

Control Number: 43551



Item Number: 15

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.

RECEIVED
2014 OCT 27 AM 10:14
PUBLIC UTILITY COMMISSION
FILING CLERK

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



NOTICE OF HEARING
City of Austin
SOAH Docket No. 582-02-3056
TNRCC Docket No. 2002-0189-UCR

APPLICATION. City of Austin, Waller Creek Center, 625 East 10th Street, Suite 800, Austin, Texas 78701, Application Nos. 33562-C and 33563-C, has applied with the Texas Natural Resource Conservation Commission (TNRCC) to obtain Water and Sewer Certificates of Convenience and Necessity (CCN) in Travis, Hays, and Williamson Counties, Texas.

CONTESTED CASE HEARING. The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing on this application at:

10:00 a.m. - July 9, 2002
William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701

The hearing will be a legal proceeding similar to a civil trial in state district court. The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 13, Texas Water Code; TNRCC rules including 30 Texas Administrative Code (TAC) Chapter 291; and the procedural rules of the TNRCC and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. To participate in the hearing as a party, you must attend the hearing and show you would be affected by the petition in a way not common to members of the general public.

INFORMATION. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For additional information, contact the Water Utilities Division, MC 153, P.O. Box 13087, Austin, TX 78711-3087, telephone 512-239-6960. General information regarding the TNRCC can be found at our web site at www.tnrcc.state.tx.us.

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD), at least one week prior to the hearing.

Issued: May 28, 2002
RECEIVED
MAY 29 2002
TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS

LaDonna Castañuela
LaDonna Castañuela, Chief Clerk
Texas Natural Resource Conservation Commission

OFFICE OF THE
FILING CLERK
PUBLIC UTILITY COMMISSION
1000 N. BRASSFIELD BLVD
AUSTIN, TEXAS 78701
512-239-6960

Gary Bradley
Bradley Development
The Castle
1111 West 11th Street
Austin, Texas 78703

Madison Jechow
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

Representing: Lower Colorado River Authority

Steve Statton
Dessau Utilities Inc.
4104 Belmont Park Drive
Austin, Texas 78746

Ed Wolf
Route 2, Box 236 "D"
Cameron, Texas 76520

Kent Taylor
Taylor Commercial
900 Congress Avenue
Suite L-165
Austin, Texas 78701

Richard Buratti
6617 Argentia Road
Austin, Texas 78757

Jack Condon
405 Beardsley Lane
Austin, Texas 78746

Teresa Reel
3503 Crownover Street
Austin, Texas 78725

Natural Resources Docket Clerk
State Office of Administrative Hearings
P. O. Box 13025
Austin, Texas 78711-3025

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

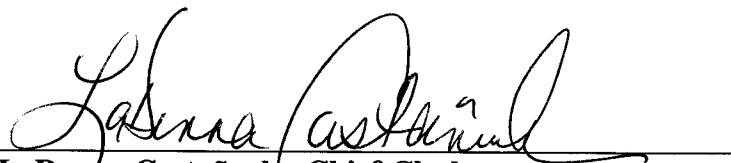


STATE OF TEXAS §

COUNTY OF TRAVIS §

I, LaDonna Castañuela, Chief Clerk of the Texas Natural Resource Conservation Commission, do hereby certify that the attached lists persons to whom the attached notice of the public hearing for City of Austin, SOAH Docket No. 582-02-3056, TNRCC Docket No. 2002-0189-UCR, was mailed on May 28, 2002.

Given under my hand and the seal of the Texas Natural Resource Conservation Commission, this the 29th day of May, 2002.


LaDonna Castañuela, Chief Clerk
Texas Natural Resource Conservation Commission

(SEAL)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



NOTICE OF HEARING
City of Austin
SOAH Docket No. 582-02-3056
TNRCC Docket No. 2002-0189-UCR

APPLICATION. City of Austin, Waller Creek Center, 625 East 10th Street, Suite 800, Austin, Texas 78701, Application Nos. 33562-C and 33563-C, has applied with the Texas Natural Resource Conservation Commission (TNRCC) to obtain Water and Sewer Certificates of Convenience and Necessity (CCN) in Travis, Hays, and Williamson Counties, Texas.

CONTESTED CASE HEARING. The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing on this application at:

10:00 a.m. - July 9, 2002
William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701

The hearing will be a legal proceeding similar to a civil trial in state district court. The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 13, Texas Water Code; TNRCC rules including 30 Texas Administrative Code (TAC) Chapter 291; and the procedural rules of the TNRCC and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. To participate in the hearing as a party, you must attend the hearing and show you would be affected by the petition in a way not common to members of the general public.

INFORMATION. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For additional information, contact the Water Utilities Division, MC 153, P.O. Box 13087, Austin, TX 78711-3087, telephone 512-239-6960. General information regarding the TNRCC can be found at our web site at www.tnrcc.state.tx.us.

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD), at least one week prior to the hearing.

Issued: May 28, 2002

A handwritten signature in cursive script, reading "LaDonna Castañuela".

LaDonna Castañuela, Chief Clerk
Texas Natural Resource Conservation Commission

MAILING LIST
City of Austin
SOAH Docket No. 582-02-3056
TNRCC Docket No. 2002-0189-UCR

Monica Jacobs
Barry R. McBee
Bracewell & Patterson L.L.P.
111 Congress Avenue
Suite 2300
Austin, Texas 78701-4043

Representing: City of Austin
Via Certified Mail

Chris Lippe, P.E., Director
Bart Jennings
City of Austin Water and Wastewater Utility
625 East 10th Street
Suite 800
Austin, Texas 78701

Ronnie Jones
City of Austin
Assistant City Attorney
P.O. Box 1546
Austin, Texas 78767-1546

Mark Zeppa
Attorney at Law
4833 Spicewood Springs Road
Suite 202
Austin, Texas 78759-8436

Representing: Aquasource Utility, Inc.
Aquasource Development Company, and
Creedmore -Maha WSC

J. Kay Trostle
Mark W. Smith
Sifuentes, Drummond, & Smith, L.L.P.
1002 West Avenue
Suite 200
Austin, Texas 78701

Representing: Onion Creek Wastewater Corp.

John J. Carlton
Ambrust, Brown, & Davis, L.L.P.
100 Congress Avenue
Suite 1300
Austin, Texas 78701-2744

Representing: Hornsby Bend

Gary Bradley
Bradley Development
The Castle
1111 West 11th Street
Austin, Texas 78703

Madison Jechow
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

Representing: Lower Colorado River Authority

Steve Statton
Dessau Utilities Inc.
4104 Belmont Park Drive
Austin, Texas 78746

Ed Wolf
Route 2, Box 236 "D"
Cameron, Texas 76520

Kent Taylor
Taylor Commercial
900 Congress Avenue
Suite L-165
Austin, Texas 78701

Richard Buratti
6617 Argentia Road
Austin, Texas 78757

Jack Condon
405 Beardsley Lane
Austin, Texas 78746

Teresa Reel
3503 Crownover Street
Austin, Texas 78725

Natural Resources Docket Clerk
State Office of Administrative Hearings
P. O. Box 13025
Austin, Texas 78711-3025

Texas Natural Resource Conservation Commission
P. O. Box 13087
Austin, Texas 78711-3087

John Deering, Staff Attorney, Office of Legal Services (Mail Code 173)
Geoffrey P. Kirshbaum, Staff Attorney, Office of Legal Services (Mail Code 173)
Mike Howell, Staff Engineer, Utility Rates & Services (Mail Code 153)
Isaac Jackson, Intergovernmental Relations (Mail Code 119)
Blas Coy, Office of Public Interest Counsel (Mail Code 103)
Andy Saenz, Agency Communications - Media Relations (Mail Code 118)
Casey Vise, Office of Public Assistance (Mail Code 108)
Dell Sites, Support Services - Telecommunications (Mail Code 217)

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

MONICA JACOBS
BARRY R. MCBEE
BRACEWELL & PATTERSON L.L.P.
111 CONGRESS AVENUES SUITE 2300
AUSTIN, TEXAS 78701-4043

Postmark
place
here

City of Austin
SOAH Docket No. 582-02-3056
TNRCC Docket No. 2002-0189-UCR

(City mailer)

Street, Apt. No., or PO Box No.

