

Control Number: 43535



Item Number: 28

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.

2. 194.2(c) Legal theories

There is a need for VC's and PC's retail public utility services within their requested service areas that they can best fulfill. Each applicant can meet the certification requirements of Texas Water Code §§13.241 and 13.246. Royse City and Fate are not viable alternative service providers. They do not have the capacity they claim and cannot provide future capacity on a timely or a cost effective basis. There is an existing political subdivision empowered by law, which is already serving the Verandah property as defined by Water Code Chapter 13 to who VC plans to transfer its CCN. Royse City cannot serve sewer service there as a matter of law because it is already served. However, the District will consent to VC's CCN. Royse City cannot serve water service there because of BHP WSC's CCN.

3. 194.2(e) Economic damages

This is a utility certification case. The only damages or costs that may be awarded are the apportionment of transcript costs unless the presiding judge imposes discovery costs as sanctions. Any economic damages would arising in a collateral action and would be subject to discovery in that litigation. These parties have insufficient knowledge of what that litigation might be at this time to speculate on such damages other than they would be significant with a development of this size.

4. 194.2(f) Persons with knowledge of relevant facts

Mark H. Zeppa
Law Offices of Mark H. Zeppa, PC
4833 Spicewood Springs Road, #202
Austin, Texas 78759-8436
(512) 346-4011
Counsel for VC, PC and the District

Fred Brown, PE
Huffines & Partners, Inc.
8222 Douglas Ave, Ste 660
Dallas, Texas 75225
(214) 526-3000
Vice-president and planner for VC and PC and planner for the District.

Donald Huffines
Huffines & Partners, Inc.
8222 Douglas Ave, Ste 660
Dallas, Texas 75225
(214) 526-3000
Developer and principal of VC and PC.

Phillip Huffines
Huffines & Partners, Inc.
8222 Douglas Ave, Ste 660
Dallas, Texas 75225
(214) 526-3000
Developer and principal of VC and PC.

Clay E. Crawford
Law Offices of Clay E. Crawford, PC
4265 San Felipe St, Ste 1050
Houston, Texas 77027
(713) 621-3707
Attorney for VC and PC and General Counsel of the District.

Robert Wright, PE
Pate Engineers
8150 Brookriver Dr., Ste S-700
Dallas, Texas 75247
(214) 357-2981
Consulting engineer for VC, PC and the District.

Margaret Sledge Gillentine, PE
Pate Engineers
8150 Brookriver Dr., Ste S-700
Dallas, Texas 75247
(214) 357-2981
Consulting engineer for VC, PC and the District.

Teague Harris, PE
Pate Engineers
13333 Northwest Freeway, Ste 300
Houston, Texas 77040
(713) 462-3178
Consulting engineer for VC, PC and the District.

Dr. Hughbert Collier, PhD
Collier Consulting, Inc.
741 W College
Stephenville, Texas 76401
(254) 968-8721
Hydrogeologist for PC

Angela Stepherson
Law Offices of Clay E. Crawford, PC
3100 McKinnon St., Ste 950
Dallas, Texas 75201
(214) 981-9090
Attorney for VC, PC and the District.

District Board Members
Business Address for All Board Members
Law Offices of Clay E. Crawford, PC
3100 McKinnon St., Ste 950
Dallas, Texas 75201
(214) 981-9090:

Rodney Boren
Sarah Harper
Joshua Wright
James Knight
Robert Taylor

5. 194.2(f) Testifying Expert

1. Names & addresses:

Fred Brown, PE
Huffines & Partners, Inc.
8222 Douglas Ave, Ste 660
Dallas, Texas 75225
(214) 526-3000

Donald Huffines
Huffines & Partners, Inc.
8222 Douglas Ave, Ste 660
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(214) 526-3000

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Angela Stepherson
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3100 McKinnon St., Ste 950
Dallas, Texas 75201
(214) 981-9090

2. Subject matter of testimony:

Fred Brown is a vice-president and the principal planner for both development companies. He will testify about each development and its need for utility services. Mr. Brown has been in charge of acquiring utilities for each development and has been meeting with all regional service providers. As an in-house engineer, he has been overseeing the development of the plans for getting utilities to and throughout each development. He has examined costs and reliability. He has addressed local biases and politics. Mr. Brown

will address all Water Code §§13.241 and 13.246 criteria. The utilities will have adequate long-term FMT to provide continuous and adequate water and sewer service to the public. It is his job to insure this and he will. Service will be affordable so the development remains marketable.

