



NORTH  
TEXAS  
MUNICIPAL  
WATER  
DISTRICT

# **BOARD MEETING**

**September 26, 2024**



## **The Pledge of Allegiance to the Flag of the United States of America**

"I pledge allegiance to the Flag  
of the United States of America,  
and to the Republic for which it stands,  
one Nation under God, indivisible,  
with liberty and justice for all."



## **The Pledge of Allegiance to the Texas State Flag**

"Honor the Texas flag;  
I pledge allegiance to thee,  
Texas, one state under God,  
one and indivisible."

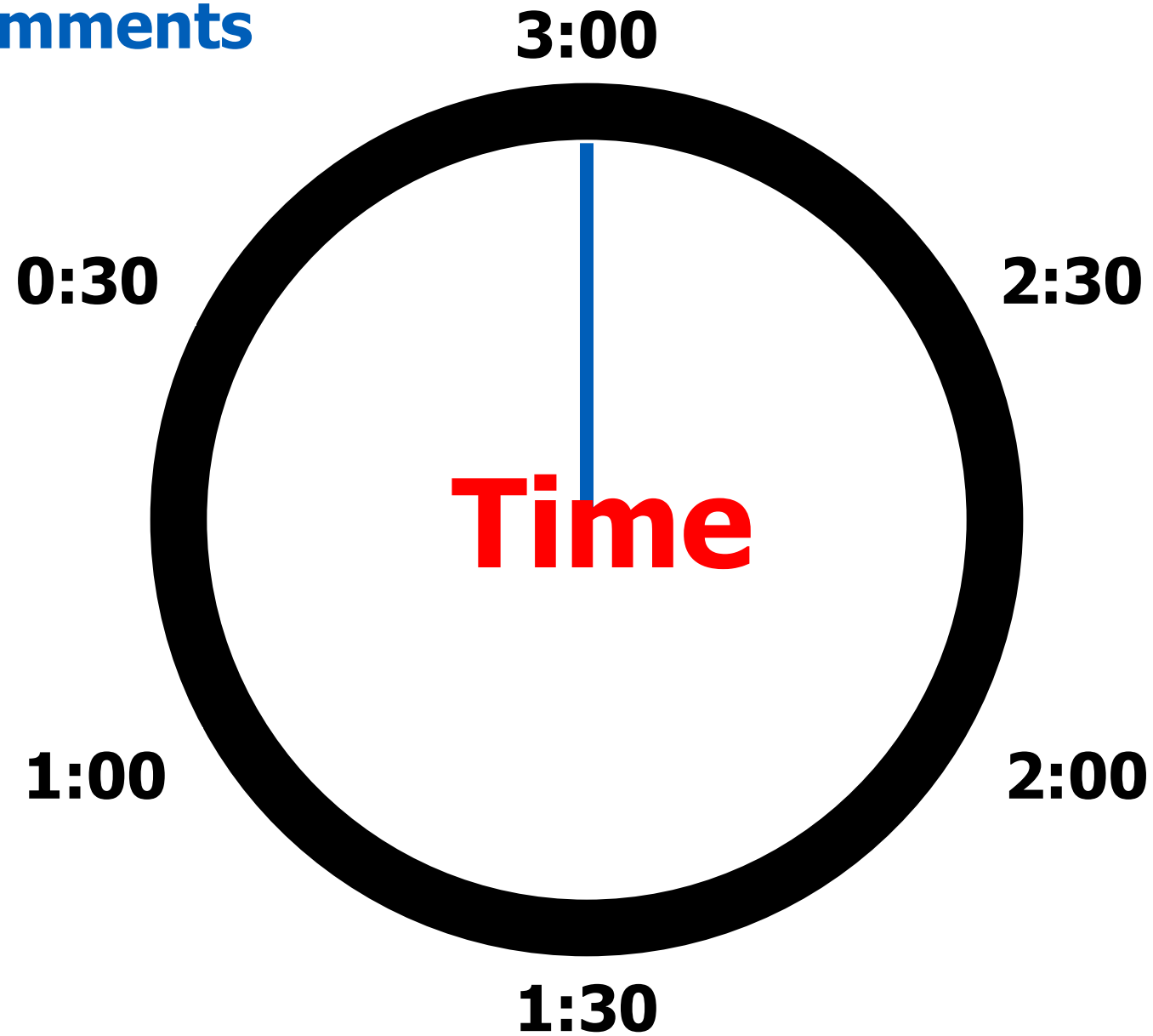