City, State, ZIP+ 4

PS Form 3800, February 2000

See Reverse for Instructions

7000 0520 0023 2387 6889

SENDER: COMPLETE THIS SECTION

City of Austin
SOAH Docket No. 582-02-3056
TNRCC Docket No. 2002-0189-UCR

MONICA JACOBS
BARRY R. MCBEE
BRACEWELL & PATTERSON L.L.P.
111 CONGRESS AVENUES SUITE 2300
AUSTIN, TEXAS 78701-4043

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>David D. Elsworth</i>	B. Date of Delivery <i>5/30/02</i>
C. Signature <i>[Signature]</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Yes <input type="checkbox"/> No

3. Service Type

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label)

7000 0520 0023 2387 6889

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

TEXAS WATER COMMISSION



12/23/04

11978

CERTIFICATE OF CONVENIENCE AND NECESSITY

To Provide Water Service Under Chapter 13, Texas Water Code, and the Rules of the Texas Water Commission

Certificate No. 11978

I. Certificate Holder:

Name: Hornsby Bend Utility Company, Inc.

Address: 1301 South I.H. 35 Austin, Texas 78745

II. General Description and Location of Service Area:

Hornsby Bend Utiltiy Comapany, Inc. serves the area located at the intersection of FM 969 and Hunter Bend Road and is partially bordered on the north by FM 969, on the east by Hunter Bend Road and on the south by the Colorado River in Travis County.

III. Certificate Maps:

The certificate holder is authorized to provide water service in the area identified on map No.7029(a) and the Commission's official service area map, WRS-227, maintained in the offices of the Texas Water Commission, 1700 North Congress, Austin, Texas, with all attendant privileges and obligations.

This certificate is issued subject to the rules and orders of the Commission, the laws of the State of Texas, and the conditions contained herein. This certificate is valid until amended or revoked by the Commission.

ISSUED this 3rd day of March, 1987.

ATTEST: [Signature] [Signature] For the Commission



TNRCC Route Slip

Date: 5/28/02

TO:	Mike Howell	FROM:	Melanie Mohair
Building:	Mail Code: <u>153</u>	Building: <u>F</u>	Mail Code: <u>105</u>
Division:		Division: <u>COMMISSIONERS</u>	
Section:		Section: <u>CHIEF CLERK</u>	

Attachments(s):

- For Information
 For Review
 For Comment/Response

- For Approval
 For Signature
 As Requested

Comments:

RECEIVED

MAY 29 2002

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS



City of Austin
Law Department

Norwood Tower, 114 West 7th Street, P.O. Box 1546
Austin, Texas 78767-1546
(512)974-2268

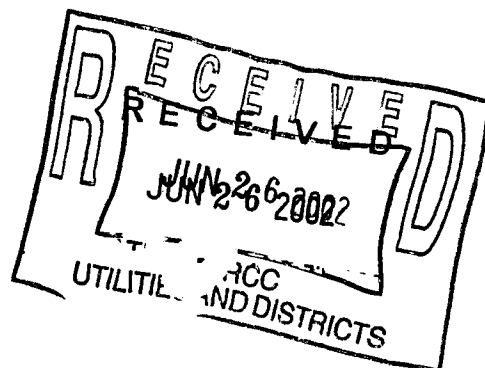
RECEIVED
JUN 26 2002
CHIEF CLERK'S OFFICE

Writer's Direct Line
512-974-2568

Writer's Fax Line
512-974-2912

June 26, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308



Re: SOAH Docket No. 582-02-3056; TNRCC Docket No. 2002-0189-UCR; Application from City of Austin to Obtain a Water Certificate of Convenience and Necessity (CCN) in Travis, Hays and Williamson Counties; Application No. 33562-C

SOAH Docket No. 582-02-3056; TNRCC Docket No. 2002-0189-UCR; Application from City of Austin to Obtain a Sewer Certificate of Convenience and Necessity (CCN) in Travis, Hays and Williamson Counties; Application No. 33563-C

Dear Mike:

As you will recall, you sent the City of Austin ("City") a request for information ("RFI") dated March 6, 2002, which asked for additional information regarding the need for water and sewer utility service in the proposed areas identified in the City's certificate of convenience and necessity ("CCN") applications.

The City delivered an initial response to your request on April 8, 2002. On an ongoing supplemental basis, you should have received individual letters from various developers and governmental entities expressing their support for the City's applications and their opinion that the City's utility service is needed in these areas.

Mike Howell
June 26, 2002
Page 2

Our understanding is that the following individuals and entities have submitted letters or resolutions to date:

1. Gregory D. Humbach, counsel for City of Manor, April 4, 2002;
2. G. Scott Winton, Mayor, City of Pflugerville, April 23, 2002;
3. A.H. Robinson, III, Landowner and Developer, April 24, 2002;
4. Daniel E. "Stump" Sowado, City Administrator, City of West Lake Hills, April 29, 2002;
5. Dick Rathgeber, Developer, May 6, 2002;
6. Samuel T. Biscoe, Travis County Judge, Travis County Commissioners Court, May 7, 2002;
7. James R. Nuse, Director of Public Works, City of Round Rock, May 17, 2002;
8. Terry Mitchell, Vice-President, Milburn Homes, June 18, 2002;

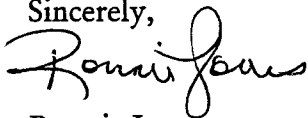
For your convenience, I am enclosing a copy of each of these letters in the order listed above. See Attachments 1-8. If you have not already done so, please include these letters in your records with our April 8, 2002 RFI response.

Additionally, as we have not received any further RFIs, we assume that you have all the information you require in order to make a determination of technical completeness. Please provide written confirmation to me regarding your determination of technical completeness at your earliest convenience since the date of the preliminary hearing is fast-approaching. The City believes that the CCN applications must be declared technically complete before the Administrative Law Judge can take jurisdiction.

Mike Howell
June 26, 2002
Page 3

We appreciate your assistance with this matter.

Sincerely,



Ronnie Jones
Assistant City Attorney

Enclosure

xc: Jeff Saitas, Executive Director – TNRCC
Victoria Harkins, Ph.D., P.E.
Doug Holcomb
Joe Canales, Deputy City Manager
John Stephens, Acting Assistant City Manager
Christopher Lippe, Director, Water and Wastewater Utility
Andrew P. Covar, P.E., Assistant Director, Water and Wastewater Utility
Sedora Jefferson, City Attorney
Marty Terry, Division Chief
Bart Jennings, Water and Wastewater Utility
Kenneth Ramirez, Attorney
Barry McBee, Attorney
Monica Jacobs, Attorney

**Barney Knight
& Associates
Attorneys at Law**

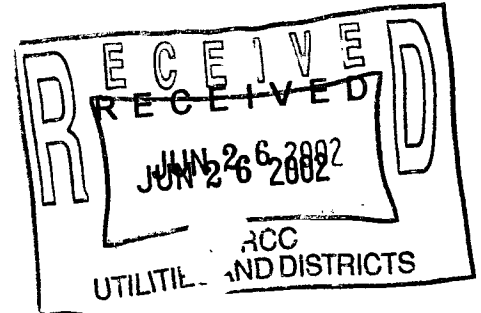
Tel. (512) 323-3778
FAX (512) 323-3773
Barney.Knight@aol.com

Executive Office Terrace
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

Attorneys
Barney L. Knight
Shelia F. Jelske
Gregory D. Humbach

April 4, 2002

Texas Natural Resource Conservation Commission
Attn: Mike Howell
Registration, Review & Recording Division
Permits Administrative Review Section
Water Quality Applications Team
MC-153
P.O. Box 13087
Austin, Texas 78711-3087



Re: Application to Amend Sewer CCN for the City of Austin, Texas No.33563-C

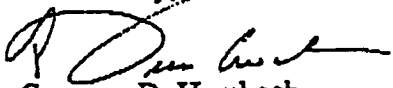
Dear Mr. Howell:

The purpose of this correspondence is to advise that the City of Manor, Texas desires to express their support of the application for a sewer CCN referenced above. This application indicates long range planning on behalf of the City of Austin that should benefit future ratepayers who will received a level of service that they might not otherwise.

The City of Manor believes that allowing cities to obtain CNN's for a large portion of their ETJ results in a reduction or retrofitting expenses to the city and its ratepayers. As you know MUDs, water and wastewater supply corporations, and similar service providers do not build their utilities to city standards, requiring a rebuild when a city annexes these areas.

The City of Manor further believes that effective long term regional planning is best accomplished when other utilities providers are not attempting to provide uncoordinated water and wastewater services within their ETJ. For the above reasons the City of Manor supports the City of Austin's application to amend its CCN referenced above.

