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APPLICATION OF COMMUNITY  
WATER SERVICE, INC. AND  
WALTER J. CARROLL WATER  
COMPANY, INC. FOR SALE,  
TRANSFER, OR MERGER OF  
FACILITIES AND CERTIFICATE  
RIGHTS IN ELLIS COUNTY

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BEFORE THE STATE OFFICE

OF

(APPLICATION NO. 37981-s)

ADMINISTRATIVE HEARINGS

**NOTICE OF FILING BY CITY OF RED OAK, TEXAS**

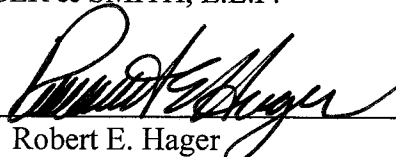
COMES NOW, the City of Red Oak, by and through the undersigned attorney, and files this Notice of Filing and requests that the Administrative Judge assigned herein and all parties of record take notice of the following documents herein filed in support of the City of Red Oak's Protest of Walter J. Carroll Water Company, Inc.'s Application for Sale, Transfer or Merger of Facilities and Certificate of Rights in Ellis County, Texas, forming the basis of the above-styled matter:

**EXHIBIT A: Direct Pre-Filed Testimony of John W. Birkhoff, P.E.**

Respectfully submitted,

NICHOLS, JACKSON, DILLARD,  
HAGER & SMITH, L.L.P.

By: \_\_\_\_\_



Robert E. Hager  
Bar Card No. 08689500  
1800 Ross Tower  
500 North Akard  
Dallas, Texas 75201  
Tel: (214) 965-9900  
Fax: (214) 965-0010

**ATTORNEY FOR THE  
CITY OF RED OAK, TEXAS**

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**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on this 15<sup>th</sup> day of June, 2015, a true and correct copy of the foregoing Notice of Filing and Exhibit thereto has been forwarded to the parties listed on the service list below via Certified Mail, Return Receipt Requested. I certify that this Certificate of Service complies with Title 1, Part 7, Chapter 155, Subchapter C, Rule § 155.103 of the Texas Administrative Code.

  
\_\_\_\_\_  
ROBERT E. HAGER

**SERVICE LIST**

**PARTIES:**

**REPRESENTATIVE / ADDRESS:**

SOAH

**CM/RRR #7014 3490 0001 1245 1099**  
And Electronic Filing  
The Honorable Lilo D. Pomerleau  
State Office of Administrative Hearings  
P.O. Box 13025  
Austin, Texas 78711

Public Utility Commission

**VIA FEDEX OVERNIGHT**  
Mr. Doug M. Brown  
Attorney – Legal Division  
1701 N. Congress Ave., Ste. 8-110  
Austin, Texas, 78711

Walter J. Carroll Water Co.

**CM/RRR #7014 3490 0001 1245 1105**  
Mr. Walter Carroll  
Walter J. Carroll Water Co. Inc.  
513 Winding Creek Trail  
Red Oak, Texas 75154

Walter J. Carroll Water Co.

**CM/RRR #7014 3490 0001 1245 1112**  
Mr. Cory D. Halliburton  
Weycer, Kaplan, Pulaski & Zuber, P.C.  
3030 Matlock Road, Suite 201  
Arlington, Texas 76015

Community Water Service, Inc.

**CM/RRR #7014 3490 0001 1245 1129**  
Ms. Bonnie Frame  
Community Water Service, Inc.  
P. O. Box 850155  
Mesquite, Texas 75185

Community Water Service, Inc.

