

Control Number: 42946



Item Number: 31

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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.

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Cause No. D-1-GN-11-002972

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2011

TOWN OF PROVIDENCE VILLAGE
Plaintiff

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FILED IN THE 53rd WATER SUPPLY DIV.
JUDICIAL DISTRICT COURT
TRAVIS COUNTY, TEXAS
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TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY and
MARK R. VICKERY, Executive Director
Defendant

**RESPONSE OF THE "RELATED ENTITY,"
PROVIDENCE VILLAGE WATER CONTROL & IMPROVEMENT DISTRICT,
TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Providence Village Water Control & Improvement District (hereinafter, "Providence WCID"), which has been identified and characterized as a "related entity" in the Plaintiff's Original Petition filed by the Plaintiff Town of Providence Village ("The Town Plaintiff") in this cause number. Providence WCID presents the following Response to Plaintiff's Original Petition, as well as to any other filings made by the Plaintiff, any Defendant, or any other "related entity."

I.

Status of Providence WCID as a "Related Entity" to this Litigation

The Town of Providence Village ("The Town Plaintiff") filed this action complaining of the validity of a Ruling made by the Executive Director of the Texas Commission on Environmental Quality ("TCEQ") regarding The Town Plaintiff's Request for a Public Hearing on Application Nos. 36966-S and 36967-S concerning a Sale, Transfer or Merger of a Retail Public Utility Application ("STM application"). Please refer to The Town Plaintiff's Original Petition and

31

subsequent pleadings for a full description of the relief sought by The Town Plaintiff.

In The Town Plaintiff's Original Petition, The Town Plaintiff referenced and characterized the Providence Village Water Control & Improvement District of Denton County ("Providence WCID") as a "related entity" with regard to the relief sought by The Town Plaintiff. The Town Plaintiff does not appear in its pleadings to be seeking any relief from Providence WCID, but does acknowledge that the relief sought by The Town Plaintiff concerns Providence WCID as a "related party" since Providence WCID is the applicant or transferor with regard to the STM Application about which The Town Plaintiff complains.

II.

Clarification of the Position of Providence WCID as a "Related Entity" to this Litigation

Providence WCID is a political subdivision of the State of Texas. At this time, Providence WCID is neither a party to nor an intervenor in this Travis County Litigation. However, because The Town Plaintiff has identified and characterized Providence WCID as a "related entity" to this Litigation, Providence WCID wishes to make this Court and the other parties and "related entities" aware of the following circumstances impacting Providence WCID's position in this Litigation.

A) Pending Denton County Litigation

Providence WCID acknowledges that it entered into a series of contracts with Mustang Special Utility District ("Mustang") which contractually provided, among other things, for Providence WCID to transfer Providence WCID's water

and sewer facilities, as well as its CCNs, to Mustang effective October 1, 2011. However, The Town Plaintiff has filed litigation in Denton County, Texas in Cause No. 2011-60876-393, *Providence Village Water Control and Improvement District of Denton County, f/k/a Denton County Fresh Water Supply District No. 9 and Mustang Special Utility District* contesting the validity and lawfulness of the Contracts Providence WCID entered into with Mustang.

In a ruling issued September 16, 2011, the Honorable Douglas M. Robison, Judge of the 393rd Judicial District Court of Denton County, Texas, announced his decision that the validity of the contracts entered into between Providence WCID and Mustang is contingent upon certain factual determinations which have not yet been resolved in the Denton County Litigation. In the event that a judicial decision is rendered in the Denton County Litigation and confirmed upon any subsequent appeal that the current board of directors of Providence WCID is not legally bound by the Contracts with Mustang to convey Providence WCID's water and sewer facilities and CCNs to Mustang, the current Board of Directors of Providence WCID reserves its right to re-evaluate whether it is in the best interests of Providence WCID to consummate such transactions on the terms as set out in the Contracts with Mustang.

