

Coastal Water Authority Canal Abandonment Policy

Senate Bill 1646, signed by the Governor on June 14, 2001 dealing in part with abandonments, provided that Coastal Water Authority (CWA) is authorized to abandon, sell, release or deconstruct a canal, lateral, or ditch provided that there are no existing contractual obligations to any person, corporation, or political subdivision to use the particular canal or lateral to transport or deliver water and the canal meets other specified conditions. It is generally the policy of CWA to maintain ownership of all property and easements. However, CWA may consider abandonment of a particular canal or lateral if the following conditions are met:

1. The underlying fee property owner makes the request for abandonment in writing and provides a metes and bounds survey (described below);
2. There are no existing contracts requiring use of the canal or lateral to deliver water and there are no identified future uses of the canal or lateral;
3. CWA has not used the canal or lateral in the last 10 years;
4. An abandonment that would result in a gap between canal segments will not be accepted;
5. An abandonment requestor agrees to compensate CWA for canal abandonment based on the appraised fair market value obtained from CWA's Texas Licensed Appraiser. An amount less than the appraised fair market value will not be accepted;
6. Abandonment requestor shall pay to CWA a non-refundable Administrative Fee of \$5,000 for each tract of land contained in the abandonment request.

A Canal or Lateral Abandonment Checklist is attached as Exhibit A.

If the above conditions are met, CWA staff will provide information regarding the requested abandonment to CWA's Operations and Maintenance Oversight (O&M) Committee. Subsequently, if determined by the O&M Committee that CWA's interest would best be served by abandoning the canal or lateral, CWA staff will be authorized to present the case for abandonment to the CWA Board of Directors. If the O&M Committee determines that CWA's interest would best be served by retaining the canal or lateral, no further action will be taken.

The statute provided that the Board have "intent to abandon, sell, release, or deconstruct the canal, ditch or lateral" and that the intention be expressed in the 30-day public review period. Following a 30-day public review period (as described below), CWA may decline to proceed with abandonment consideration based on any comments or objections received. The intent to abandon notices to be given by CWA are as follows: 1) a 30-day notice to all adjoining landowners, 2) notice posted at the county court house, and 3) published in a newspaper of general circulation in the subscription area of the canal being considered to be abandoned.

The abandonment applicant shall provide a metes and bound description of the portion of the canal the applicant is requesting to be abandoned and shall contain the following:

1. A North arrow and scale;
2. County name;

3. Survey name and abstract number;
4. Point of beginning (with State Plane Coordinates if available);
5. Tie to closest CWA property corner;
6. Tie to centerline of closest CWA above ground and underground facility or pipeline (showing distance and structure number) and offset or parallel distance from CWA Easement or Fee strip line;
7. Location reference – tie to a street;
8. CWA tract reference and adjoiner information, including CWA canal width;
9. Reference to recorded instrument granting CWA property rights that will be affected by applicants request; copies of the referenced recorded vesting instruments to be supplied;
10. Basis of bearings (and coordinates if used);
11. Reference to CWA as-built drawings(s) if available;
12. Registered professional land surveyor's certification, seal, signature & printed name with registration number;
13. Total area in square feet, separated by fee and/or easement, contained within CWA canal requested to be abandoned;
14. Name address and phone number of registered professional land surveyor or firm that prepared the survey requested;
15. Locations of any improvements, swales, ditches, ponds, rivers, and/or other canals within the existing CWA canal requested to be abandoned; and
16. Name of current owner(s) and the recording information of the instrument(s) vesting title into owner, copies of the referenced recorded vesting instruments to be supplied.

Attachment:

Exhibit A – CWA Canal or Lateral Abandonment Checklist

CANAL OR LATERAL ABANDONMENT CHECKLIST

Section 1.

A. Has the underlying fee property owner made a written request for abandonment and metes and bounds survey?

Yes _____

No _____

B. Is there an existing contract to use the canal or lateral to deliver water or an identified future use?

Yes _____

No _____

C. Has CWA used the canal or lateral within the last five (10) years to deliver water?

Yes _____

No _____

D. Would the abandonment result in a gap between canal or lateral segments?

Yes _____

No _____

E. Has the applicant provided the non-refundable \$5,000 Administrative Fee (per tract) for the requested abandonment?

Yes _____

No _____

F. Applicant agrees to compensate CWA for the fair market value of the lateral or canal.

Yes _____

No _____

If any of the above questions A through F is answered “No”, the lateral or canal abandonment does not meet the requirements adopted in the CWA Abandonment Policy by CWA’s Board of Directors on xx, 2020.

If the above questions A through F are answered “Yes”, and it is determined by the CWA Board of Directors that CWA’s interest would best be served by abandoning the canal or lateral, proceed to Section 2.

Section 2.

1. CWA will notify other adjacent landowners of CWA’s intent to abandon the canal or lateral; post notice in the county courthouse; and publish in local newspaper.

2. Have any other adjacent landowners objected within thirty days after receiving notice from CWA of its intent to abandon the lateral?

Yes _____

No _____

If the above response to question 2 is answered “Yes”, the lateral or canal abandonment does not meet the requirements adopted in the CWA Abandonment Policy by the CWA Board of Directors on xx, 2020.

If the above response to questions 2 is answered “No”, CWA staff will present all findings to the CWA Board of Directors for a final determination on abandonment.