

Control Number: 43540



Item Number: 12

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

*** TX REPORT ***

43540

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AUSTIN, TEXAS 78701
(512) 475-4993
FAX (512) 475-4994
DOCKET (512) 475-3445**

CONFIRMATION OF REQUEST TO DOCKET CASE

TO: STEVE BRACHEL
TX COMM ON ENVIRONMENTAL QUALITY VIA FACSIMILE 239-3311
FROM: NATALIE HOWARD
DEPUTY CLERK
DATE: July 17, 2006
RE: SETTINGS OF HEARING(S)

At your request, the following hearing(s) have been set:

<u>Docket Number</u>	<u>Case</u>	<u>Date</u>	<u>Time</u>	<u>Hearing Location</u>
582-06-2902 2004-1677-PST-E	Paula Hicks	08/10/06	10:00 am	<u>William P. Clements Bldg</u> <u>300 West 15th Street</u> <u>4th Floor Street</u> <u>Austin, TX 78701</u>
582-06-2903 2006-0574-UCR	City of Magnolia	09/20/06	10:00 am	same as above
582-06-2904 2006-0565-UCR	Plantation Bend	09/26/06	10:00 am	same as above
582-06-2905 2006-0564-UCR	City of Graham	10/03/06	10:00 am	same as above
582-06-2906	Village of Wimberl	10/10/06	10:00 am	same as above

12

**STATE OFFICE OF ADMINISTRATIVE HEARINGS
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582-06-2904 2006-0565-UCR	Plantation Bend	09/26/06	10:00 am	same as above
582-06-2905 2006-0564-UCR	City of Graham	10/03/06	10:00 am	same as above
582-06-2906 2006-0373-UCR	Village of Wimberl	10/10/06	10:00 am	same as above

All parties will be notified in the event of a change of location of the hearing.

Please remember that you are responsible for providing the court reporter as required by your agency.

If you have any questions regarding any of the information herein, please call.



STATE OFFICE
OF
ADMINISTRATIVE
HEARINGS

PUBLIC HEARING REGISTRATION
ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 11/1/06

Name: Barbara Boulware-Wells Occupation: _____

Mailing Address: _____

Street or P.O. Box

City

State

Zip

Daytime Phone: () _____

Fax Number: () _____

Representing: ☐ Self

☒ Other (specify): City of Woodcreek

Mailing Address: _____

Street or P.O. Box

City

State

Zip

Daytime Phone: () _____

Title of matter being considered: SCAH 582-06-2906

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer

CAN App to Amend Village of
Wimberly
2



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION
ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
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Date: _____

Name: Bridan Dickey

Occupation: _____

Mailing Address: TCEQ MC153
Street or P.O. Box

City _____ State _____ Zip _____

Daytime Phone: (239-0963) Fax #: (239-6972)

E-Mail address (if available): _____

Representing: ☐ Self ☐ Other (specify): ED

Title of matter being considered: _____

SOAH Docket No. (if known): _____

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE
OF
ADMINISTRATIVE
HEARINGS

PUBLIC HEARING REGISTRATION
ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 10-10-06

Name: Brian Dickey Occupation: _____

Mailing Address: TCEQ MC-153
Street or P.O. Box City State Zip

Daytime Phone: (512) 239-0903 Fax Number: (512) 239-6972

Representing: ☐ Self ☐ Other (specify): E.D.

Mailing Address: _____
Street or P.O. Box City State Zip

Daytime Phone: () _____

Title of matter being considered: _____

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☒ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION
ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
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Date: 11/1/06

Name: ELSIE PASCUA

Occupation: Auditor

Mailing Address: ED- WSD MC-153, TCEQ, A

Street or P.O. Box

Austin

City

State

Zip

Daytime Phone: (512) 239-5367 Fax #: (512) 239-6972

E-Mail address (if available): _____

Representing: ☐ Self ☐ Other (specify): ED - TCEQ

Title of matter being considered: City of ^{Wimberley} Woodcreek CCW Application

SOAH Docket No. (if known): _____

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE
OF
ADMINISTRATIVE
HEARINGS

PUBLIC HEARING REGISTRATION
ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 10/10/06

Name: ELSIE PASCUA

Occupation: Staff Auditor

Mailing Address: ED - TCEQ, MC-153

Street or P.O. Box

City

State

Zip

Daytime Phone: (512) 239-5367

Fax Number: (512) 239-6972

Representing: ☐ Self ☐ Other (specify): ED - TCEQ

Mailing Address:

Street or P.O. Box

City

State

Zip

Daytime Phone: ()

