



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 19, 1996

Honorable James L. Anderson, Jr.  
Aransas County Attorney  
301 North Live Oak Street  
Rockport, Texas 78382

Letter Opinion No. 96-006

Re: Whether, and if so, under what procedures, the Aransas County Navigation District No. 1 may be dissolved (ID# 33955)

Dear Mr. Anderson:

You ask whether, and if so, under what procedures, the Aransas County Navigation District No. 1 may be dissolved. You advise that the district was created under general law in 1925. See Act effective Feb. 19, 1925, 39th Leg., R.S., ch. 5, 1925 Tex. Gen. Laws 7. A 1949 act provided that the district was "converted to a navigation District under the provisions of Article XVI, Section 59 of the Constitution of Texas and shall hereafter be governed by Chapter 5, page 7, Acts of the Thirty-ninth Legislature, Regular Session, 1925, and all amendments and additions thereto and other Statutes heretofore or hereafter enacted, relating to navigation districts created under said Chapter 5." Act of May 2, 1949, 51st Leg., R.S., ch. 213, § 1, 1949 Tex. Gen. Laws 398, 398.

The provisions of the 1925 act, under which the district, pursuant to the 1949 act, was to thereafter operate, are now codified in chapter 62 of the Water Code, entitled "Article XVI, section 59, Navigation Districts." As you note, chapter 62 makes no provisions for dissolving a district operating thereunder. Nor does the 1925 or 1949 act referenced above, nor the provisions of article XVI, section 59, nor Water Code chapter 60, "Navigation Districts--General Provisions."<sup>1</sup> Indeed, the only provisions for dissolution we find applicable to the navigation district here are the rather limited ones in chapter 50, Water Code, "General Law Districts." Chapter 50 applies among other things to "any district . . . created by authority of . . . Article XVI, section 59." Water Code § 50.001. Subchapter G of chapter 50, sections 50.251 through 50.258, provides for dissolution of a district by the Texas Natural Resource Conservation Commission (the "TNRCC"), upon notice and hearing, where a district has been inactive for five consecutive years and has no bonded indebtedness.<sup>2</sup> In our opinion, subchapter G's

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<sup>1</sup>Water Code chapter 63, "Self-Liquidating Navigation Districts," provides procedures for converting certain article XVI, section 59 districts to operate under chapter 63. You do not indicate that the navigation district here has brought itself under chapter 63. In any case, that chapter makes no provision for dissolution of districts governed thereby.

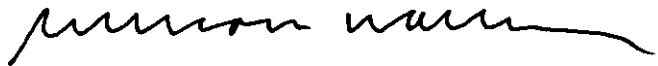
<sup>2</sup>We note that subchapter M of chapter 50 also provides for dissolution of a district under that subchapter if, "before the issuance of any bonds," it is determined that the district's operation is impractical or will not be beneficial. However, subchapter M's application is limited to "regional districts for water, sanitary sewer, and wastewater drainage purposes" in either counties of at least 2.2 million

provisions for the dissolution of the district by the TNRCC are the only ones under which the Aransas County Navigation District may be dissolved, and then, of course, only if the conditions of those provisions are met. *Cf.* Attorney General Opinion C-380 (1965) (there being no provisions therefor, Jasper County Commissioners Court has no authority to call election to abolish Jasper Hospital District).<sup>3</sup> Any additional dissolution authority must, if desired, be sought from the legislature.<sup>4</sup>

### S U M M A R Y

The provisions of subchapter G, chapter 50, Water Code, for the dissolution of a district by the Texas Natural Resource Conservation Commission are the only ones under which the Aransas County Navigation District may be dissolved.

Yours very truly,



William Walker  
Assistant Attorney General Opinion  
Opinion Committee

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(footnote continued)

population or in counties bordering on a county of such population. The Aransas County Navigation District No. 2 does not appear to fall under subchapter M.

<sup>3</sup>We note that Mr. Brooks, in his treatise on county and special district law, concludes that there are no special provisions for dissolution of navigation districts and refers the reader to the general dissolution procedures for water districts in chapter 50. 36 DAVID B. BROOKS, COUNTY AND SPECIAL DISTRICT LAW § 46.127 & n.1 (Texas Practice 1989).

<sup>4</sup>Letter Opinion No. 95-76 (1995) addresses the question of whether the district may convert to a "self-liquidating district operating under" chapter 63 of the Water Code.