

**MONTGOMERY COUNTY UTILITY DISTRICT NO. 4**  
**c/o Hays Utility Service Corporation**  
**P. O. Box 1268**  
**Conroe, Texas 77316**

February 15, 2005

Residential Property Owners,  
Montgomery County Utility District #4

Re: Continuing Drainage Responsibilities

Dear Sir or Madam,

The continuing building activity on the remaining residential lots within April Sound and the numerous improvements made by homeowners to existing properties continue to result in associated drainage problems. Most of these problems stem from improvements (including additions, insufficient driveway elevations above curb height, landscaping, fencing, walls and other means of diverting storm water runoff) or filling and/or grading of lots for new construction without regard to a workable site drainage plan.

MCUD #4 manages and maintains a public drainage system that was designed and constructed by the developer of April Sound to receive and dispose of storm water drainage from individually owned lots, in most storm events. It remains, however, the responsibility of both the builder and the homeowner to provide for the drainage of storm water from each private parcel of land or lot to the public drainage system. The components of the public system are the storm water pipes and the inlets to them, most of which are located in the streets and some in rights-of-way and common areas. The unregulated and unplanned construction of improvements which alter or ignore natural drainage patterns, or which block or unnaturally divert upstream storm water onto adjoining properties, or which excessively concentrate the volume or accelerate the velocity of storm water onto downstream properties, impedes the effectiveness of the public drainage system by diverting storm water from its natural course into the public system. In many cases, the natural drainage of storm water necessitates the use of the narrow spaces between houses that may be blocked by

landscaping or other improvements. Occasionally, these types of impediments to effective drainage can be overcome after the fact by modifications to the existing public drainage system at taxpayer expense, but more often they cannot be cured at all because of costs, right-of-way limitations, physical restraints or objections by adjoining property owners.

We are advised by our counsel that each downstream landowner has a legal duty to receive storm water drainage from the upstream properties, without blockage or diversion onto adjoining properties, so long as the upstream storm water is not unreasonably concentrated or accelerated in a manner that causes damage to the downstream property.

Failure by either the upstream or downstream landowners to abide by these principles can lead to civil liability under both common law and Texas Water Code, Section 11.086. To avoid legal consequences, local drainage problems on individual lots must be corrected without diverting water from its otherwise natural flow to other or adjoining properties in a manner which causes damage.

In view of the increasing density of development on the remaining lots in April Sound, which will surely amplify these problems, and to prevent legal disputes, needless taxpayer expense, homeowner dissatisfaction and damage to the reputation of our community, these types of improvements and modifications should not be undertaken without advance review of the local architectural control committee and a workable site drainage plan.

The District stands ready to assist in this task by providing landowners and other interested parties with such detailed information as may be available showing the size, type, location and capability of the various components of the existing public drainage system.

Yours truly,

Signed: \_\_\_\_\_

President, Board of Directors  
Montgomery County Utility District No. 4