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## Public Comments





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## VIII. DISCUSSION ITEMS

### 1. Local Government Training

- Open Meetings Act
- Public Information Act
- Conflicts of Interest
- Ethics

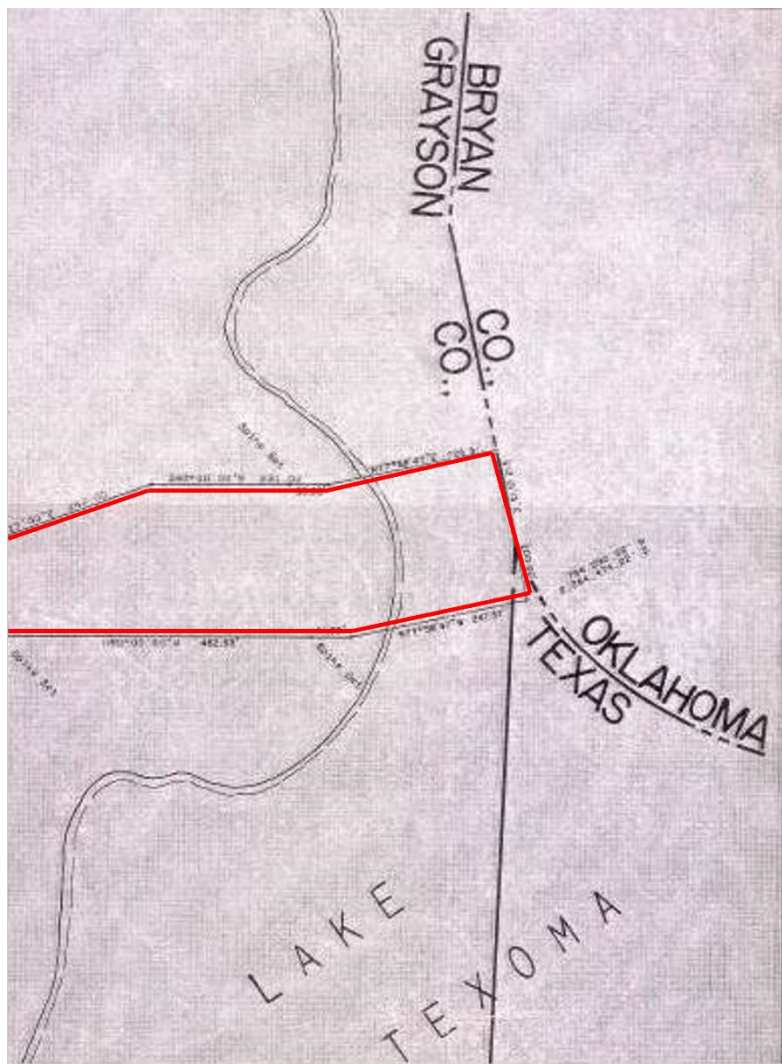
### 2. Oklahoma Red River Boundary Commission



# Oklahoma Red River Boundary Commission



# Texoma Pump Station Location

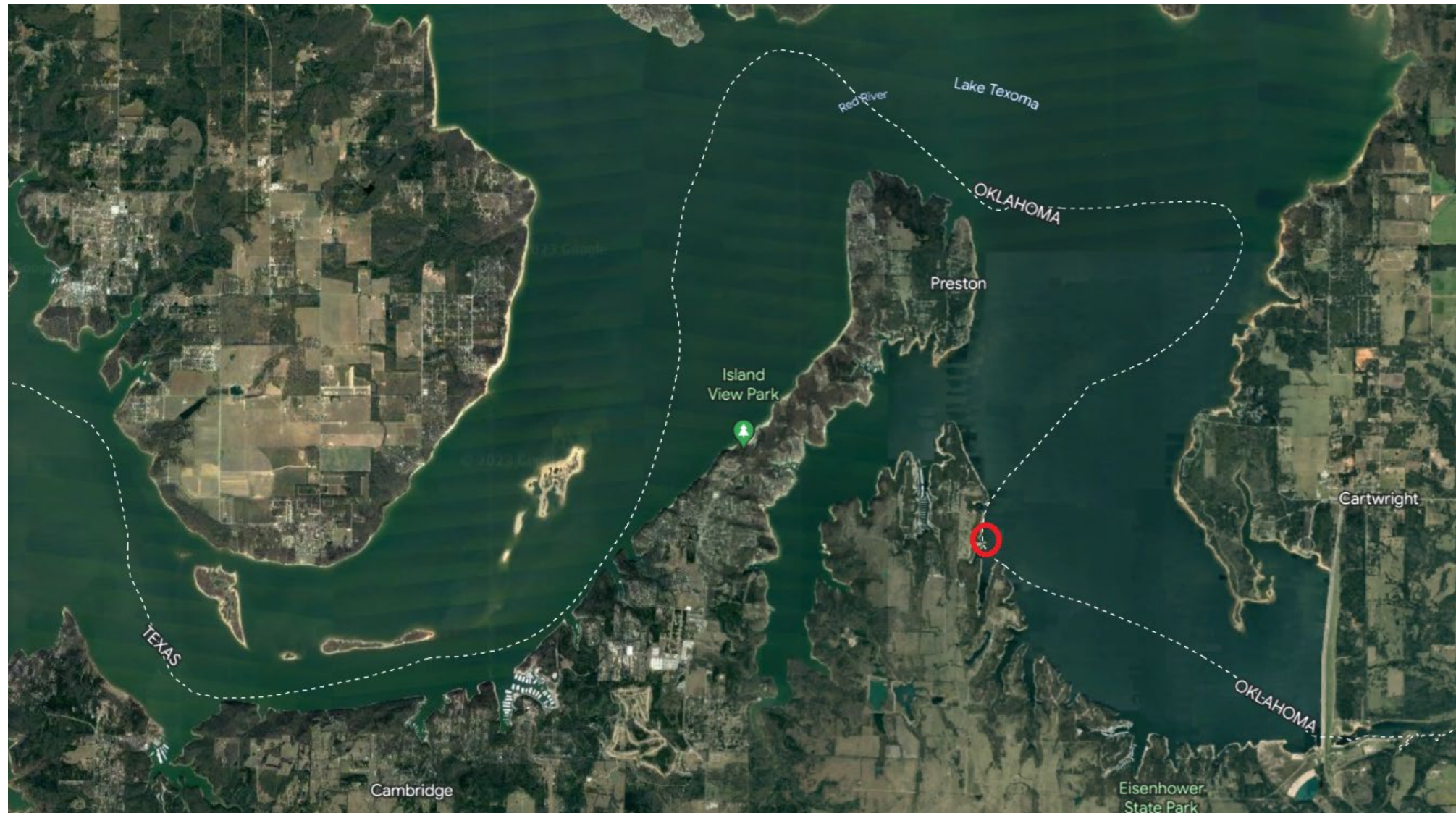


- Map shows easement granted by USACE in 1987 based on pre-construction survey
- Texoma Pump Station construction completed in 1989