Yours Truly,


Gregory D. Humbach

cc: Bart Jennings, City of Austin Wholesale Services
Mike Tuley, Dir. Public Works City of Manor, Texas

**RESOLUTION OF THE CITY OF PFLUGERVILLE,
TEXAS SUPPORTING THE CITY OF AUSTIN
APPLICATION FOR WATER AND WASTEWATER
CERTIFICATES OF CONVENIENCE AND NECESSITY**

WHEREAS, the City of Austin has filed an application with the Texas Natural Resource Conservation Commission for water and wastewater certificates of convenience and necessity for certain portions of the city's extraterritorial jurisdiction; and

WHEREAS, the City of Austin believes that municipalities should engage in long-term, regional planning of utility services within their extraterritorial jurisdictions to provide cost-effective utility infrastructure placement and sizing that will result in lower costs and superior service for future utility customers in the area; and

WHEREAS, the City of Austin believes that it is difficult and more costly to engage in effective long-term, regional planning of water and wastewater services while other utilities are allowed to provide uncoordinated water and wastewater services within a city's extraterritorial jurisdiction; and

WHEREAS, the City of Austin believes that allowing cities to obtain certificates of convenience and necessity for large portions of their extraterritorial jurisdiction will benefit ratepayers by resulting in a reduction of the cost of retrofitting and rehabilitating inferior utility systems when the areas are annexed into the city; and

WHEREAS, the Pflugerville City Council agrees with the above assertions, and desires to support the City of Austin in acquiring certificates of convenience and necessity; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

That the City of Pflugerville supports the proposed City of Austin water and wastewater certificates of convenience and necessity, and encourages the Texas Natural Resource Conservation Commission to approve the applications.

APPROVED this 23rd day of April 2001.

CITY OF PFLUGERVILLE, TEXAS


G. Scott Winton, Mayor

ATTEST

Karen Thompson, City Secretary

ROBINSON RANCH

P.O. BOX 9336
AUSTIN, TEXAS 78766
(512) 253-3646

April 24, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

RE: The City of Austin's Water and Sewer Applications for
Certificates of Convenience and Necessity

Dear Mr. Howell,

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). Currently, my family owns 8000 acres of land located within the northern and eastern portions of the City's extraterritorial jurisdiction. As a landowner, I am extremely interested in the reliability and cost-effectiveness of the utility service. I agree with the City's assertion that such reliable, cost-effective service can best be achieved as a result of long-term, regional planning. My past dealings with the City and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas encompassed by the City's applications. In fact, if development projects reach a point where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

Again, for the above reasons, I fully support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,


A. H. Robinson, III

cc: Bart Jennings, Water and Wastewater Utility

City of West Lake Hills

Dwight Thompson, MAYOR

COUNCIL MEMBERS:

Cathy McElroy, MAYOR PRO TEM

Earl Broussard, Jr.

Jane Noble

Harry Vira

Kit Webster

911 WESTLAKE DRIVE
WEST LAKE HILLS, TEXAS 78746-4589



Daniel E. "Stump" Sowada
City Administrator

City Admin.: 512/327-3628

Police Admin.: 512/327-1195

City Fax: 512/327-5232

E-mail: cityhall@westlakehills.org

April 29, 2002

Mr. Mike Howell
TNRCC Utilities & Districts Section
MC-153, P.O. Box 13087
Austin, TX 78711-3087

SUBJECT: CITY OF AUSTIN APPLICATION FOR CCNs



Dear Mr. Howell:

The City of West Lake Hills recognizes Austin's critical need to engage in long-term planning and supports the City of Austin in its application for CCNs. This extended outlook will facilitate more cost-effective utility infrastructure placement and sizing. Without such focused planning by a forward-looking and well-operated utility, service areas and levels may become discontinuous and differentiated, as utility service issues are resolved on a piecemeal, project-by-project basis by a variety of service providers. This situation inevitably leads to greater costs to future and existing ratepayers, such as West Lake Hills, in part because of the lack of economies of scale of smaller non-regional utilities. Additionally, this piecemeal approach results in customer dissatisfaction with utility services because of cost and service level differentials between various providers.

The City of West Lake Hills has long been convinced that it is almost always better to engage in effective regional planning of water and wastewater services, rather than to allow numerous utilities to provide uncoordinated water and wastewater services within a city's ETJ. Granting Austin CCNs for large portions of its ETJs should also reduce retrofitting expenses to the City and the ratepayers. In summary, the City of West Lake Hills is in favor of granting these CCNs.

Respectfully,

Daniel E. "Stump" Sowada
City Administrator
West Lake Hills, Texas

ds/ds

cc: Bart Jennings, City of Austin

May 6, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

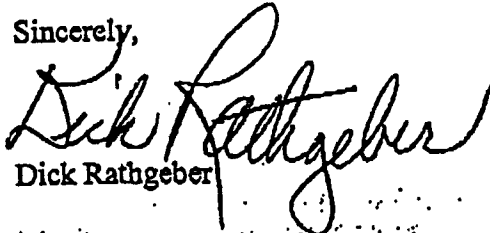
Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience and Necessity

Dear Mr. Howell:

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). In the past, I have been the primary developer for projects located in the eastern and northern areas of the City's extraterritorial jurisdiction ("ETJ"), which are now encompassed by the City's CCN applications. Currently, I am engaged in developing projects in the southeastern and northern portions of the City's ETJ; these ongoing projects are also within the area covered by the City's applications. As a developer, the cost-effectiveness and reliability of utility service is extremely important to me. I agree with the City's position that such reliable, cost-effective service can best be achieved as the result of long-term, regional planning. My past experience with the City and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas identified in the City's applications. Consequently, when my development projects reach a point where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

Again, for the above reasons, I fully support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,


Dick Rathgeber

cc: Bart Jennings, Water and Wastewater Utility



SAMUEL T. BISCOE
COUNTY JUDGE

TRAVIS COUNTY ADMINISTRATION BUILDING
P.O. BOX 1748 ROOM 570
AUSTIN, TEXAS 78767
(512) 854-9555

COPY

May 7, 2002

Texas Natural Resource Conservation Commission
Attn: Mike Howell
Registration, Review & Recording Division
Permits Administrative Review Section
Water Quality Applications Team
MC-153
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application to Amend Sewer CCN for the City of Austin, Texas, No. 33563-C

Dear Mr. Howell:

The Travis County Commissioners Court has recently been informed that a privately owned wastewater treatment plant in Southeast Travis County known as Thoroughbred Farms is failing. This wastewater treatment facility is daily discharging between 15,000 and 25,000 gallons of minimally treated sewage. The facility is no longer licensed by the TNRCC, its permit having expired on December 27, 1998.

The facility has a poor maintenance record, and it has recently come to our attention that it has not been properly operated for many years. Inspections have demonstrated lab results that violate guidelines for chlorine, D.O., B.O.D., and T.S.S. On February 7, 2002, the concentration of fecal coliform in a sample of the wastewater discharged from the plant into Dry Creek was so high that the laboratory was unable to measure it.

The TNRCC recently filed suit against the owners of the facility and are asking the Court to appoint a receiver to collect the assets and carry on the business of operating the facility. This will necessarily involve bringing the facility into compliance with state permitting guidelines.

The City of Austin has expressed interest in being appointed as the receiver for the Thoroughbred Farms Wastewater Treatment Facility. We support that appointment. The City has the expertise and the resources to repair and improve the facility, and to operate it properly, thereby ending the continuous discharge of untreated or minimally treated effluent onto the land and into the waters of Travis County.

COPY

COPY

The City of Austin has already applied for a Certificate of Convenience and Necessity (CCN) to provide sewer services for the area surrounding the Thoroughbred Farms Wastewater Treatment Facility, and while we have no position regarding the CCN in general, to the extent that approval of the CCN would facilitate the appointment of the City of Austin as the receiver for the Thoroughbred Farms Wastewater Treatment Facility, we support the City's application to amend its CCN.

Sincerely,

Samuel T. Biscoe

Samuel T. Biscoe
Travis County Judge

COPY



CITY OF ROUND ROCK

221 East Main Street
Round Rock, Texas 78664
512-218-5400

May 17, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience and Necessity

Dear Mr. Howell:

The purpose of this letter is to express the City of Round Rock's ("Round Rock") support for the City of Austin's ("Austin") applications for water and sewer Certificates of Convenience and Necessity ("CCNs"). Round Rock supports Austin's applications because it recognizes the need for long-term, regional planning of utility service in the rapidly growing metropolitan area. Without such long-term, regional planning, service areas and levels of service may become discontinuous, differentiated, and uncoordinated, leading to both greater costs to ratepayers and customer dissatisfaction.

