



Nueces River Authority

January 17, 2025

The Honorable Ken Paxton
Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

VIA ELECTRONIC MAIL
opinion.committee@oag.texas.gov

Re: Request for Expedited Attorney General Opinion regarding recusal by Nueces River Authority Board Member from discussions and actions on Board business concerning the City of Corpus Christi and/or the Port of Corpus Christi

Dear Attorney General Paxton:

I make this Request for Expedited Attorney General Opinion in my official capacity as Board President of the Nueces River Authority (“NRA”).¹ Specifically, I seek a written opinion on whether, under applicable Texas law, a member of NRA’s Board of Directors should recuse himself/herself from Board discussions and votes involving the City of Corpus Christi (the “City”) and/or the Port of Corpus Christi Authority (the “Port”) when the Board Member has a close familial relationship with a City employee holding a relevant leadership role. As NRA is tasked with the conservation and development of the natural resources inside the Nueces River Basin,² the question posed directly affects the public interest and NRA’s ability to protect the integrity of its efforts to pursue a water secure future in the region. Given the importance of this issue to the development of Texas’ water resources, and the fact that NRA is currently undertaking Board business directly relevant to this request, NRA respectfully prays for an expedited opinion in advance of the 180 days authorized by statute.³

I. Background:

NRA is committed to its pursuit to construct and operate a state-of-the-art seawater desalination plant in the Corpus Christi area to generate a new water supply and ensure present and future water security for the region. There are two entities in Corpus Christi who hold or are seeking relevant permits with the Texas Commission on Environmental Quality tied to desalination plants and with whom NRA could engage to make this important project a reality—the City and the Port. NRA is in active negotiations with the Port to reach a formal agreement whereby the Port would lease property and license the necessary regulatory permits to NRA to enable NRA to construct, own, and operate a desalination plant on Harbor Island in Corpus Christi.

¹ Tex. Gov’t Code § 402.042(b)(9).

² Tex. Spec. Dist. Local Laws Code §§ 8511.0101-8511.0710.

³ Tex. Gov’t Code § 402.042(c)(2).

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NRA's Board of Directors consists of twenty-one members appointed by the Governor.⁴ One of NRA's Board Members has a familial relationship with a City employee, which I believe should result in recusal on the part of the Board Member on any Board business involving either the City or the Port due to those entities' common and sometimes competing interests. Specifically, the Board Member's brother-in-law is an executive of Corpus Christi Water, the arm of the City responsible for water supply and service, and who therefore has a special interest in water development projects in the City.

The plans and negotiations involving the Port have been discussed by NRA's Board of Directors in two closed executive sessions. The first occurred on August 29, 2024, at which the Board Member at issue did not decide to recuse. A copy of the Board Meeting agenda is attached as **Attachment A**. Following the closed session on August 29, 2024, more than one local news entity reported on information concerning the desalination plant project and negotiations with the Port, including a copy of a proposed letter from NRA to the Port. Examples of the news stories are attached as **Attachment B**. What is especially concerning is that information discussed during the August closed executive session was unlawfully shared. In particular, I am aware of a discussion between the NRA Board Member and a Board Member for the Port during which I believe confidential information was unlawfully disclosed. Such discussion necessitated my correspondence with the Port's Chief Executive Officer on October 21, 2024, which I have provided as **Attachment C**. In summary, following NRA's August 29, 2024 Board meeting, confidential information was released, and I fear that similar events are likely in the future.

In an effort to reach an amicable resolution on the recusal issue, I had verbal discussions with and subsequently sent a letter to the Board Member at issue in October and November 2024 outlining why recusal would be appropriate. A copy of my letter to the Board Member is included as **Attachment D** with redactions to preserve the identity of the individual as a part of this process. The Board Member subsequently responded indicating that the Board Member would not elect to recuse from future discussions or votes on the matter. The NRA Board of Directors met again on November 15, 2024, during which an executive session was held to further discuss the potential partnership with the Port, followed by a vote in open session to approve negotiating terms with the Port. A copy of the November 15, 2024, Board Meeting agenda is included as **Attachment E**. The Board Member did not elect to recuse from the executive session discussion or the subsequent vote.

II. Summary of Applicable Law and Relevant Guidance:

It is the policy of the State of Texas that a state officer "not have a direct or indirect interest, including financial *and other interests* . . . of any nature that is in substantial conflict with the proper discharge of the officer's . . . duties in the public interest."⁵ The definition of "state officer" includes a member of the board of directors of a river authority created under the Texas Constitution, as such officers are considered appointed officers of a major state agency.⁶ To foster

⁴ Tex. Spec. Dist. Local Laws Code § 8511.0201(a).