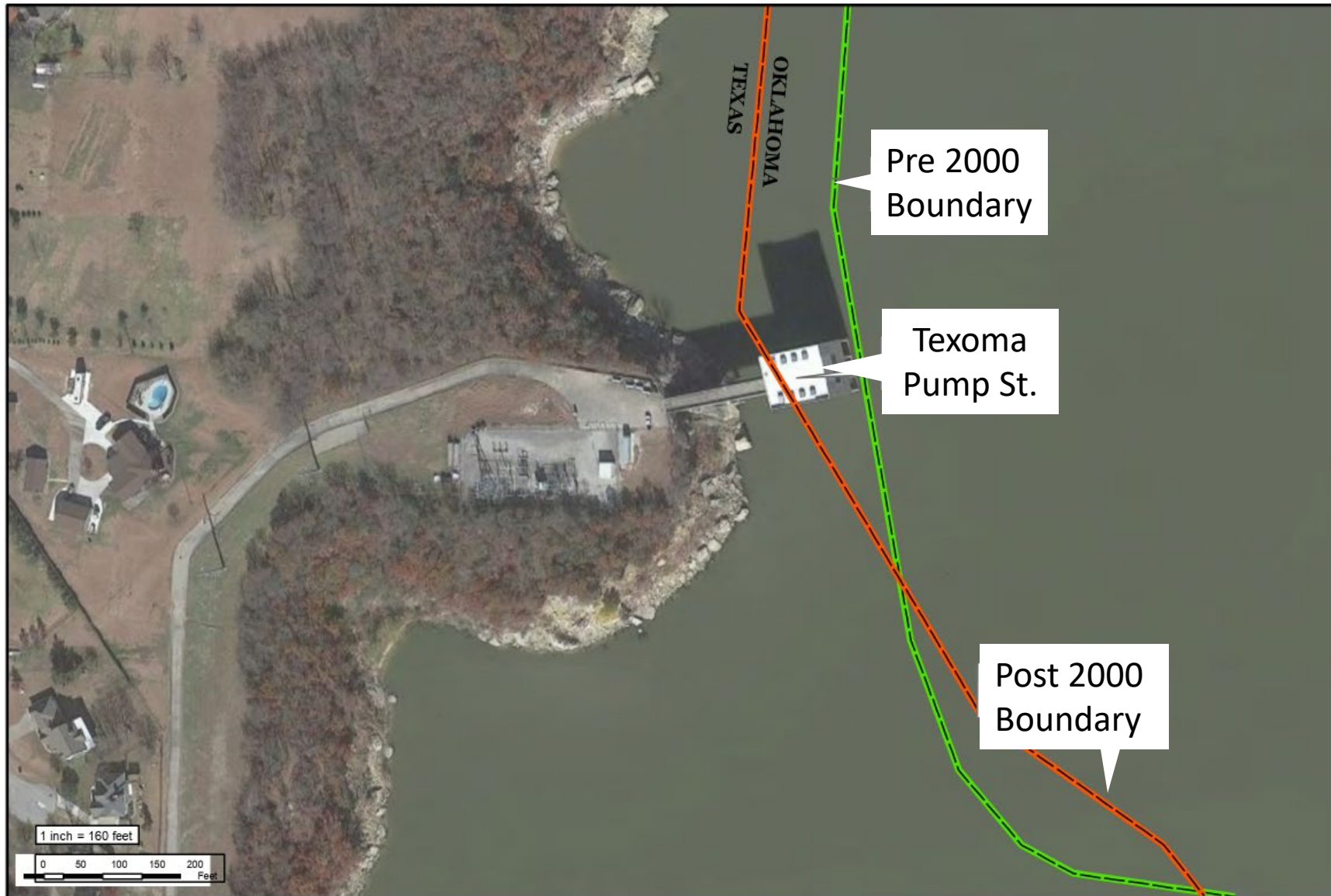


# Texoma Pump Station Location





# Oklahoma/Texas Boundary





## Red River Boundary Compact

- In 1999, the States of Texas and Oklahoma entered into the Red River Boundary Compact; ratified by U.S. Congress in October 2000
- Defined the Oklahoma-Texas state boundary as the vegetation line along the south bank of the Red River
- Compact directed the use of the U.S. Army Corps of Engineers pre-construction survey to determine the boundary within the Lake Texoma area
- The Texoma Area Boundary Agreement was entered into by the states in July 2000 and, inconsistent with the Compact, used a USGS Quad Map to determine boundary due to the unavailability of the pre-construction survey





## Zebra Mussels in Lake Texoma

- On August 4, 2009, NTMWD was notified of zebra mussels in Lake Texoma and voluntarily agreed to keep the Lake Texoma Pump Station offline.
- Fish and Wildlife Service informed NTMWD of boundary issue in 2010.
- Federal Lacey Act prohibits interstate transport of invasive species. NTMWD secures an exemption in 2012 and 2014.
- Operational risk remains to other Federal interstate laws, particularly the Endangered Species Act.





## Proposed Solution

Each State required to reestablish a Red River Boundary Commission to redraw the boundary:

