



Control Number: 43585



Item Number: 22

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
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

43585 NOV 07 2002  
TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION  
UTILITIES AND DISTRICTS  
STATE OFFICE

BEFORE THE STATE OFFICE

OF  
ADMINISTRATIVE HEARINGS  
BEFORE THE STATE OFFICE

**ADMINISTRATIVE HEARINGS**  
**BEFORE THE STATE OFFICE**  
**OF**  
**ADMINISTRATIVE HEARINGS**

TO: Executive Director, Texas Commission on Environmental Quality by and through its designated representatives, John Deering and Geoffrey Kirshbaum, Office of Legal Services, PO Box 13087 (MC 173), Austin, Texas 78711-3087

Comes now the Lower Colorado River Authority ("LCRA"), by and through its undersigned attorney, and files this its Objections and Response to Executive Director's Request for Disclosure, Interrogatories & Production, as follows:

**REQUEST FOR DISCLOSURE**

**REQUEST FOR DISCLOSURE**

**REQUEST FOR DISCLOSURE**

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose the information or material described in Rule 194.2(c), (e), (f), (h), and (i).

Response: Please refer to LCRA's Response to the City of Austin's Request for Disclosure in this matter, together with any supplements thereto.

### INTERROGATORIES

**Interrogatory No. 1:** For each person LCRA expects to call as a fact witness at the evidentiary hearing in this matter, please provide: (a) the person's name and business address and telephone number; and (b) a brief description of the testimony LCRA expects that person to provide.

Response: See LCRA's Response to City of Austin's Interrogatories, Requests for Admissions and Production in the above-referenced matter.

**Interrogatory No. 2:** For each expert not listed in the response to the Request for Disclosure whom LCRA has consulted and whose mental impressions and opinions have been reviewed by an expert LCRA expects to testify in this matter, please provide: (a) the consulting expert's name and business address and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.

Response: Dan Ryan, Murfee Engineering, 1101 Capital of Texas Highway South, Building D, Suite 110, Austin, TX, 512 327-9204. A copy of Mr. Ryan's resume is attached hereto. Mr. Ryan has not yet formed any opinions in connection with the pending matter. Both Mr. Ryan and Mr. Malish, under whose supervision Mr. Ryan is working, will be performing a study and forming impressions which will be disclosed as soon as information is available.

**Interrogatory No. 3:** Describe in detail all areas in Hays, Travis and Williamson Counties for which LCRA currently provides either retail water or retail wastewater service.

Response: LCRA objects that the Interrogatory is unduly burdensome insofar as it requests that LCRA describe such areas "in detail." Subject to the objection, LCRA will provide a copy of the most recently Quarterly Report of its water and wastewater utilities division detailing the areas it serves in Hays, Travis and Williamson Counties.

**Interrogatory No. 4:** Describe in detail all areas in Hays, Travis and Williamson Counties for which LCRA intends or has plans to provide either retail water or retail wastewater service.

Response: LCRA objects that the request is overly broad and unduly burdensome. To describe in detail all areas in Hays, Travis and Williamson Counties for which LCRA intends or has plans to provide either retail water or retail wastewater service would

require the development of much detailed information which is unnecessarily burdensome given the likelihood producing any relevant information in the context of discovery. LCRA further objects that disclosure of such plans and intentions in regard to areas other than those systems which may be capable of providing retail service in the portion of Austin's requested water and wastewater service area to which LCRA objects would be not only unduly burdensome but would not be likely to lead to admissible and relevant evidence in this cause. Subject to these objections, LCRA is willing to provide basic information on its plans to provide retail water and wastewater service in connection with its West Travis County Water System and with respect to its intentions to provide service in the vicinity of the Creedmoor-Maha Water Supply Corporation water service area. In that regard, LCRA responds as follows.

LCRA owns and operates a retail water system providing service in Travis County in the vicinity of the City of Bee Caves, Texas. LCRA has been expanding that system and intends to provide retail water service from it not only in areas of Travis County south and west of the City of Bee Caves, but LCRA's Board of Directors has also authorized the LCRA to provide retail water services in northern Hays County in an area extending approximately three miles north and south on either side of U.S. Highway 290 between the City of Dripping Springs and the service area of the Hill Country Water Supply Corporation. LCRA's Board of Directors has authorized the negotiation and execution of agreements with various developers in Hays County in the vicinity of Nutty Brown Road. These agreements would result in LCRA's providing retail wastewater service to a number of developments in this area. LCRA also has a pending CCN application filed for tracts in the vicinity of Nutty Brown Road in northern Hays County. LCRA's Board of Directors also has authorized the acquisition of the retail water service area of Hill Country Water Supply Corporation whereupon LCRA would provide retail water service to that area. LCRA's Board of Directors also has authorized negotiations with the Creedmoor-Maha Water Supply Corporation for acquisition of an approximately 13,000 acre portion of Creedmoor-Maha's water service area and negotiations with Creedmoor-Maha, the Guadalupe-Blanco River Authority and other entities to provide wastewater services in that same area.