Specifically, Round Rock shares Austin's view that piecemeal provision of service often leads to significant additional costs due to a lack of economies of scale and retrofitting when municipalities annex an area previously served by a utility that has not built its infrastructure to municipal urban and suburban standards. In addition, Round Rock believes that Austin's CCNs will allow for more cost-effective utility infrastructure placement and sizing.

For these reasons, Round Rock supports Austin's applications and encourages TNRCC to grant these CCNs.

Sincerely,

James R. Nuse, P.E.
Director of Public Works
City of Round Rock

cc: Bart Jennings, Water and Wastewater Utility

Mayor
Robert A. Sitka, Jr.

Mayor Pro-tem
Tom Nielson

Council Members
Alan McGraw
Carrie Pitt
Earl Palmer
Isabel Gallahan
Gary Coe

City Manager
Robert L. Bennett, Jr.

City Attorney
Stephan L. Sheets

C:\My Documents\NNAustin\CCN-R.R Support letter.DOC
89820.v1 Fax: 512-218-7097

1-800-735-2989 TDD
www.ci.round-rock.tx.us

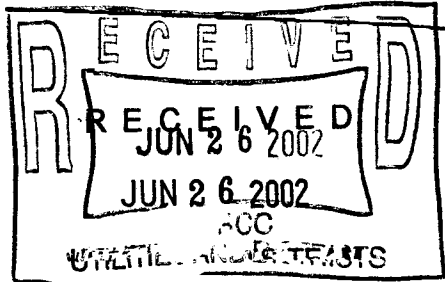
1-800-735-2988 Voice

Attachment 7

Milburn

Welcome Home

June 18, 2002



Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience and Necessity

Dear Mr. Howell:

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). I develop communities located in the southeastern, eastern and northern areas of the City's extraterritorial jurisdiction ("ETJ"), which are now encompassed by the City's CCN applications. Our communities range in size from a few hundred residents to several thousand residents. I believe that the City can provide reliable, cost-effective service. As with any high growth area, this reliable, cost-effective service can best be achieved as the result of long-term, regional planning - tasks that the City can do very well.

My previous experience with the City has been good and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas identified in the City's applications. When my development projects reach a point (and some are reaching that point now) where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

I support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,


Terry Mitchell
Vice-President

cc: Bart Jennings, Water and Wastewater Utility

Sifuentes, Drummond & Smith, L.L.P.

1002 West Avenue, Ste. 200
Austin, Texas 78701
Telephone (512) 469-9933
Facsimile (512) 469-9944

Jesús Sifuentes
Eric H. Drummond
Miguel A. Huerta
J. Kay Trostle
Mark W. Smith

June 21, 2002

VIA FACSIMILE 239-6972

And U.S. Mail

Mr. Doug Holcomb
Texas Natural Resource Conservation Commission
Water Utilities Division
Utility Rates and Services Section, MC-153
P.O. Box 13087
Austin, Texas 78711-3087

VIA FACSIMILE 239-6972

And U.S. Mail

Mr. Michael Howell
Texas Natural Resource Conservation Commission
Water Supply Division MC-153
P.O. Box 13087
Austin, Texas 78711-3087

RE: Application No. 33831-C, *Application of Onion Creek Wastewater Corporation to Amend a Sewer CCN Within Travis County*

Dear Messrs. Holcomb and Howell:

Onion Creek Wastewater Corporation hereby withdraws the above referenced application, without prejudice to the re-filing of same, and would request that it be returned to undersigned counsel. If you have any questions about this withdrawal, please do not hesitate to contact me.

Sincerely,


J. Kay Trostle

Cc: Ronnie Jones
Brian Rider

Sifuentes, Drummond & Smith, L.L.P.

1002 West Avenue, Ste. 200
Austin, Texas 78701
Telephone (512) 469-9933
Facsimile (512) 469-9944

Jesús Sifuentes
Eric H. Drummond
Miguel A. Huerta
J. Kay Trostle
Mark W. Smith

The information contained in this facsimile is privileged & confidential. It is intended only for the use of the individual or entity named below. If you have received this transmission in error, please notify us by telephone collect and return it to us at the above address. Thank you.

DATE: June 21, 2002

CLIENT #: 118.04

TELECOPIER COVER SHEET

<u>Name & Company</u>	<u>Fax Number</u>	<u>Telephone Number</u>
Doug Holcomb & Mike Howell - TNRCC	(512)239-6972	(512)239-6947
Mr. Ronnie Jones - City of Austin	(512)974-2912	(512)974-2568

FROM: Kay Trostle

TOTAL PAGES INCLUDING COVER SHEET: 2

ORIGINAL WILL FOLLOW VIA U.S. MAIL ORIGINAL WILL NOT FOLLOW

Please contact April at 512-469-9933 if complete FAX is not received.

Message:

Application No. 33831-C, *Application of Onion Creek Wastewater Corporation to Amend a Sewer CCN Within Travis County*

Attached:

Onion Creek Wastewater Corporation's withdrawal of the above mentioned application

Sifuentes, Drummond & Smith, L.L.P.

1002 West Avenue, Ste. 200
Austin, Texas 78701
Telephone (512) 469-9933
Facsimile (512) 469-9944

Jesús Sifuentes
Eric H. Drummond
Miguel A. Huerta
J. Kay Trostle
Mark W. Smith

June 21, 2002

VIA FACSIMILE 936-0730

And U.S. Mail

The Honorable William Newchurch
Administrative Law Judge
State Office of Administrative Hearings
300 West 15th Street, Suite 502
Austin, Texas 78701-1649

VIA FACSIMILE 239-6972

And U.S. Mail

Mr. Doug Holcomb
Texas Natural Resource Conservation Commission
Water Utilities Division
Utility Rates and Services Section, MC-153
P.O. Box 13087
Austin, Texas 78711-3087

RECEIVED
JUN 21 11 43 AM '02
STATE OFFICE
CHIEF CLERK'S OFFICE

RE: SOAH Docket No. 582-02-3056; TNRCC Docket No. 2002-0189-UCR; Application No. 33563-C; *Application of City of Austin for Certificate of Convenience and Necessity to Provide Sewer Utility Service in Portions of Travis, Hays and Williamson Counties*

Dear Judge Newchurch and Mr. Holcomb:

On October 26, 2001, Onion Creek Wastewater Corporation ("OCWC") filed a letter opposing the above referenced application and requesting a hearing. OCWC hereby withdraws its protest and request for hearing, but reserves its right to re-assert same in accordance with the procedural schedule to be developed in this proceeding. OCWC further requests that it be removed from the service list for this proceeding.

Sincerely,



J. Kay Trostle

Cc: All parties of record

Mike

Sifuentes, Drummond & Smith, L.L.P.

1002 West Avenue, Ste. 200
 Austin, Texas 78701
 Telephone (512) 469-9933
 Facsimile (512) 469-9944

Jesús Sifuentes
 Eric H. Drummond
 Miguel A. Huerta
 J. Kay Trostle
 Mark W. Smith

The information contained in this facsimile is privileged & confidential. It is intended only for the use of the individual or entity named below. If you have received this transmission in error, please notify us by telephone collect and return it to us at the above address. Thank you.

DATE: June 21, 2002CLIENT #: 118.04

TELECOPIER COVER SHEET

<u>Name & Company</u>	<u>Fax Number</u>	<u>Telephone Number</u>
The Honorable William Newchurch - SOAH	(512) 936-0730	(512)475-4993
Docketing Room - SOAH	(512)475-4994	(512)475-4993
Mr. Doug Holcomb - TNRCC	(512)239-6972	(512)239-6947
Mr. Ronnie Jones - City of Austin	(512)974-2912	(512)974-2568

FROM: Kay TrostleTOTAL PAGES INCLUDING COVER SHEET: 2

ORIGINAL WILL FOLLOW VIA U.S. MAIL ORIGINAL WILL NOT FOLLOW

Please contact April at 512-469-9933 if complete FAX is not received.

Message:

SOAH Docket No. 582-02-3056; TNRCC Docket No. 2002-0189-UCR; Application No. 33563-C;
*Application of City of Austin for Certificate Convenience and Necessity to Provide Sewer Utility
 Service in Portions of Travis, Hays and Williamson Counties*

Attached:

Onion Creek Wastewater Corporation's withdrawal of its protest and request for hearing in the above mentioned proceeding

Milburn

Welcome Home

June 18, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience and Necessity

Dear Mr. Howell:

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). I develop communities located in the southeastern, eastern and northern areas of the City's extraterritorial jurisdiction ("ETJ"), which are now encompassed by the City's CCN applications. Our communities range in size from a few hundred residents to several thousand residents. I believe that the City can provide reliable, cost-effective service. As with any high growth area, this reliable, cost-effective service can best be achieved as the result of long-term, regional planning – tasks that the City can do very well.