Title of matter being considered: Village of Wimberley

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE
OF
ADMINISTRATIVE
HEARINGS

PUBLIC HEARING REGISTRATION
ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
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Date: 10-10-06

Name: Roger J. Engemoen Jr Occupation: Investments

Mailing Address: 1907 Georgia Landing Cove Austin TX 78746
Street or P.O. Box City State Zip

Daytime Phone: (512) 413-9163 Fax Number: (512) 231-8526

Representing: ☐ Self ☒ Other (specify): Estelle Ervine Engemoen Trust

Mailing Address: 1907 Georgia Landing Cove Austin TX 78746
Street or P.O. Box City State Zip

Daytime Phone: (512) 413-9163

Title of matter being considered: Village of Wimberley Application

Your position regarding the matter being considered: ☐ In Favor ☒ Opposed ☐ Undecided ☐ Observer



STATE OFFICE
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Date: 10/19/06

Name: Robert L. Laughman Occupation: Exec

Mailing Address: 1421 Wells Branch Pflugerville, TX 78660
Street or P.O. Box City State Zip

Daytime Phone: (512) 990 4405 Fax Number: ()

Representing: ☒ Self ☐ Other (specify): Agua Texas

Mailing Address: Same
Street or P.O. Box City State Zip

Daytime Phone: () Same

Title of matter being considered: Winberley CCN Amendment

Your position regarding the matter being considered: ☐ In Favor ☒ Opposed ☐ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION
ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
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Date: 11/1/06

Name: Brian MacLeod

Occupation: Staff Attorney

Mailing Address:

Street or P.O. Box

City

State

Zip

Daytime Phone: () Fax #: ()

E-Mail address (if available):

Representing: ☐ Self ☐ Other (specify):

Title of matter being considered: @ Village of Wimberly

SOAH Docket No. (if known): 582-06-2906



TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

BRIAN D.
MACLEOD
Staff Attorney
Office of Legal Services

512/239-0750 ■ Fax 512/239-0606
12100 Park 35 Circle, Bldg. A
Austin, TX 78753
Mail: MC-173, P.O. Box 13087
Austin, TX 78711-3087
bmacleod@tceq.state.tx.us

printed on recycled paper

the matter being considered: ☐ In Favor ☐ Opposed ☒ Undecided ☐ Observer



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Date: 11-1-06

Name: Emily Rogers

Occupation: Attorney

Mailing Address: 816 Congress, Suite 1700
Street or P.O. Box

Austin, Tx 78701
City State Zip

Daytime Phone: (512) 472-8021 Fax #: (512) 320-5638

E-Mail address (if available): erogers@bickerstaff.com

Representing: ☐ Self ☒ Other (specify): Wimberley

Title of matter being considered: Village of Wimberley

SOAH Docket No. (if known): _____

Your position regarding the matter being considered: ☒ In Favor ☐ Opposed ☐ Undecided ☐ Observer



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Date: 10-10-06

Name: Emily Rogers Occupation: Attorney
Brickerstaff, Heath, Pollan & Caroom, L.L.P.
Mailing Address: 816 Congress Ave., Suite 1700, Austin, Tx 78701
Street or P.O. Box City State Zip

Daytime Phone: (512) 472-8021 Fax Number: (512) 320-5638

Representing: ☐ Self ☒ Other (specify): Village of Wimberley

Mailing Address: _____
Street or P.O. Box City State Zip

Daytime Phone: () _____

Title of matter being considered: Sewer CCN Amendment Application

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer

(Revised - 03/25/04)	FOR SOAH USE ONLY	(req. form)
Date complete request received by SOAH: <u>7/17/06</u>	Proceeding date set by SOAH: <u>10/10/06 10:00</u>	SOAH Docket Number & type of case: <u>582-06-2906</u>

REQUEST TO DOCKET CASE (Please type or print)**PLEASE CHECK ACTION(S) REQUESTED:**

☒ **SETTING OF HEARING** ☐ **ASSIGNMENT OF ALJ** * ☐ **ALTERNATIVE DISPUTE RESOLUTION (ADR)***

REFERRING AGENCY NAME: TCEQ AGENCY NO.: _____ AGENCY'S FILE/CASE NO.: 2006-0373-UCR

NAME/STYLE OF THE CASE Village of Wimberley

DATE APPLICATION FILED AT AGENCY: _____ DOCKET NO. SUFFIX, if applicable: UCR

PROCEEDING DATE(S) REQUESTED (Include range of dates if possible): October 10, 2006

