

Control Number: 43005



Item Number: 21

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Callegari Law Firm, P. C.
Attorneys and Counselors at Law
15040 Fairfield Village Drive, Suite 200
Cypress, Texas 77433
281-304-1230 (voice)
281-373-5203 (fax)
wcj1304@msn.com (email)

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October 9, 2014

Ms. Tammy Benter, Team Leader
Water Utilities Division
Public Utility Commission
1701 N. Congress Avenue, Suite 8-110
Austin, Texas 78711

Re: Application from Aqua Texas, Inc., Certificate of Convenience and Necessity (CCN) No. 13201 to Transfer and Cancel CCN No. 12809 held by Texas H2O in Hood, Johnson, and Tarrant Counties; TCEQ Application No. 37922-S; PUC Docket No. 43005

Application from Aqua Texas, Inc., Certificate of Convenience and Necessity (CCN) No. 21059 to Transfer and Cancel CCN No. 20814 held by Texas H2O in Hood, Johnson, and Tarrant Counties; TCEQ Application No. 37923-S; PUC Docket 43006

CN: 601570773; RN 106107709 (water) RN 106107733 (sewer) (Aqua Texas)
CN: 600656201; RN 101451862 (water) RN 101274991 (sewer) (Texas H2O)

Dear Ms. Benter:

Please recall that I represent Aqua Texas with regard to various matters. I have assisted Aqua with the referenced transaction. I am writing to make sure that appropriate final approvals are processed for this transaction.

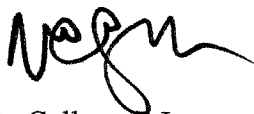
This transaction closed and funded on September 18, 2014; and I sent the attached notice of closing to you a few days later. Since then, I have received copies of orders filed in the two dockets referenced above; and I have been advised by Mr. Glen Lewis of Aqua that correspondence must include docket numbers for reference.

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To ensure that you have all required documentation, enclosed please find a copy of the correspondence previously sent, which included Affidavits of Closing from both Buyer and Seller evidencing the completion of the transfer, and a copy of the Bill of Sale conveying the system from Buyer to Seller.

Accordingly, please complete the CCN transfer process specified in the Applications and the Dockets at your earliest convenience. If you need additional information or documentation, please contact me at the address above or contact Mr. Glen Lewis at Aqua's Austin office. Thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. A. Callegari, Jr.', with a stylized, flowing script.

W. A. Callegari, Jr.
Attorney for Aqua Texas, Inc.

**BILL OF SALE FOR PROPERTY CONSTITUTING
THE TEXAS H2O UTILITY SYSTEM**

Date: September 18, 2014

Seller: Texas H2O, Inc., a Texas corporation

Seller's Mailing Address:

Texas H2O, Inc.
Post Office Box 613
Mansfield, Texas 76063
Tarrant County

Buyer: Aqua Texas, Inc., a Texas corporation

Buyer's Mailing Address:

Aqua Texas, Inc.
1106 Clayton Lane, Suite 400W
Austin, Texas 78723
Travis County

Consideration: Cash and other good and valuable consideration.

Transferred Properties:

All of Seller's interest in all of the real and personal property owned and/or controlled by Seller in Hood, Johnson and Tarrant Counties, which is in any way associated with the operation and/or ownership of the water and wastewater system which is owned and/or operated by Seller, whether held in fee simple, by easement, lease or otherwise, in any way related to the provision of water and/or wastewater service to current and future property owners located in the Texas H2O service area (the "System") including but not limited to the following:

1. All the land, buildings, pipes, pipelines, water mains, wells, pumping stations, storage tanks, standpipes, fire hydrants, structures, improvements, fixtures, rights of way, rights, uses, licenses, and easements owned by Seller or in which Seller has an interest, and all hereditaments, tenements, and appurtenances belonging or appertaining thereto, including but not limited to, all of the underground water, percolating water, artesian water, and any other water from any and all depths and reservoirs, formations, depths and horizons beneath the surface of the real property which is part of the System;
2. All the land, buildings, pipes, pipelines, mains, lift stations, pumping stations, storage tanks, standpipes, structures, improvements, fixtures, rights of way, rights, uses, licenses, and easements related to the Sewer Assets owned by Seller or in which Seller has an interest, and all hereditaments, tenements, and appurtenances belonging or appertaining thereto;
3. All supplies and inventories related to the System;
4. All rights of Sellers under any written or oral contract, easement, license, agreement, lease, plan, instrument, registration, permit, surface water right, surface water permit, groundwater right, groundwater permit, groundwater conservation district right, groundwater conservation district permit, certificate or other authorization or approval of any nature, or other document, commitment, arrangement, undertaking, practice or authorization, relating in any way to the Systems, including but not limited to all active and inactive water and/or wastewater accounts and all agreements with third parties regarding the provision of retail or wholesale water and/or wastewater;
5. All rights and choses in action of Sellers relating to the System arising out of occurrences before and/or after the date of this conveyance, including but not limited to those associated with prescriptive rights, adverse possession, easements, and ownership of the real and personal property of the System;
6. All information, files, records, data, plans, contracts, and recorded knowledge, including customer and supplier lists and property records in any way related to the System;
7. All of Sellers' interest in all of the personal property owned and/or controlled by Sellers associated with the operation and/or ownership of System, including without limitation Seller's interests in any customer records, business records, applications for licenses, permits or other related governmental authorizations which are part of the System; and

8. All the water utility easements used and useful in operating and owning the System, including but not limited to the easements listed on the attached exhibit and all equitable easement rights to easement in any way associated with the System.

PROVIDED, HOWEVER, that the Parties expressly agree that the transferred properties do not include the following:

- 1) Any and all customer water service lines that run from the curb line (or edge of road) to each individual residences, commercial or industrial structures served by the Assets;
- 2) All piping and fixtures internal to each of the individual customer's structure;

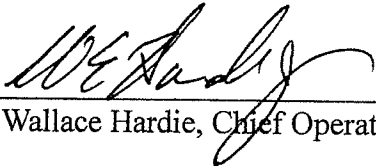
Warranties and Representations:

1. Seller herein expressly agrees and acknowledges that except as otherwise expressly stated in this Bill of Sale, all of the Representations and Warranties given and made by Seller or its predecessors in the Contract for the Purchase of Texas H2O, Inc. between the parties remain true and correct as of the effective date of this Bill of Sale.
2. Buyer expressly agrees and acknowledges that except as otherwise expressly stated in this Bill of Sale, all of the Representations and Warranties given and made in the Contract for the Purchase of Texas H2O, Inc. between the parties remain true and correct as of the effective date of this Bill of Sale.

Sellers, for the Consideration recited above, hereby, sells, transfers, and delivers the Transferred Properties to Buyer, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold the Transferred Properties to Buyer and Buyer's employees, agents, representatives, successors, and assigns forever. Seller binds Seller and Seller's heirs and successors to warrant and forever defend all and singular the title to the Transferred Properties to Buyer and Buyer's employees, agents, representatives, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Seller, but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

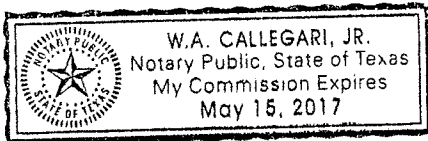
TEXAS H2O, INC., SELLER:

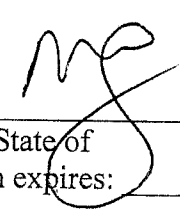

By Wallace Hardie, Chief Operating Officer

STATE OF TEXAS §

COUNTY OF TRAVIS §

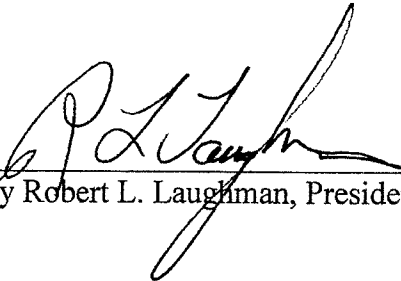
This instrument was acknowledged before me on September 18, 2014, by Wallace Hardie, Chief Operating Officer of Texas H2O, Inc., a Texas corporation, on behalf of said corporation.





