



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable William J. Lawson
Secretary of State
Austin, Texas

Dear Mr. Lawson;

Opinion No. 0-4154

Re: Whether or not the commissions for Directors of San Jacinto River Conservation and Reclamation District should be issued by the Secretary of State or by the Board of Water Engineers.

This will acknowledge receipt of your letter requesting an opinion from this Department, as follows:

"The 47th Legislature passed House Bill 1094 which set up the San Jacinto River Conservation and Reclamation District. The Act provides that a board of directors should be appointed by the State Board of Water Engineers. The appointment is not supervised in any manner by the Governor or the Secretary of State, however, on November 10, the State Board of Water Engineers certified to the Secretary of State the names of six board members as having been appointed and qualified as directors of the San Jacinto River Conservation and Reclamation District of Texas. Two of the directors have remitted the correct \$1.00 fee and requested that the Secretary of State issue them a commission.

"The Act does not mention the granting of a commission, but does require that an oath be taken and a bond executed. We would appreciate an opinion from your Department as to whether the commission should be executed by this Department or whether it should be executed by the Board of Water Engineers."

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Article 3040 of the Revised Civil Statutes of Texas, declares:

"The Governor shall commission all officers except Governor, members of Congress, electors for President and Vice-President of the United States, members of the Legislature and municipal officers."

Members of the Board of Directors of San Jacinto Conservation and Reclamation District, provided for in H.B. No. 1094, Ch. 613, Acts of the 47th Legislature, Regular Session, are officers within the meaning of the statute above quoted.

Section 6 of the Act reads:

"The management and control of all the affairs of said District shall be vested in, and the powers, rights, privileges, and functions of the District shall be exercised by, a Board of Directors consisting of six (6) members, all of whom shall be freehold property taxpayers and legal voters of such District. Such Board of Directors shall be appointed by the State Board of Water Engineers as soon as practicable after the passage of this Act, two (2) of the members to be appointed for a term of two (2) years, two (2) of the members thereof to be appointed for a term of four (4) years, and two (2) of the members thereof to be appointed for a term of six (6) years, and upon the expiration of the respective terms of said directors, the successors of each and all of them shall be appointed by the State Board of Water Engineers thereafter for a term of six (6) years. The directors shall hold office after their appointment and qualification until their successors shall be appointed and qualified. Should any vacancy occur in the Board of Directors, the same shall be filled in like manner by the State Board of Water Engineers for the unexpired term. The directors appointed shall, within thirty (30) days after their appointment, qualify by taking the official oath required of County Commissioners, and shall execute bond in the sum of Five

Thousand Dollars (\$5,000), payable to the District, the sufficiency of which bond shall be determined by the State Board of Water Engineers, which bonds after being recorded in the official bond records of the county in which the District maintains its office shall be deposited with the depository selected and approved for the deposit of the funds of the District. Provided, the present Board of six (6) directors of the San Jacinto River Conservation and Reclamation District, appointed under the authority of Chapter 426, Acts of the Regular Session of the Forty-fifth Legislature shall continue to serve as such until the Board of Directors appointed by the State Board of Water Engineers as herein provided has qualified.*

The directors therein mentioned are not mere employees, but they are officers with administrative powers, and as such officers they should be commissioned by the Governor as other public officers are commissioned.

Very truly yours

APPROVED DEC 30 1941

Handwritten signature of G. W. Chandler

FIRST ASSISTANT
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

By

Handwritten signature of Ocie Speer

Ocie Speer
Assistant.

OS-MR



Handwritten initials and date: WJL 1/2/42