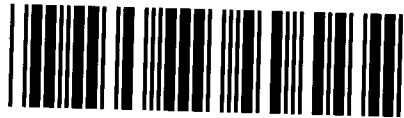


Control Number: 43540



Item Number: 4

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

43540

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

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2014 OCT 15 AM 9:22

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 COMMISSION
FILING CLERK
ADMINISTRATIVE HEARINGS

**ORDER NO. 2
MEMORIALIZING PRELIMINARY HEARING AND
ESTABLISHING INITIAL PROCEDURAL SCHEDULE**

On November 1, 2006, in Austin, Texas, a continued preliminary hearing was convened before Administrative Law Judges (ALJs) William G. Newchurch and Ami L. Larson.¹

The Executive Director (ED) offered five exhibits² as evidence of proper notice of the hearing. Each was admitted into evidence without objection for the limited purpose of establishing jurisdiction.

Counsel for Aqua Texas submitted a Motion to Dismiss and argued that neither the Commission nor the State Office of Administrative Hearings (SOAH) has jurisdiction over this matter.

The ALJs held that SOAH has jurisdiction to decide the jurisdictional issues raised by Aqua Texas in this proceeding.

¹ On October 10, 2006, a preliminary hearing was convened in this case, but the required notice had not been given, hence the Texas Commission on Environmental Quality (TCEQ) and the State Office of Administrative Hearings (SOAH) Administrative Law Judges (ALJs) had no jurisdiction to proceed and continued the preliminary hearing to allow for proper notice.

² Exhibits ED-A through ED-E

4

The parties to this proceeding were designated by the ALJs as follows:

<u>PARTY</u>	<u>REPRESENTATIVE</u>
Village of Wimberley	Emily Willms Rogers
Office of Public Interest Council	TBD
Executive Director (ED)	Brian D. McLeod
City of Woodcreek	Barbara A. Boulware-Wells
Aqua Texas	Paul M. Terrill III
Estelle Ervine Engemoen Trust	Roger J. Engemoen

The parties engaged in discussions regarding the best way to proceed in light of Aqua Texas's pending motion to dismiss and the Village of Wimberley's stated intent to amend its application. Under the circumstances, the parties agreed to the following preliminary procedural schedule deadlines:

- November 8, 2006 Village of Wimberly to file amended application
- November 29, 2006 Aqua Texas to file either amended motion to dismiss or notification that no amendment is being sought.
- January 10, 2007 All parties' responses to Aqua Texas's motion shall be filed
- January 24, 2007 Aqua Texas to file either final reply or notification that no reply is being filed.

During this briefing period, the parties are encouraged to engage in any settlement discussions deemed appropriate and to notify the ALJs promptly if an agreement is reached that obviates the need to continue these proceedings at SOAH.

All filings in this proceeding shall be actually delivered to the other parties the same day they are delivered to the ALJs or to SOAH. When submitting to the ALJs any pleading or correspondence related to this matter, the sender must submit the original of the filed document to

the Docket Clerk of the TCEQ, whose address is noted on the attached mailing list. One copy should be provided to each ALJ and one copy to each other person on the mailing list.

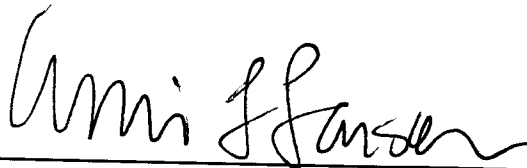
Any document or matter ordered to be submitted by a certain date or time must be delivered to the receiving parties by such deadline. Unless otherwise noted, the delivery deadline on any prescribed date is 5:00 p.m.

If a party desires a telephone conference for any purpose, that party is responsible for arranging a time for the conference call and for setting up the call itself. Additionally, the party must ascertain that the ALJs are available.

SIGNED November 2, 2006.



**WILLIAM G. NEWCHURCH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**



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

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: VILLAGE OF WIMBERLEY

SOAH DOCKET NUMBER: 582-06-2906

REFERRING AGENCY CASE: 2006-0373-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ADMINISTRATIVE LAW JUDGE

ALJ AMI LARSON

REPRESENTATIVE / ADDRESS

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CITY OF WOODCREEK

xc: Docket Clerk, State Office of Administrative Hearings

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DATE:

11/02/2006

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

6

REGARDING:

**ORDER NO. 2 - MEMORIALIZING PRELIMINARY HEARING & ESTABLISHING INITIAL
PROCEDURAL SCHEDULE**

DOCKET NUMBER:

582-06-2906

FROM:

JUDGE AMI LARSON

FAX TO:

FAX NO:

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BARBARA A BOULWARE-WELLS	(512) 250-0749
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DOCKET CLERK (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)	(512) 239-3311
ELITE REPORTERS	(214) 630-9200
KENNEDY COURT REPORTING SERVICES	(512) 474-6704

TCEQ Docket Clerk, Fax Number 512/239-3311

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT TRANEA PROSSER(tp) AT 512-475-

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CCN/20936/582-06-2906/582
43540

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PUBLIC UTILITY COMMISSION
FILING CLERK

November 7, 2006

Via Messenger

Brian Dickey
Elsie Pascua
Utilities & Districts Section
Water Supply Division
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F, 3rd Fl.
Austin, Texas 78711

Re: Application from the Village of Wimberley to Amend Sewer Certificate of Convenience and Necessity (CCN) No. 20936 in Hays County; Application No. 35236-C; TCEQ Docket No. 2006-0373-UCR; SOAH Docket No. 582-06-2906

Dear Mr. Dickey and Ms. Pascua:

By this letter, the Village of Wimberley hereby amends its sewer CCN application to exclude a portion of the area that it had previously requested from the above-referenced application. Enclosed are four copies of a large map showing the area the Village seeks to certificate and four copies of the small version of the amended CCN map.

If you have any questions or concerns, please call me at 512-472-8021.

Sincerely,

Emily W. Rogers
Emily W. Rogers

EWR/bc

Enclosures

cc: Service List

SERVICE LIST
SOAH Docket No. 582-06-2906
TNRCC Docket No. 2006-0373-UCR
Village of Wimberley

The Hon. William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
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The Hon. Ami L. Larson
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(512) 250-0749 (Fax)
City of Woodcreek

Village of Wimberley Proposed Sewer CCN No. 20936 Area Amendment

Stoney Creek Vista

Village of Wimberley
Post Office Box 2027
Wimberley, Texas 78676
512-847-0025
Prepared On: October 31, 2006
Prepared By: Bickerstaff, Heath,
Pollan & Caroom, L.L.P.