My previous experience with the City has been good and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas identified in the City's applications. When my development projects reach a point (and some are reaching that point now) where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

I support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,


Terry Mitchell
Vice-President

RECEIVED

cc: Bart Jennings, Water and Wastewater Utility

JUN 20 2002
TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS



City of Austin

Founded by Congress, Republic of Texas, 1839
Municipal Building, Eighth at Colorado, P.O. Box 1088, Austin, Texas 78767 Telephone 512/499-2000

COMMUNICATIONS SECTION
JUN 10 11 45 AM '02
CITY CLERK'S OFFICE

RECEIVED

JUN 12 2002

TEXAS WATER RESOURCE COMMISSION UTILITIES CONTRACTS

June 10, 2002

Kenton D. Johnson
Attorney at Law
1903A W. 38th Street
Austin, Texas 78731

Re: Northridge Acres Water Supply Corporation (WSC).

Dear Mr. Johnson:

Thank you for your letter of May 30, 2002, concerning Northridge Acres WSC. As you may be aware, under state law, the Water Supply Corporation holds the certificate of convenience and public necessity (CCN) for Northridge Acres and therefore the WSC has the exclusive right and obligation to provide retail water utility services within its certificated area, the Northridge Acres Subdivision. At this time, the WSC is administered by a Receiver, Mr. Patrick King, who was appointed by the State of Texas after the former directors of the WSC (Ms. Brown among them) abandoned their role, and left the WSC without appropriate governance. Since Mr. King's appointment as Receiver, representatives of our Water and Wastewater Utility have been working with the State, by and through its appointed Receiver, as well as other governmental agencies, to provide a safe and reliable drinking water source for the residents of Northridge Acres. While a draft agreement for wholesale water service has been prepared, and the City Council has authorized its negotiation and execution, it has not been finalized as of this date.

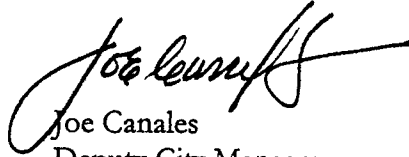
One of the remaining obstacles to the commencement of the requested wholesale water service is the acquisition of an appropriate site for the placement of the master water meter and backflow prevention device. At this time, there are no condemnation proceedings pending for Lot 23, and as Mr. Tresnicky advised Ms. Brown in their conversation, the City is also pursuing the possibility of obtaining an easement for the master meter and backflow prevention device with the owners of the adjacent Raceway Tract. As of this date, those discussions are as yet on-going and either site remains a possibility at this time. Ms. Brown was informed that, should negotiations fail, condemnation remains a legal option that is available to the City if no other viable alternative exists for acquisition of an appropriate site for the master meter and backflow prevention device. That option is available for either site.

Thank you for your interest in the City's on-going efforts to provide a safe and reliable source of drinking water to the residents of Northridge Acres. As you have placed us on notice of the existence

Letter to Kenton D. Johnson
June 10, 2002
Page 2

of litigation concerning the WSC, please direct all further correspondence concerning these matters to Mr. Tresnicky at the City of Austin Law Department.

Sincerely,



Joe Canales
Deputy City Manager

JMT/jmt

Cc: J. Chris Lippe, P.E., Director, Water and Wastewater Utility
B. Jennings, Wholesale Services Manager, Water and Wastewater Utility
P. King, Receiver, Northridge Acres Water Supply Corporation
 D. Holcomb, Water Utilities Division, Texas Natural Resource Conservation Commission

131111
RESOURCE COMMISSION
COMMISSION

107 JUN 12 PM 3:56

CHIEF CLERK'S OFFICE

DONALD E. BIRD
ATTORNEY AT LAW
2700 VIA FORTUNA, SUITE 150
AUSTIN, TEXAS 78746-7974
PHONE (512) 477-4242
FAX (512) 477-2271

RECEIVED

JUN 24 2002

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES DISTRICTS

OPA

JUN 13 2002

BY DL

May 31, 2002

Office of the Chief Clerk
Texas Natural Resource Conservation Commission
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: Applications of the City of Austin for CNN; Protest,
Intervention and Designation of Representative.


Dear Clerk;

The Village of Creedmoor, Texas is a General Law city located in southeast Travis County. This village appears to be located in the service area requested by the City of Austin in an application presently before the Commission.

The Village of Creedmoor does hereby enter its protest of Austin's application to the extent that the application area includes either the area within its Village limits or the extraterritorial jurisdiction of the Village. The Village of Creedmoor seeks to intervene in Austin's certification docket as a party protestant. The Village would be affected by the extension of Austin's CNN into the referenced areas because such incursion into those areas would result in Austin attempting to control land use, building and development within the existing jurisdiction of the Village of Creedmoor causing conflict between the municipalities.

The Village of Creedmoor designates as its official representative in this matter its Village Attorney, Donald E. Bird, Attorney at Law, 2700 Via Fortuna, Suite 150, Austin, Texas 78746, 51-477-4242. The Village does consent to alignment with other neighboring municipalities and water and wastewater providers.

Respectfully submitted,


Donald E. Bird
Village Attorney for
Village of Creedmoor, Texas

CHIEF CLERK'S OFFICE
JUN 13 2002
RECEIVED



CITY OF ROUND ROCK

TELEPHONE INFORMATION
512-218-5400
CITY OF ROUND ROCK

221 East Main Street
Round Rock, Texas 78664
512-218-5400

May 17, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

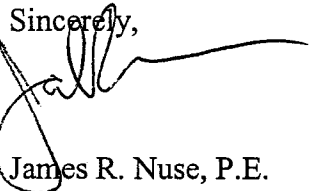
Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience and Necessity

Dear Mr. Howell:

The purpose of this letter is to express the City of Round Rock's ("Round Rock") support for the City of Austin's ("Austin") applications for water and sewer Certificates of Convenience and Necessity ("CCNs"). Round Rock supports Austin's applications because it recognizes the need for long-term, regional planning of utility service in the rapidly growing metropolitan area. Without such long-term, regional planning, service areas and levels of service may become discontinuous, differentiated, and uncoordinated, leading to both greater costs to ratepayers and customer dissatisfaction.

Specifically, Round Rock shares Austin's view that piecemeal provision of service often leads to significant additional costs due to a lack of economies of scale and retrofitting when municipalities annex an area previously served by a utility that has not built its infrastructure to municipal urban and suburban standards. In addition, Round Rock believes that Austin's CCNs will allow for more cost-effective utility infrastructure placement and sizing.

For these reasons, Round Rock supports Austin's applications and encourages TNRCC to grant these CCNs.

Sincerely,


James R. Nuse, P.E.
Director of Public Works
City of Round Rock

cc: Bart Jennings, Water and Wastewater Utility

RECEIVED
MAY 23 2002
TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS

- Mayor
Robert A. Stluka, Jr.
- Mayor Pro-tem
Tom Nielson
- Council Members
Alan McGraw
Carrie Pitt
Earl Palmer
Isabel Gallahan
Gary Coe
- City Manager
Robert L. Bennett, Jr.
- City Attorney
Stephan L. Sheets

SAMUEL T. BISCOE
COUNTY JUDGE

TRAVIS COUNTY ADMINISTRATION BUILDING
P.O. BOX 1748 ROOM 520
AUSTIN, TEXAS 78767
(512) 854-9555



CHIEF CLERK'S OFFICE

RECEIVED

MAY 10 2002

**TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS**

May 7, 2002

Texas Natural Resource Conservation Commission
Attn: Mike Howell
Registration, Review & Recording Division
Permits Administrative Review Section
Water Quality Applications Team
MC-153
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application to Amend Sewer CCN for the City of Austin, Texas, No. 33563-C

Dear Mr. Howell:

The Travis County Commissioners Court has recently been informed that a privately owned wastewater treatment plant in Southeast Travis County known as Thoroughbred Farms is failing. This wastewater treatment facility is daily discharging between 15,000 and 25,000 gallons of minimally treated sewage. The facility is no longer licensed by the TNRCC, its permit having expired on December 27, 1998.

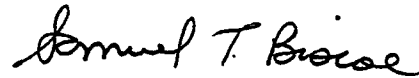
The facility has a poor maintenance record, and it has recently come to our attention that it has not been properly operated for many years. Inspections have demonstrated lab results that violate guidelines for chlorine, D.O., B.O.D., and T.S.S. On February 7, 2002, the concentration of fecal coliform in a sample of the wastewater discharged from the plant into Dry Creek was so high that the laboratory was unable to measure it.