Donald Huffines is one of the principals of the companies developing VC and PV. He will address the need for utility services in each development. Mr. Huffines will address all Water Code §§13.241 and 13.246 criteria. He will address the applicants' efforts to develop regional water and sewer utility resources and the opposition created by municipalities trying to assert land use powers outside their lawful areas of control. The utilities will have adequate long-term FMT to provide continuous and adequate water and sewer service to the public. It is his job to insure this and he will. Service will be affordable so the development remains marketable.

Phillip Huffines is one of the principals of the companies developing VC and PV. He will address the need for utility services in each development. Mr. Huffines will address all Water Code §§13.241 and 13.246 criteria. He will address the applicants' efforts to develop regional water and sewer utility resources and the opposition created by municipalities trying to assert land use powers outside their lawful areas of control. The utilities will have adequate long-term FMT to provide continuous and adequate water and sewer service to the public. It is his job to insure this and he will. Service will be affordable so the development remains marketable.

Clay Crawford is the General Counsel of the District. He will testify on the District's lawful existence, its creation and its intent to serve the public. He will testify that it is currently providing service in the VC service area and that it is willing to allow VC to become certificated to the area but not Royse City. He will testify that the District and VC intend to have the VC CCN transferred to the District after issuance. The District will have adequate FMT to provide long-term utility service.

Robert Wright is the primary consulting engineer for both these developments. He is responsible for developing the utility resource systems working with Mr. Brown. He is overseeing the TPDES permit applications for VC and PC. He will testify on technical aspects on applications. There is a need for service that can be

met with WWTPs that can be built and operated that will achieve TPDES permits that protect human health and safety and state waters using conventional technologies. There appear to be adequate water supplies available to the projects. They can be brought to the developments and adequate service provided.

Teague Harris is another senior consulting engineer working with Mr. Wright on these projects. His testimony shall support Mr. Wright's and will focus more on the wastewater treatment side. There is a need for service that can be met with WWTPs that can be built and operated that will achieve TPDES permits that protect human health and safety and state waters using conventional technologies.

Dr. Hughbert Collier is the consulting hydrogeologist who has performed groundwater resource availability studies for PC. He will address the availability of commercial quantities of underground water that can be used to support or supplement the development(s). There is adequate ground water that can be treated to meet TCEQ standards.

Angela Stepherson is a former Senior Staff Attorney in the Environmental Law Division of the TCEQ, who was responsible for litigating and managing water and sewer CCN cases. If deemed necessary, Ms. Stepherson will be available to testify to establish TCEQ policy(ies). SOAH Rule 155.53(a)

3. 194.2(f) Summary of testifying witness' impressions

See No. 2 above on summary of testimony

4.(A) Expert's work papers and relied upon documents

The work papers of Fred Brown, Donald Huffines and Phillip Huffines are all located at the offices of Huffines and Partners, Inc. under Mr. Brown's custody and control. These work papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications which will be removed. The documents are voluminous and determined by stipulated order.

Clay Crawford is the custodian of the official records of the District which are maintained in his Houston (his control) and his Dallas (Ms. Stepherson's control) offices. These documents constitute his work papers except for those documents, which are direct attorney-client communications over which he claims privilege and will not produce. Within the privileged documents are:

- correspondence between Clay Crawford and members of his firm and officers and directors of Verandah Fresh Water Supply District concerning District business
- correspondence between Clay Crawford and members of his firm and principals of Verandah Communities, LP concerning VC business
- correspondence between Clay Crawford and members of his firm and principals of Parker Creek Estate, LP concerning PC business
- correspondence between Clay Crawford and members of his firm and co-counsel for Verandah Communities, LP, Parker Creek Estates, LP and Verandah Fresh Water Supply District concerning VC, PC and/or District business

The documents are voluminous and determined by stipulated order.

Robert Wright is the chief custodian of the Pate Engineers documents for VC, PC and the District in Dallas. The documents are voluminous and determined by stipulated order.

Teague Harris is the chief custodian of the Pate Engineers documents for VC, PC and the District in Houston. The documents are voluminous and determined by stipulated order.

Dr. Hughbert Collier is the chief custodian of the Collier Consultants documents for VC, PC and the District. The documents are voluminous and determined by stipulated order because they are made up of a substantial

database maintained by Collier Consulting. Dr. Collier's final expert report is attached.

Angela Stepherson has no work papers per se at this time. She is the Dallas custodian of some District records as noted above.