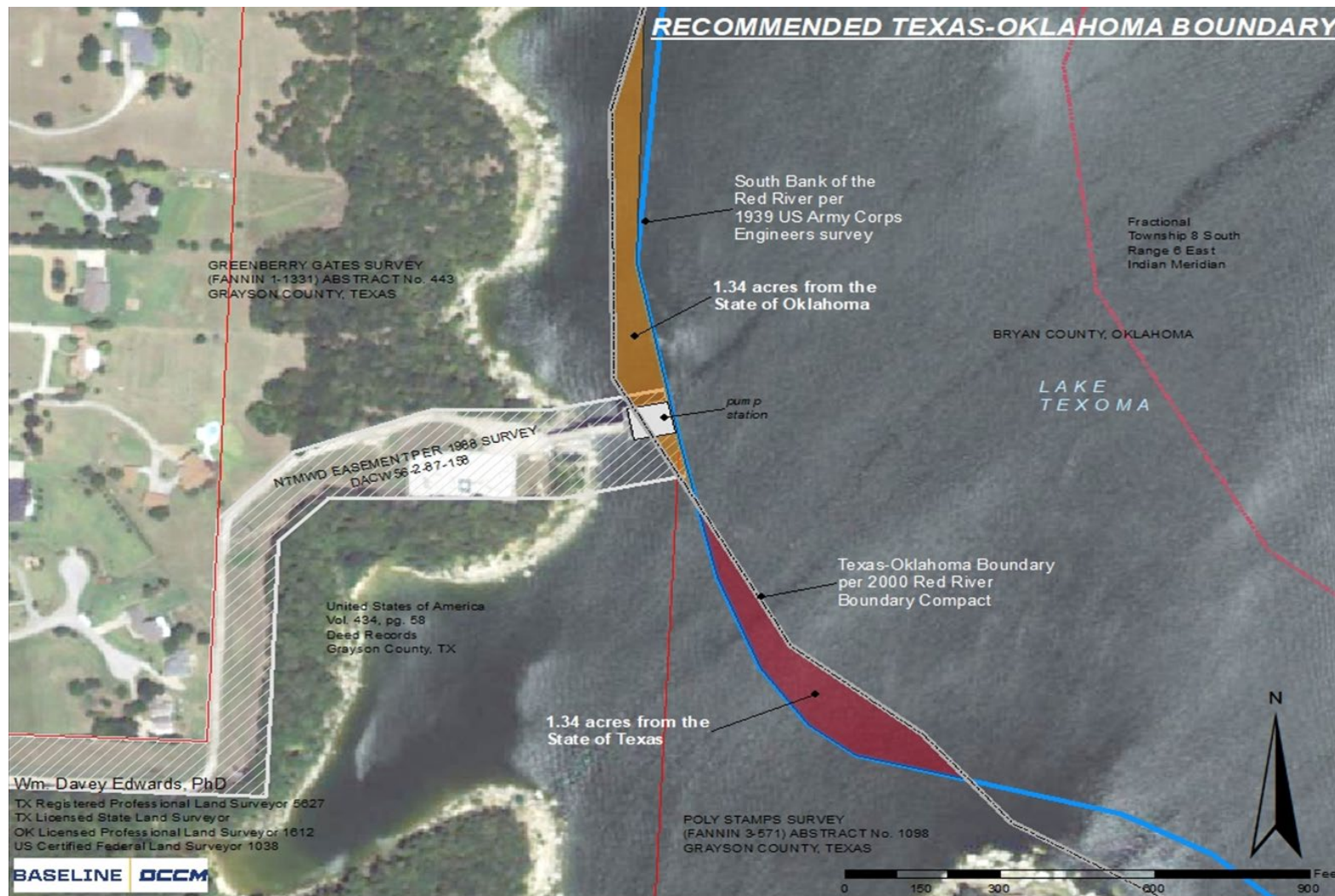
- Redraw the boundary using historical records or documentation of the Corps so that there is an equal swap of acreage between the two states
- Oklahoma and Texas enter into an Amended and Restated Texoma Area Boundary Agreement that incorporates the new latitude and longitude for the redrawn Oklahoma-Texas Boundary in Lake Texoma





# Texas Red River Boundary Commission

- Reestablished by the 84<sup>th</sup> Legislature in 2013
- Met in August 2021 to consider solutions
- Approved redrawn state boundary





# Oklahoma Red River Boundary Commission

- Oklahoma Red River Boundary Commission reestablished in 2021
- April 2023 – Commission's first meeting
  - Appoints the President of the University of Oklahoma, Joe Harroz, to review the boundary issue on behalf of the Commission.
  - Harroz directs his General Counsel to lead the review
- October 2023 – Commission approves MOU with NTMWD for cost reimbursement for contract professionals to review and recommend.
  - NTMWD Board approves MOU in November
- June 2024 – Report from contract attorneys is presented to Commission, OU directed to begin negotiations with NTMWD for resolution.



## Proposed Solution

- Oklahoma Red River Boundary Commission will adopt an amended and restated boundary using the same latitude and longitude points adopted by the Texas Commission.
- NTMWD will remit \$10,000,000 to the State of Oklahoma Treasury. Funds will be directed for use on water projects in Texoma or Red River watershed, to be appropriated by the State Legislature in 2025.
- Funds will be transferred at Commission meeting on October 9, following passage by Commission and signature of agreements by Chairman.
- Remaining invoices of contracted professionals will be paid.



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# Executive Session





## Section 551.071, Consultation with Attorney

- Authorizes a government body to consult with its attorney in an Executive Session to seek advice on legal matters regarding pending or contemplated litigation or a settlement offer.
- A government body may not invoke this Section to convene a closed session and then discuss matters outside of that provision.
- General discussion of policy, unrelated to legal matters, is not permitted under the language merely because an attorney is present.

## Section 551.072, Deliberations about Real Property

- Authorizes a government body to deliberate in Executive Session on certain matters concerning real property.
- It provides as follows:

*A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.*
- Items discussed during Executive Session are privileged and should remain confidential.



# **Adjourn Executive Session**



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## Administrative Memorandum 24-6060

### **XII. AGENDA ITEMS FOR INDIVIDUAL CONSIDERATION**

#### **GENERAL/ADMINISTRATIVE AGENDA ITEMS**

- J. Adopt Resolution 24-42 authorizing the Executive Director to finalize negotiations and execute an agreement with the Oklahoma Red River Boundary Commission and authorize the Executive Director to remit consideration to the State of Oklahoma at a not-to-exceed amount set by the Board of Directors.