The TNRCC recently filed suit against the owners of the facility and are asking the Court to appoint a receiver to collect the assets and carry on the business of operating the facility. This will necessarily involve bringing the facility into compliance with state permitting guidelines.

The City of Austin has expressed interest in being appointed as the receiver for the Thoroughbred Farms Wastewater Treatment Facility. We support that appointment. The City has the expertise and the resources to repair and improve the facility, and to operate it properly, thereby ending the continuous discharge of untreated or minimally treated effluent onto the land and into the waters of Travis County.

The City of Austin has already applied for a Certificate of Convenience and Necessity (CCN) to provide sewer services for the area surrounding the Thoroughbred Farms Wastewater Treatment Facility, and while we have no position regarding the CCN in general, to the extent that approval of the CCN would facilitate the appointment of the City of Austin as the receiver for the Thoroughbred Farms Wastewater Treatment Facility, we support the City's application to amend its CCN.

Sincerely,

A handwritten signature in cursive script that reads "Samuel T. Biscoe".

Samuel T. Biscoe
Travis County Judge

May 6, 2002

RECEIVED

MAY 14 2002

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

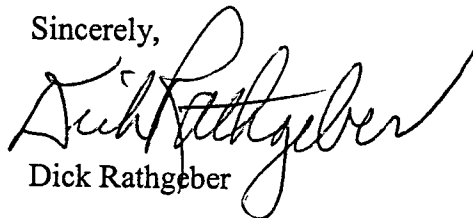
Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience and Necessity

Dear Mr. Howell:

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). In the past, I have been the primary developer for projects located in the eastern and northern areas of the City's extraterritorial jurisdiction ("ETJ"), which are now encompassed by the City's CCN applications. Currently, I am engaged in developing projects in the southeastern and northern portions of the City's ETJ; these ongoing projects are also within the area covered by the City's applications. As a developer, the cost-effectiveness and reliability of utility service is extremely important to me. I agree with the City's position that such reliable, cost-effective service can best be achieved as the result of long-term, regional planning. My past experience with the City and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas identified in the City's applications. Consequently, when my development projects reach a point where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

Again, for the above reasons, I fully support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,



Dick Rathgeber

cc: Bart Jennings, Water and Wastewater Utility

City of West Lake Hills

Dwight Thompson, MAYOR
COUNCIL MEMBERS:
Cathy McElroy, MAYOR PRO TEM
Earl Broussard, Jr.
Jane Noble
Harry Vine
Kit Webster

911 WESTLAKE DRIVE
WEST LAKE HILLS, TEXAS 78746-4599

Daniel E. "Stump" Sowada
City Administrator

City Admin.: 512/327-3628
Police Admin.: 512/327-1195
City Fax: 512/327-5232
E-mail: cityhall@westlakehills.org



April 29, 2002

Mr. Mike Howell
TNRCC Utilities & Districts Section
MC-153, P.O. Box 13087
Austin, TX 78711-3087

SUBJECT: CITY OF AUSTIN APPLICATION FOR CCNs

Dear Mr. Howell:

The City of West Lake Hills recognizes Austin's critical need to engage in long-term planning and supports the City of Austin in its application for CCNs. This extended outlook will facilitate more cost-effective utility infrastructure placement and sizing. Without such focused planning by a forward-looking and well-operated utility, service areas and levels may become discontinuous and differentiated, as utility service issues are resolved on a piecemeal, project-by-project basis by a variety of service providers. This situation inevitably leads to greater costs to future and existing ratepayers, such as West Lake Hills, in part because of the lack of economies of scale of smaller non-regional utilities. Additionally, this piecemeal approach results in customer dissatisfaction with utility services because of cost and service level differentials between various providers.

The City of West Lake Hills has long been convinced that it is almost always better to engage in effective regional planning of water and wastewater services, rather than to allow numerous utilities to provide uncoordinated water and wastewater services within a city's ETJ. Granting Austin CCNs for large portions of its ETJs should also reduce retrofitting expenses to the City and the ratepayers. In summary, the City of West Lake Hills is in favor of granting these CCNs.

Respectfully,

Daniel E. "Stump" Sowada
City Administrator
West Lake Hills, Texas

ds/ds

cc: Bart Jennings, City of Austin

7:45 AM '02
RESOLUTION DIVISION
OFFICE OF THE CLERK
2002 JUN -2 PM 4:53
CHIEF CLERK'S OFFICE

Austin Business Journal - April 29, 2002
<http://austin.bizjournals.com/austin/stories/2002/04/29/story1.html>

AUSTIN BUSINESS JOURNAL

APR 29 2002 4:54
CHIEF CLERK'S OFFICE

From the April 26, 2002 print edition

[→ More Print Edition Stories](#)

Critics throw water on plan

City of Austin wants to be named sole water provider for broad area

Mary Alice Kaspar Austin Business Journal Staff

A City of Austin effort to be the sole water and wastewater provider for development on tens of thousands of acres around the city faces opposition from several organizations.

In applications first filed with the Texas Natural Resource Conservation Commission in August 2001, Austin seeks to be named the sole provider for water to 75,000 acres and wastewater to 132,000 acres. The designated land is to the north, east and south of the city's current borders.

But TNRCC documents indicate among those formally opposing the proposal are the Lower Colorado River Authority, private water supply companies and developer Gary Bradley.

Some critics of the city's application say they fear the region's flagship city is out to control growth in the surrounding areas. City of Austin representatives say they are merely trying to plan for the projected major growth in those areas.

A hearing on the opposition is set for this July before the State Office of Administrative Hearings. Protested TNRCC cases are commonly referred to the state office for recommendation before the Resource Commission board of directors makes a decision.

Bart Jennings, with the City of Austin's water and wastewater utility, says the city wants the provider designation to plan for future growth. He notes the designated areas include places where the city already has some legal oversight and less environmentally sensitive areas into which city policy says growth should be directed.

"It is not an attempt to control growth. It is not land grab," Jennings says.

"It is a mechanism for regional planning, and it's in align with council policies. The city's [application] is entirely within its ETJ and in its desired development zone, where we are trying to promote development to occur."

Attorney Mark Zeppa says: "If Austin were granted their global request, [other service providers] would lose the ability to serve in the communities around which they are already serving and not be able to expand their operations.

"Nor would they be able to serve in other areas they can serve in a more timely, cost-effective fashion than could Austin."

Zeppa represents Creedmoor-Maha Water Supply Corp., AquaSource Utility Inc. and AquaSource Development Co. in their opposition of the proposal.

A July 31 letter from the city to the TRNCC, predicts Austin's ETJ will boom.

"Growth projections and other factors indicate that this area will experience significant urban and suburban growth during the next few decades," the letter states.

Travis County's population was 812,280 in 2000, according to the U.S. Census Bureau. However, the Texas Water Development Board predicts the county's population will reach 1.3 million in 2030 and 1.6 million in 2050.

Jennings says as the city grows, it annexes land currently in its ETJ. Residents and businesses in those areas, he says, then expect to receive the same level of service as those within the city limits. It is more cost effective, he says, to plan now instead of try to retrofit infrastructure in areas once they are brought within the city limits.

Jennings also says the City of Austin is reaching out to parties that have filed protests in an attempt to resolve the issues at hand, which vary from party to party.

Madison Jechow, associate general counsel for the LCRA, says it is negotiating to buy water rights from Creedmoor-Maha. If the sale goes through, LCRA wants to be the one to serve areas now in Creedmoor-Maha's jurisdiction.

A Oct. 18 letter written by Jechow on file with the TNRCC says the city's application includes the same area it one day hopes to serve. The same letter also says LCRA would consider withdrawing its objections if the City of Austin would agree to exclude that area.

The two parties are in talks, and Jechow says he remains optimistic that a resolution will be found.

Bradley, the developer, says his main concern is that the city has been short on providing details.

Bradley says Austin is asking for water rights, but so far hasn't provided a schedule of when service will begin, how it intends to provide the service or what the cost will be to developers and homeowners.

Bradley has been entangled in several service utility battles with Austin in the past, mostly tied to his development of the Circle C Ranch in Southwest Austin. The city has since annexed that popular development.

Jennings says that the city intends to work with individual developers regarding time frames, and that costs will be shared by the utility and the developers.