The expert work papers noted above are voluminous under the stipulated standard. (25/100) They will be made available for inspection and copying in the offices of the individuals indicated above. Appointments to inspect must be made through Mark Zeppa, attorney for the Respondents, at the address and phone number printed above. Inspections will be made during normal business hours. Respondents will provide a total of 100 free copies. More copies will be made at the cost of the requesting party who will be responsible for having an independent contractor acceptable to the custodian pick up the documents, copy and return them. No original documents will be released directly to the requesting party. All documents must be returned within 48 hours unless the custodian agrees to a longer release at the time.

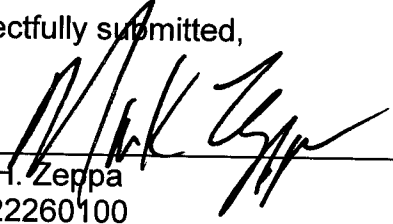
4(B) Resumes

Available resumes are attached - Robert Wright, PE. Supplements will be filed if more resumes are made available.

5. 194.2(i) Witness Statements

None. This will be supplemented by prefiled testimony per the ALJ's prehearing orders.

Respectfully submitted,



Mark H. Zeppa
SBN 22260100

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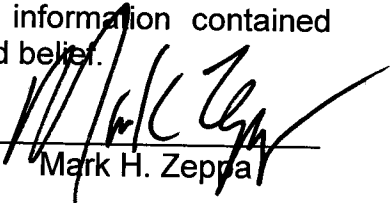
ATTORNEY FOR VERANDAH
COMMUNITIES, LP

STATE OF TEXAS §

COUNTY OF TRAVIS §

ATTESTATION

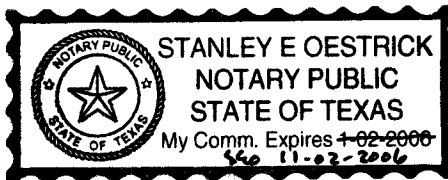
I, Mark H. Zeppa, swear and attest that I prepared the foregoing answers to requests for disclosures in consultations with and in reliance on information provided by the individuals indicated therein and the information contained therein is true and correct to the best of my knowledge and belief.

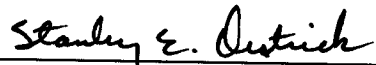


Mark H. Zeppa

SWORN AND SUBSCRIBED TO under oath by Mark H. Zeppa on February 9, 2004 before the undersigned Notary Public.

SEAL





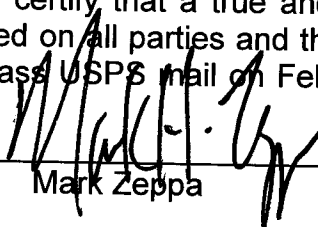
Notary Public in and for the
State of Texas

Name: STANLEY E. OESTRICK

Commission expires: 11-02-2006

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, attorney for the Respondents, certify that a true and correct copy of the foregoing discovery answer was served on all parties and the TCEQ Docket Clerk by facsimile transmission and 1st class USPS mail on February 9, 2004



Mark Zeppa

<p>Mr. Geoffrey Kirshbaum Texas Commission on Environmental Quality MC-175 P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-0600 Fax: (512) 239-0606</p>	<p>Representing the Executive Director, Texas Commission on Environmental Quality</p>
<p>Mr. Blas Coy Office of the Public Interest Counsel Texas Commission on Environmental Quality MC-103 P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-6363 Fax: (512) 239-6377</p>	<p>Representing the Office of Public Interest Counsel, Texas Commission on Environmental Quality</p>
<p>Kerry E. Russell Angela K. Moorman Russell, Moorman & Rodriguez, L.L.P. 102 West Morrow Street, Suite 103 Georgetown, Texas 78626 (512) 930-1317 (512) 864-7744 (Fax)</p>	<p>Representing City of Royse City</p>
<p>Ms. Susan E. Potts Mr. David Klein Potts & Reilly, L.L.P. Attorneys and Counselors 401 West 15th Street, Suite 850 Austin, Texas 78701-1665 Telephone: (512) 469-7474 Fax: (512) 469-7480</p>	<p>Representing Mr. Dean M. Gandy</p>

<p>Mr. Skip Newsom Attorney 3724 Jefferson Street, Suite 200 Austin, Texas 78731 Telephone: (512) 477-4121 Fax: (512) 477-2860</p>	<p>Representing the City of Fate, Texas</p>
<p>Docket Clerk TCEQ Office of Chief Clerk (MC-105) P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Fax: (512) 239-3311</p>	

ROBERT L. WRIGHT, P.E., R.P.L.S.