Notary Public, State of
My commission expires: _____

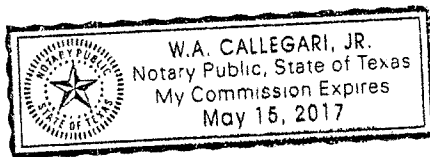
AQUA TEXAS, INC., BUYER



By Robert L. Laughman, President

STATE OF TEXAS)

COUNTY OF TRAVIS)

This instrument was acknowledged before me on September 18, 2014, by Robert L. Laughman, President of Aqua Texas, Inc., a Texas corporation, on behalf of said corporation.





Notary Public, State of Texas
My commission expires: _____

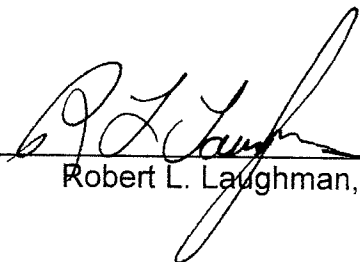
STATE OF TEXAS

COUNTY OF TRAVIS

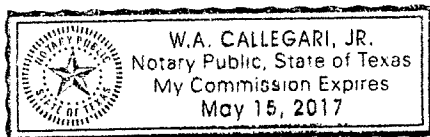
BUYER'S AFFIDAVIT OF CLOSING

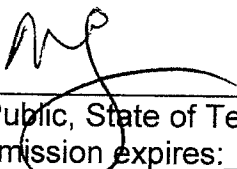
I, Robert L. Laughman, certify that I am president of Aqua Texas, Inc., the purchaser of the assets of Texas H2O, Inc. through a Water Code §13.301 sale. The sale and transfer of the utility and its assets closed on 9/18/14. Management and control of the utility system transferred on 9/18/14 at 11:59 p.m.. Both events occurred after receipt of the TCEQ's Executive Director's letter/notice authorizing the parties to close this transaction on July 24, 2014

Most customer deposits were refunded prior to closing in the ordinary course of business in compliance with TCEQ rules. Any remaining customer deposits were retained in the corporation for fiduciary management and refund in due course of business under the TCEQ's Chapter 291 rules.


Robert L. Laughman, Affiant

SWORN AND SUBSCRIBED TO under oath by Robert Laughman before the undersigned notary public in witness of which I place my hand and seal on 9/18/14.




Notary Public, State of Texas
My Commission expires: _____

STATE OF TEXAS

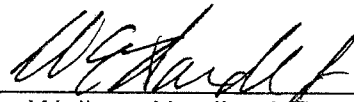
COUNTY OF TRAVIS

SELLER'S AFFIDAVIT OF CLOSING

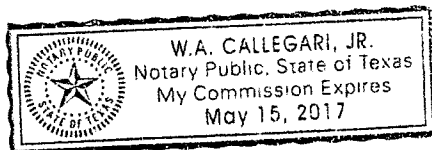
I, Wallace Hardie, certify that I am the Chief Operating Officer of Texas H2O, Inc., the public water utility being sold to Aqua Texas, Inc. through a Water Code §13.301 sale. The sale and transfer of the utility and its assets closed on 9/18/14 Management and control of the utility system transferred on 9/18/14, at 11:59 p.m Central Daylight Savings Time. Both events occurred after receipt of the TCEQ's Executive Director's letter/notice authorizing the parties to close this transaction on July 24, 2014.


Customer deposits were refunded prior to closing in the ordinary course of business in compliance with TCEQ rules.