⁵ Tex. Gov't Code § 572.001(a) (emphasis added).

⁶ *Id.* at §§ 572.002(12) and 572.003(c)(34).

the public faith and confidence in state government, Texas Government Code Chapter 572 sets forth important standards of conduct for public officials.⁷

If an appointed officer of a board having policy direction over a state agency, as is the case here, has a personal or private interest in a measure, proposal, or decision pending before said board, the officer *shall* publicly disclose the interest and may not vote or participate in the decision.⁸ While this provision states that “personal or private interest” has the same meaning as given under Article III, Section 22 of the Texas Constitution (relating to the Legislature), that constitutional provision does not contain a definition of the term.⁹ Texas courts have not defined this provision—likely because recusal issues such as this have not reached them (i.e., most of the time, Board members will recuse themselves when faced with situations that raise such personal or private interests rather than insist upon participating)—however, persuasive precedent exists in Texas Ethics Commission Advisory (“TEC”) Opinions and guidance. Specifically, the TEC has opined that, “[s]urely one of the purposes of section 572.058 is to prescribe the proper course of action for a board member who has *potentially* conflicting loyalties in regard to a board decision.”¹⁰ The TEC’s Guide to Ethics Laws for State Officers and Employees states that a public servant “should avoid creating *even the appearance of impropriety*.”¹¹ In the matter at hand, a potentially conflicting loyalty exists between the exercise of the Board Member’s official duties and familial ties that at the very least creates the appearance of impropriety.

Finally, there is an important state interest in avoiding conflicts of interest to preserve the sanctity of executive sessions. Texas Government Code Chapter 551 sets forth specific circumstances in which a state agency may conduct a closed meeting that is not open to the public. Particularly applicable here are deliberations regarding economic development negotiations conducted by NRA pursuant to Texas Government Code § 551.087, which NRA has twice undertaken, as previously described. It is not difficult to glean why such discussions are closed to the public, as they often involve sensitive commercial and financial information of the parties to the negotiation, and information that could compromise a state agency’s bargaining power and trustworthiness if improperly disclosed.¹² Protection of this information is treated with the upmost seriousness, as evidenced by the fact that unlawful disclosure is considered both a misdemeanor offense and “official misconduct.”¹³ It is indisputable that confidential information regarding negotiations with the Port have been unlawfully disclosed outside of NRA’s executive sessions, and NRA is obligated to take all necessary steps to prevent future disclosures.

III. Conclusion

As President of the NRA Board, I take this issue very seriously due to the potential for public mistrust in the integrity of the decisions of NRA’s Board of Directors, as well as the impacts

⁷ *Id.* at § 572.001(b) and (c).

⁸ *Id.* at § 572.058(a).

⁹ TEX. CONST. Art. III, § 22.

¹⁰ Tex. Ethics Comm’n Advisory Opinion No. 412 (March 12, 1999) (emphasis added).

¹¹ Texas Ethics Commission, *A Guide to Ethics Laws for State Officers and Employees*, <https://www.ethics.state.tx.us/data/resources/guides/Gofficers-employEthics.pdf> (Jan. 1, 2022) at 2.

¹² See Tex. Gov’t Code § 551.087.

¹³ *Id.* at §§ 551.146 and 552.352.

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to NRA's ability to effectively negotiate a mutually beneficial contract that is in the best interest of the citizens of this state and the area NRA represents. I am of the position that, given what has transpired as described above, that the Board Member's refusal to recuse may impair open and productive discussions regarding relevant Board business for fear that information may be improperly disclosed again. For these reasons, NRA respectfully requests an expedited opinion on the question posed.

Thank you for your consideration and attention to this important matter. If you have any questions or require additional information, please do not hesitate to contact me through the NRA offices.

Sincerely,



Eric Burnett
Board President,
Nueces River Authority

Attachments

cc: John J. Byrum II, Executive Director, Nueces River Authority

Attachment A

MEETING NOTICE

THE NUECES RIVER AUTHORITY BOARD OF DIRECTORS WILL HOLD A MEETING AT 10:00 A.M. ON AUGUST 29, 2024. THE MEETING WILL BE HELD IN THE NUECES RIVER AUTHORITY COASTAL BEND OFFICES, 500 IH 69, SUITE 805, ROBSTOWN, TEXAS 78380. ALL INTERESTED PARTIES ARE ENCOURAGED TO ATTEND.