EXPECTED NUMBER OF HOURS (if less than a day) OR DAYS NEEDED FOR PROCEEDING: _____ HOURS 1 DAYS

☐ **ADMIN. FINE** ☐ **GRIEVANCE** ☐ **ENFORCEMENT** ☐ **CONTRACT CLAIM (Gov't. Code 2260)** ☐ **OTHER** _____

SPECIAL NEEDS OR ACCOMMODATIONS: Hearing in Austin Seating for 25 people

IF ADR REQUESTED PLEASE DESCRIBE PROCESS NEEDED: _____

☐ **PREHEARING CONFERENCE REQUESTED**

☐ **CASE FILE** and/or ☐ **HEARING IS CONFIDENTIAL** (Specify applicable statute): _____

NAME OF INDIVIDUAL SENDING REQUEST FORM: Steve Brachel PHONE NO.: 239-2207 FAX NO.: 239-3311

PARTIES AND REPRESENTATIVES

PARTY REPRESENTED BY: ☐ **SELF** ☒ **ATTORNEY**

☐ **OTHER**, if so, relationship: _____

REPRESENTATIVE'S

NAME Brian MacLeod

PARTY'S NAME: _____

ADDRESS: _____

PHONE No.: (512) 239-0750

(Direct Phone Number Please)

FAX No.: _____

PARTY REPRESENTED BY: ☐ **SELF** ☐ **ATTORNEY**

☐ **OTHER**, if so, relationship: _____

REPRESENTATIVE'S

NAME: _____

PARTY'S NAME: _____

ADDRESS: _____

PHONE No.: _____

(Direct Phone Number Please)

FAX No.: _____

PLEASE LIST ADDITIONAL PARTIES AND/OR REPRESENTATIVES ON EXTRA FORM PROVIDED.

SEND TO:

STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTN: Deputy Clerk
William P. Clements Building
300 West 15th Street, Suite 504
Austin, Texas 78701

OR

Post Office Box 13025
Austin, Texas 78711-3025
Docket Phone No. (512) 475-3445
Fax No. (512) 475-4994

***PLEASE FORWARD A COPY OF THE APPLICATION, APPEAL, OR COMPLAINT WITH THIS REQUEST FORM, AS WELL AS ANY OTHER PLEADING FILED IN THE CASE TO DATE IF REQUESTING ASSIGNMENT OF ALJ or ALTERNATIVE DISPUTE RESOLUTION (ADR). A COPY OF THE NOTICE OF PROCEEDING MUST BE FORWARDED TO SOAH AT THE SAME TIME IT IS MAILED TO THE PARTIES.**

OCC Faxed On: 07/17/2006

07/17/06 MON 08:28 [TX/RX NO 9892]

SOAH DOCKET NO. 582-06-2906
TCEQ DOCKET NO. 2006-0373-UCR

APPLICATION OF THE VILLAGE OF	§	BEFORE THE STATE OFFICE
WIMBERLEY TO AMEND SEWER	§	
CERTIFICATE OF CONVENIENCE	§	OF
AND NECESSITY NO. 20936 IN HAYS	§	
COUNTY, APPLICATION NO. 35236-C	§	ADMINISTRATIVE HEARINGS
	§	

**NUNC PRO TUNC ORDER
GRANTING MOTION TO REMAND AND
DISMISSING CASE FROM SOAH DOCKET**

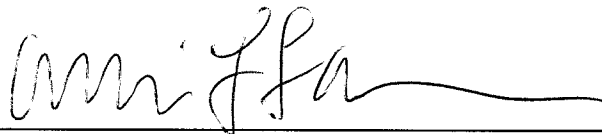
On January 30, 2007, the Village of Wimberley filed a motion to withdraw its application for certificate of convenience and necessity (CCN) and to remand the above-captioned matter to the Executive Director of the Texas Commission on Environmental Quality (ED) for appropriate action in light of the application withdrawal.

The undersigned Administrative Law Judge, having considered the motion, finds that it has merit and should, therefore, be granted.

Accordingly, **IT IS ORDERED** that the motion to withdraw CCN application and to remand is hereby **GRANTED**.

IT IS FURTHER ORDERED that this case is dismissed with prejudice from the docket of the State Office of Administrative Hearings and shall be remanded to the ED for dismissal of the CCN application with prejudice.

SIGNED March 8, 2007.



**AMI L. LARSON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

STATE OFFICE OF ADMINISTRATIVE HEARINGS

WILLIAM P. CLEMENTS BUILDING, Jr.