**Interrogatory No. 5:** Identify any and all contracts, joint ventures, management agreements or operating agreements that LCRA has entered into with any and all retail public utility providing either water or wastewater service.

**Response:** LCRA objects that the Interrogatory is overly broad and unduly burdensome. LCRA has hundreds, if not thousands, of contracts and similar agreements with retail public utilities which provide water or wastewater service in the watershed of the Colorado River extending from the intersection of Coleman, Brown and McCulloch counties to the coast. Many of these do not relate at all to the pending case before the TCEQ, nor would they lead to any relevant evidence. LCRA will discuss narrowing the scope of the inquiry with the Executive Director.

**Interrogatory No. 6:** Please describe in detail LCRA's position regarding the adequacy of service currently provided to the area requested by City of Austin.

Response: LCRA takes no position regarding the adequacy of service currently provided by the City of Austin to most of the area it is requesting. The only objection that LCRA has to the City of Austin's proposed retail water and retail wastewater CCN service area is to the extent that area overlaps (i) the existing CCN area of Creedmoor-Maha Water Supply Corporation and (ii) the additional tracts that Creedmoor-Maha Water Supply Corporation is attempting to add to its CCN area in SOAH Docket No. 582-00-0546. These areas are shown on the map attached as **Exhibit A** to this Response. Austin is not providing any water or sewer service to these areas to the best of LCRA's knowledge.

Interrogatory No. 7: Please describe in detail LCRA's position regarding the need for additional service to the area requested by City of Austin.

Response: LCRA has no position regarding the need for additional service to the area requested by the City of Austin other than the portion of that area shown on **Exhibit A**.

As to the need for additional water service to the area shown on **Exhibit A**, LCRA would respond that that issue is being addressed by the Commission in SOAH Docket No. 582-00-0546, where Creedmoor-Maha Water Supply Corporation has applied to obtain a CCN over the water areas shown on **Exhibit A**.

As to the sewer service area shown in **Exhibit A**, LCRA would respond that it believes that granting either Austin, LCRA or anyone a CCN for providing retail sewer service to that area is premature at this time. The area is totally undeveloped from a sewer service standpoint other than for septic tanks. As needs develop, because both Austin and LCRA are governmental entities, either could provide sewer service to the area without obtaining a CCN. LCRA's position at this time is that the TCEQ should not grant a sewer CCN for any of the area described on **Exhibit A** because the need for service and the question of who will ultimately provide service is too premature at this time in order to base a decision granting a monopoly on service rights.

Interrogatory No. 8: Please describe in detail LCRA's position regarding the effect of the City of Austin's CCN amendment on any retail public utility of the same kind already serving the proximate area to that requested by City of Austin.

Response: LCRA's position is that Austin should not be granted a water CCN or sewer CCN on any part of the requested area shown in **Exhibit A**. Obviously, granting Austin a water CCN for the area shown in **Exhibit A** would conflict with the right of Creedmoor-Maha Water Supply Corporation (and LCRA after purchase of that portion of Creedmoor-Maha Water Supply Corporation's water service area) to serve that area.

Likewise, granting Austin a sewer CCN on the sewer portion of the area shown on **Exhibit A** is premature and would preclude other utilities such as LCRA the opportunity to explore with landowners in the area the need for sewer service to the area and the provision of service to that area. Granting a monopoly on sewer service rights to the area is premature. Either Austin or LCRA, as governmental entities, could provide service

without a CCN and they should both be left to explore with landowners the opportunities for either to provide sewer service.

**Interrogatory No. 9:** Please describe in detail LCRA's position regarding the ability of the applicant to provide adequate service to the area requested by City of Austin.