***Public Notice** – Members of the audience will be provided an opportunity to address the Board of Directors during the Public Comment period listed on the agenda. Citizens who wish to provide public comment are asked to sign in prior to the meeting. Each speaker is limited to a total of no more than 3 minutes. Written comments may be submitted to lflores@nueces-ra.org. Please begin all comments by stating your name and address for the record.*

Agenda Items

- 1) **Call to Order** – *Eric Burnett, President*
- 2) **Invocation** – *William Dillard, Director - Uvalde*
- 3) **Roll Call** – *Candace Gonzales, Executive Assistant*
- 4) **Public Comments** – This time is reserved for any member of the public to comment on an agenda item or other matters under the jurisdiction of the Nueces River Authority.
- 5) **Approval minutes of the May 17, 2024, regular meeting of the Nueces River Authority Board of Directors.** – *Eric Burnett, President*

CONSENT AGENDA ITEMS: (6- 8)

- 6) **Consider approval of an Agreement with the Robstown Utilities System for the operation of a wastewater treatment plant.** *John J. Byrum II, Executive Director*
- 7) **Consider ratification of the Executive Director's decision to execute an agreement with the City of Stockdale to provide project administration for needed additional water supply.** – *Travis Pruski, Chief Operating Officer*
- 8) **Consider ratification of the Executive Director's decision to execute an agreement with San Patricio County for grant administration of a Texas Department of Agriculture Colonia Improvements Grant.** – *Travis Pruski, Chief Operating Officer*

BRIEFING ITEMS: (9 a– d)

- 9) **Executive Director Reports**

- a) **Update on Nueces River Authority Operations** – *Travis Pruski, Chief Operating Officer*
- b) **Update from Resource Protection Program** - *Lorie Flores – Resource Protection Manager*
- c) **Update on Education Program** – *Robin Murray, Chief Financial Officer*
- d) **Proposed Date for FY 2025 Board of Director Meetings** – November 15, 2024; February 21, 2025; May 16, 2025; August 15, 2025. - *John J. Byrum II Executive Director*

INDIVIDUAL CONSIDERATION ITEMS: (10-16)

- 10) **Discussion and appropriate action of the Nueces River Authority Legislative Agenda for the 89th Session of the Texas Legislature** – *John J. Byrum II, Executive Director*
- 11) **Nueces River Authority Resolution to Support River Authority Coalition Request for State Funding in the 89th Legislative Session.** – *John J. Byrum II, Executive Director*
- 12) **Discussion and approval to authorize the Executive Director to purchase a 2024 Ford Expedition 4X2 and a 2024 Low Roof Ford Transit Cargo Van via a Texas Buy Board price of \$114,264.00 with financing obtained from First State Bank of Uvalde** – *John J. Byrum II, Executive Director*
- 13) **Discussion and approval of establishing a Water Utilities Laboratory in McMullen County (Nueces River Mid-Basin).** - *John J. Byrum II, Executive Director*
- 14) **Discussion and Approval of a Resolution Approving Nueces River Authority Investment Policy and Investment Strategies** – *Robin Murray, Chief Financial Officer*
- 15) **Discussion and Approval of adding WesTex Investments Services, Uvalde as a Qualified Investment Broker.** – *Robin Murray, Chief Financial Officer*
- 16) **Discussion and approval of FY 2024 Work Plan and Budget for Water Planning, Protection, Development, Data Management Services provided by the Nueces River Authority to the City of Corpus Christi, Texas under an existing “Interlocal Agreement for Regional Water Planning Protection and Development Services”.**

EXECUTIVE SESSION ITEMS (17-20)

- 17) **Executive session pursuant to Texas Government Code Section 551.087** –Discussions regarding pending business prospects tied to partnership for water supply development in the lower Nueces River Basin. – *John J. Byrum II, Executive Director*
- 18) **Executive session pursuant to Texas Government Code Section 551.087** – Discussions regarding potential business prospects tied to groundwater production and use of Evangeline Aquifer supplies. – *John J. Byrum II, Executive Director*

19) Executive session pursuant to Texas Government Code Section 551.087 – Discussions regarding potential business prospects for water sales arising from proposed regional wastewater plant discharges and associated funding proposals for potential energy generation project. – John J. Byrum II, Executive Director

20) Executive Session pursuant to Texas Government Code Section § 551.074 - Personnel Matters –

(Return to Open Session)

21) Discussion and Approval of the Nueces River Authority’s FY 2025 Annual Budget – Robin Murray, Chief Financial Officer

22) Approval of amending the salary of the Executive Director Effective September 1, 2024. – Eric Burnett, President

23) Discussion and Approval to Authorize the Executive Director to execute an agreement with Haynie and Company, San Antonio, Texas to conduct FY 2024 Audit. Robin Murray, Chief Financial Officer

24) Meeting adjournment

Following the meeting adjournment, the Operations Committee will tour some of the facilities the Nueces River Authority operates. No business will be conducted or discussed during such time. – Tony Wood – Chairman, Nueces River Authority Operations Committee

The Board of Directors may go into Executive Session pursuant to the applicable section of Subchapter D, Chapter 551, Texas Government Code (the Texas Open Meetings Act) on any matter that may come before the Board. No final action, decision, or vote will be taken on any subject or matter in Executive Session. No action will be taken on any matter unless it is specifically listed on the agenda for this meeting.