300 West Fifteenth Street

Austin, Texas 78701

Phone (512) 475-4993

Facsimile (512) 475-4994

DATE:

03/09/2007

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

2

REGARDING:

NUNC PRO TUNC ORDER GRANTING MOTION TO REAMND AND DISMISSING CASE
FROM SOAH DOCKET

DOCKET NUMBER:

582-06-2906

FROM:

JUDGE AMI LARSON

FAX TO:

PAUL TERRILL

FAX TO:

(512) 474-9888

EMILY W ROGERS

(512) 320-5638

ROGER GORDON

(512) 250-0749

ROGER ENGEMOEN, JR.

(512) 231-8526

BLAS J. COY, JR. (TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY)

(512) 239-6377

BRIAN MACLEOD (TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY)

(512) 239-0606

DOCKET CLERK (TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY)

(512) 239-3311

TCEQ Docket Clerk, Fax Number 512/239-3311

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XC: DOCKETING, SOAH

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 (7) 92393311

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WILLIAM P. CLEMENTS BUILDING, Jr.

300 West Fifteenth Street

Austin, Texas 78701

Phone (512) 475-4993

Facsimile (512) 475-4994

DATE:

03/09/2007

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

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REGARDING:

NUNC PRO TUNC ORDER GRANTING MOTION TO REAMND AND DISMISSING CASE
FROM SOAH DOCKET

DOCKET NUMBER:

582-06-2906

FROM:

JUDGE AMI LARSON

FAX TO:
 PAUL TERRILL

FAX TO:
 (512) 474-9888

EMILY W ROGERS

(512) 320-5638

ROGER GORDON

(512) 250-0749

ROGER ENGEMOEN, JR.

(512) 231-8526

BLAS J. COY, JR. (TEXAS COMMISSION ON
 ENVIRONMENTAL QUALITY)

(512) 239-6377

BRIAN MACLEOD (TEXAS COMMISSION ON
 ENVIRONMENTAL QUALITY)

(512) 239-0606

DOCKET CLERK (TEXAS COMMISSION ON
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(512) 239-3311

TCEQ Docket Clerk, Fax Number 512/239-3311

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A Larson

Bickerstaff, Heath, Pollan & Caroom, L.L.P.

816 Congress Avenue

Suite 1700

Austin, Texas 78701

(512) 472-8021

Fax (512) 320-5688

www.bickerstaff.com

March 6, 2007

Via Facsimile Only

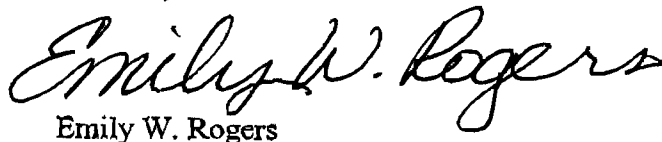
The Honorable Ami L. Larson
Administrative Law Judge
The Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, Texas 78701
(512) 475-4994 (Fax)

Re: Application of the Village of Wimberley to Amend Sewer Certificate of Convenience
and Necessity No. 20936 in Hays County; Application No. 35236-C; TCEQ Docket
No. 2006-0373-UCR; SOAH Docket No. 582-06-2906
Response to Aqua Texas' Motion to Dismiss Application with Prejudice

Dear Judge Larson and Judge Newchurch:

The Village of Wimberley does not object to the dismissal of its CCN application with
prejudice.

Sincerely,



Emily W. Rogers

EWR/bc

Enclosures

cc: All Parties on Service List

Bickerstaff, Heath, Pollan & Caroom, L.L.P.*A Registered Limited Liability Partnership*

816 Congress Avenue

Suite 1700

Austin, Texas 78701-2443

Telephone: (512) 472-8021

<http://www.bickerstaff.com>

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DATE: March 6, 2007**CLIENT #: 2452.00****TELECOPIER COVER SHEET****Fax Number: (512) 320-5638****SEND TO:****Confirmation #****Facsimile #**

The Hon. Ami L. Larson

(512) 475-4993

475-4994 (via fax only)

The Hon. William G. Newchurch

Administrative Law Judges, SOAH

Docket Clerk

239-3300

239-3311

TCEQ Office of the Chief Clerk

Blas J. Coy, Jr., TCEQ OPIC

239-6363

239-6377

Paul Terrill

474-9100

474-9888

Brian MacLeod, TCEQ Staff Attorney

239-0750

239-0606

Brian Dickey, TCEQ

239-0963

239-6972

Elsie Pascua, TCEQ Staff Auditor

239-5367

239-6972

Roger Engemoen, Jr.