Legend

- Basemap: Hays County Appraisal District Parcels
- ☐ Village of Wimberley
Proposed Sewer CCN No. 20936
Area Amendment
 - ☐ Existing Sewer CCN Service Areas
 - ☐ 20453 - AquaSource Utility, Inc.
 - ☐ 20892 - Guadalupe Blanco River Authority
20936 - Village of Wimberley
(Dual Certification)

Proposed Sewer Service Area
Village of Wimberley

500 0 500 1000 Feet

Skyline Drive

Mountain Crest Drive

Ranch Road 12

Brookmeadow Drive

Pebble Brook Lane

AQUASOURCE UTILITY INC
20453

Woodcreek Drive

Champions Circle

Palmer Lane

GUADALUPE BLANCO
RIVER AUTHORITY
20892

VILLAGE OF WIMBERLEY
20936

Summit Drive

OVERSIZED DOCUMENT(S)

**TO VIEW OVERSIZED DOCUMENT
PLEASE GO TO CENTRAL RECORDS**

FOR ANY QUESTIONS PLEASE CALL *CR*

MAIL LINE

(512) 936-7180

**Proposed Sewer
CCN No 20936
AREA AMENDMENT**

**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' MOTION TO DISMISS

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 Motion to Dismiss Application to Amend Certificate of Convenience and Necessity No. 20936 (Application No. 35236), filed by the Village of Wimberley on December 30, 2005 ("Application"),¹ and for cause would respectfully show the following:

I. BACKGROUND

Aqua Texas is the largest investor-owned water and wastewater utility in Texas, providing water service to more than 100,000 customers and wastewater service to more than 38,000 customers in 51 Texas counties. Among those is Hays County, where Aqua Texas serves over 1,200 wastewater customers. Aqua Texas' operations in Hays County center around the Village of Wimberley, Texas ("Wimberley"). Aqua Texas holds CCN No. 20453, under which it provides sewer service to the Wimberley area (including portions of the Village of Wimberley, all of the City

¹ Aqua Texas does not protest or request dismissal on those portions of the CCN area requested by Wimberley in the Application that are within "Wimberley's present and future service area," as defined and delineated by the settlement agreement between the Village of Wimberley and AquaSource Utility, Inc., executed on June 27, 2002. A copy of that Agreement is attached hereto as Exhibit A.

of Woodcreek and other surrounding areas). Aqua Texas provides that service with its Woodcreek Wastewater Treatment Plant ("Woodcreek WWTP"), which operates under TCEQ Discharge Permit No. 13989-001 and has a total permitted capacity of 0.375 MGD. Aqua Texas has constructed and is operating the first 0.25 MGD phase of the Woodcreek WWTP, and has excess uncommitted wastewater treatment capacity available in that phase.

By contrast, the newly incorporated Village of Wimberley has a wastewater CCN, but lacks the sewer treatment facilities to serve the areas it *currently* has under CCN — not to mention the new CCN areas sought by this Application. Rather than concentrate on providing those services to its citizens, Wimberley now seeks to expand its monopoly service territory far outside the city limits. Given Wimberley's lack of service to its citizens and lack of wastewater treatment facilities for its existing service area, its motives in expanding its service territory are unclear at best.

On December 30, 2005, Wimberley filed its Application to amend its wastewater CCN No. 20936. A copy of the Application is attached as Exhibit B. It is undisputed that the Application seeks to expand Wimberley's CCN in an area outside its city limits *and* extraterritorial jurisdiction ("ETJ"). Wimberley's decision to file its Application on December 30, 2005 is no coincidence. During the 2005 legislative session, the Legislature substantially amended Water Code Chapter 13 to curb certain CCN abuses, especially those involving cities using CCNs outside their city limits and ETJ for improper purposes. In specific, the Legislature provided that:

The [TCEQ] may not extend a municipality's [CCN] beyond its [ETJ] ***without the written consent of the landowner*** who owns the property in which the certificate is to be extended. The portion of any [CCN] that extends beyond the extraterritorial jurisdiction of the municipality without the consent of the landowner ***is void***.

Tex. H.B. 2876, 79th Leg., R.S. (2005) ("H.B. 2876") (codified as TEX. WATER CODE § 13.2451(b) ("Section 13.2451"). Section 13.2451 not only withdraws the TCEQ's jurisdiction to issue CCNs to cities for areas outside their ETJs (unless the landowner consents), it even ***voids*** those already in

existence. This withdrawal of the TCEQ's jurisdiction and voiding of preexisting CCNs came into effect on January 1, 2006. Tex. H.B. 2876, 79th Leg., R.S., ch. 1145, § 15 (2005).

Seeking to avoid this new law, Wimberley filed its Application on December 30, 2005, just two days before the new law became effective. But that effort to avoid the new law is of no moment because, after January 1, 2006, even *existing* CCNs beyond a city's ETJ are void unless the landowner consents. Here, by Wimberley's own admission, there has not been a single request for service — much less actual consent of the landowners of the proposed CCN territory. Exhibit B at 6. Thus, Wimberley's Application seeks a CCN amendment that would be void *ab initio*. Such a request asks an agency to perform a useless and futile act.

Moreover, even if Wimberley were allowed to proceed under the old law (the law in effect prior to January 1, 2006), the TCEQ *cannot issue a CCN* in the absence of "the need for additional service in the requested area." 30 TEX. ADMIN. CODE 291.102(d)(2); *see also* 30 TEX. ADMIN. CODE § 291.102(c) (providing that TCEQ cannot issue a CCN amendment where it is not "necessary for the service, accommodation, convenience, or safety of the public."). Wimberley did not make such a demonstration in its Application and cannot do so.

Wimberley's sole purpose in filing the Application was to beat the Legislature's withdrawal of TCEQ's jurisdiction to grant the CCN area it requested. Even if granted, the request would be a nullity because Section 13.2451 renders *void* all CCNs of the type that Wimberley requests, *i.e.*, those outside a city's ETJ. Because the TCEQ lacks jurisdiction to grant the CCN requested in the Application, it must be dismissed pursuant to 1 TEX. ADMIN. CODE § 155.56(b).²

² Dismissal is warranted on the grounds that TCEQ, as the referring agency, lacks of jurisdiction over the matter and that no statute or rule authorizes SOAH to conduct this proceeding. 1 TEX. ADMIN. CODE § 155.56(b)(1), (2).

II. ARGUMENT AND AUTHORITIES

A. The TCEQ lacks jurisdiction to grant the Application under Section 13.2451.

Section 13.2451 *voids* any municipal CCN's outside of a municipalities ETJ granted before January 1, 2006.³ An agency's jurisdiction is always "construed under the presumption that the Legislature never intends that the functions committed to the agency should be exercised in futility." *Beaver Express Service, Inc. v. Railroad Comm'n*, 727 S.W.2d 768, 773-74 (Tex. App.—Austin 1987, writ denied) (citations omitted). The grant of Wimberley's Application would be such an exercise in futility. Under Section 13.2451, a CCN including the area requested by Wimberley's Application "is *void*." TEX. WATER CODE § 13.2451(b).

Section 13.2451 withdrew the TCEQ's jurisdiction to grant CCN's like that requested by Wimberley. The purpose of Wimberley's Application was only to beat the deadline set forth in H.B. 2876. However, even if it beat that deadline, the grant of Wimberley's requested CCN amendment would be a nullity, because any such CCN would be *void ab initio*. Accordingly, Wimberley's Application must be dismissed because the TCEQ lacks jurisdiction to grant the requested CCN amendment and because no statute or rule authorizes SOAH to conduct this proceeding. 1 TEX. ADMIN. CODE § 155.56(b)(1), (2).

B. No valid requests for service support Wimberley's Application.

In addition to applying for a CCN amendment that would be void ab initio, Wimberley's CCN Application is facially defective. Thus, Wimberley has failed to properly invoke the agency's jurisdiction. *Hager v. Carter*, 554 S.W.2d 956, 958-59 (Tex. Civ. App. 1977) ("The courts of this State on numerous occasions have held that defective applications will not invoke or confer

³ Section 13.2451 provides that the TCEQ may not grant a city CCN area beyond its ETJ "without the written consent of the landowner who owns the property in which the certificate is to be extended." TEX. WATER CODE § 13.2451(b). Wimberley provided no proof of such consent in its Application.

jurisdiction upon administrative agencies and that orders of an administrative agency pursuant to a defective application are void.”).