Attachment B

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Nueces River Authority makes surprise offer to build desal plant on Harbor Island



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By: Eran Hami

Posted 5:40 PM, Sep 24, 2024

- Executive Director of Nueces River Authority sent unsolicited offer to the Port of Corpus Christi.
- He asked for the Port to lease Harbor Island to the NRA and transfer the permits they've obtained for that location to build a desalination plant
- The Port and City of Corpus Christi were caught off guard by the offer.

For the last several years, the Port of Corpus Christi has been laying the groundwork to bring a seawater desalination facility to Harbor Island. However, they don't intend to own it.

“We’re not building a desal plant. What we are doing is creating optionality for the region by continuing to pursue permits which we’re allowed to do because it’s our property,” Port CEO Kent Britton said during a presentation to City Council on Aug. 20, 2024.

The Port of Corpus Christi has one permit and was working on obtaining more, in hopes of having the city or a third party build, own and operate a desalination plant on Harbor Island.

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“I think that’s what we’re all looking for is more water supply at the most economical rate we can supply it,” Nueces River Authority (NRA) executive director John Byrum said.

On Sept. 5, Byrum sent a proposal to the Port of Corpus Christi, which KRIS 6 News later obtained. Byrum asked the Port to lease Harbor Island, and transfer the permits to the NRA to build a desalination plant.

Byrum said the proposal was unsolicited and they had not had in-depth discussions with the Port about desalination on Harbor Island.

The [Nueces River Authority](#) is a state agency working with the Texas Water Development Board. It's tasked with providing plans and leadership towards answers in water sustainability. The NRA looks over 21 counties throughout the Coastal Bend region.

“We don’t want to compete with the City of Corpus Christi. that’s not our role.”

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The proposal has nine key points, which include having a public-private partnership to fund the project. Byrum said private monies would fund 35 percent of their project. The NRA would issue bonds for the rest of the project.

The plan also includes hiring a project manager and firm(s) for the design, construction and operation that have experience in desalination facilities.

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Nueces River Authority

September 5, 2024

Kent Britton, Chief Executive Officer
Port of Corpus Christi
400 Harbor Drive
Corpus Christi, Texas 78403

Re: Harbor Island Sea Water Desalination Project

Dear Kent,

The Nueces River Authority is the Political Sponsor for the Texas Water Development Board's Region "N" – Coastal Bend Water Planning Group. In addition to our role with Region "N," I serve as a voting member of the Region "L" South Central Texas Water Planning Group. These are two of the sixteen Planning Groups that develop the Water For Texas State Water Plan for the Texas Water Development Board (TWDB). The 2022 State Water Plan, with a planning period of 2020 to 2070 projects deficits for both the Coastal Bend (Region "N"), and the South-Central Texas (Region "L") are as follows:

Region N

2030 – 31,092 Acre Feet (Ac.Ft.) (27.76 million gallons per day MGD)
2070 – 49,364 Ac. Ft. (44.07 MGD)

Region L

2030 – 232,188 Ac.Ft. (207.28 MGD)
2070 – 401,027 Ac.Ft. (358.01 MGD)

The projections listed in the plan detail a current water supply shortage for the Coastal Bend of 27.76 MGD for 2030 growing to a 44.07 MGD shortage by 2070. With the addition of 30 MGD from the seawater desalination project proposed by the City of Corpus Christi, the deficit will be covered hopefully by 2030, however by 2040 without further development in water supply, the Coastal Bend will be in deficit again. The figures above describe the demand for water supply as defined by the TWDB planning process. Although it is an excellent planning process, TWDB rules

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do not allow the planning group to consider any new industrial water demands for the planning period.

In a statement by Port CEO Kent Britton, the Port wasn't expecting this offer.

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building a large-scale seawater desalination facility. The port will evaluate the offer as it would any other commercial offer to lease property. We have also encouraged the Nueces River Authority to engage the City of Corpus Christi in any discussions regarding such a plan.”