Alan Haywood, attorney with Austin-based Graves Dougherty Hearon & Moody PC, is a member of a special Real Estate Council of Austin committee formed to keep an eye on the situation. Haywood says he plans to meet with city officials to discuss the city's intentions.

Haywood says his concern is Austin has historically tried "to limit or control growth through the provision of infrastructure, utilities as well as roads."

"That's why we need more information on what they intend to do this time," Haywood says.

RECA hasn't taken an official position, he says.

Email MARY ALICE KASPAR at (makaspar@bizjournals.com).



Copyright 2002 American City Business Journals Inc.
[Click for permission to reprint \(PRC# 1.1630.586480\)](#)

All contents of this site © American City Business Journals Inc. All rights reserved.

ROBINSON RANCH

P.O. BOX 9556
AUSTIN, TEXAS 78766
(512) 255-3646

April 24, 2002

RECEIVED

APR 26 2002

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

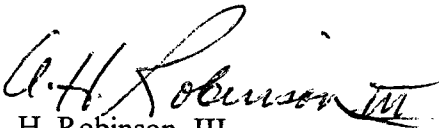
RE: The City of Austin's Water and Sewer Applications for
Certificates of Convenience and Necessity

Dear Mr. Howell,

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). Currently, my family owns 8000 acres of land located within the northern and eastern portions of the City's extraterritorial jurisdiction. As a landowner, I am extremely interested in the reliability and cost-effectiveness of the utility service. I agree with the City's assertion that such reliable, cost-effective service can best be achieved as a result of long-term, regional planning. My past dealings with the City and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas encompassed by the City's applications. In fact, if development projects reach a point where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

Again, for the above reasons, I fully support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,


A. H. Robinson, III

cc: Bart Jennings, Water and Wastewater Utility

CHIEF UTILITY OFFICE
APR 26 11 49 53
RESOURCES SECTION

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-4042
(512) 435-2300

TELECOPIER (512) 435-2360

JOHN J. CARLTON
(512) 435-2308
jcarlton@abaustin.com

April 12, 2002

Mr. Doug Holcomb, P.E.
Utilities & Districts Section, MC-153
Water Permits & Resource Management Division
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

RE: *City of Austin's Water and Sewer CCN Applications (33562-C and 33563-C); Withdrawal of Dessau Utilities' Protest*

Dear Mr. Holcomb :

I am writing to advise you that Dessau Utilities, Inc. and the City of Austin have reached an agreement regarding the City's proposed CCN application. Consequently, Dessau is hereby formally withdrawing its protest and requests for a public hearing in the matters referenced above.

If you have any questions, please contact me at your convenience.

Sincerely,

ARMBRUST & BROWN, L.L.P.


JOHN J. CARLTON
Attorney for Dessau Utilities, Inc.

Enclosures

cc: Ken Ramirez, Bracewell & Patterson
Steve Stratton
Thom Farrell

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-4042
(512) 435-2300

TELECOPIER (512) 435-2360

JOHN J. CARLTON
(512) 435-2308
jcarlton@abaustin.com

April 12, 2002

Mr. Doug Holcomb, P.E.
Utilities & Districts Section, MC-153
Water Permits & Resource Management Division
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

RE: *City of Austin's Water and Sewer CCN Applications (33562-C and 33563-C); Withdrawal of Dessau Utilities' Protest*

Dear Mr. Holcomb :

I am writing to advise you that Dessau Utilities, Inc. and the City of Austin have reached an agreement regarding the City's proposed CCN application. Consequently, Dessau is hereby formally withdrawing its protest and requests for a public hearing in the matters referenced above.

If you have any questions, please contact me at your convenience.

Sincerely,

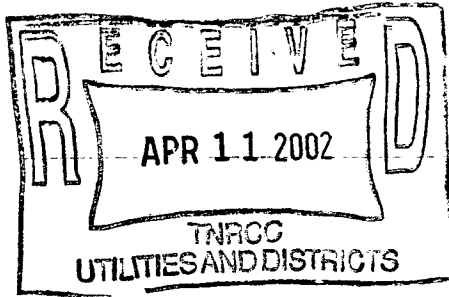
ARMBRUST & BROWN, L.L.P.



JOHN J. CARLTON
Attorney for Dessau Utilities, Inc.

Enclosures

cc: Ken Ramirez, Bracewell & Patterson
Steve Stratton
Thom Farrell



RECEIVED

APR 11 2002

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION UTILITIES AND DISTRICTS

Barry R. McBee Partner

111 Congress Avenue, Suite 2300 Austin, Texas 78701-4043 Phone: 512.494.3610 Fax: 512.479.3910 bmcbee@bracepatt.com

April 11, 2002

Mr. Jeffrey Saitas Executive Director Texas Natural Resource Conservation Commission P. O. Box 13087, MC-109 Austin, Texas 78711-3087

Re: Application from City of Austin to Obtain a Water CCN in Hays, Travis, and Williamson Counties; Application No. 33562-C

Application from City of Austin to Obtain a Sewer CCN in Hays, Travis, and Williamson Counties; Application No. 33563-C

Dear Jeff:

Many thanks to you and your staff for meeting with us and representatives of the City of Austin on March 28 regarding the City's pending applications for Certificates of Convenience and Necessity ("CCNs"). As we discussed at our meeting, the City and Texas Natural Resource Conservation Commission ("TNRCC") staff apparently disagree on at least one key issue: how to analyze the need for utility service in the geographic region in which the City seeks its CCNs.

The purpose of today's letter is to begin a dialogue concerning how the agency's informal policy of insisting upon service extension requests to show a need for utility service conflicts with municipalities' legitimate need for effective, long-term, regional planning in their extra-territorial jurisdictions ("ETJs"). As we discussed previously, the City's proposed service areas are entirely within its ETJ and impact fee boundary, which is established by City ordinance.

Whether there is a legitimate need for service is a critical issue that must be analyzed under both Texas Water Code § 13.246(c) and 30 TAC § 291.102(d)(2). One purpose served by this requirement is to help ensure that the application is not a speculative "land grab." We respectfully suggest, however, that the agency staff's analysis of this issue need not conflict with a city's effective regional planning. Indeed, as discussed below, policy established by the Texas Legislature strongly suggests that the two concepts should coexist.

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
APR 11 2002
OFFICE OF THE EXECUTIVE DIRECTOR



Mr. Jeffrey Saitas
April 11, 2002
Page 2

Article 3, section 49-d of the Texas Constitution, which concerns the Texas Water Development Board ("TWDB"), begins with a broad but unmistakably clear policy statement:

It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public, and *to encourage the optimum regional development of systems built for the filtration, treatment, and transmission of water and wastewater.*

(Emphasis added). This policy of encouraging optimum regional development of utility systems has been implemented via the following statutes that govern the TWDB and TNRCC, most notably the statutes dealing with the legislatively mandated State Water Plan and its regional water plans:

- (a) Texas Water Code § 16.051(a), regarding the State Water Plan, requiring that the Plan incorporate regional water plans and "provide for the orderly development, management, and conservation of water resources . . .;"
- (b) Texas Water Code § 13.241(d), which requires applicants to demonstrate that regionalization or consolidation with another retail public utility is not economically feasible before constructing physically separate water or sewer systems;
- (c) Texas Water Code § 13.183(c), which provides that water and sewer rates may be based upon factors such as encouraging regionalization;
- (d) The inclusion of a definition of regionalization, added in 2001, in Texas Water Code § 15.001, which defines regionalization to be "development of a water supply or wastewater collection and treatment system that incorporates multiple service areas into an area-wide service facility or any such system that serves an area that includes more than a single county, city, special district, or other political subdivision of the state;"



Mr. Jeffrey Saitas

April 11, 2002

Page 3

- (e) Texas Water Code § 26.081, which states that "[t]he legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state;"
- (f) Texas Health and Safety Code § 341.0315(b), which provides that "[t]he commission shall encourage and promote the development and use of regional and area-wide drinking water supply options;" and
- (g) The Region K Water Supply Plan for the Lower Colorado Regional Water Planning Group, which identifies the City as one of two officially designated "major water providers" for the region (p. 1-37), and states that, as such, the City is "expected to meet the growing needs of [its] existing customers." (p. ES-1).

The optimum regional development of complex and costly treatment and transmission systems can only occur as the result of effective long-term planning, which is exactly why the City has applied for these CCNs. Patchwork, ad hoc changes and additions to the CCN landscape of any city's ETJ wreak havoc on the municipal planning process, making "optimum" planning impossible. Agency concerns regarding speculative CCNs should pose no barriers when a city the size of Austin is seeking CCNs for its own ETJ, especially when, as here, the City's own growth projections and land use policies clearly support the need for utility service in the foreseeable future. Under these circumstances, requiring any municipality to proffer actual service extension requests in order to obtain a CCN directly thwarts that city's ability to undertake necessary planning.