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## VIII. DISCUSSION ITEMS

### 1. Local Government Training

- Open Meetings Act
- Public Information Act
- Conflicts of Interest
- Ethics

### 2. Oklahoma Red River Boundary Commission



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**Regional Service Through Unity**  
Meeting our Region's Needs Today and Tomorrow

## **What Every Director Should Know**

**September 26, 2024**

**Lauren Kalisek**



# Topics

- **Sunshine Laws**
  - Open Meetings
  - Public Information
- **Conflicts of Interest**
  - When to Abstain from Board Votes
  - When to File Disclosure Forms related to District Vendors
- **Other Ethics Provisions**
  - Nepotism
  - Bribery/Gifts
  - Corrupt Influence/Abuse of Office
- **Board Member Best Practices**



*Regional. Reliable. Everyday.*



# **Texas Open Meetings Act**

Chapter 551, Government Code



# Open Meeting Basics

- Public meetings to conduct District business
  - Post written notice
  - Applies to regular, special, and committee meetings
  - The District may only act on posted items
- The public may address the Board on any agenda item
- Board Members must undergo Open Meetings training on the Attorney General's website within 90 days of taking office





# Meetings

- A quorum is a majority of the Board
  - When a quorum deliberates, you have a “meeting” and are subject to the Open Meetings Act
- No walking quorums
- Be mindful of email communications
  - Email can be used by staff to convey information to Board Members
  - Do not REPLY ALL
  - Be careful as you cc and bcc



## Executive Sessions

- Executive session is a meeting of the Board not open to the public
- Allowable only in limited circumstances:
  - Attorney consultations
  - Deliberations about property (value)
  - Personnel matters
  - Technology security meetings
- Only parties essential to the item may attend executive session where allowed



# Penalties – Open Meetings

## Civil

- A court may void any action taken in violation of the Act

## Criminal

- Misdemeanor
- Fines ranging from \$100-\$500
- One to six months incarceration



# Public Information Act

Chapter 552, Government Code



## Public Information

- Information written, produced, collected, assembled, or maintained in connection with District business
- Current and former employees and officers with public information on a private device must forward it to the District to be properly preserved
- Presumption: open to the public
- May exist in many forms (e.g., paper, email, metadata, audio, video)
- May be withheld only with specific exceptions



# Public Information Requests

- Request must be in writing and ask for information already in existence
- District may not ask why the information is being requested or how it will be used
- Response due in 10 business days and provide information reasonably promptly
- District must ask for an AG ruling to withhold information
- The District provides thousands of pages of documents in response to PIA requests each year





## Common Exceptions

- Trade secrets; certain commercial or financial information
- Homeland Security; critical infrastructure
- Litigation or settlement matters
- Information related to competitive bidding
- Information related to technological or network security
- Attorney-client privilege
- Personnel information
- Real property information
- Certain document drafts such as contracts and policies



If the District violates the PIA, a requestor may:

- File a complaint with the Attorney General
- Seek relief from a court
  - Declaratory judgment
  - Injunctive relief
  - Writ of Mandamus
- Petition local county attorney for relief



# Criminal Penalties

- Misdemeanors
- Board members or employees can be charged
- Fines from \$1,000-\$4,000
- Up to six months of incarceration
- Possible violations include:
  - Failure to provide access
  - Unauthorized and willful destruction, removal, or alteration of public information
  - Distribution or misuse of confidential information



# Conflicts of Interest

Chapter 171, Local Government Code  
Abstaining from Board Action



## Chapter 171: Abstention

- Board Members should abstain from vote and file affidavit when they or a family member have a substantial interest in a business entity or real property affected by a Board decision or vote
- Conflicts should be addressed prior to any consideration of the issue by the Board



# Substantial Interest

- Business Entity:
  - Owning at least 10 percent of the voting stock or shares of the business entity;
  - Owning at least 10 percent or \$15,000 of the fair market value of the business entity; or
  - Receiving funds from the business entity in excess of 10 percent of the person's gross income for the previous year.
- Real Property:
  - Equitable or legal ownership with a fair market value of \$2,500 or more





## Penalties

The Board's action is voidable only if the measure would not have passed without the conflicted Board Member's vote

### Class A misdemeanors

- Fines up to \$4,000
- Up to one year of incarceration



# Conflicts of Interest

Chapter 176, Local Government Code  
Disclosure Forms



## Chapter 176: Disclosure Forms

Board Member to file Conflicts Disclosure Statement for District vendors where:

1. The Board Member has an employment or business relationship with the vendor where the Board Member received more than \$2,500 in the previous year;  
or,
2. The vendor has given the Board Member or family member gift(s) with an aggregate value of more than \$100 in the previous 12 months.



# Conflicts Disclosure Statement

- Must be filed with the District's Records Administrator within seven business days of becoming aware of a conflict
- A "gift" does not include:
  - Food accepted as a guest (meaning donor must be present)
  - A gift given by a family member of the person accepting the gift
  - A political contribution
- Board Policy Manual addresses gifts from vendors. Cannot accept (among other things):
  - Vacation, pleasure trips or hunting trips
  - Discounts not available to general public
  - Entertainment at a discount not available to the general public at the same cost



# **Ethics Laws**

Chapter 573, Government Code – Nepotism

Chapter 36, Penal Code – Bribery

Chapter 36, Penal Code – Acceptance of Gifts

Chapter 39, Penal Code – Abuse of Office





## Nepotism

- The Board may not vote to place an individual in a position that is to be compensated from public funds or fees of office if the individual is related to any Board Member
  - Exception for employees hired before Board member takes office
  - Board Member may not participate in deliberation or vote affecting employee



# Bribery

A Board Member commits a second-degree felony if he or she solicits, accepts, or agrees to accept any “benefit” as consideration for:

- An exercise of his or her discretion as a Board member; or
- A violation of a duty imposed by law