The Port has briefed city council about the Harbor Island desalination project on a few occasions. So, this caught the city by surprise as well. In a statement they said:

“The recent proposal from the NRA to the Port was a surprise to the city and, from what we were told, a surprise to the Port as well. The city will be meeting with the Port to understand the contents of the proposal followed by a separate meeting with the NRA.”

The most recent briefing at city council was Aug. 20. City Council was updated on the permits that have been acquired, the permits they are awaiting a decision on and the permits that are left to apply for.

“The good news is we’re moving forward, both the city—we’re working with the city at Harbor Island,” Port Chairman David Engel said at the meeting.

However, councilman Gil Hernandez said there’s no formalized agreement with the city and Port when it comes to Harbor Island.

"It was my understanding that the city had no interest in the Harbor Island project and that's why we pursued that," Byrum said.

“In the past, myself and a few other council members had put together a memorandum of understanding to try and work with the Port on some sort of

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Hernandez understands the role of the NRA and sees their proposal as a positive.

“I think we should participate if there’s going to be more than one public agency. I’d hate to have a facility built that we don’t get any water from especially since it’s right off our coast. It would be in our best interest to participate in something along those lines whether it's with Nueces River Authority, the Port of Corpus Christi, the State of Texas. Whoever's involved so where you can combine your resources in order to make the cost go down for everyone," Hernandez said.

The city is in the process of putting together its first desalination plant at the Inner Harbor location, and selecting a contractor.

The City of Corpus Christi is the only entity able to sell water to the residents of the city. Should the NRA build and operate a desalination plant on their own, it would have to sell water outside of the City of Corpus Christi's coverage area.

Byrum said he's open to selling water to any purveyor at a wholesale rate. He's also open to working with the City of Corpus Christi and helping in any way he can.

The Port Aransas Conservancy has opposed the Harbor Island project. They issued a statement in opposition to the proposal from the NRA.

"Port Aransas Conservancy opposes the Nueces River Authority’s proposal to the Port of Corpus Christi concerning a desalination plant at Harbor Island in Port Aransas, TX.

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mention of taking brine discharge offshore as port officials recently promised. Further, the proposal essentially removes the City of Corpus Christi as regional water provider. The POCCA commission has repeatedly stated when the permits are secured they will be given to the City of Corpus Christi for future water development.

1. Port Aransas Conservancy knows the science dictates the intake and

discharge must go offshore.

2. Permits must go to the City of Corpus Christi as promised by the POCCA.

3. City of Port Aransas officials must be involved in planning discussions.

4. Local scientists from the Harte Research Institute and University of Texas

Marine Science Institute must be included in planning discussions."

In a previous interview with KRIS 6 News, the Port said they intended to pursue a permit to produce 100 million gallons of water a day at Harbor Island.

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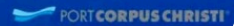
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Desalination Permit Process Overview + Status

Permit Type	Agency	Description	Status
CCSC Discharge Permit (50MGD net)	TCEQ	Addresses potential water quality/environmental impacts of brine discharge in ship channel	Received; under appeal in Travis County
Offshore Water Rights (100MGD net)	TCEQ	Authorizes intake in Gulf of Mexico	Application submitted and under review
Lease & Easement (Offshore intake + CCSC discharge)	GLO	Authorizes placement of structures on state-owned submerged lands	Application submitted and under review
Section 10/Section 404 (multiple scope elements)	USACE	Addresses potential habitat impacts from activities in Waters of US	Not yet submitted (anticipated December 2024)
Offshore Discharge Permit (100 MGD net)	TCEQ	Discharge in Gulf of Mexico	Not yet submitted (anticipated March 2025)
Lease + Easement (Offshore discharge)	GLO	Authorizes placement of structures on state-owned submerged lands	Not yet submitted (anticipated December 2024)



In their presentation to city council on Aug. 20, Port officials updated them on the status of their permits. They have submitted an application to the Texas Commission on Environmental Quality for water rights to produce 100 MGD.

They also intend to apply for permits for the intake and discharge from the process, in the Gulf of Mexico.

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LOCAL NEWS

What to know about Nueces River Authority's offer to operate Harbor Island desal plant



Vicky Camarillo

Corpus Christi Caller Times

Published 12:07 p.m. CT Sept. 30, 2024 | Updated 9:52 p.m. CT Sept. 30, 2024

The Nueces River Authority has proposed to lease the Port of Corpus Christi's Harbor Island property to operate a seawater desalination plant, citing an impending water shortage that the city of Corpus Christi's proposed desalination plant would not be able to cover alone.