Position Vice President

Professional Qualifications State of Texas License No. 35510
Registered Professional Land Surveyor No. 3917

Mr. Wright has over 33 years experience in the design and development of municipal, commercial, industrial and institutional facilities as well as residential subdivisions. As Vice President of Pate Engineers, Inc., Mr. Wright serves as Chief Design and Quality Control Engineer for the Dallas office. In this function, he oversees all design efforts as to technical performance to ensure compliance with all appropriate governmental agency requirements and sound engineering practices.

During his years of service, Mr. Wright has served as Project Manager and Principal-in-Charge for numerous projects. Some of these projects include:

DRAINAGE IMPROVEMENTS AND STUDIES

- Halifax Street Box Culvert; Dallas, Texas
- McKamy Branch Channel Improvements; Plano, Texas
- Furneaux Creek Channel Improvements; Carrollton, Texas
- Richards Branch Channel Improvements; Dallas, Texas

MAJOR WATER AND SEWER SYSTEMS

- Central Expressway Water and Sewer Relocations; Dallas, Texas
- Plantation Resort Water and Sewer Extensions; Frisco, Texas
- Coit Road Waterline Extension; Plano, Texas
- South Creek Water and Sewer Extensions; Mesquite, Texas
- White Rock Creek Sewer Extension; Dallas, Texas

ROADWAYS AND STREETS

- Sylvan Avenue; Dallas, Texas
- Windrock Road; Dallas, Texas
- North Cooper Street; Arlington, Texas
- Regal Row; Dallas, Texas
- Noel Road; Dallas, Texas

RESIDENTIAL DEVELOPMENTS

- Bent Trail Addition; Dallas, Texas
- Nob Hill Addition; Carrollton, Texas
- Plantation Resort; Frisco, Texas
- Deerfield Addition; Plano, Texas
- Valley Creek Addition; Mesquite, Texas

MEDICAL FACILITIES

- Memphis Medical Center; Memphis, Tennessee
- Fort Worth Osteopathic Hospital; Fort Worth, Texas
- Veterans Administration Nursing Center; Temple, Texas
- St. Joseph's Regional Health Center; Hot Springs, Arkansas
- Texas A&M University Large Animal Hospital; College Station, Texas
- Children's Medical Center; Dallas, Texas

RETAIL/HOTEL FACILITIES

- Dallas Galleria; Dallas, Texas
- Furneaux Creek Shopping Center; Carrollton, Texas
- Hyatt Regency Hotel; Austin, Texas
- Fairfield Inn; Dallas & Fort Worth, Texas

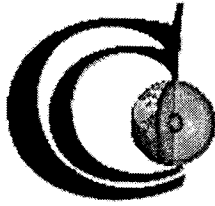
***Professional and
Civic Affiliations***

American Society of Civil Engineers
Chi Epsilon Honor Fraternity
Tau Beta Pi Honor Fraternity

Education

Bachelor of Science, Civil Engineering
Lamar State College of Technology (1969)

Master of Science, Civil Engineering
University of Texas at Arlington (1973)



Collier Consulting, Inc.

741 West College St.
Stephenville, Texas 76401
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www.collierconsulting.com



November 24, 2003

To: Mark Zeppa
From: Hughbert Collier, Ph.D.
Subject: Groundwater availability for the Parker Creek Estates MUD, Rockwall County

Collier Consulting, Inc. was retained by Mr. Fred Brown of Parker Creek Estates, LLP to assess the availability of groundwater for the proposed Parker Creek Estates MUD in Rockwall County, Texas. The MUD will serve approximately 1,000 single family connections.

This assessment is based on an examination of well data in the Texas Water Development Board database and Texas Water Development Board publications. As of yet, no test holes have been drilled on the property. Well data is limited in the area of the proposed MUD.

The data indicate that the Woodbine and Paluxy aquifers should contain sufficient groundwater to meet TCEQ's requirement of 0.6 gallons/minute/connection or 600 gallons/minute for 1,000 connections. Water quality should be better in the Paluxy than in the Woodbine, but both aquifers will probably have TDS values between 1,000 to 3,000 mg/l. However, a water treatment system using readily available conventional technology should bring the water quality to within acceptable secondary drinking water standards.

Subsidence should not be a problem. Because the aquifers are so deep and the overlying formations are consolidated, subsidence does not occur in this part of Texas.

Hughbert Collier
Texas P.G. #1242