**Response:** See Response to Interrogatory No. 6 above. Insofar as the water tracts shown on **Exhibit A** are concerned, LCRA believes that Creedmoor-Maha Water Supply Corporation is currently better able to serve those areas and will prevail in SOAH Docket No. 582-00-0546 to obtain the Certificate of Convenience and Necessity ("CCN") for those areas. LCRA intends to purchase from Creedmoor-Maha Water Supply Corporation a portion of its service area rights, including these areas. LCRA believes that upon purchase of this area from Creedmoor-Maha Water Supply Corporation, LCRA will be in a better position to serve those tracts than the City of Austin because LCRA will be acquiring the necessary facilities from Creedmoor-Maha Water Supply Corporation, together with an interim water supply contract from Creedmoor-Maha Water Supply Corporation to enable LCRA to continue to serve the purchased areas.

In regard to the sewer service portion of the area shown on **Exhibit A**, LCRA believes that it is in as good or possibly a better position than the City of Austin to provide sewer service to this area. In part, this is due to the fact that the area shown on **Exhibit A** will be served with retail water service by either the Creedmoor-Maha Water Supply Corporation or LCRA. Customer service issues are complicated when the sewer service provider for an area is different from the water service provider for the area. However, LCRA has not yet fully reviewed all of the evidence available from the City of Austin in discovery in this case in order to finalize its position on Austin's ability to serve. LCRA would point out that it has been engaged in discussions with the Guadalupe-Blanco River Authority ("GBRA") to obtain service from a wastewater treatment plant proposed to be constructed by GBRA in northern Hays County. This GBRA facility could be expanded and could serve the portion of the potential sewer service area shown in **Exhibit A**.

**Interrogatory No. 10:** Please describe in detail LCRA's position regarding the feasibility of obtaining service from an adjacent retail public utility.

**Response:** See Response to Interrogatories Nos. 6, 7, 8 and 9 above.

**Interrogatory No. 11:** Please describe in detail LCRA's position regarding the environmental integrity of the area requested by City of Austin.

**Response:** LCRA does not yet have any position regarding the environmental integrity of providing water or wastewater service to the area requested by the City of Austin. When LCRA does form a position, it will relate only to the portion of that area described in **Exhibit A** attached hereto.

**Interrogatory No. 12:** Please describe in detail LCRA's position regarding the probably improvement in service or lowering of cost to consumers in the area requested by City of Austin.

**Response:** LCRA has no position regarding the improvement in service or lowering of costs to consumers in regard to the area requested by the City of Austin, other than that portion of the area described in **Exhibit A** hereto. In regard to the area described in **Exhibit A**, LCRA has not yet done a formal study, but it believes that Creedmoor-Maha Water Supply Corporation can provide water service to the area shown on **Exhibit A** at a lower cost than can the City of Austin.

In regard to providing sewer service to the portion of the area shown on **Exhibit A**, LCRA has not yet formulated an opinion regarding whether service from Austin, LCRA or some third party would be cheaper and better.

**Interrogatory No. 13:** Please describe in detail whether LCRA believes that it can provide water or wastewater service to any portion of the area requested by City of Austin in this application either faster or cheaper than any other retail public utility.

**Response:** See Response to Interrogatories Nos. 6-12 above.

**Interrogatory No. 14:** Please describe in detail the ability of LCRA to provide adequate water or wastewater service to any portion of the area requested by City of Austin in this application.

**Response:** LCRA is planning to provide retail water and wastewater service only to the portion of the area requested by the City of Austin as shown in **Exhibit A** attached hereto.

In regard to providing retail water service to the portion of the area described in **Exhibit A**, LCRA's plans are to acquire from Creedmoor-Maha Water Supply Corporation approximately 13,000 acres out of Creedmoor-Maha Water Supply Corporation's existing CCN service area, plus the tract being added by Creedmoor-Maha Water Supply Corporation in SOAH Docket No. 582-00-0546. This area is shown on **Exhibit A** as the area to be acquired by LCRA. LCRA plans to provide retail water service to this 13,000 acres by obtaining an interim wholesale service agreement from Creedmoor-Maha Water Supply Corporation, which will allow LCRA to continue to provide continuous and adequate service to the entire 13,000 acres until such time as LCRA can acquire its own water source. LCRA will develop or acquire additional water sources, in cooperation with Creedmoor-Maha Water Supply Corporation, either on a wholesale basis from the City of Austin, by drilling additional wells into the Edwards Aquifer, or by constructing a pipeline or extensions of pipelines to LCRA facilities either from its West Travis County Water System or pursuant to a new water line to be constructed from the Colorado River on the east side of Austin to the Creedmoor-Maha Water Supply Corporation service area and the 13,000 acres being acquired by LCRA. In any of these events, Creedmoor-Maha Water Supply Corporation and LCRA, after it acquires the 13,000 acres from Creedmoor-

Maha Water Supply Corporation, will be able to provide continuous and adequate service to the area beginning immediately.