**CM/RRR #7014 3490 0001 1245 1136**  
Mr. Dustan Dewinne  
Consulting Environmental Engineers, Inc.  
150 N. Harbin Drive, Suite 408  
Stephenville, Texas 76401

**SOAH DOCKET NO. 473-15-2274.WS  
PUC DOCKET NO. 43175**

<b>APPLICATION OF COMMUNITY</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>WATER SERVICE, INC. AND</b>	<b>§</b>	
<b>WALTER J. CARROLL WATER</b>	<b>§</b>	
<b>COMPANY, INC. FOR SALE,</b>	<b>§</b>	
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	<b>OF</b>
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN ELLIS COUNTY</b>	<b>§</b>	
	<b>§</b>	
<b>(APPLICATION NO. 37981-s)</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**DIRECT PRE-FILED TESTIMONY OF  
JOHN W. BIRKHOFF, P.E.**

**IN SUPPORT OF**

**THE CITY OF RED OAK'S  
PROTEST OF SALE, TRANSFER OR MERGER OF FACILITIES AND  
CERTIFICATE RIGHTS IN ELLIS COUNTY, TEXAS**

**EXHIBIT A**

**SOAH DOCKET NO. 473-15-2274.WS  
PUC DOCKET NO. 43175**

<b>APPLICATION OF COMMUNITY WATER SERVICE, INC. AND WALTER J. CARROLL WATER COMPANY, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN ELLIS COUNTY  (APPLICATION NO. 37981-s)</b>	§ § § § § § § § §	<b>BEFORE THE STATE OFFICE          OF          ADMINISTRATIVE HEARINGS</b>
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**PRE-FILED DIRECT TESTIMONY OF JOHN W. BIRKHOFF, P.E.  
IN SUPPORT OF  
THE CITY OF RED OAK'S PROTEST OF SALE, TRASNFER OR MERGER OF  
FACILITIES AND CERTIFICATE RIGHTS IN ELLIS COUNTY, TEXAS**

My name is John W. Birkhoff. My business address is 11910 Greenville Avenue, Suite 600, Dallas, Texas 75243. I am a Principle with Birkhoff, Hendricks & Carter, LLP. I serve this firm as a licensed professional engineer in Texas. I have been licensed as a professional engineer with the State of Texas since 1983 and have been a Principle with this firm since 1983. I hold a Bachelor's of Science degree in Civil Engineering from the University of Texas at Austin. I am a current member of the American Council of Engineering Companies and the American Water Works Association. I have held past leadership positions with the Texas Society of Professional Engineers and the American Council of Engineering Companies, Texas, and am a current D107 and D110 Standards Committee Member with the American Water Works Association.

I am involved in all areas of professional engineering services offered by my firm. However, my experience is focused on civil engineering for municipal and governmental agencies. - My professional experience includes project management, design, preparation of construction plans and specifications, and construction administration for wastewater lift

stations, water pump stations, water and wastewater lines, water storage facilities, drainage improvements, major thoroughfares, streets, and infrastructure rehabilitation. I have also undertaken many studies and investigations including water distribution systems, wastewater collection systems, impact fee determinations, inflow/infiltration studies and SCADA systems. In doing so, I have provided services and consultations to many communities surrounding the City of Dallas, as well as Water Districts and the Texas Department of Transportation.

I have personally prepared a resume outlining my educational background and professional experience. A true and correct copy of this Resume has been presented to me as Red Oak's Exhibit A.

My firm provides consulting engineering services primarily to municipalities and other governmental agencies. Specifically, my firm provides full engineering services for the design of projects, preparation of plans and specifications, studies, construction administration, preparation of specifications, right-of-way and easement documents, condemnation hearings, value engineering, evaluation and preparation of reports and recommended alternatives, participation in the creation of capital improvement programs, water distribution, sanitary sewer and storm water hydraulic modeling, performing surveys and drafting services for municipalities' designed projects.

I have worked on several Texas public water systems projects as a professional engineer. I have worked on projects involving CCN certification as well as non-CCN projects.

I am testifying in this matter as a professional engineer in regard to public utility facilities and as to the technical and operational capabilities of the particularly retail public utility system (the "Facilities") located at or near 105 Dana Street, in Red Oak, Ellis County, Texas. My testimony will address the ability of the existing lines of these Facilities to meet the needs or

demands of the certificated service area, relating to the Walter J. Carroll Water Company's Application for a transfer of ownership of the Facilities. All of the opinions I am offering in connection with my testimony are based on a reasonable degree of engineering certainty in North Central Texas, based upon my review of the information provided of the Facilities in question.