## Acceptance of Gifts

- Board Members may not accept any “benefit” from a person they know is interested in any contract, purchase, payment, claim, or transaction involving the exercise of discretion by the District
- A “benefit” means anything reasonably regarded as pecuniary gain or advantage



## Acceptance of Gifts - Continued

- Exceptions
  - Non-cash gifts worth under \$50
  - Food, lodging, transportation, or entertainment if accepted as a guest (donor must be present)
  - A benefit from a friend, relative, or business associate if an independent relationship exists
  - Reminder of Board Policy Manual (goes beyond these exceptions regarding vendors)
- Consider appearances



## Abuse of Office

- Official Capacity—don't use cloak of "office" without authorization
- Oppression—don't use office to oppress others
- Official Information—don't take advantage of information not publicly known

**Bottom Line: Don't use the office for personal benefit**



# **Board Member Best Practices**





## Best Practices

- Complete New Director Orientation, including AG requirements
- Read and be familiar with Board Policies Manual
  - ED/GM and Board Members/Officers Roles
  - Meeting Procedures
  - Education and Development Expenses
  - Board Member Standards of Conduct
  - How to Place Items on the Agenda
  - Board Member-Staff Communication



## Best Practices

- Experienced Board Members can serve as mentors to new Board Members
- Review packet material prior to the meeting
- With such a large Board, be time-conscious and promote discussion that furthers the progress of the meeting
- Understand your appointing Member City's expectations on communications
- Duty is to the District and the region served by the District



# Conclusion

Questions



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## Administrative Memorandum 24-6051

### **XII. AGENDA ITEMS FOR INDIVIDUAL CONSIDERATION**

#### **GENERAL/ADMINISTRATIVE AGENDA ITEMS**

- A. Adopt Resolution 24-37 commending Director Kalen Boren for his service as a member of the North Texas Municipal Water District Board of Directors.



## Administrative Memorandum 24-6052

- B. Adopt Resolution No. 24-32, approving the review and authorizing amendments to the Finance Policies Manual.





## **Administrative Memorandum 24-6053**

C. Authorize amendments to the Personnel Policies Manual.



## **Administrative Memorandum 24-6054**

D. Authorize amendments to the Board Policies Manual.



## **Administrative Memorandum 24-6055**

- E. Adopt Resolution 24-38 authorizing the amendment and restatement of the plan document for the Retirement Plan for Employees of North Texas Municipal Water District.



## Administrative Memorandum 24-6056

- F. Adopt Resolution 24-39 authorizing the amendment and restatement of the adoption agreement and plan document for the 401(a) Defined Contribution Plan of the North Texas Municipal Water District.



## Administrative Memorandum 24-6057

- G. Adopt Resolution 24-40 authorizing the amendment and restatement of the plan document for the North Texas Municipal Water District 457(b) Deferred Compensation Plan.



## Administrative Memorandum 24-6058

- H. Adopt Resolution 24-31 authorizing the issuance of Revenue Bonds for the Mustang Creek Wastewater Interceptor System in the amount of approximately \$24,100,000.





## Administrative Memorandum 24-6059

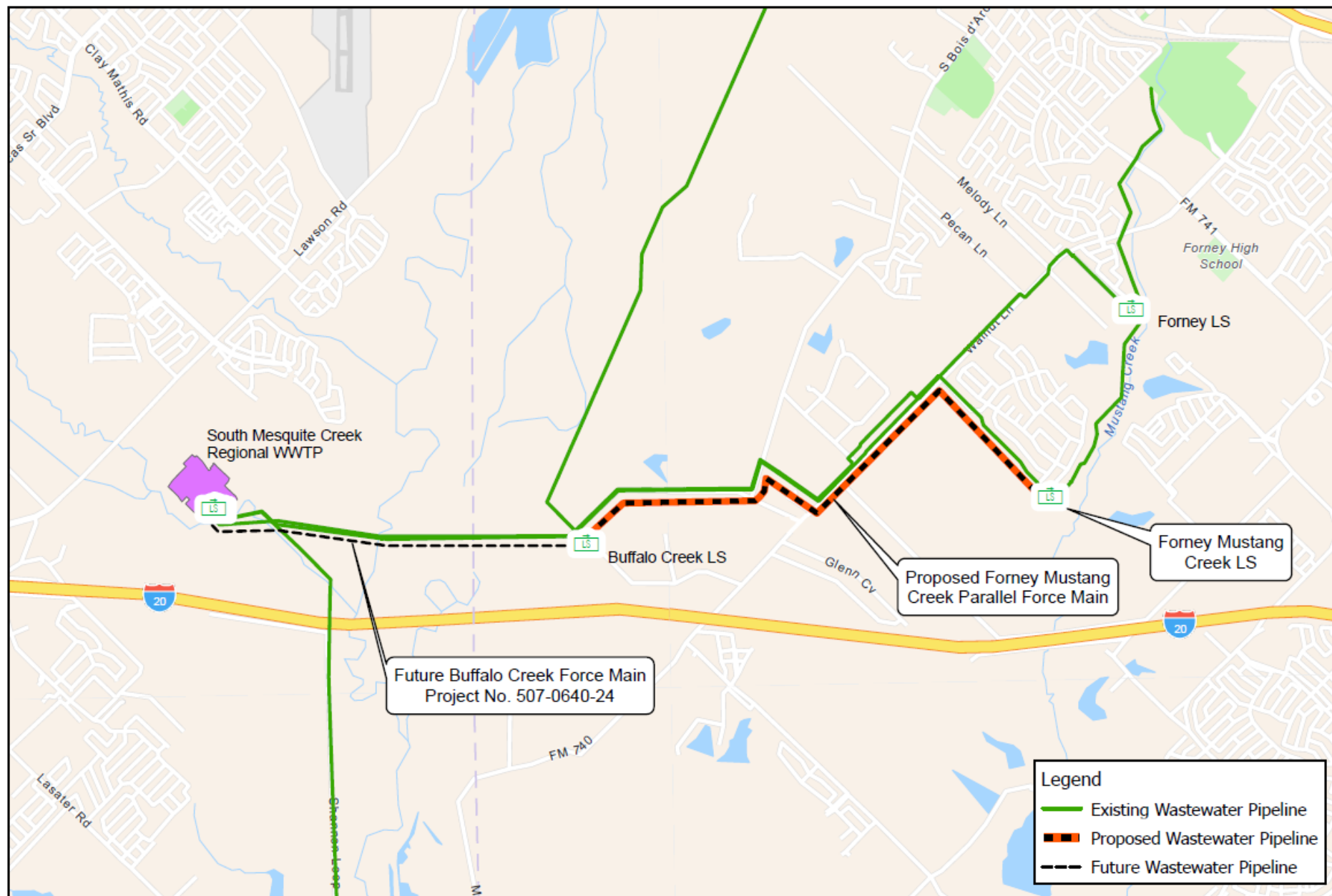
- I. Adopt Resolution 24-30 authorizing the appropriation of funds for the amended 2023-24 Budget of \$746,669,810 and the 2024-25 Budget of \$820,275,870, and providing rates and charges for System Services of the North Texas Municipal Water District.