In regard to providing sewer service to the area, LCRA would show that GBRA is in the process of obtaining a permit for a 0.999 MGD wastewater treatment facility located on the Heep Ranch property, which is just south of the area shown on **Exhibit A** hereto. LCRA has been involved in discussions with GBRA about obtaining service from this plant, which is the first phase of a regional facility planned by GBRA. LCRA will continue to cooperate with GBRA to obtain service from this regional plant for the wastewater service area shown on **Exhibit A** hereto. LCRA has not done any detailed studies to determine what the cost of wastewater service might be or when such service could be provided, although LCRA believes it would probably be able to provide service as quickly and as cheaply as the City of Austin.

**Interrogatory No. 15:** Please describe in detail the time it would take LCRA to provide water or sewer service to any person requesting service in any portion of the area requested by City of Austin in this application.

**Response:** See Response to Interrogatory No. 14 above.

**Interrogatory No. 16:** Please describe in detail, using easily discernible landmarks such as roads, that area for which the City of Austin has requested an amendment to its Certificate of Convenience and Necessity that LCRA opposes.

**Response:** See Responses to Interrogatories 6-15 above and **Exhibit A**.

### REQUESTS FOR PRODUCTION

**Request for Production No. 1:** Please produce any and all documents identifying the relationships identified in Interrogatory No. 5.

**Response:** LCRA objects on the same basis as it did to Interrogatory No. 5 above. LCRA further objects on the basis of the attorney-client and attorney work product privilege.

**Request for Production No. 2:** Please produce any and all documents identifying the areas identified in Interrogatory No. 16.

**Response:** LCRA objects that the Request is overly broad and unduly burdensome. LCRA will provide the Executive Director with copies of the most recent quarterly report for its water and wastewater utility system and copies of agenda items relating to its proposed purchase of a portion of the Creedmoor-Maha Water Supply Corporation service area, together with maps attached thereto. LCRA further objects on the basis of the attorney-client and attorney work product privilege.



**Request for Production No. 3:** Please produce copies of any and all documents identified in your responses to Interrogatories Nos. one (1) through sixteen (16) listed above or used to assist you in responding to Interrogatories one (1) through sixteen (16).

**Response:** LCRA objects that the Request, insofar as it asks for copies of documents used "to assist" LCRA in responding to Interrogatories Nos. 1-16 is vague and ambiguous. If the Executive Director means documents which the preparers of the Responses physically used during the time they were responding to the Interrogatories, then LCRA has no objection and will make the documents, if any, available. LCRA further objects on the basis of the attorney-client and attorney work product privilege.

Respectfully Submitted,

LOWER COLORADO RIVER AUTHORITY

By: Ronald J. Freeman

Ronald J. Freeman  
Freeman & Corbett, L.L.P.  
2304 Hancock, Suite 6  
Austin, Texas 78756  
Ph: (512) 451-6689  
Fax: (512) 453-0865  
State Bar No. 07430500

Madison Jechow  
Associate General Counsel  
Lower Colorado River Authority  
P.O. Box 220 - H424  
Austin, Texas 78767-0220  
Ph: (512) 473-4067  
Fax: (512) 473-4010  
State Bar No. 007843333

CERTIFICATE OF SERVICE  
Mailing List  
SOAH DOCKET NO. 582-02-3056  
TNRCC DOCKET NO. 2002-0189-UCR

I hereby certify that a true and correct copy of the above and foregoing instrument was served via fax and U.S. Mail on this the 6<sup>th</sup> day of November, 2002, to the following:

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

Representing the City of Austin

Chris Lippe, P.E., Director  
Bart Jennings  
City of Austin  
Assistant City Attorney  
P.O. Box 1546  
Austin, Texas 78767-1546

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

Representing Aquasource, Inc.,  
Aquasource Development Company, and  
Creedmoor-Maha Water Supply  
Corporation

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

Representing Hornsby Bend

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

John Deering, Staff Attorney  
Office of Legal Services (MC 173)

Geoffrey P. Kirshbaum, Staff Attorney  
Office of Legal Services (MC 173)  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