Among the issues the TCEQ must consider when it receives an application to amend a CCN is “the need for additional service in the requested area.” 30 TEX. ADMIN. CODE 291.102(d)(2). The TCEQ may not grant a CCN amendment where the requested expansion is not “necessary for the service, accommodation, convenience, or safety of the public.” 30 TEX. ADMIN. CODE § 291.102(c). Not only has Wimberley failed to demonstrate such a need in this case, it has admitted that no one lives in the CCN area it requests and that no landowners or prospective landowners have requested service for the area. Wimberley’s requested amendment is not “necessary for the service, accommodation, convenience, or safety of the public.” 30 TEX. ADMIN. CODE § 291.102(c). Wimberley’s did not file its Application to satisfy a need for service, but to beat the Legislature’s deadline for withdrawal of TCEQ’s jurisdiction to issue the CCN area requested (in the absence of landowner consent). Additionally, Wimberley failed to request service for the requested area from Aqua Texas, a nearby regional provider with excess capacity. As submitted, Wimberley’s Application affirmatively demonstrates that it is not entitled to its requested CCN amendment.

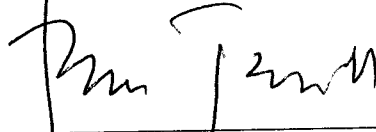
III. PRAYER

For the forgoing reasons, Aqua Texas respectfully requests that Wimberley’s Application be dismissed on the grounds that the TCEQ lacks of jurisdiction over it and that no statute or rule authorizes SOAH to conduct this proceeding.

Respectfully submitted,

HAZEN & TERRILL, P.C.

By: _____



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Howard S. Slobodin
State Bar No. 24031570
810 West 10th Street
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Tel: (512) 474-9100
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**ATTORNEYS FOR AQUA UTILITIES, INC. AND
AQUA DEVELOPMENT, INC., D/B/A AQUA
TEXAS, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2006, a true and correct copy of the foregoing has been served on the following as indicated:

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Pollan, Kever, & McDaniel LLP
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fax: (512) 847-0422

Via Facsimile: (512) 320-5638

Blas J. Coy
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Brian McCleod
Staff Attorney
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Roger Engemoen, Jr
Trustee
Estelle Ervine Engemoen Trust
Austin, Texas 78701

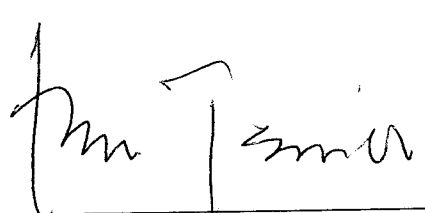
Via Facsimile: (512) 343-7911

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

Via Facsimile: (512) 847-5131

Docket Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk
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Paul M. Terrill, III

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1700 Frost Bank Plaza

816 Congress Avenue

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June 24, 2002

Mr. Mark H. Zeppa, Esq.
Law Offices of Mark H. Zeppa, P.C.
4833 Spicewood Springs, #202
Austin, Texas 78759-8436

RE: *Application by Village of Wimberley to Obtain a Sewer Certificate of Convenience and Necessity in Hays County*; SOAH Docket No. 582-01-3914; TNRCC Docket No. 2001-00845-UCR

Dear Mr Zeppa:

The Village of Wimberley ("Wimberley") has authorized me to place in writing the terms of Wimberley's and AquaSource Utility Inc.'s ("ASU") settlement agreement that the parties orally agreed to on June 19, 2002.

SETTLEMENT TERMS

1. Wimberley agrees to amend its application in the above-referenced proceeding to delete a portion of its requested service area. The area to be deleted is highlighted on the attached map and is referenced as ASU's present and future service area.
2. ASU agrees to withdraw its protest to Wimberley's sewer CCN application, as amended, per this settlement agreement. ASU also agrees to withdraw as party in the above-referenced proceeding with the understanding that ASU will continue to be included on the "Service List" to enable ASU to monitor the proceeding.
3. Wimberley agrees not to oppose ASU's CCN amendment for extended service corridors along FM 2325 and RR 12 and for new service areas at its WWTP and the Wimberley Senior Citizens Center.
4. ASU agrees not to oppose future applications by Wimberley to amend its sewer CCN, so long as the requested service area in any such CCN amendment application, is located within the area delineated on the attached map as Wimberley's present and future service area.

EXHIBIT A

Mr. Mark H. Zeppa
June 24, 2002
Page 2

5. Wimberley agrees not to oppose future applications by ASU to amend its sewer CCN, so long as the requested service area in any such sewer CCN amendment application, is located within the area delineated on the attached map as ASU's present and future sewer area.

If the above-mentioned settlement terms are acceptable to ASU, please indicate ASU's approval in the space provided below. Should you have any questions, please call me at (512) 404-7878.


Sincerely,



Bruce Wasinger

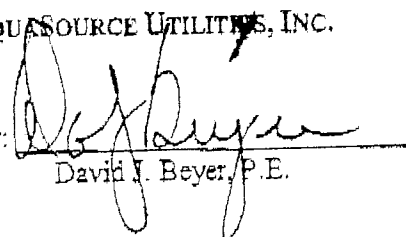
APPROVED on 24th of June, 2002.

VILLAGE OF WIMBERLEY

By: 
Tony McGee
Mayor

APPROVED on 27th of June, 2002.

AQUASOURCE UTILITIES, INC.

By: 
David J. Beyer, P.E.




**APPLICATION TO OBTAIN OR AMEND A WATER OR SEWER
CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)**




GENERAL INFORMATION


★★★ THIS APPLICATION IS NOT A RATE CHANGE APPLICATION. THE APPROPRIATE FORMS NEEDED TO FILE A RATE CHANGE APPLICATION MAY BE OBTAINED BY CONTACTING THE UTILITIES AND DISTRICTS SECTION, TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ). ★★★


 Pursuant to V.T.C.A., Water Code, Chapter 13, Subchapter G:


- ☐ CCNs **may be obtained** by any retail public water and sewer utility.
- ☐ CCNs **are required** for
 - a) Investor Owned Utilities (IOU);
 - b) Non-profit, member-owned, member-controlled water supply or sewer service corporations (WSC) incorporated under Water Code Chapter 67; and
 - c) affected counties.
- ☐ CCNs **may be required** for political subdivisions, except affected counties, before utility service can be provided to an area already lawfully being served.

 A CCN gives the holder:

- ☐ the legal right to provide water and/or sewer utility service;
- ☐ for compensation, either directly through a monthly rate or indirectly through maintenance fees, property owners fees, etc.;
- ☐ a delineated service area; **AND**
- ☐ obligates the certificate holder to provide service to every customer and qualified applicant who requests service within that area.

 A CCN is **not required** when service is either submetered pursuant to Water Code, Chapter 13, Subchapter M or included in the rental of the property.

 IOUs and WSCs with 15 or less potential connections may register as "exempt" and then are not required to possess a CCN for their service area if they meet the exemption criteria.

 **If this application was downloaded from the TCEQ web site or sent via E-mail, it shall not be changed, altered or amended from its original form only available from the Commission.**

PROCESSING YOUR CCN APPLICATION

FLOW CHART

Enclosed in this packet is a flow chart of the review process. Your application will go through an Administrative Review and, when accepted for filing, through a Technical Review. For uncontested applications, processing time depends on the response time of the applicant. Contested applications generally take longer because of the need for scheduling a public hearing, and processing time depends on whether a settlement agreement between the applicant and the protestor(s) is reached. The dates provided in the flow chart are generally the time it takes to process an uncontested application.

