

Control Number: 42946



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Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014.

42944

**Brian Dickey**

RECEIVED

**From:** Stephen Dickman <stephen.dickman@kellyhart.com>  
**Sent:** Friday, September 23, 2011 12:35 PM 2014 OCT 16 PM 2: 25  
**To:** Erin Selvera  
**Cc:** Brian Dickey PUBLIC UTILITY COMMISSION  
**Subject:** Mustang SUD App. for Transfer of CCNs and Facilities FILING CLERK  
**Attachments:** Rule 11 Agmt.pdf

Ms. Selvera: As indicated in my voicemail message earlier today, this firm is co-counsel with Mr. Philip Mack Furlow and Ms. Brandy Manning representing the Town of Providence Village in this matter. In support of our request that TCEQ delay final approval of the transfer of the water and sewer facilities from Providence Village WCID to Mustang SUD, I am attaching a copy of the Rule 11 agreement entered into by all the Parties in the Denton County district court litigation concerning the validity of the agreements between Mustang SUD and Providence Village WCID.

As you can see, under Section 2 of the Rule 11 Agreement, both Providence Village WCID and Mustang SUD agreed with the Town of Providence Village that the WCID and the SUD would not transfer the water and sewer facilities until the trial court has entered a judgment or order disposing of the Plaintiff's (i.e., the Town's) claims. Due to the district court's recent denial of the summary judgment motions, this litigation is now moving toward a trial on the merits and no final judgment is expected for the foreseeable future (e.g., a trial date has not even been scheduled yet). Accordingly, by their written agreement filed with the court, Providence Village WCID is prohibited from transferring the water and sewer facilities to Mustang SUD and TCEQ should withhold any final action approving the transfer of the water and sewer facilities from the WCID to Mustang SUD until the district court litigation is concluded.

Thank you for your attention to this matter. Please give me a call to discuss any questions you might have about this.

**Stephen C. Dickman**  
**Partner**



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CAUSE NO. 2011-60876-393

PROVIDENCE VILLAGE, § IN THE DISTRICT COURT  
§  
Plaintiff, §  
§  
vs. §  
§  
PROVIDENCE VILLAGE WATER CONTROL § 393<sup>RD</sup> JUDICIAL DISTRICT  
AND IMPROVEMENT DISTRICT OF DENTON §  
COUNTY f/k/a DENTON COUNTY FRESH §  
WATER SUPPLY DISTRICT NO. 9 and §  
MUSTANG SPECIAL UTILITY DISTRICT §  
§  
Defendants. § DENTON COUNTY, TEXAS

**RULE 11 AGREEMENT**

Pursuant to Rule 11 of the Texas Rules of Civil Procedure, Plaintiff, Providence Village ("Providence Village" or "Plaintiff"), and Defendants, Mustang Special Utility District ("Mustang") and Providence Village Water Control and Improvement District of Denton County f/k/a Denton County Fresh Water Supply District No.9 ("WCID")(hereinafter collectively the "Defendants"), agree to the following as evidenced by the signatures of their respective attorneys of record:

1. Subject to any challenges to the Court's subject matter jurisdiction, special exceptions, pleas in abatement or other dilatory pleas on file or that may be filed by either of the Defendants, Plaintiff and Defendants agree to submit this case to the Court for a decision on the merits by filing cross-motions for summary judgment in accordance with the following schedule:

EVENT	DEADLINE
HEARING on the parties' cross-motions for summary judgment and on any motions to dismiss for lack of subject matter jurisdiction, pleas to the jurisdiction, pleas in abatement and other dilatory pleas, and special exceptions filed by Defendants.	2:30 p.m. on Thursday, September 15, 2011, in the courtroom of the 393rd Judicial District Court, Denton County, Texas.

<b>Parties:</b> Deadline to file replies to responses to motions for summary judgment.	September 9, 2011
<b>Parties:</b> Deadline to file responses and objections to motions for summary judgment.	September 2, 2011
<b>Parties:</b> Deadline to file motions for summary judgment.	August 19, 2011
<b>Parties:</b> Deadline to file amended pleadings.	August 5, 2011

2. Defendants agree that the WCID will not transfer, convey, assign or lease to Mustang any of the sanitary sewer collection facilities or water distribution and storage facilities comprising the WCID's retail sewer and water systems, the same being referred to as "District Facilities" and more particularly described in the Merged, Amended, and Restated Agreement Related to Water and Sanitary Sewer Service by and between Mustang and the WCID, dated June 20, 2005, as amended by the First Amendment to Merged, Amended, and Restated Agreement Related to Water and Sanitary Sewer Service by and between Mustang and the WCID, dated October 1, 2007 (collectively, the "Agreement") prior to October 1, 2011 or the date the trial court enters a judgment or order disposing of Plaintiff's claims in the above cause, whichever occurs last. Notwithstanding the foregoing abatement, Mustang and the WCID may otherwise continue to perform as promised under the Agreement including, but not limited to, preparing documents and taking all necessary actions in anticipation of closing said transfer, conveyance, assignment and lease of the District Facilities from the WCID to Mustang on October 1, 2011.

3. The signatures below evidence the intent of Plaintiff and Defendants that this shall serve as a Rule 11 agreement, which shall become enforceable upon filing with the clerk of the court.

Respectfully submitted,

RAPIER, WILSON & WENDLAND, P.C.  
1333 W. McDermott Drive, Suite 100  
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By: 

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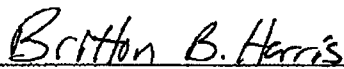
ATTORNEYS FOR DEFENDANT,  
Mustang Special Utility District

AGREED TO BY:



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Texas Bar No. 00792519  
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For Plaintiff, Providence Village



Britton B. Harris *by permission J. Wilson*  
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For Defendant, Providence Village Water  
Control and Improvement District of Denton  
County

**CERTIFICATE OF SERVICE**

I certify that on July 27, 2011 a true and correct copy of above and foregoing Rule 11 Agreement was served to each of the following persons by the method indicated:

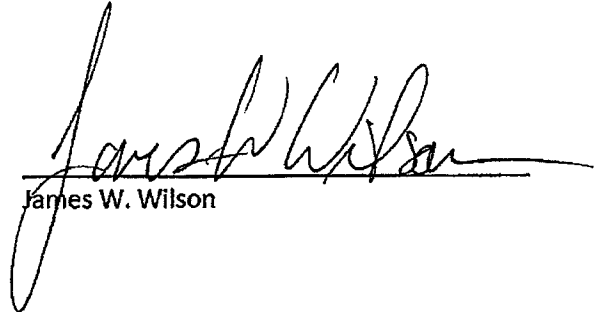
**Attorneys for Plaintiff, Providence Village:**

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Brandy Manning  
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VIA FIRST CLASS U.S. MAIL, POSTPAID

**Attorney for Defendant, Providence Village WCID:**

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James W. Wilson