Mike Howell, Staff Engineer  
Utility Rates and Services (MC 153)


Isaac Jackson, Intergovernmental Relations  
(MC 119)

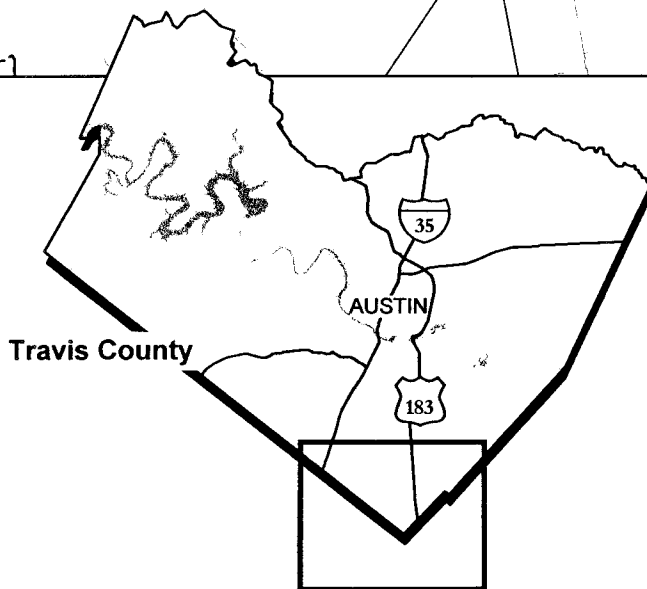
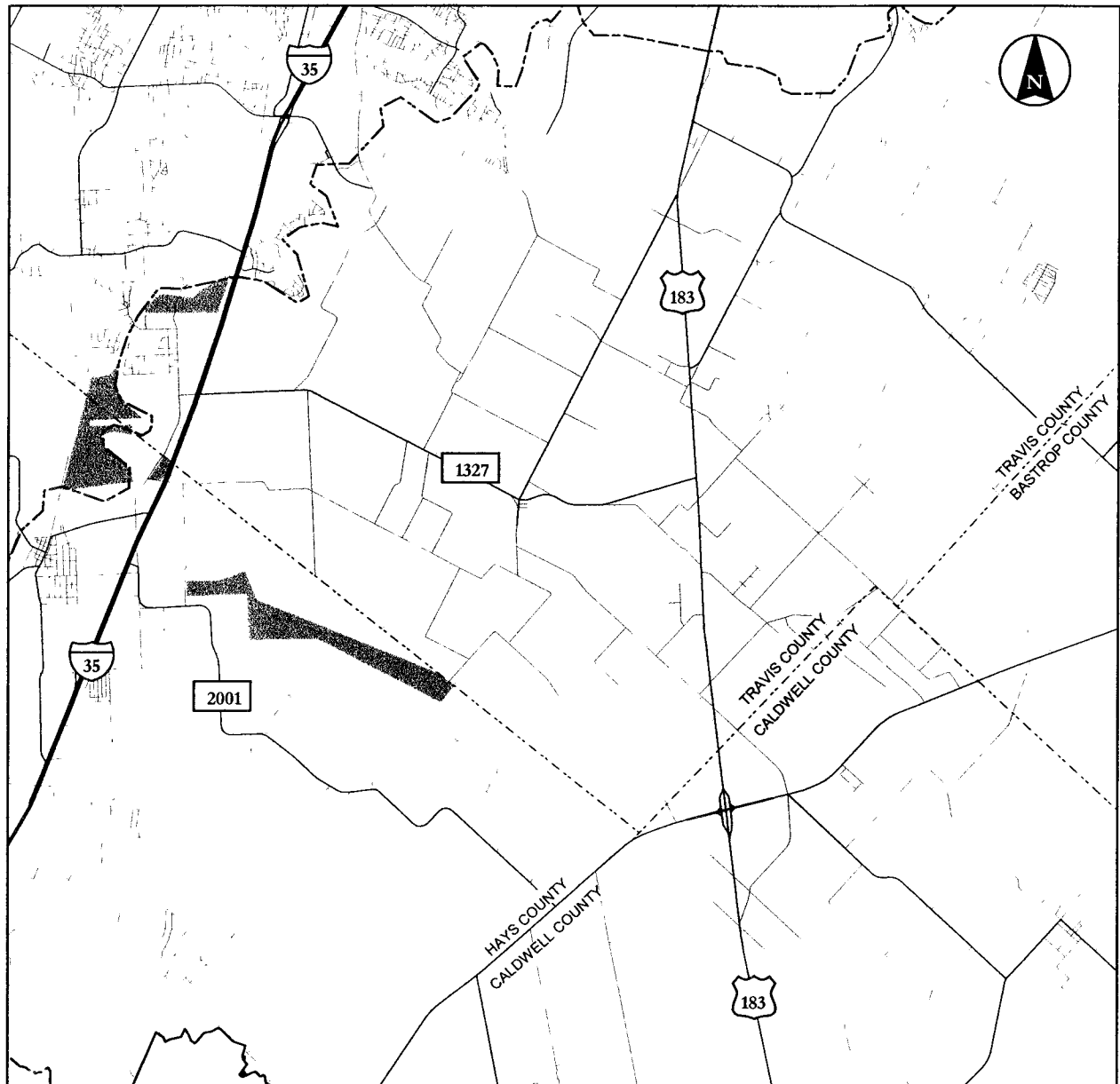
Blas Coy  
Office of Public Interest Counsel (MC 103)