ADMINISTRATIVE REVIEW OF YOUR CCN APPLICATION

- ☐ Your application will be reviewed for completeness by the Commission staff within ten (10) working days after it is received in our offices.
- ☐ If necessary, you may be requested to provide additional information within **thirty (30)** days to complete the application.
- ☐ Proposed notice forms are included with the application.

- ☐ If the application is ***administratively incomplete***, you will be sent a letter that outlines the application's deficiencies and describing what you need to do to correct the deficiencies
 - a) After receiving that letter, you will have ***thirty (30)*** days to make the necessary corrections
 - b) **If you fail to make the corrections in full**
 - (a) the application will be returned,
 - (b) the application fee will be forfeited, **and**
 - (c) if you are already operating a system, you will be referred for enforcement action which may include administrative penalties of up to \$500 per day.

NOTICE

The Commission cannot grant a CCN until proper notice of the application has been given. It is the applicant's responsibility to ensure that proper notice is given. Notice forms for publication, neighboring cities and systems, and customers are included with this application to use in preparing your proposed notices. These notice forms are also available in Spanish upon request. If the applicant is an operating IOU currently providing service without a CCN, then proposed notices must be provided for publication, to neighboring cities and systems and current customers in the proposed service area. All three forms must be completed and submitted with the application. However, if the applicant has no customers in the proposed area at the time of filing and is only proposing to provide service at some future date, or if the applicant is a WSC or political subdivision, then only the notices for publication and neighboring cities and systems must be submitted. **Do not publish the notice or send copies of the proposed notices or maps to anyone at the time you submit this application to the Commission.** Your proposed notices and maps will be reviewed for completeness. When your application is accepted for filing, you will be directed to provide the appropriate notices for publication, to the neighboring cities and systems and, if necessary, to current customers.

TECHNICAL REVIEW OF YOUR CCN APPLICATION

When the application is complete, you will be notified by mail and be required

- ☐ to publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in your local area and county. If the proposed area is in more than one county, publication in each county is required;
- ☐ to provide a copy of the individual notice with copy of location map (CCN map) to neighboring cities and systems within
 - a) two (2) miles of your proposed service area, if you are an existing retail public utility amending the existing service area **or**
 - b) five (5) miles if you are obtaining a new CCN to serve a new service area; and
 - c) to provide individual mailed notice with copy of location map (CCN map) to all affected current customers if you are required to have a CCN but are currently providing service without a CCN;

If the application is ***technically incomplete***, you will be sent a letter that outlines the application's deficiencies and describing what you need to do to correct the deficiencies

- ☐ After receiving that letter, you will have ***thirty (30)*** days to make the necessary corrections
- ☐ **If you fail to make the corrections in full,**
 - a) the application will be returned
 - b) the application fee will be forfeited **and**
 - c) if you are already operating a system, you will be referred for enforcement action which may include administrative penalties of up to \$500 per day.

V.T.C.A. Water Code Section 13.246(c) requires the Commission to consider the following factors before it can issue a CCN:

- ☐ the adequacy of service currently provided to the requested area,
- ☐ the need for additional service in the requested area,

- ☐ the effect of the granting of a certificate on a recipient of the certificate and on any retail public utility of the same kind already serving the proximate area,
- ☐ the ability of the applicant to provide adequate service,
- ☐ the feasibility of obtaining service from an adjacent retail public utility,
- ☐ the financial stability of the applicant, including, the adequacy of the applicant's debt-equity ratio,
- ☐ environmental integrity, **AND**
- ☐ the probable improvement of service or lowering of cost to consumers in that area resulting from the granting of the certificate.

In addition to these factors,

- ☐ the Commission must ensure that the applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service **AND**
- ☐ the applicant must also demonstrate that regionalization or consolidation with another retail public utility is not economically feasible.

If there are no protests, you will be provided a copy of the technical staff recommendation and proposed CCN. If you have any questions or concerns, you should contact the technical staff person assigned to your application immediately. If you disagree with the staff recommendation and/or proposed CCN, the application will be considered contested, and a hearing may be requested.

If the application is contested and a hearing is requested, the application may be referred to the State Office of Administrative Hearings (SOAH). During the preliminary hearing, the presiding Administrative Law Judge (ALJ) may give the parties time to negotiate a settlement. Alternative Dispute Resolution (ADR) is available upon request of all of the parties. If a settlement is reached, the application will be remanded to staff for administrative processing. If a settlement is not reached, a discovery schedule and a date for an evidentiary hearing will be set. The ALJ will take testimony from each party and present a report to the Commission to consider in making a final decision on the application.

The completed application and copies should be sent to:

Texas Commission on Environmental Quality
 Registration, Review & Reporting Division
 Permits Administrative Review Section
 Water Quality Applications Team
 MC-156
 P. O. Box 13087
 Austin, TX 78711-3087

☆☆☆THIS APPLICATION IS NOT A RATE CHANGE APPLICATION.
 THE APPROPRIATE FORMS NEEDED TO FILE A RATE CHANGE
 APPLICATION MAY BE OBTAINED BY CONTACTING THE UTILITIES
 AND DISTRICTS SECTION, TEXAS COMMISSION ON
 ENVIRONMENTAL QUALITY.☆☆☆



APPLICATION TO OBTAIN OR AMEND A WATER/SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)

*RN #103107546

*CN # 601642473

*If known (See instructions)

PURPOSE OF THIS APPLICATION

OBTAIN ☐ New Water CCN ☐ New Sewer CCN
AMEND ☐ Water CCN # _____ ☒ Sewer CCN # 20936

DEC 30 2005

1. APPLICANT INFORMATION

Utility Name: Village of Wimberley
Utility Address (city/state/zip) P.O. Box 2027
Wimberley, TX 78676
Utility Phone and Fax Number (512) 847-0025 Phone (512) 847-0422 Fax

Contact Person: Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney, accountant, or other title related to the applicant.

Name: Emily Rogers Title: Attorney
Address: 816 Congress Ave., Suite 1700 Telephone (512) 472-8021
City Austin St TX Zip 78701 Fax (512) 320-5638
County(ies) in which service is proposed Hays

A. Provide the following information about the utility's certified operators

Name	Classes	License Number
<u>See Attachment No. 1</u>		

- Attach additional sheet(s) if necessary -

B. Check the appropriate box and provide information regarding the legal status of the applicant:

<input type="checkbox"/>	Investor owned utility
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Home or Property Owners Association
<input type="checkbox"/>	For-profit corporation
<input type="checkbox"/>	Non-profit, member-owned, member-controlled cooperative corporation (Water Code Chapter 67, Water Supply or Sewer Service Corporation)
<input checked="" type="checkbox"/>	Municipality
<input type="checkbox"/>	District
<input type="checkbox"/>	Other Please explain:

- C. If the applicant is a For-Profit Corporation: *N/A*
- Please provide a copy of the corporation's "Certification of Account Status" from the Texas State Comptroller of Public Accounts. (See Note below).
 - Please provide the corporation's charter number as recorded with the Office of the Texas Secretary of State. _____.
- D. If the applicant is a Water Code Chapter 67 water supply or sewer service corporation or other non-profit corporation: *N/A*
- Please provide a copy of the Articles of Incorporation and By-Laws.
 - Please provide the corporation's charter number as recorded with the Office of the Texas Secretary of State _____.

