of the subdivision to an organized disposal system and that development with septic tank systems will not

directly or indirectly injure public health.

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XI. RIVER AUTHORITY DESIGNATED

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The San Jacinto River Authority and its General Manager are hereby designated the agent of the Texas Water Quality Board for purposes of performing the functions specified in this order. The General Manager of the Authority will make periodic reports to the Executive Director on actions taken hereunder. Any person owning sewage disposal facilities within the Cypress Creek Watershed shall permit employees of the Authority or of the Board to make such reasonable inspections of the sewage disposal facilities as may be required to determine whether those facilities comply with this order.

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XII. EFFECTIVE DATE

This order shall become effective upon the execution by the Authority and the Board of a cooperative agreement pursuant to Section 5.05 of the Texas Water Quality Act providing for the performance by the Authority of the water quality management, inspection and enforcement functions required to be performed by the Authority under this order.

XIII. SEVERABILITY

If any provision of this order or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this order which can be given effect without the invalid provision or application, and to this end the provisions of this order are declared severable.

Passed and approved this 20th day of November, 1970.

TEXAS WATER QUALITY BOARD

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(Seal)

ATTEST:

*[Signature]*  
Hugh C. Yantis, Jr., Executive Director

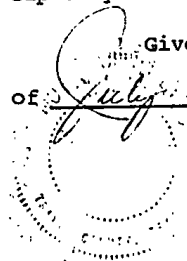
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CHAIRMAN  
*[Signature]*

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THE STATE OF TEXAS X  
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COUNTY OF TRAVIS X

Before me, the undersigned authority, on this day personally appeared GORDON FULCHER, Chairman of the Texas Water Quality Board, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the Texas Water Quality Board, that he was duly authorized to execute the same as the Chairman of the Texas Water Quality Board, and that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this 12th day of July, 1971.



*Ernest Oestrich*  
Notary Public in and for  
Travis County, Texas