In approaching this project, I have reviewed the relevant documentation and other information provided by Community Water concerning the project and Facilities in question. Specifically, I have reviewed a System Map provided by Community Water depicting the existing facilities in 2013, and in particular, the Community Water Distribution lines.

I have reviewed and am familiar with the issues contained within the Preliminary Order concerning this matter, including the factors listed under 13.246(c) of the Texas Water Code. In preparing for my testimony in this matter I reviewed the System Map for the Facilities the Application is based upon. My testimony is based upon my extensive education, training, experience and review of information and the applicable regulations in relation to the Application, the Facilities in question and the parties.

Based on my educational and professional background, as well as my review of the System Map of the Facilities, it is my opinion that the current Community Water System in the service area is not adequate for a number of reasons. My first observation is that the Facilities do not provide adequate fire suppression support to the service area. The system does not have any fire hydrants. The system, which was constructed in 1960, has 2 inch water lines of unknown material on most of the covered streets. It is my opinion that, in its current state, the system cannot support fire hydrants. In order to be able to support fire hydrants larger lines, at least 6 inch in size, would need to be installed in order to provide adequate water pressure and water volume. This is in addition to the installation of valves, fire hydrants, and possibly, a larger



pump. In addition, the distribution lines are not installed at proper depths with adequate cover to provide protection of the water lines from freezing, breakage or tampering. My opinion of probable construction costs to meet city standards in line size, fire protection and construction requirements would be in excess of \$650,000.00. This amount could substantially increase if the existing water line material contains asbestos.

Based on the lack of fire suppression and protection of water lines, it is my opinion that the proposed sale, without any upgrades to the current system, as proposed by Walter Carroll Company, will not serve the public interest. In the event the need for fire suppression arises, or the system fails as a result of the lack of adequate protection to the water lines, the landowners, prospective landowners, tenants or residents in the applicable service area would be negatively affected.

Based upon my training, education and experience, and my review of the Application and information related to the Facilities and Applicant, it is my professional opinion that the Application should not be approved as submitted. The Walter J. Carroll Water Co., Inc. is not able to provide adequate service to the area without the upgrade improvements referenced in my testimony. Accordingly, the Utility Commission should not approve the sale, transfer and merger of the CCN in issue from Community Water Services, Inc. to Walter J. Carroll Water Co., Inc. Subject to review of further documentation and testimony of any other witnesses, this concludes my direct testimony.

SOAH DOCKET NO. 473-15-2274.WS  
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APPLICATION OF COMMUNITY § BEFORE THE STATE OFFICE  
WATER SERVICE, INC. AND §  
WALTER J. CARROLL WATER §  
COMPANY, INC. FOR SALE, §  
TRANSFER, OR MERGER OF § OF  
FACILITIES AND CERTIFICATE §  
RIGHTS IN ELLIS COUNTY §  
(APPLICATION NO. 37981-s) § ADMINISTRATIVE HEARINGS

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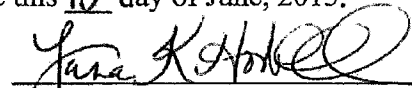
State of Texas §  
County of Dallas §

JOHN W. BIRKOFF, P.E., upon first being duly sworn according to law, under oath deposes and states: That I have read the foregoing Direct Testimony and referenced Exhibits and they are true and accurate representations of what the testimony would be if the testimony were to be given orally at the time the written testimony is offered into evidence.

SIGNED, this the 15<sup>th</sup> day of June, 2015.

  
JOHN W. BIRKOFF

SUBSCRIBED AND SWORN to before me this 15<sup>th</sup> day of June, 2015.