2. **LOCATION INFORMATION**

- A. Are there people already living in the proposed area?
YES _____ NO ✓
If YES, are any currently receiving utility service?
YES _____ NO _____, if YES, from Whom _____.
- B. Have you received any requests for service in the requested service area?
YES _____ NO ✓
If yes, please indicate the number of verbal and number of written requests and provide a clear explanation of the need for service in the requested area.
WRITTEN _____ VERBAL _____
On a separate page, list the name, address, and phone number of persons requesting service. Include any letters of intent, service inquiries, and/or any other documentation demonstrating a need for service in the proposed area. Requests for service must be identified on the large scale map. See 2.E.i.a below.
If no, please justify the need for service in the proposed area.

There is a need for service for this area because the Ranch Road 12 bypass is being constructed through the area. Additionally, the Wimberley Independent School District intends to purchase part of the property to build another school. Finally, several of the properties in the requested area are partially located in Wimberley's existing CCN.

See also land use assumptions and populations projections in the Village of Wimberley Wastewater Masterplan - Final Report (June 2002), and Land Use Assumptions and Capital Improvements Plan for the Village of Wimberley Wastewater Treatment System - Technical Memorandum (January 2005) attached hereto as Attachment No. 10.

- C. Is any portion of the proposed service area inside an incorporated city?
YES _____ NO ✓
If YES, within the city limits of: _____
Provide a copy of any franchise, permit, or consent granted by the city. If not available, please explain: _____
- D. Is any portion of the proposed service area inside another utility's CCN area?
YES _____ NO ✓
If YES, has the current CCN holder agreed to decertify the proposed area.
YES _____ NO _____
If NO, are you seeking dual or single certification of the area? Explain why decertification of the area is in the public interest.
- E. Attach the following maps with each copy of the application: *(All maps should include applicant's name, address, telephone number, and date of drawing or revision. All maps should be folded to*

8½ x 11 inches). *See Attachment No. 2*

- i. Subdivision plat or engineering plans or other large scale map showing the following:
 - A. The exact proposed service area boundary showing locations of requests for service and locations of existing connections (if applicable).
 - ★ NOTE: Applicant may send their facility line map showing current connections (if available), OR estimate the number of connections along each side of the street on the large scale map.
 - B. The existing service area (if applicable).
 - C. Metes and bounds (if available).
 - D. Proposed and existing service area boundaries should be plotted on the map in relation to verifiable natural and man-made landmarks such as roads, creeks, rivers, railroads, etc.
 - E. *Service area boundaries should be shown with such exactness that they can be located on the ground.*
 - ★ NOTE: *Applicant may use a USGS 7.5"-minute series map if no other large scale map is available.*
- ii. Small scale location map delineating the proposed service area. The proposed service area boundary should be delineated on a copy of the TCEQ official CCN map. This map will assist TCEQ staff in locating the proposed service area in relation to neighboring utility service areas. *A copy of the TCEQ official CCN map may be obtained by contacting the Utilities & Districts Section at 512/239-4691 or by mailing a written request to the following address:*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Water Supply Division
Utilities & Districts Section
MC-153
P.O. Box 13087
Austin, TX 78711-3087

★ NOTE: If the proposed service areas shown on the large scale map and small scale map do not delineate the same area, the more detailed large scale map will be used to delineate the official CCN service area.

- iii. **Hard copy maps should include the following items:**
 - A. Map scale should be prominently displayed.
 - B. Color coding should be used to differentiate the applicants existing service areas from the proposed service area.
 - C. Attach a written description of the proposed service area.
 - D. Proposed service area should be the same on all maps.
 - E. Include map information in digital format (if available), *see Section 3, GIS Information.*

- iv. Each utility shall make available to the public at each of its business offices and designated sales offices within Texas the map of the proposed service area currently on file with the Commission. The applicant employees shall lend assistance to persons requesting to see a map of the proposed area upon request.

3. GIS INFORMATION

We are currently developing a state wide Geographic Information Systems (GIS) coverage of all CCN service areas. The mylar maps are being retired. In order to assist us in this move, we are requesting that a digital

file of the proposed CCN service area boundary be submitted with the 3 hard copy maps. **This is not a requirement.** It is understood that not all utilities employ the services of an engineering company or use mapping software to produce a map of the proposed CCN service area boundary. However, by submitting the information digitally, the evaluation of your CCN will be faster and more accurate. Also, by receiving the information in digital form it is easier for us to update and maintain the CCN GIS coverage.

See Attachment No. 3

A. **Digital Map Requirements** In order that your digital data can be properly used, the following information is necessary:

- i. Submit digital data of the proposed CCN service area on a 3.25" diskette or CD. Only one diskette or CD is necessary. Most files of CCNs (minus the base map) should be small enough to zip up and put on a diskette or CD.
- ii. The digital data should include all items represented in the hard copy maps (see Section 2, items E.i and E.ii).
- iii. Please identify data file format, projection information, map units and base map used.

Acceptable Data File Formats:

ArcView shape file (preferred)

1. AutoCAD dwg file
2. Arc/Info E00 file
3. DXF file
4. Microstation dgn files

★ NOTE: If you use a format that is not listed, contact the Cartographer at the number listed below to see if we can use the data.

- a. **Projection, Datum, and Units Information** The data should be submitted in the Texas State Mapping System (TSMS) Projection. However, if it cannot be submitted in TSMS, list the Projection (e.g. State Plane Central Zone, NAD27) or coordinate system being used and Units (e.g. meters, feet, etc.)

- b. **Base Map Information**

List the base map used (e.g. TxDOT county digital road maps, USGS maps, etc.) Base map information should be included only if it has been produced in-house and is not easily available at most data repositories.

★ NOTE: TCEQ uses TxDOT county (urban) digital road maps as the official CCN base map. Copies of these files can be obtained from Texas Natural Resources Information Systems (TNRIS) at (512) 463-8337 or downloaded from the TNRIS website at <http://www.tnris.state.tx.us/DigitalData/TxDOT/txdot.htm>.

- c. **Read-me text file**

Data file format, base map used, projection and units information, and other necessary information can be specified in a read-me text file.

B. **Important Information** For those applicants that submit digital data:

- i. Please make sure the proposed service area boundary shown on the hard copy map is identical to the digital data. If the proposed service area shown on the digital data does not delineate the same area shown on the hard copy map, the hard copy map will be used to delineate the official CCN service area.
- ii. Modifications may be made to submitted digital data in order to match the proposed service area boundary to features represented on the TxDOT base map, as opposed to the same features used in the applicants base map.
- iii. If an applicant proposes to amend a portion of their existing CCN service area, the existing service area shown on the digital data must match the official CCN service area that was previously certificated to the utility. If it does not, then only the proposed portion of the digital data will be used.