Andy Saenz, Agency Communications  
Media Relations (MC 118)

Casey Vise, Office of Public Assistance  
(MC 108)

Texas Commission on Environmental  
Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

  
\_\_\_\_\_  
Ronald J. Freeman



Area of Detail

# Exhibit A General Location Map

## Creedmoor-Maha Water Supply Corporation

Proposed Expansion  
Creedmoor-Maha WSC  
Service Area CCN#11029

Creedmoor-Maha WSC  
Service Area CCN#11029

## **DANIEL RYAN, P.E.**

### **EDUCATION:**

Bachelor of Science, Civil Engineering (1995)  
University of Texas at Austin

### **REGISTRATIONS:**

Licensed Professional Engineer (Texas No. 89458)

### **PROFESSIONAL AFFILIATIONS:**

American Water Works Association

Water Environment Federation

### **WORK EXPERIENCE:**

- Responsible for preparation of detailed plans and specifications for 2 mgd reverse osmosis treatment unit and well for Windermere Utility Company (Pflugerville, TX).
- Responsible for design of 10 mgd pump station and ground storage tank for Metro H2O water system, including preparation of detailed plans and specifications (Manor, TX).
- Assisted in preparation of plans and specifications for the expansion of the Travis County MUD No. 4 water treatment plant to 4.0 mgd.
- Assisted in preparation of detailed plans and specifications for the Travis County MUD No. 4 Raw Water Intake rehabilitation and expansion to 12 MGD.
- Managed design of the wastewater collection system (approx. 100,000 lf pipe) for the retrofit of sewage for the City of Rollingwood (pop ~1,500). Coordinated of project team including several engineering firms to deliver design documents for lift stations and collection system. Prepared design reports and detailed plans and specifications for six wastewater lift stations in conjunction with project.
- Developed and calibrated computer model for Windermere Utility Company water system (4,000 customers), including 3 pump stations, 2 standpipes, and multiple wells pumping directly into the system.
- Assisted in preparation of detailed plans and specifications for six wastewater treatment plants ranging in size from 15,000 gpd (Hudson Bend Middle School) to 3 mgd (Windermere Utility Company). These plants have included biological and

chemical phosphorus removal, biological denitrification, and other challenging permit parameters.

- Assisted in preparation of plans and specifications for the construction of a 16" water line and 750,000 gallon elevated storage tank for the LCRA.
- Assisted in preparation of plans and specifications for the construction of 5,000 ft of 16" water line for the LCRA.
- Developed water and wastewater models and prepared water and wastewater master plans for numerous residential and mixed use developments.
- Extensive experience with numerous computer modeling and design software packages, including: AutoCAD, TR-20, HEC-2, HEC-RAS, HEC-HMS, Cybernet/WaterCad, KY Pipe, Flowmaster, and Hydra.
- Performed computer modeling for various wastewater collection systems, including model design, layout, and calibration. Wrote engineering reports recommending system improvements and prepared detailed cost estimates and cost/benefit analysis for rehabilitation of collection systems. Involved in development of new data collection techniques and in training field personnel.

#### **ENGINEERING WORK HISTORY:**

1995 – 1997	Engineer in Training ADS Environmental Services, Inc. Dallas, Texas
1997 – Present	Project Engineer / Engineer Associate Murfee Engineering Company, Inc. Austin, Texas