The City of Austin—like many cities—has a history of expansion of its corporate limits in order to provide a consistent level of service to its residents. Experience has shown that when the City annexes an area that includes an existing private or investor-owned utility, the City is usually faced with substantial retrofitting costs in order to meet required urban-level, City standards, which include the provision of water service adequate for fire flow. *See, e.g.,* Tex. Loc. Gov. Code § 43.056(g).

Past examples where the retrofitting problem has been encountered are the Valley View Acres Wastewater Treatment Plant and Travis Country Utilities, Inc. A current example of the retrofitting problem is the Thoroughbred Farms utility, which is located within the



Mr. Jeffrey Saitas
April 11, 2002
Page 4

City's proposed sewer service area. TNRCC and the Attorney General have recently inquired regarding the feasibility of the City assuming management and operational responsibility for Thoroughbred Farms because of its consistent failure to meet TNRCC standards. The initial cost to bring this utility, which serves only approximately 83 customers, into compliance will be more than \$100,000; future annual costs will be at least \$50,000. Much of these costs are not recoverable and thus will ultimately be borne by all of the City's ratepayers.

Currently, TNRCC staff require that applicants provide written service extension requests for each requested area to demonstrate a need for additional service. This policy has the effect of stymying long-term planning efforts. Municipal utility lines are designed and constructed to meet projected future needs, not just those immediate needs represented by recent service requests. Limiting the service boundaries to be included within a CCN strictly on account of existing service requests, without regard to the nature and location of projected development, severely undermines effective municipal utility planning by making it a reactive, rather than proactive, process. In addition, municipal ETJs, by definition, are areas designated for the purpose of actively promoting the health, safety and welfare of persons residing in and adjacent to municipalities. Tex. Loc. Gov. Code § 42.001. Finally, and perhaps most importantly, there is no law, regulation, or rule requiring that need for service be demonstrated in the manner currently required by your staff.

The City does not dispute that service extension requests may be used to show anticipated need for service; however, the City does dispute that service extension requests are the only way to demonstrate the need for service. Data concerning population and other demographic projections, wholesale service agreements, subdivision development, planned major arterials, etc., should be considered in conjunction with service extension requests in the "need for service" analysis.

By considering the merits of other legitimate need indicators—in addition to service extension requests—that are submitted by applicants, TNRCC staff will be able to fulfill their duty, while at the same time allowing municipalities to fulfill their long-term planning responsibilities.

Sifuentes, Drummond & Smith, L.L.P.

1002 West Avenue, Ste. 200
Austin, Texas 78701
Telephone (512) 469-9933
Facsimile (512) 469-9944

Jesús Sifuentes
Eric H. Drummond
Miguel A. Huerta
J. Kay Trostle
Mark W. Smith

April 11, 2002

LaDonna Casteñeula
Office of the Chief Clerk
Texas Natural Resource Conservation
Commission
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

CHIEF CLERK'S OFFICE
APR 11 2002
11 48 AM
1002 WEST AVENUE, SUITE 200
AUSTIN, TEXAS 78701
512-469-9933

Re: City of Austin's Sewer CCN Application (33563-C)

Dear Ms. Castañeula:

Onion Creek Wastewater Corporation files this its Notice of Change of Counsel to inform the Texas Natural Resource Conservation Commission and all parties in this proceeding that effective February 16, 2002, its attorneys are:

J. Kay Trostle
Mark W. Smith
Sifuentes, Drummond & Smith, L.L.P.
1002 West Ave., Suite 200
Austin, Texas 78701
(512) 469-9933
(512) 469-9944 Fax

The law firm of Sifuentes, Drummond & Smith, L.L.P. replaces the firm of:

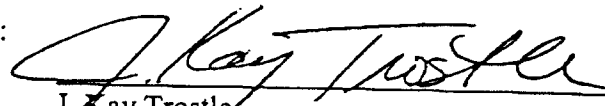
Casey, Gentz & Sifuentes, L.L.P.
919 Congress Avenue, Suite 1060
Austin, Texas 78701
(512) 480-9900
(512) 480-9200 - FAX

Please make this change to the service lists in this proceeding. A copy of this Notice is being served on all parties by facsimile today.

Respectfully Submitted,

SIFUENTES, DRUMMOND & SMITH, L.L.P.
1002 West Avenue, Suite 200
Austin, Texas 78701
(512) 469-9933
(512) 469-9944 - FAX

By:



J. Kay Trostle
State Bar No. 20238300

ATTORNEYS FOR ONION CREEK
WASTEWATER COPORATION

cc: Mr. Doug Holcomb, P.E.
Mr. Ronnie Jones
Mr. Kenneth Ramirez

Victoria → Mike

Sifuentes, Drummond & Smith, L.L.P.

701 Brazos, Ste. 500
Austin, Texas 78701
Telephone (512) 334-6825
Facsimile (512) 334-6826

Jesús Sifuentes
Eric H. Drummond
Miguel A. Huerta
J. Kay Trostle
Mark W. Smith

The information contained in this facsimile is privileged & confidential. It is intended only for the use of the individual or entity named below. If you have received this transmission in error, please notify us by telephone collect and return it to us at the above address. Thank you.

DATE: April 11, 2002

CLIENT #: LIC

TELECOPIER COVER SHEET

<u>Name & Company</u>	<u>Fax Number</u>	<u>Telephone Number</u>
Mr. Doug Holcomb	(512) 239-6972	(512) 239-6947
Mr. Ronnie Jones	(512) 499-2912	(512) 499-2568
Mr. Kenneth Ramirez	(512) 472-9123	(512) 494-3611

FROM: Kay Trostle

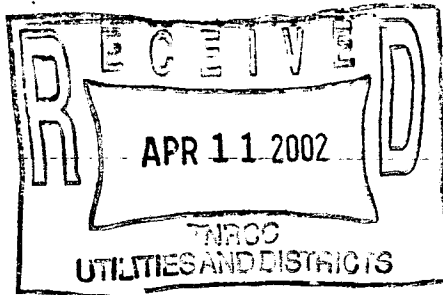
TOTAL PAGES INCLUDING COVER SHEET: 3

ORIGINAL WILL FOLLOW VIA U.S. MAIL ORIGINAL WILL NOT FOLLOW

Please contact April Wolsch at 512-469-9933 if complete FAX is not received.

Message:

Notice of Change of Counsel



RECEIVED

APR 11 2002

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION UTILITIES AND DISTRICTS

Barry R. McBee Partner

111 Congress Avenue, Suite 2300 Austin, Texas 78701-4043 Phone: 512.494.3610 Fax: 512.479.3910 bmcbee@bracepatt.com

April 11, 2002

Mr. Jeffrey Saitas Executive Director Texas Natural Resource Conservation Commission P. O. Box 13087, MC-109 Austin, Texas 78711-3087

Re: Application from City of Austin to Obtain a Water CCN in Hays, Travis, and Williamson Counties; Application No. 33562-C

Application from City of Austin to Obtain a Sewer CCN in Hays, Travis, and Williamson Counties; Application No. 33563-C

Dear Jeff:

Many thanks to you and your staff for meeting with us and representatives of the City of Austin on March 28 regarding the City's pending applications for Certificates of Convenience and Necessity ("CCNs"). As we discussed at our meeting, the City and Texas Natural Resource Conservation Commission ("TNRCC") staff apparently disagree on at least one key issue: how to analyze the need for utility service in the geographic region in which the City seeks its CCNs.

The purpose of today's letter is to begin a dialogue concerning how the agency's informal policy of insisting upon service extension requests to show a need for utility service conflicts with municipalities' legitimate need for effective, long-term, regional planning in their extra-territorial jurisdictions ("ETJs"). As we discussed previously, the City's proposed service areas are entirely within its ETJ and impact fee boundary, which is established by City ordinance.

Whether there is a legitimate need for service is a critical issue that must be analyzed under both Texas Water Code § 13.246(c) and 30 TAC § 291.102(d)(2). One purpose served by this requirement is to help ensure that the application is not a speculative "land grab." We respectfully suggest, however, that the agency staff's analysis of this issue need not conflict with a city's effective regional planning. Indeed, as discussed below, policy established by the Texas Legislature strongly suggests that the two concepts should coexist.

Vertical stamp: APR 11 2002 11 45 AM TNRCC UTILITIES AND DISTRICTS