Port officials have been seeking to attain permits for a proposed desalination plant at its Harbor Island property, but they have said the port does not plan to own or operate a desalination plant. Instead, the permits would provide either the city or a third party the option to construct, own and operate a desalination plant, the Caller-Times has previously reported.

The river authority's proposal was "unsolicited," port Chief Executive Officer Kent Britton said, but the port will consider the offer.

John Byrum, executive director of the Nueces River Authority, said Friday that he has scheduled a meeting with the city of Corpus Christi to discuss the proposal.

The river authority serves primarily as a regional water resource planning agency for all or parts of 22 counties in South Texas and monitors state and federal activities that could affect the Nueces Basin, according to its website.

The river authority "has broad authority to preserve, protect, and develop surface water resources," including water supply.

What does the proposal say?

In a letter to Britton early this month, Byrum cited a 2022 long-term plan developed for the Texas Water Development Board that projects a water supply shortage for the Coastal Bend by 2030 that would grow by more than 50% by 2070.

The city of Corpus Christi's proposed desalination project — planned to generate as much as 30 million gallons of processed water per day — could cover the deficit by 2030, Byrum wrote, but the Coastal Bend would be in a deficit again by 2040 without further development in water supply.

More water sources must be developed, he wrote, to accommodate job growth in the region driven by industry.

Under the plan, the river authority and the Port of Corpus Christi would agree to a long-term lease for property on Harbor Island, and the river authority would use the permits obtained by the port to operate a desalination plant.

The plan in Byrum's letter lists several other steps for the design and construction of the plant, as well as reaching contracts with industrial and municipal water providers outside of the service area where the city of Corpus Christi has the exclusive right to provide water.

The authority would seek funding from private sources to cover up to 35% of the costs for construction and would issue bonds for the remaining funds.

Britton declined an interview with the Caller-Times but said in a written statement that the port was open to considering the river authority's offer.

"The Port of Corpus Christi is in receipt of an unsolicited offer from the Nueces River Authority to lease property at Harbor Island and utilize permits the Port is trying to obtain, for the purpose of building a large-scale seawater desalination facility," Britton wrote.

"The Port will evaluate the offer as it would any other commercial offer to lease property."

The city of Corpus Christi had not responded to the Caller-Times' request for comment at press time.

What does the Port Aransas Conservancy say?

The Port Aransas Conservancy, an environmental advocacy group, previously appealed a permit awarded by the Texas Commission on Environmental Quality for the Harbor Island site, with a discharge point into the Corpus Christi Ship Channel.

The case remained in a Travis County district court as of last week, conservancy President James King said.

The conservancy said it opposes the Nueces River Authority's proposal as written, in part because it would require the port to turn over its existing inshore discharge permit and its application for offshore intake, which is still under review.

The conservancy has advocated for taking the discharge point offshore to avoid harming marine life in the bay. Port officials said in August that they are working on applying for a new permit that would take the plant's discharge point offshore to accommodate a plant capable of producing as much as 100 million gallons of water per day — a larger plant than initially proposed.

Byrum told the Caller-Times on Friday that he supports taking the discharge point offshore, not only to avoid harming marine life but also to expand the plant's production capacity.

King said the port should only turn over permits to the city of Corpus Christi because it is the regional water supplier, whereas the Nueces River Authority serves a much broader region.

The city needs “to help make those decisions so that we make sure we take care of the environment and the people of the Coastal Bend,” King said.

“The port is actually doing the right thing in applying for a permit offshore. Let's don't make that go sideways. Let's make sure that happens.”

King added that discussions about a plant operated by the Nueces River Authority should include the city of Port Aransas, given that Harbor Island is in Port Aransas city limits, and local scientists, including experts with the Harte Research Institute for Gulf of Mexico Studies at Texas A&M University-Corpus Christi.

Byrum said the Nueces River Authority “would certainly be willing” to work with the city of Corpus Christi to provide water if the port approves the proposal and if the city needs to purchase water from the Harbor Island plant.

He also said the river authority will work with the city of Port Aransas “at the appropriate time.”

Attachment C



Nueces River Authority

October 21, 2024

Mr. Kent Britton Sent Via Email
Chief Executive Officer, Port of Corpus Christi
P.O. Box 1541
Corpus Christi, Texas 78403

Dear Mr. Britton,

The Nueces River Authority (the "Authority") held a regular meeting of its Board of Directors on August 29, 2024. As noted in discussions with the Port of Corpus Christi (the "Port") since that time, there was not a need for an open session approval at that juncture on initial conversations and proposals to the Port for a collaborative water supply project. Instead, the Authority met in executive session pursuant to Section 551.087 of the Texas Government Code, which allows such closed session discussions on economic development negotiations.