via mail only

Roger E. Gordon

250-0411

250-0749

FROM: Emily Rogers**TOTAL PAGES INCLUDING COVER SHEET: 2**☐ ORIGINAL WILL FOLLOW VIA U.S. MAIL☒ ORIGINAL WILL NOT FOLLOW**TELECOPIER OPERATOR:****TIME:**

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MESSAGE:

**TCEQ DOCKET NO. 2006-0373-UCR
SOAH DOCKET NO. 582-06-2906**

**APPLICATION OF THE VILLAGE
OF WIMBERLEY TO AMEND
SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY
NO. 20936 IN HAYS COUNTY,
APPLICATION NO. 35236-C**

§
§
§
§
§
§

**BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS**

**AQUA TEXAS' RESPONSE TO VILLAGE OF WIMBERLEY'S MOTION TO WITHDRAW ITS CCN
APPLICATION AND REMAND APPLICATION TO THE EXECUTIVE DIRECTOR**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COME NOW, Aqua Utilities, Inc. and Aqua Development, Inc. d/b/a Aqua Texas, Inc. ("Aqua Texas") and file this Response to Village of Wimberley's ("Wimberley") Motion to Withdraw its CCN Application and Remand Application to the Executive Director filed on January 30, 2007 ("Dismissal Motion"). Wimberley's Dismissal Motion does not specify whether it seeks remand and dismissal of its sewer CCN application ("Application") *with prejudice* or *without prejudice*. Aqua Texas has no objection to dismissal of Wimberley's Application *with prejudice*. However, if Wimberley seeks dismissal of its Application *without prejudice*, Aqua Texas objects because Wimberley has not complied with the prerequisites for dismissal of the Application without prejudice in 30 TEX. ADMIN. CODE § 80.25. Specifically, Wimberley has failed to reimburse Aqua Texas all costs, not including attorneys' fees, that Aqua Texas has incurred in connection with Wimberley's Application. 30 TEX. ADMIN. CODE § 80.25(e). Until it does so, Wimberley cannot be entitled to a dismissal without prejudice of its Application.

For the forgoing reasons, Aqua Texas respectfully requests that Wimberley's Application be dismissed with prejudice, or, alternatively that the Court direct Wimberley to comply with

procedural prerequisites in 30 TEX. ADMIN. CODE § 80.25 if Wimberley seeks dismissal of its Application without prejudice.

Respectfully submitted,

HAZEN & TERRILL, P.C.

By: 

Paul M. Terrill III
State Bar No. 00785094
Howard S. Slobodin
State Bar No. 24031570
Geoffrey P. Kirshbaum
State Bar No. 24029665
810 West 10th Street
Austin, Texas 78701
Tel: (512) 474-9100
Fax: (512) 474-9888

ATTORNEYS FOR AQUA UTILITIES, INC. AND
AQUA DEVELOPMENT, INC., D/B/A AQUA
TEXAS, INC.

*Aqua Texas' Response to the Village of Wimberley's Motion to Withdraw
its CCN Application and Remand Application to the Executive Director*

Page 2

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2007, a true and correct copy of the foregoing has been served on the following as indicated:

Emily Rogers

Bickerstaff, Heath, Smiley, Pollan, Kever, & McDaniel LLP
816 Congress Avenue, Suite 1700
Austin, TX 78701

Via Facsimile: (512) 320-5638

Blas J. Coy

Texas Commission on Environmental Quality
Office of Public Interest Counsel
MC-173
P.O. Box 13087
Austin, TX 78711-3087

Via Facsimile: (512) 239-6377

Brian McCleod

Texas Commission on Environmental Quality
Office of Public Interest Counsel
MC-175
P.O. Box 13087
Austin, TX 78711-3087

Via Facsimile: (512) 239-0606

Roger Engemoen, Jr
Trustee

Estelle Ervine Engemoen Trust
Austin, Texas 78701

Via Facsimile: (512) 343-7911

Michael D. Stevens

Fitzgerald, Majors & Stevens
P.O. Box 727
Wimberley, TX 78676

Via Facsimile: (512) 847-5131

Docket Clerk

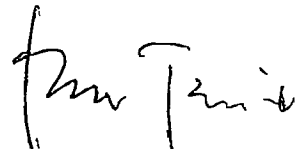
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Office of the Chief Clerk
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*Aqua Texas' Response to the Village of Wimberley's Motion to Withdraw
its CCN Application and Remand Application to the Executive Director*

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Attached please find Aqua Texas' Response Village of Wimberley's Motion to Withdraw Its CCN Application and Remand Application to the Executive Director.			

February 5, 2007

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