

Control Number: 43529



Item Number: 6

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.

4 001/007



Protecting Texas by Reducing and Preventing Pollution

FAX TRANSMITTAL

DATE: April 8, 2005

NUMBER OF PAGES (including this cover sheet) 119

TO:

Name

The Honorable Mike Rogan

Organization

State Office of Administrative Hearings

FAX Number

(512) 475-4994

Name

Norma Lopez

FAX Number

(512) 463-7949

FROM:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Name

Division/Region

Litigation Division

Telephone Number

(512) 239-3668

FAX Number

(512) 239-3434

NOTES:

Attention: Norma Lopez

6

BRANIFF

ATTORNEYS | COUNSELORS

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10625 LEGENDS LANE
AUSTIN, TEXAS 78747

TEL: 512.924.2216
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WBRANIFF@AUSTIN.TX.COM

April 6, 2005

Ms. LaDonna Castanuela
Office of the Chief Clerk
TCEQ Docket Clerk
MC-105, P.O. Box 13087
Austin, Texas 78711-3087

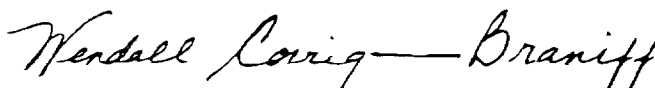
Re: Application of Fall Creek Utility Company, Inc. for a Rate Change in Hood County,
Texas; SOAH Docket No. 582-05-1528 TCEQ Docket No. 2004-1201-UCR

Dear Ms. Castanuela:

Enclosed herewith for filing in the above-referenced proceeding is "Fall Creek Utility
Company, Inc. and Lake Granbury RV Ranch Property Owners Association's Joint Motion for
Abatement."

Copies of the enclosed are being sent to the other parties to this proceeding as evidenced by
the enclosed mailing list. Please feel free to contact me if you have any questions regarding this
information.

Yours truly,



Wendall Corrigan Braniff

cc: Mailing List

SOAH DOCKET NO. 582-05-1528

TCEQ DOCKET NO. 2004-1201-UCR

APPLICATION OF FALL CREEK	§	BEFORE THE STATE
UTILITY COMPANY, INC.	§	OFFICE OF
FOR A RATE CHANGE	§	ADMINISTRATIVE HEARINGS
IN HOOD COUNTY, TEXAS	§	

LAKE GRANBURY RV RANCH PROPERTY OWNERS ASSOCIATION AND FALL CREEK UTILITY COMPANY, INC.'S JOINT MOTION FOR ABATEMENT

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

NOW COMES, LAKE GRANBURY RV RANCH PROPERTY OWNERS ASSOCIATION (the "POA") and FALL CREEK UTILITY COMPANY, INC. ("Fall Creek") and file this their Joint Motion for Abatement in the above referenced cause and in support of which, would respectfully show the Administrative Law Judge as follows:

I.

1. On April 27, 2004, Fall Creek filed a rate change application with the Texas Commission on Environmental Quality ("TCEQ"). The POA protested the rate change and a hearing was held on January 25, 2005. The POA is the only party protesting the application. A mediated settlement conference was held and an agreed schedule was adopted.

II.

2. Having conducted settlement negotiations, Fall Creek and the POA reached a settlement agreement, contingent upon the TCEQ approval of the POA's stock purchase application, which was filed on March 1, 2005. The parties agree that, upon the TCEQ approval of the POA's stock purchase application, the application for a rate increase will be assigned and transferred to the POA who will either pursue the application as an uncontested matter or will withdraw the application.

3. The POA and Fall Creek are currently of the understanding that the TCEQ has approved the POA's stock purchase application, however, the parties are awaiting the written approval letter from the TCEQ.

III.

4. In order to allow the parties to complete all settlement negotiations and agreements and to obtain a written letter from the TCEQ approving the POA's stock purchase application, the parties request that this matter be abated for a period of ninety (90) days.

WHEREFORE, PREMISES CONSIDERED, Lake Granbury RV Ranch Property Owners Association and Fall Creek Utility Company, Inc. respectfully request that the Administrative Law Judge issue an order abating the procedural schedule until October 4, 2005.

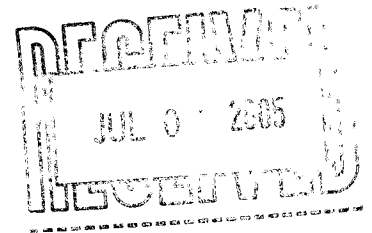
Respectfully submitted,



D. SCOTT CAIN	24025279
KEITH BRADLEY	00783707
KIMBERLY SIKES	24039175
KERI L. CANNON	24045611

BRADLEY & CAIN, L.L.C.
Attorneys at Law
13 Henderson
Cleburne, Texas 76031
(817) 645-3993
(817) 645-3995 - FAX


**ATTORNEYS FOR LAKE GRANBURY
RV RANCH PROPERTY OWNERS
ASSOCIATION**



AGREED:


Wendall Corrigan Braniff 04842500
Attorney for Fall Creek Utility Company, Inc.