  
NOTARY PUBLIC, STATE OF TEXAS



# Résumé of Key Staff



**Experience**  
33 Years

**Registered  
Professional Engineer**  
State of Texas No. 54137

**Education**  
B.S. Civil Engineer (1979)  
University of Texas

- Professional**
- American Council of Engineering Companies (Past State Director-Texas)
  - American Water Works Association (D110 Standards Committee Member) (D107 Standards Committee Member)

## JOHN W. BIRKHOFF, P.E.

*Birkhoff, Hendricks & Carter, L.L.P. - Managing Partner*

John Birkhoff has been a Partner since 1983. His work includes project management, design, preparation of construction plans and specifications, and construction administration for wastewater lift stations, water pump stations, water and wastewater lines, water storage facilities, drainage improvements, thoroughfares and airports. Mr. Birkhoff has undertaken many studies and investigations including intersection improvements, drainage improvement systems, SCADA systems, water distribution systems, wastewater collection systems, inflow/infiltration studies and monitoring and control systems. In addition, John has worked with citizen groups to explain, educate and attempt to lessen the impact of Capital Improvement Projects. John has completed 45 Elevated Storage projects and 27 Ground Storage Reservoirs, each including painting specifications. Representative projects include:

### Sewer Rehabilitation Projects:

- Plano: Dallas North Trunk Sewer Replacement (5,000 L.F. of 36" sanitary sewer line)
- Hurst: Sanitary Sewer Main Replacements
- Cedar Hill: Phase I - Sanitary Sewer Rehabilitation (Line Replacement)

### Water Line Projects:

- Plano: Pipe Bursting for Dallas N. Trunk & Prairie Creek Interceptor (27" to 36" Pipe)
- Red Oak: 6-miles of 66" Dallas Water Supply Line from Danieldale Road to SH-664
- Ovilla: 7-mile, 30" Dallas Water Supply Line and Meter Station
- Hurst: Replacement of five waterlines (3670 LF) within existing subdivisions.
- Allen: Hedgecoxe 24" Water Line from Duchess Dr. to Longwood Drive (1,100-LF)
- McKinney: FM-720 Water Line from FM-720 Pump Sta. to Lake Forest. 8,200-ft of 42"

### Master Planning Projects (Water & Wastewater):

- DeSoto: 2001 Water Distribution Analysis and Master Plan
- Plano: Sanitary Sewer Master Plan for the RT Zoning located in East Plano
- Red Oak: Ten Capital Improvement Program for W & WW based Master Plans
- Lancaster: Formulation of a Water & Sewer Impact Fee and Master Planning

### Water, Sewer and Drainage Studies:

- Carrollton: Water Distribution and Wastewater Collection Analysis
- Lewisville: Water Distribution Model, Water, Sewer & Roadway Impact Fee Update
- Plano: Analyze sewer line capacity in the Legacy Town Center
- Red Oak: Wastewater Collection Master Plan of Major Trunk Lines.
- Lewisville: Hivue Sanitary Sewer Replacements of approx. 6,000 LF of collection line
- Addison: Easement Linear Park (effects in park from the 100-year design storm)
- Ovilla: Willow Creek Drainage Study - Lots 16, 17 & 18

### Pump Stations, Elevated Storage Tanks & Ground Storage Reservoirs:

- Ovilla: 10 MGD Potable Water Pump Station with Five Pump Slots.
- Plano - Ridgeview Pump Station: Pump and Motor 17 & 18 Addition
- Plano: Southeast Industrial 2-MG Elevated Tank Repaint (w/Red Lead)
- Allen: Hillside 2-MG Elevated Storage Tank, and 2,000 L.G. of 16" Waterline slip lining
- DeSoto: 5-MG Welded Steel Westmoreland Ground Storage Reservoirs #2 Repaint
- Plano: Ridgeview Ground Storage Reservoir Nos. 1, 2, 3 and 4

### Paving & Drainage Projects (Transportation)

- Parker: Annual Street Maintenance Contract
- Grand Prairie: MacArthur Blvd. P&D Improvements (IH-30 to Trinity River)
- Allen/TxDOT: SH-5 Paving & Drainage Improvements (6-lane divided)
- Allen: Stacy Road Paving & Drainage Improvements (US 75 to Angle Pkwy.) 1.82 miles

**Birkhoff,  
Hendricks &  
Carter, L.L.P.**