Texas H2O, Inc. consents to the transfer of the Certificate of Convenience and Necessity ("CCN") that is the subject of this application to Aqua Texas, Inc. By affixing my authorized signature below, Texas H2O, Inc. grants to Aqua Texas, Inc. an irrevocable power of attorney to undertake all actions necessary to effectuate the CCN transfer, including, but not limited to, executing all necessary consent documents on behalf of Texas H2O, Inc.


Wallace Hardie, Affiant

SWORN AND SUBSCRIBED TO under oath by Wallace Hardie before the undersigned notary public in witness of which I place my hand and seal on this 9/18/14.




Notary Public, State of Texas
My Commission expires: _____

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 24, 2014

Mr. Glen E. Lewis
Director of Corporate Development, Aqua Texas
1106 Clayton Lane, Suite 400W
Austin, TX 78723

Re: Application from Aqua Texas, Inc., Certificate of Convenience and Necessity (CCN) No. 13201 to Transfer and Cancel CCN No. 12809 held by Texas H2O in Hood, Johnson and Tarrant Counties; Application No. 37922-S

Application from Aqua Texas, Inc., Certificate of Convenience and Necessity (CCN) No. 21059 to Transfer and Cancel CCN No. 20814 held by Texas H2O in Hood, Johnson and Tarrant counties; Application No. 37923-S

CN: 601570773; RN: 106107709 (water) RN: 106107733 (sewer) (Aqua Texas)
CN: 600656201; RN: 101451862 (water) RN: 101274991 (sewer) (Texas H2O)

Dear Mr. Lewis:

We have reviewed the criteria in Texas Water Code (TWC), Section 13.301(e) and determined that a public hearing will not be requested. You may complete your proposed transaction as scheduled, or any time after you receive this notification. Please note that the transaction must comply with the requirements of TWC Section 13.301(d) and therefore cannot be completed prior to the issuance of this letter.

The second part of the application, which is transferring the CCN, will occur following receipt of the following:

- a copy of the signed contract or bill of sale, and
- documents supporting the disposition of customer deposits.

The application cannot be approved nor the CCN transferred until we receive evidence that the transaction was completed. These items must be received by the Utilities Financial Review Team, Water Supply Division, within 30 days after the effective date of the transaction.

After the proper documentation is received, staff will prepare a proposed map, certificates, and recommendation for both applicants to review before submitting them to the Executive Director for approval and the transfer of the CCN. A copy of this information will be sent to both the buyer and seller.

P.O. Box 3087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tceq.texas.gov/customersurvey

printed on recycled paper using vegetable-based ink

Mr. Glen E. Lewis,
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July 24, 2014

If you concur with the recommendation, the consent forms must be signed and returned by both applicants before the recommendation to transfer the CCN can be approved by the Executive Director. If both consents are not received, the CCN will remain in the name of the seller and the seller remains responsible for the systems for purposes of TWC Section 13 regulations. (See TWC, Section 5.122 and 30 Texas Administrative Code Section 50.33).

As an alternative to the seller's continued involvement in the process, the closing document(s) and any accompanying correspondence may include a statement that the seller consents with the transfer of the CCN to the buyer with specific references to the statute and rule noted above. The statement will serve to authorize the Executive Director to take action upon receipt of the buyer's signed consent form. In this situation, however, the seller is relying on the buyer to provide the final consent on the CCN transfer.

Finally, please note that from the time the application is filed until the CCN is transferred, it is the applicants' (buyer and seller) responsibility to notify and update the Utilities Financial Review Team, of changes in the financial, managerial, or technical information provided in the application.

If you have further questions, please contact Ms. Debbie Reyes Tamayo at (512) 239-4683, or if by correspondence, include Mail Code 153 in the letterhead address.

Sincerely,



Cari-Michel La Caille, Assistant Director
Water Supply Division
Texas Commission on Environmental Quality

CML/DRT/mmg

cc: Mr. D. Davis
Mr. Robert Ortiz Jr.
Mr. Wallace E Hardie, Jr.