If you have any questions about sending the data or our GIS CCN coverage, please contact the Cartographer

4. **NEW SYSTEM INFORMATION OR UTILITIES REQUESTING A CCN FOR THE FIRST TIME**

- A. Please provide the following information: *N/A*
- A list of all public drinking water supply systems or sewer systems within a 2 mile radius of the proposed system.
 - Copies of written requests seeking to obtain service from each of the public drinking water supply systems or sewer systems listed in #4.a.i above or documentation that it is not economically feasible to obtain service from them.
 - Copies of written responses from each system or evidence that they did not reply.
- B. Were your requests for service denied?
- If yes, continue.
 - If no, please provide a detailed analysis which justifies your reasons for not accepting service. A separate analysis must be prepared and submitted for each system that granted your request for service.
- C. Please summarize how the proposed utility system will be constructed and describe each projected construction phase, if any: _____

- D. Date of plat approval, if required: _____
Approved by: _____
- E. Date Plans & Specifications submitted for approval _____ Log No. _____
Attach copy of approval letter if available.
- F. Date construction is scheduled to commence _____
- G. Date service is scheduled to commence _____

5. **EXISTING SYSTEM INFORMATION**

- A. Please provide the following information for **each** water and/or sewer system:
- Water system's TCEQ Public Water System identification number:

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 - Sewer system's TCEQ Discharge Permit number: (for each system)

W	Q	1	3	3	2	1	-	0	0	1
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W	Q							-		
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 - Date of last inspection November 28, 2001
 - Attach a copy of the most recent inspection report letter. *See Attachment No. 4*
 - For each system deficiency listed in the inspection report letter, attach a brief explanation listing the actions taken or being taken by the utility to correct the listed deficiencies, including the proposed completion dates.

Since the last inspection, the Village of Wimberley purchased the plant and the wastewater discharge permit was transferred to the Village and to the Guadalupe-Blanco River Authority. Both the Village and the GBRA are working to ensure the plant complies with its permit.

- B. Using the current number of customers, is any facility component in systems named in #5A above

operating at 85% or greater of minimum standard capacity? *N/A*

Yes _____ No _____

Attach an explanation listing the actions to be taken to make system improvements including proposed completion dates (See 291.93(3)(A) of TCEQ Rules).

- C. List in the table below, the number of existing and/or proposed metered and non-metered connections (by size). The proposed number should reflect the information presented in the business plan and reflect the number of service requests identified in Question 2.b above.

Water System			Sewer System		
Connection	Existing	Proposed	Connection	Existing	Proposed
5/8" or 3/4" meter			Residential		
1" meter or larger			Commercial	<i>1</i>	
Non-Metered			Industrial		
Other:			Other:		<i>1</i>
Total Water			Total Sewer	<i>1</i>	<i>1</i>

See also Attachment No. 10.

- D. If this application is for a water CCN only, please explain how sewer service is provided:
N/A

- E. If this application is for a sewer CCN only, please explain how water service is provided:
Water service is provided by the Wimberley WSC or through private wells.

- F. What is the effect of the granting or amending a certificate on a recipient of the certificate and on any retail public utility of the same kind already serving the proximate area: *There should be no effect on other utilities serving the proximate area because the territory Wimberley seeks is uncertificated. With respect to the Guadalupe-Blanco River Authority (GBRA), GBRA has the exclusive right to serve as Wimberley's contract operator and to provide sewer service in the Village's CCN. GBRA operates Wimberley's Blue Hole Wastewater Treatment Plant.*

- G. Do you currently purchase or plan to purchase water or sewer treatment capacity from another source?

i. No ☒ (skip the rest of this question and go to #6)

ii. Water

Yes _____

Purchased on a () regular - () seasonal - () emergency basis?

Source	% of total supply

- iii. Sewer treatment capacity

Yes _____

Purchased on a () regular - () seasonal - () emergency basis

Source	% of total treatment

- iv. Provide a **certified** copy of the most current water or sewer treatment capacity purchase agreement or contract.

The Village of Wimberley has entered into an Interlocal Agreement and an Operating Agreement with the Guadalupe-Blanco River Authority (GBRA). Pursuant to these contracts, GBRA has agreed develop, design, permit, finance, acquire, construct, operate, and maintain the wastewater system for the Village of Wimberley. Certified copies of the agreements are included herein as Attachment No. 5.

6. FINANCIAL INFORMATION

- A. For new systems and for applicants with existing CCNs who are constructing a new stand alone system:
- the applicant must provide an analysis of all necessary costs for constructing, operating, and maintaining the system for which the CCN is requested for at least the first five years. In addition, if service has been offered by an existing water service provider as stated in #4.A., but the applicant has determined that the cost of service as finally offered renders the project not economically feasible, the applicant must provide a comparison analysis of all necessary costs for acquiring and continuing to receive service from the existing system for the same period.
 - Attach projected profit and loss statements, cash flow worksheets, and balance sheets (projected five year financial plan worksheet is attached) for each of the first five years of operation. Income from rates should correlate to the growth projections in #6.A. above.
 - Attach a proposed rate schedule or tariff. Describe the procedure for determining the rates and fees and indicate date of last change, if applicable. Attach copies of any cost of service studies or rate analysis worksheets.
- B. For existing systems: **See Attachments 6, 7 and 8.**
- Attach a profit and loss statement and current balance sheet for existing businesses (end of last fiscal year is acceptable). Describe sources and terms for borrowed capital such as loans, bonds, or notes (profit and loss and balance sheet worksheets are attached, if needed).
 - Attach a proposed rate schedule or tariff.
- ★ NOTE: An existing system may be required to provide the information in 6.A.i. above during the technical review phase if necessary for staff to completely evaluate the application.
- C. Identify any funds you are required to accumulate and restrict by lenders or capital providers.
- D. In lieu of the information in #6.A. thru #6.C., you may provide information concerning loan approvals within the last three (3) years from lending institutions or agencies including the most recent financial audit of the applicant.

7. NOTICE REQUIREMENTS

- A. All proposed notice forms must be completed and submitted with the application. However, do not mail or publish them until you receive written approval from the Commission to do so.
- B. The Commission cannot grant a CCN until proper notice of the application has been given. Commission rules do not allow a waiver of these notice requirements.
- C. It is the applicant's responsibility to ensure that proper notice is given to all entities that are required to receive notice.

- D. Recommended notice forms for publication, neighboring cities and systems, and customers are included with this application to use in preparing your proposed notices. (These notice forms are also available in Spanish upon request.)
- E. After reviewing and, if necessary, modifying the proposed notice, the Commission will send the notice to the applicant after the application is accepted for filing along with instructions for publication and/or mailing. Please review the notice carefully and note any additional neighboring utilities which may be included in the acceptance letter.
- F. Notice For Publication:
The applicant shall publish the notice in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, once each week for two consecutive weeks beginning with the week after the notice is received from the Commission. Proof of publication in the form of a publisher's affidavit shall be submitted to the Commission within 30 days of the last publication date. The affidavit shall state with specificity each county in which the newspaper is of general circulation.
- G. Notice To Neighboring Utilities: *See Attachment No. 9*
- i. List all neighboring retail public utilities and cities providing the same utility service within the following vicinities of the applicant's proposed certificate area; and
 - ii. any city whose extra-territorial jurisdiction (ETJ) overlaps the proposed service area.
 - iii. For applications for the issuance of a **NEW** certificate of public convenience and necessity, the applicant must mail the notice with a copy of the location map (CCN map) to all cities and neighboring retail public utilities providing the same utility service within **five (5) miles** of the requested service area, and any city with an ETJ which overlaps the proposed service area.
 - iv. For applications for the **AMENDMENT** of certificate of public convenience and necessity, the applicant must mail the notice with a copy of the location map (CCN map) to all cities and neighboring retail public utilities providing the same utility service within **two (2) miles** of the requested service area, and any city with an extra-territorial jurisdiction which overlaps the proposed service area.
- H. Notice to Customers
Investor Owned Utilities (IOUs) that are currently providing service without a certificate must provide individual mailed notice to all current customers. The notice must contain the current rates, the date those rates were instituted, and any other information required in the application.
- I. The Commission may require the applicant to deliver notice to other affected persons or agencies.