## Administrative Memorandum 24-6061

### **WASTEWATER AGENDA ITEMS**

- K. Award a construction contract in the amount of \$20,084,624 and authorize internal inspection services in the amount of \$836,220 for the Forney Mustang Creek Lift Station Phase II & Forney Mustang Creek Parallel Force Main project.



**Forney Mustang Creek Lift Station Phase II &  
Forney Mustang Creek Parallel Force Main  
Project No. 509-0561-20**





## Administrative Memorandum 24-6062

- L. Award a construction contract in the amount of \$17,132,500, authorize internal inspection services in the amount of \$640,000, and authorize an engineering service agreement in the amount of \$764,712 for construction phase services for the Preston Road Lift Station Expansion project.







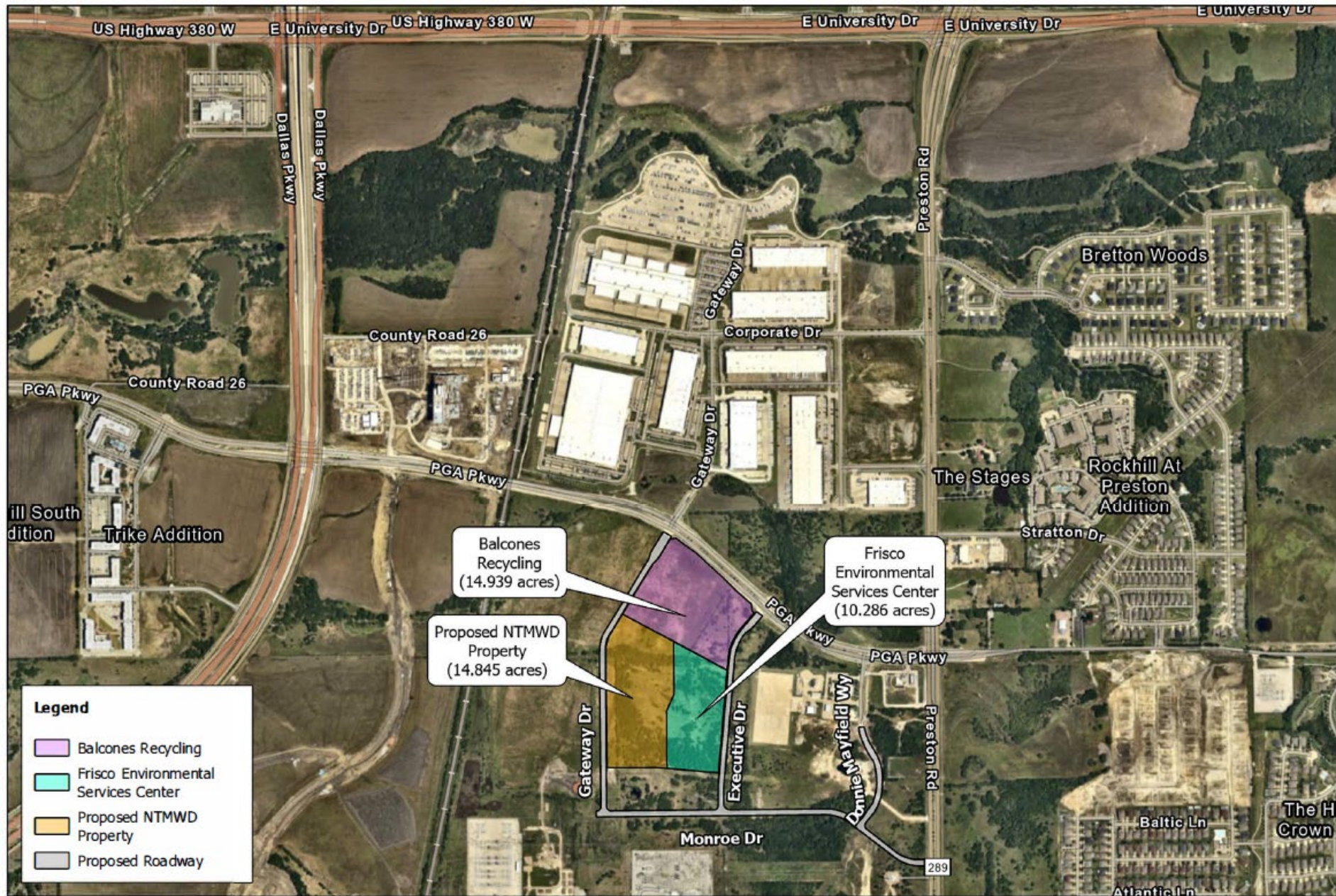


## Administrative Memorandum 24-6063

### **SOLID WASTE AGENDA ITEMS**

- M. Adopt Resolution 24-41 authorizing the filing of a permit application for the future Gateway Drive Transfer Station solid waste permit with the Texas Commission on Environmental Quality and the City of Frisco, and funding in the amount of \$488,068 for an engineering services agreement for permitting the Gateway Drive Transfer Station.