Unfortunately, since the time of the Authority's August meeting, events beyond the control of the Authority and the Port have revealed details of the Authority-Port dialogue on water supply planning. Although the Authority cannot release details of an executive session discussion, as President of the Authority's Board of Directors, I can attest that at the meeting, there was no voiced opposition to the commencement of exploratory discussions and proposals which have transpired between our two entities.

The Authority remains committed to fulfilling its legislatively approved duties and responsibilities within the Nueces River Basin, and that includes promoting a water secure future for our region. We stand by the proposed framework outlined by our executive director and hope for a continued dialogue that will be productive in the days and months ahead.

Please do not hesitate to reach out to me with any questions.

Sincerely,

Eric Burnett, President

cc: John J. Byrum II, Executive Director

General Office

539 S. Highway 83, Uvalde, TX 78801
P 830-278-6810 F 830-278-2025

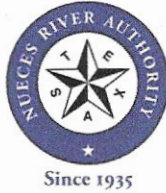
Coastal Bend Office

500 IH 69, Suite 805, Robstown, TX 78380
P 361-653-2110
www.nueces-ra.org

Leakey Water Treatment Site

350 Stanford Hollow Road, Leakey, TX 78873
P 830-232-5672

Attachment D



Nueces River Authority

November 5, 2024

██████████
Board Director
██████████

Dear ██████████:

I write this letter as a follow-up to our recent discussions, and at your request for correspondence detailing the topic of possible recusal scenarios. Although the Nueces River Authority officers or staff cannot compel you to recuse yourself from participating in or voting on matters regarding business development implicating the City of Corpus Christi or the Port of Corpus Christi, given the familial relationship to an employee of the City and the nature of that person's position, there are important factors to consider in your determination as to whether recusal is appropriate.

Texas Government Code Section 572.058 provides that an officer appointed to the board of a state agency, including a river authority, who has a personal or private interest in a measure, proposal, or decision pending before the board to disclose that interest in open meeting and to recuse themselves from voting or otherwise participating in the decision. There is at least a duty to evaluate the nature of the connection to the City and whether, as related to past and upcoming Nueces River Authority agenda items, that connection constitutes a personal or private interest that might prevent impartial decision-making.

In addition, the Texas Ethics Commission's Guide to Ethics Laws for State Officers and Employees states that, "as a public servant, you should . . . avoid creating even the appearance of impropriety" to uphold the public's trust. Thus, even if you do not have a personal or private interest in potential business development with the city or the Port of Corpus Christi, recusal may be appropriate to avoid the impression of partiality.

Finally, I wanted to acknowledge your letter dated October 31, 2024 (received November 4, 2024). With respect to the points raised about authorizations to negotiate with the Port on water supply, our Board held a robust executive session discussion on the topic of initial engagement with the Port at the August Board meeting, and there were no objections raised to such initial coordination with the Port. As is the case with any type of prospective agreement, the parties must start somewhere, and that's what was done following the input from the executive session. I will note that at this stage in the discussions, there will be a formal open session vote on moving forward with a terms sheet at the upcoming November 15, 2024, meeting, as it is the logical time to proceed to such step, considering the Port-Nueces River Authority dialogue since the August meeting.

Your service on the Board of Directors is greatly appreciated. I am glad to discuss this further if needed. Please do not hesitate to reach out to me with any questions.

Sincerely,

Eric Burnett, Board President

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Attachment E

MEETING NOTICE

THE NUECES RIVER AUTHORITY BOARD OF DIRECTORS WILL HOLD A MEETING AT 10:00 A.M. ON NOVEMBER 15, 2024. THE MEETING WILL BE HELD IN THE NUECES RIVER AUTHORITY COASTAL BEND OFFICES, 500 IH 69, SUITE 805, ROBSTOWN, TEXAS 78380. ALL INTERESTED PARTIES ARE ENCOURAGED TO ATTEND.