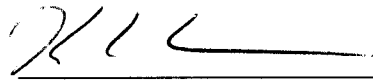
Braniff Attorneys Counselors
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Keri L. Cannon 24045611
Attorney for Lake Granbury RV Ranch
Property Owners Association

Bradley & Cain, LLC
13 Henderson
Cleburne, Texas 76031
(817) 645-3993
(817) 645-3995 - FAX

CERTIFICATE OF CONFERENCE

I certify that on July 6, 2005, I contacted counsel for Fall Creek Utility Company, Inc., Ms. Wendall Corrigan Braniff, and on July 7, 2005 I contacted Mr. Gabriel Soto of the TCEQ Environmental Law Division and Ms. Christina Mann of the TCEQ Office of the Public Interest Counsel and they are each in agreement with this abatement.



Keri L. Cannon
Attorney for Lake Granbury RV
Ranch Property Owners Association

CERTIFICATE OF SERVICE

A true and correct copy of this document was forwarded to all attorneys of record,
on this the 8 day of July, 2005, as follows:

Ms. Wendall Corrigan Braniff
10625 Legends Lane
Austin, Texas 78747
512.291.1005
512.291.1006 FAX

Via Certified Mail #70022410000095548078
Return Receipt Requested

Mr. Gabriel Soto
TCEQ Environmental Law Division
MC-173
P.O. Box 13087
Austin, Texas 78711-3087
512-239-0600
512-239-0606 FAX

Via Certified Mail #70022410000095548313
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Christina Mann
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MC-103
P.O. Box 13087
Austin, Texas 78711-3087
512-239-4014
512-239-6377 FAX

Via Certified Mail #70022410000095548320
Return Receipt Requested



Keri L. Cannon
Attorney for Lake Granbury RV
Ranch Property Owners Association

KEITH BRADLEY
MEMBER STATE BAR COLLEGE

D. SCOTT CAIN
MEMBER STATE BAR COLLEGE

BRADLEY & CAIN, L.L.C.
ATTORNEYS AT LAW

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KIMBERLY SIKES

July 8, 2005

Ms. LaDonna Castanuela
Office of the Chief Clerk
TCEQ Docket Clerk
MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Via Fax # 512-475-4994

RE: Application of Fall Creek Utility Company, Inc. for a rate change in Hood
County, Texas; SOAH Docket No. 582-05-1528; TCEQ Docket No. 2004-1201-
UCR

Dear Ms. Castanuela:

Enclosed please find Lake Granbury RV Ranch Property Owners Association and
Fall Creek Utility Company, Inc.'s Joint Motion for Abatement in the above referenced
cause. Please file this Motion with the Court.

I am also sending you the original and one copy of the Motion via regular United
States Mail. Please file the enclosed Motion with the Court and return a file marked copy
to me in the enclosed self-addressed and stamped envelope.

I am forwarding a copy of same to the other parties as shown below. If you have
any questions, please do not hesitate to contact my office.

Sincerely,


Keri L. Cannon

Cc: Ms. Wendall Corrigan Braniff
10625 Legends Lane
Austin, Texas 78747
512.291.1005
512.291.1006 FAX

Via Certified Mail #70022410000095548078
Return Receipt Requested

Mr. Gabriel Soto
TCEQ Environmental Law Division
MC-173
P.O. Box 13087
Austin, Texas 78711-3087
512-239-0600
512-239-0606 FAX

Via Certified Mail #70022410000095548313
Return Receipt Requested

Christina Mann
TCEQ Office of the Public Interest Counsel
MC-103
P.O. Box 13087
Austin, Texas 78711-3087
512-239-4014
512-239-6377 FAX

Via Certified Mail #70022410000095548320
Return Receipt Requested

Lake Granbury RV Ranch Property Owners Association
Attention: Mr. Gene Floyd
7001 Garret Ranch Road
Granbury, Texas 76049

BRANIFF

ATTORNEYS | COUNSELORS

WENDALL CORRIGAN BRANIFF
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WBRANIFF@AUSTIN.TX.COM

April 6, 2005

Ms. LaDonna Castanuela
Office of the Chief Clerk
TCEQ Docket Clerk
MC-105, P.O. Box 13087
Austin, Texas 78711-3087

Re: Application of Fall Creek Utility Company, Inc. for a Rate Change in Hood
County, Texas; SOAH Docket No. 582-05-1528 TCEQ Docket No. 2004-1201-UCR

Dear Ms. Castanuela:

Enclosed herewith for filing in the above-referenced proceeding is "Fall Creek Utility Company, Inc. and Lake Granbury RV Ranch Property Owners Association's Joint Motion for Abatement."

Copies of the enclosed are being sent to the other parties to this proceeding as evidenced by the enclosed mailing list. Please feel free to contact me if you have any questions regarding this information.