## Administrative Memorandum 24-6064

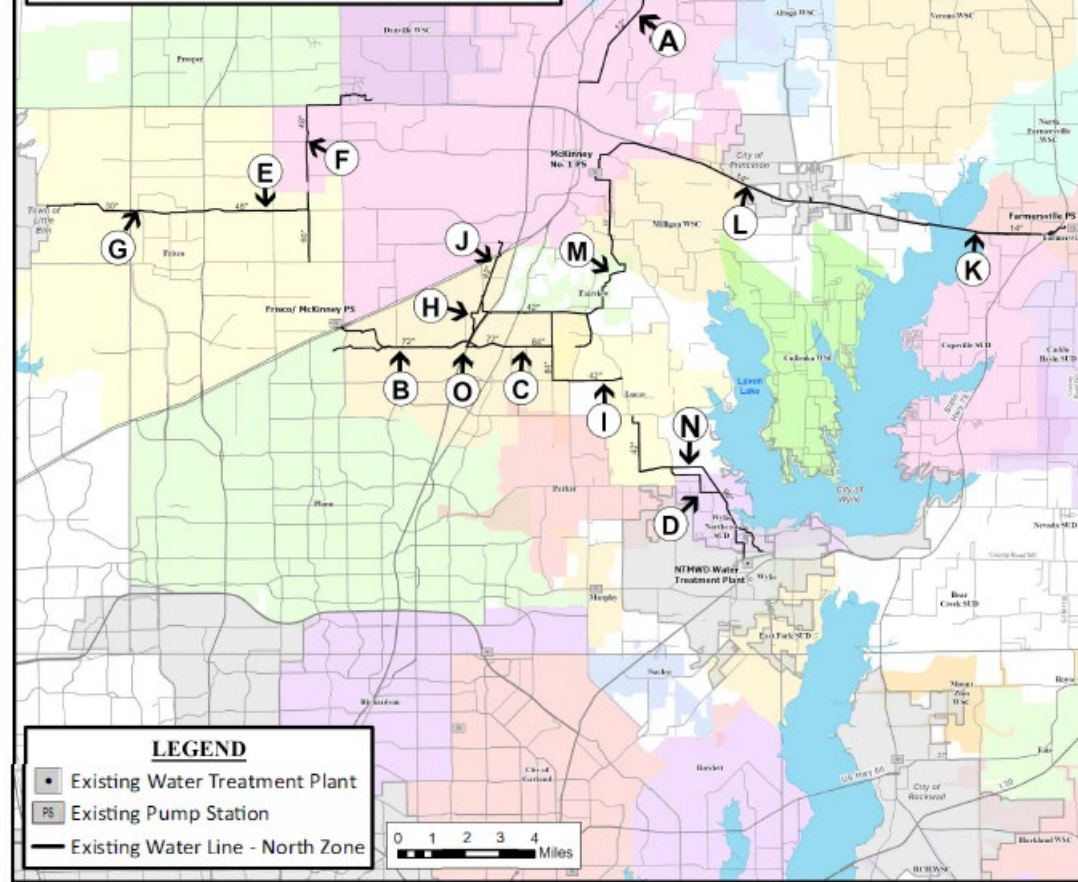
### **REAL ESTATE AGENDA ITEMS**

- N. Adopt Resolution 24-33 authorizing funding in the amount of \$1,140,000 to acquire permanent and temporary easements for the North System Air Valve Improvements project.



### Phase III Construction (Proposed)

- A - 121 Site Facility Ph I
- B - A/P/F/M 72" Pipeline Project A Ph I
- C - A/P/F/M 72" Pipeline Project A Ph II
- D - A/P/F/M 84" Pipeline Project B Ph II
- E - Frisco McKinney Contract A
- F - Frisco McKinney Contract B
- G - Little Elm Pipeline
- H - McKinney No. 2 Parallel Pipeline
- I - McKinney Parallel 42" Pipeline Ph II
- J - McKinney Parallel 42" Pipeline Ph III
- K - McKinney Princeton Farmersville 14 East
- L - McKinney Princeton Farmersville 14 West
- M - North McKinney Pipeline Ph 1 and 2
- N - Plano McKinney 96" Pipeline Ph III
- O - Plano McKinney Water Transmission System Project A Ph I



### North System Air Valve Improvements Project No. 101-0442-16





## Administrative Memorandum 24-6065

- O. Adopt Resolution 24-35 authorizing an amendment to a previously existing land acquisition program to acquire additional property and provide additional funding in the amount of \$2,100,000 for the Preston Road Lift Station Expansion project.





# **Preston Road Lift Station Expansion** **Project No. 501-0559-20**





## Administrative Memorandum 24-6066

- P. Adopt Resolution 24-34 authorizing funding in the amount of \$650,000, to acquire temporary easements, enter necessary landowner agreements, and project name change for the Rowlett Creek Trunk Sewer Extension Rehabilitation and Improvements project.





## Administrative Memorandum 24-6067

- Q. Authorize execution of a Preliminary Development Agreement with BD Acquisitions LLC, and authorize the subsequent execution of a Lease and Use Agreement with the future property owners association.





## **XIII. CLOSING ITEMS**

- A. Opportunity for Board members to provide feedback or request potential future agenda items.

## **XIV. ADJOURNMENT**



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