B) *Providence WCID Does not Oppose The Town Plaintiff's Request for Public Hearing*

Providence WCID does not object to or otherwise oppose in any manner The Town Plaintiffs' request for public hearing on Application No. 36966-S and No. 36967-S ("Applications"). The fact that the District executed the Applications and did not request a public hearing on the Applications should not be construed

as a comment by Providence WCID upon the merits of, or any disagreement with, the assertions made by the Town in its various pleadings submitted in connection with the Application or request for a public hearing.

III.

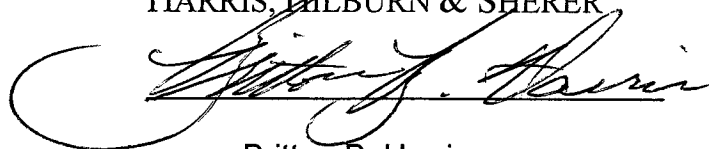
**Request that as a "Related Entity" to this Litigation
Providence WCID Be Copied on All Pleadings**

To date, the only pleading in this Travis County Litigation that Providence WCID has been provided is the Plaintiff's Original Petition filed by Town of Providence Village. Presumably, other parties and "related entities" have filed responsive pleadings. Providence WCID asks as a professional courtesy among counsel for all involved that Providence WCID be copied on all pleadings and filings in this case by the other parties and "related entities." Providence WCID may be copied at the address of the undersigned counsel, Britton B. Harris.

WHEREFORE, PREMISES CONSIDERED, Providence Village Water Control & Improvement District, asks that the Court and the parties and any other "related entities" take note of the information presented in this filing, and that all parties and "related entities" copy counsel for Providence WCID, Britton B. Harris, at the address presented in the signature block below, with all filings and pleadings related to this Travis County Litigation.

Respectfully submitted,

HARRIS, HILBURN & SHERER

A handwritten signature in cursive script, appearing to read "Britton B. Harris", written over a horizontal line.

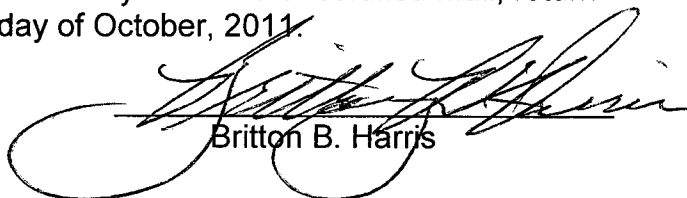
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ATTORNEYS FOR
DEFENDANT PROVIDENCE VILLAGE
WATER CONTROL AND
IMPROVEMENT DISTRICT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing pleading has been forwarded to all counsel of record by facsimile or certified mail, return receipt requested on this 19th day of October, 2011.


Britton B. Harris

Cause No. D-1-GN-11-002972, Town of Providence Village v. TCEQ
Service List

<p>John Rapier Rapier, Wilson & Wendland, P.C. 1333 W. McDermott, Suite 100 Allen, Texas 75013 <i>Via facsimile 972-727-4273</i></p>	<p>Brenda Clayton Kelly Hart & Hallman LLP 301 Congress Avenue, Suite 2000 Austin, Texas 78701 <i>Via facsimile 512-495-6401</i></p>
<p>Tammy Benter Brian Dickey TCEQ Water Supply Division, MC 153 P.O. Box 13087 Austin, Texas 78711-3087 <i>Via CMRRR</i></p>	<p>Julie Y. Fort McKamie Krueger, LLP 2007 N. Collins Blvd., Suite 501 Richardson, Texas 75080 <i>Via facsimile 210.546.2130</i></p>
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<p>Anthony S. Corbett Freeman & Corbett 8500 Bluffstone Cove, Suite B-104 Austin, Texas 78759 <i>Via facsimile 512-453-0865</i></p>	<p>Blas Coy TCEQ Office of Public Interest Counsel, MC 103 P.O. Box 13087 Austin, Texas 78711-3087 <i>Via priority mail</i></p>