Do not publish or send copies of the proposed notices to anyone at the time you submit the application to the Commission. Wait until you receive written authorization to do so. This will occur after the Commission has reviewed the notices for completeness,

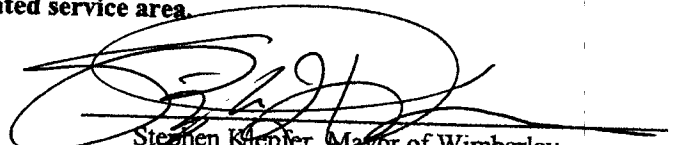
OATH

State of Texas

I, Stephen Klepfer, being duly sworn, file this application as the Mayor of the Village of Wimberley that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the maps filed with this application, and have complied with all the requirements contained in this application; and, that all such statements made and matters set forth therein are true and correct. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Texas Commission on Environmental Quality.

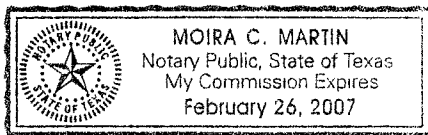
I further represent that the application form has not been changed, altered or amended from its original form available only from the Commission.

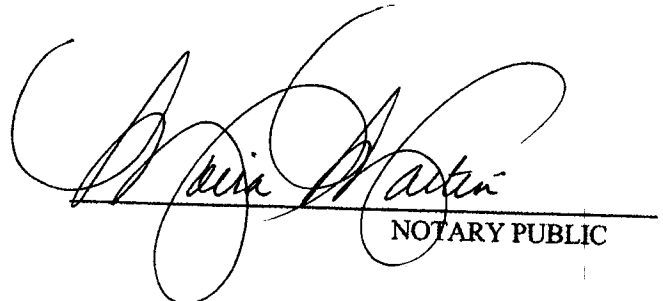
I further represent that the Applicant will provide continuous and adequate service to all customers and qualified applicants for service within its certificated service area.


Stephen Klepfer, Mayor of Wimberley

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of Texas, this 29th day of December, 2005.

SEAL




NOTARY PUBLIC

Notice for Publication

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE
AND NECESSITY (CCN) TO PROVIDE SEWER
UTILITY SERVICE IN HAYS COUNTY, TEXAS

The Village of Wimberley has filed an application to amend CCN No. 20936 with the Texas Commission on Environmental Quality to provide sewer utility service in Hays County, Texas.

The proposed utility service area is located approximately one mile north of downtown Wimberley, Texas, and is generally bounded on the west by Ranch Road 12, on the south by Wimberley's existing certificated service area boundary, on the east by the eastern property boundaries of the Thomas Crainshaw Survey, the Clement Henson Survey, and the John Marks Survey tracts of land, and north by Skyline Drive. See the enclosed map of the proposed service area.

The total area being requested includes approximately 250 acres and no current customers.

A copy of the proposed service area map is available at the Village of Wimberley's City Hall, 13210 Ranch Road 12, Wimberley, Texas, 78676.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Si desea informacion en Espanol, puede llamar al 512-239-0200.

Notice to Neighboring Systems and Cities

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE SEWER UTILITY SERVICE IN HAYS COUNTY

To: **Aqua Development Inc.**
1421 Wells Branch Pkwy, Ste. 105
Pflugerville, TX 78660-3230

Date Notice Mailed: _____, 20__

The Village of Wimberley has filed an application to amend CCN No. 20936 with the Texas Commission on Environmental Quality to provide sewer utility service in Hays County, Texas.

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Notice to Neighboring Systems and Cities

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE SEWER UTILITY SERVICE IN HAYS COUNTY**

**To: Aqua Source Utility, Inc.
1421 Wells Branch Pkwy, Ste. 105
Pflugerville, TX 78660-3230**

Date Notice Mailed: _____, 20__

The Village of Wimberley has filed an application to amend CCN No. 20936 with the Texas Commission on Environmental Quality to provide sewer utility service in Hays County, Texas.

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Notice to Neighboring Systems and Cities

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE SEWER UTILITY SERVICE IN HAYS COUNTY

To: **Guadalupe-Blanco River Authority**
933 E. Court St.
Seguin, TX 78155-5819

Date Notice Mailed: _____, 20__

The Village of Wimberley has filed an application to amend CCN No. 20936 with the Texas Commission on Environmental Quality to provide sewer utility service in Hays County, Texas.

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Notice to Neighboring Systems and Cities

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE SEWER UTILITY SERVICE IN HAYS COUNTY

To: **City of Woodcreek**
41 Champion Cir.
Woodcreek, TX 78676

Date Notice Mailed: _____, 20__

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Notice to Landowners

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE SEWER UTILITY SERVICE IN HAYS COUNTY

To: Landowner

Date Notice Mailed: _____, 20__

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Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087
Austin, TX 78711-3087

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Historical Profit & Loss Statement					
	Current Year (a)	(a) - 1 year	(a) - 2 years	(a) - 3 years	(a) - 4 years
Number of connections					
Income:					
Gross Revenue					
Fees					
Other					
Gross Income					
Expenses: General & Administrative:					
Salary Expense					
Office Expense					
Computer Expense					
Auto Expense					
Insurance Expense					
Telephone Expense					
Utilities Expense					
Property Tax Expense					
Professional Fees					
Other					
Total General & Administrative					
Expenses: Operational					
Salary Expense					
Auto Expense					
Utilities Expense					
Supply Expense					
Maintenance & Repair Expense					
Other Expense					
Total Operational					
Total Expenses					
Net Income					

Historical Balance Sheets - ASSETS					
	Current Year (a)	(a) - 1 year	(a) - 2 years	(a) - 3 years	(a) - 4 years
CURRENT ASSETS					
Cash					
Cost Accounts Receivable					
Inventories					
Income Tax Receivables					
Other					
TOTAL CURRENT ASSETS					
FIXED ASSETS					
Land					
Collection/Distribution System					
Buildings					
Equipment					
Other					
TOTAL FIXED ASSETS					
Less:					
Accum Depreciation/Reserve					
NET FIXED ASSETS					
TOTAL ASSETS					

Historical Balance Sheets - LIABILITIES					
	Current Year (a)	(a) - 1 year	(a) - 2 years	(a) - 3 years	(a) - 4 years
CURRENT LIABILITIES					
Accounts Payable					
Notes Payable, Due < 1 Year					
Accrued Expenses					
Customer Deposits					
Other					
TOTAL CURRENT LIABILITIES					
LONG TERM LIABILITIES					
Notes Payable, Due > 1 Year					
Other					
TOTAL LONG TERM LIABILITIES					
OWNER'S EQUITY					
Paid-in Capital					
Retained Equity					
Other					
Current Period Profit or Loss					
TOTAL OWNER'S EQUITY					
TOTAL LIABILITIES &					

Projected Profit & Loss Statement					
	Year 1	Year 2	Year 3	Year 4	Year 5
Number of connections					
Income:					
Gross Revenue					
Fees					
Other					
Gross Income					
Expenses: General & Administrative:					
Salary Expense					
Office Expense					
Computer Expense					
Auto Expense					
Insurance Expense					
Telephone Expense					
Utilities Expense					
Property Tax Expense					
Professional Fees					
Other					
Total General & Administrative					
Expenses: Operational					
Salary Expense					
Auto Expense					
Utilities Expense					
Supply Expense					
Maintenance & Repair Expense					
Other Expense					
Total Operational					
Total Expenses					
Net Income					