Yours truly,

Wendall Corrigan Braniff

Wendall Corrigan Braniff

cc: Mailing List

CHIEF CLERKS OFFICE
2005 APR 13 PM 9:54
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

SOAH DOCKET NO. 582-05-1528
TCEQ DOCKET NO. 2004-1201-UCR

APPLICATION OF FALL CREEK
UTILITY COMPANY, INC.
FOR A RATE CHANGE
IN HOOD COUNTY, TEXAS

§
§
§
§

BEFORE THE STATE
OFFICE OF
ADMINISTRATIVE HEARINGS

CHIEF CLERKS OFFICE

2005 APR 13 AM 9:34

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

**FALL CREEK UTILITY COMPANY, INC. AND LAKE GRANBURY RV RANCH
PROPERTY OWNERS ASSOCIATION'S JOINT MOTION FOR ABATEMENT**

TO: The Honorable Mike Rogan, Administrative Law Judge, State Office of
Administrative Hearings, 300 W. 15th Street, Austin, Texas 78711

COMES NOW, Fall Creek Utility Company, Inc. and Lake Granbury RV Ranch Property
Owners Association and file this Joint Motion for Abatement in the above-referenced proceeding
to request that the Administrative Law Judge ("ALJ") grant the Motion.

I. BACKGROUND

Fall Creek Utility Company, Inc. ("Fall Creek") filed an application to change its rates
with the Texas Commission on Environmental Quality on April 27, 2004. The Lake Granbury
RV Ranch Property Owners Association (the "POA") filed a protest and a preliminary hearing
was convened on January 25, 2005. Pursuant to Order No. 1, the case was referred for mediated
settlement conference and an agreed schedule was adopted.

II. SETTLEMENT STATUS

Fall Creek and the POA have entered into settlement negotiations and have reached a
settlement concerning the disposition of this case. The settlement is contingent upon TCEQ
approvals of the POA's purchase of the stock of Fall Creek. An application for the stock transfer
was filed with TCEQ on March 1, 2005.

The parties agree that if the stock purchase is approved, the application for a rate increase
will be assigned and transferred to the POA and the POA will pursue the application as an
uncontested matter (since the POA is the only protestant of the application), or the POA will
withdraw the application.

III. REQUEST FOR ABATEMENT

The parties hereby jointly request that that this matter be abated for a period of ninety (90) days in order to conclude and finalize the settlement negotiations and agreements and to obtain TCEQ approval of the stock purchase agreement.

IV. AGREEMENT OF PARTIES

The undersigned attorney has contacted legal representatives of all of the other parties to this proceeding, and they have agreed to this abatement.

V. CONCLUSION AND PRAYER

In accordance with the information and arguments outlined above, Fall Creek and the POA respectfully requests that the ALJ issue an order abating the procedural schedule until June 6, 2005.

Respectfully submitted,

BRANIFF ATTORNEYS | COUNSELORS

By: Wendall Corrigan Braniff

Wendall Corrigan Braniff
Braniff Attorneys | Counselors
10625 Legends Lane
Austin, Texas 78747
Tel: (512) 924-2216
Fax: (512) 291-1006

Texas Bar Association No. 04842500

ATTORNEY FOR FALL CREEK UTILITY COMPANY,
INC.

BRADLEY & CAIN, L.L.C.

By: _____

Kimberly Sikes for Keith Bradley
Bradley & Cain, L.L.C.
13 E. Henderson Street
Cleburne, Texas 76031
Tel: (817) 645-3993
Fax: (817) 645-3995

Texas Bar Association No. _____

ATTORNEYS FOR LAKE GRANBURY RV RANCH
PROPERTY OWNERS ASSOCIATION

CERTIFICATE OF SERVICE

I, Wendall Corrigan Braniff, attorney for Fall Creek Utility Company, Inc. in the above-referenced dockets, certify that true and correct copies of the foregoing pleading have been served on the persons listed on the Mailing List by hand delivery, fax and/or 1st class USPS mail on the 6th day of April , 2005:

Wendall Corrigan Braniff

Wendall Corrigan Braniff

MAILING LIST
FALL CREEK UTILITY COMPANY, INC.
APPLICATION FOR RATE CHANGE
SOAH DOCKET NO. 582-05-1528
TCEQ DOCKET NO. 2004-1201-UCR

The Honorable Mike Rogan
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025
Tel.: (512) 475-4993
Fax: (512) 475-4994

Gabriel Soto, Staff Attorney
TCEQ Environmental Law Division
MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel.: (512) 239-0600
Fax: (512) 239-0606

Representing: the Executive Director of the
Texas Commission on Environmental Quality

Christina Mann
TCEQ Office of the Public Interest Counsel
MC-103
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Tel.: 512/239-4014
Fax: 512/239-6377

Representing TCEQ Office of the Public
Interest Counsel

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Bradley & Cain, L.L.C.
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Tel.: (817) 645-3993
Fax: (817) 645-3995

Representing: Lake Granbury RV Ranch
Property Owners Association

Wendall Corrigan Braniff,
Braniff Attorneys | Counselors
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Austin, Texas 78747
Tel.: (512) 924-2216
Fax: (512) 291-1006

Representing: Fall Creek Utility Company,
Inc.