***Public Notice** – Members of the audience will be provided an opportunity to address the Board of Directors during the Public Comment period listed on the agenda. Citizens who wish to provide public comment are asked to sign in prior to the meeting. Each speaker is limited to a total of no more than 3 minutes. Written comments may be submitted to cgonzales@nueces-ra.org. Please begin all comments by stating your name and address for the record.*

Agenda Items

- 1) **Call to Order** – *Eric Burnett, President*
- 2) **Invocation** – *William Dillard, Director - Uvalde*
- 3) **Roll Call** – *Candace Gonzales, Executive Assistant*
- 4) **Public Comments** – This time is reserved for any member of the public to comment on an agenda item or other matters under the jurisdiction of the Nueces River Authority.
- 5) **Approval of minutes of the August 29, 2024, regular meeting of the Nueces River Authority Board of Directors.** – *Eric Burnett, President*

CONSENT AGENDA ITEMS: (6- 7)

- 6) **Ratification of the Executive Director’s decision to execute a Project Management Agreement between the City of Austwell and the Nueces River Authority for assistance in the development and implementation of a package wastewater treatment plant project.** *Travis Pruski, Chief Operating Officer*
- 7) **Discussion and approval of a Professional Services Agreement for the development of 2nd Cycle of Flood Planning for the Texas Water Development Board’s Region 13 Flood Plan.** *Travis Pruski, Chief Operating Officer*

BRIEFING ITEMS: (8 a– g)

- 8) **Executive Director Reports**
 - a) **Update on Nueces River Authority Operations** – *Travis Pruski, Chief Operating Officer*
 - b) **Update on Nueces Basin Flood Planning Group Public Participation Meetings** – *Travis Pruski, Chief Operating Officer*
 - c) **Update from Resource Protection Program** - *Lorie Flores – Resource Protection Manager*

- d) **Update on Education Program** – *Robin Murray, Chief Financial Officer*
- e) **Update and discuss FY 24 financials and year end report.** – *Robin Murray, Chief Financial Officer*
- f) **Update of Nueces River Authority Grant Funding Opportunities for Proposed Petronilla Creek Regional Wastewater Facility.** Tim Richardson, President – TRPR Governmental Affairs
- g) **Proposed Date for FY 2025 Board of Director Meetings** – February 21, 2025; May 16, 2025; August 15, 2025. - *John J. Byrum II - Executive Director*

INDIVIDUAL CONSIDERATION ITEMS: (9-14)

- 9) **Discussion and possible action on contract with Jim Wells County for acquisition of Drinking Water System** – *Travis Pruski – Chief Operating Officer*
- 10) **Discussion and action on A RESOLUTION BY THE BOARD OF DIRECTORS OF THE NUECES RIVER AUTHORITY REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH.** – *John J. Byrum II – Executive Director*
- 11) **Discussion and action on FY 2024 Work Plan and Budget for Water Planning, Protection, Development, Data Management Services provided by the Nueces River Authority to the City of Corpus Christi, Texas under an existing “Interlocal Agreement for Regional Water Planning Protection and Development Services”.** – *John J. Byrum II, Executive Director*
- 12) **Discussion and action on authorization for the Executive Director to negotiate terms sheet for partnership with the Port of Corpus Christi for water supply development in the lower Nueces River Basin, with such terms sheet to be presented to Board for subsequent approval.** – *John J. Byrum II - Executive Director*
- 13) **Discussion and action to authorize the Executive Director to participate in the funding, in an amount not to exceed \$2,500, of an evaluation of the Environmental Benefits of Seawater Desalination in Texas by Robert E. Mace, PhD, P.G., Executive Director and Chief Water Policy Officer, The Meadows Center for Water and the Environment.** – *John J. Byrum II, Executive Director*
- 14) **Discussion and action to authorize the Executive Director to negotiate an agreement with Black and Veatch, Overland Park, Kansas, (with offices in San Antonio) for Professional Services as Owner’s Advisor for Seawater Desalination Project Development with such agreement to be presented to the Board for subsequent approval.** – *John J. Byrum II, Executive Director*

EXECUTIVE SESSION ITEMS (15-16)

15) Executive session pursuant to Texas Government Code Section 551.087 –
Discussions regarding pending business prospects tied to partnership with the Port
of Corpus Christi for water supply development in the lower Nueces River Basin. –
John J. Byrum II, Executive Director

16) Executive Session pursuant to Texas Government Code Section § 551.074 -
Personnel Matters –

(Return to Open Session)

17) Meeting adjournment

The Board of Directors may go into Executive Session pursuant to the applicable section of Subchapter D, Chapter 551, Texas Government Code (the Texas Open Meetings Act) on any matter that may come before the Board. No final action, decision, or vote will be taken on any subject or matter in Executive Session. No action will be taken on any matter unless it is specifically listed on the agenda for this meeting.

Following the meeting adjournment, the Operations Committee , weather permitting, will tour some of the City of Bishop Wastewater Treatment Facility operated by the Nueces River Authority. No business will be conducted or discussed during such time.
– Tony Wood – Chairman, Nueces River Authority Operations Committee