Projected Balance Sheets - ASSETS					
	Year 1	Year 2	Year 3	Year 4	Year 5
CURRENT ASSETS					
Cash					
Cost Accounts Receivable					
Inventories					
Income Tax Receivables					
Other					
TOTAL CURRENT ASSETS					
FIXED ASSETS					
Land					
Collection/Distribution System					
Buildings					
Equipment					
Other					
TOTAL FIXED ASSETS					
Less:					
Accum Depreciation/Reserve					
NET FIXED ASSETS					
TOTAL ASSETS					

Projected Balance Sheets - LIABILITIES					
	Year 1	Year 2	Year 3	Year 4	Year 5
CURRENT LIABILITIES					
Accounts Payable					
Notes Payable, Due < 1 Year					
Accrued Expenses					
Customer Deposits					
Other					
TOTAL CURRENT LIABILITIES					
LONG TERM LIABILITIES					
Notes Payable, Due > 1 Year					
Other					
TOTAL LONG TERM LIABILITIES					
OWNER'S EQUITY					
Paid-in Capital					
Retained Equity					
Other					
Current Period Profit or Loss					
TOTAL OWNER'S EQUITY					
TOTAL LIABILITIES &					

Projected Statements of Sources & Uses of Cash					
	Year 1	Year 2	Year 3	Year 4	Year 5
SOURCES OF CASH					
Net Profit					
Depreciation (if funded)					
Loan Proceeds					
Other					
TOTAL SOURCES					
USES OF CASH					
Net Loss					
Principal portion of payments					
Fixed Asset Purchases					
Reserve					
Other					
TOTAL USES					
NET CASH FLOW					
AVAILABLE DEBT SERVICE COVERAGE (ADSC)					
Cash Available for Debt Service					
Net Profit/Loss					
Depreciation or Reserve					
Interest					
TOTAL ADSC					
REQUIRED DEBT SERVICE COVERAGE (RDSC)					
Principal + Interest					
DEBT SERVICE COVERAGE RATIO (ADSC/RDSC)					

TCEQ Core Data Form

TCEQ Use Only

If you have questions on how to fill out this form or about our Central Registry, please contact us at 512-239-5175.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512-239-3282.

SECTION I: General Information

1. Reason for Submission *Example: new wastewater permit; IHW registration; change in customer information; etc.*
Sewer CCN Application

2. Attachments Describe Any Attachments: (ex: Title V Application, Waste Transporter Application, etc.)
☒ YES ☐ NO Sewer CCN Application

3. Customer Reference Number-if issued
CN 601642473 (9 digits)
4. Regulated Entity Reference Number-if issued
RN 103107546 (9 digits)

SECTION II: Customer Information

5. Customer Role (Proposed or Actual) -- As It Relates to the Regulated Entity Listed on This Form
Please check one of the following:

☒ Owner ☐ Operator ☐ Owner and Operator
☐ Occupational Licensee ☐ Volunteer Cleanup Applicant ☐ Other
TCEQ Use Only ☐ Superfund ☐ PST ☐ Respondent

6. General Customer Information

☐ New Customer
☐ Change in Regulated Entity Ownership ☒ Change to Customer Information
*If "No Change" and Section I is complete, skip to Section III - Regulated Entity Information.

7. Type of Customer:
☐ Individual ☐ Partnership ☐ Corporation ☐ Sole Proprietorship - D.B.A.
☐ State Government ☐ County Government ☐ Federal Government
☐ Other Government ☐ City Government ☐ Other

8. Customer Name (If an individual, please print last name first)
If New Name, Enter Previous Name

9. Mailing Address

City State ZIP ZIP + 4

10. Country Mailing Information if outside USA

11. E-Mail Address if applicable

12. Telephone Number

13. Extension or Code

14. Fax Number if applicable

15. Federal Tax ID (9 digits)

16. State Franchise Tax ID Number if applicable

17. DUNS Number if applicable (9 digits)

18. Number of Employees

0-20

21-100

101-250

251-500

501 and
higher

19. Independently Owned and Operated?

Yes

No

SECTION III: Regulated Entity Information

20. General Regulated Entity Information

New Regulated Entity

Change to Regulated Entity Information

☒

No Change*

*If "No Change" and Section I is complete, skip to Section IV - Preparer Information.

Press the Tab Key to continue to page 2.

21. Regulated Entity Name <i>(If an individual, please print last name first)</i>									
22. Street Address (No PO Boxes)									
			City				State		ZIP
23. Mailing Address									
			City				State		ZIP
24. E-Mail Address:									
25. Telephone Number				26. Extension or Code			27. Fax Number <i>if applicable</i>		
28. Primary SIC Code (4 digits)			29. Secondary SIC Code (4 digits)		30. Primary NAICS Code (5 or 6 digits)			31. Secondary NAICS Code (5 or 6 digits)	
32. What is the Primary Business of this entity? <i>(Please do not repeat the SIC or NAICS description)</i>									
<i>Questions 33 - 37 address geographic location. Please refer to the instructions for applicability.</i>									
33. County									
34. Description of Physical Location									
35. Nearest City					State		Nearest Zip		
36. Latitude (N)					37. Longitude (W)				
Degrees		Minutes		Seconds	Degrees		Minutes		Seconds
38. TCEQ Programs In Which This Regulated Entity Participates <i>Not all programs have been listed. Please add to this list as needed. If you don't know or are unsure, please mark "Unknown". If you know a permit or registration # for this entity, please write it below the program.</i>									
Animal Feeding Operation			Petroleum Storage Tank			Water Rights			
Title V - Air			Wastewater Permit						
Industrial & Hazardous Waste			Water Districts						
Municipal Solid Waste			Water Utilities			Unknown			
New Source Review - Air			Licensing - Types						
SECTION IV: Preparer Information									
39. Name					40. Title				
Emily W. Rogers					Attorney				
41. Telephone Number				42. Extension or Code			43. Fax Number <i>if applicable</i>		
512-472-8021							512-320-5638		
44. E-mail Address:		erogers@bickerstaff.com							

**BICKERSTAFF, HEATH, SMILEY,
POLLAN, KEVER & McDANIEL, L.L.P.**

816 CONGRESS AVENUE, SUITE 1700
AUSTIN, TX 78701-2443

FROST NATIONAL BANK
MEMBER: CULLEN/FROST BANKERS, INC.
www.frostbank.com
NOT VALID AFTER 120 DAYS

30-9/1140

12/30/2005

PAY
TO THE ORDER OF Texas Commission on Environmental Quality

\$

\$100.00

One Hundred Dollars and 00/100*****

DOLLARS

Texas Commission on Environmental Quality
P.O. Box 13088
Austin, TX 78711-3088

TWO SIGNATURES REQUIRED IF OVER \$500.00

Thomas M. Pollan

MEMO

AUTHORIZED SIGNATURE

⑈027619⑈ ⑆114000093⑆ 591071629⑈

BICKERSTAFF, HEATH, SMILEY, POLLAN, KEVER & McDANIEL, L.L.P.

27619

INVOICE	DATE	DESCRIPTION	NET
	12/30/2005	CCN application filing fee.	100.00

Check# / Date 27619 12/30/2005 Texas Commission on Environmental Quality

\$100.00

BICKERSTAFF, HEATH, SMILEY, POLLAN, KEVER & McDANIEL, L.L.P.

27619

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Check# / Date 27619 12/30/2005 Texas Commission on Environmental Quality

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