



Control Number: 43585



Item Number: 35

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

2014 OCT 29 PM 3:59

LAW OFFICES OF MARK H. ZEPPA, P.C.

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FACSIMILE TRANSMITTAL SHEET

DATE: May 29, 2003

TO:	Kenneth Ramirez	@ (512) 472-9123
	Monica Jacobs	@ (512) 472-9123
	John Deering	@ (512) 239-0606
	Geoffrey Kirshbaum	@ (512) 239-0606
	Scott Humphrey	@ (512) 239-6377
	John Carlton	@ (512) 435-2360
	TCEQ Docket Clerk	@ (512) 239-3311
	Judge Kerry Sullivan	@ (512) 475-4994

PAGES: 11 HARD COPY FOLLOWS: X yes no

**Re: Application of the City of Austin for Water and Wastewater CCN's;
Application of Hornsby Bend Utility Company to Amend CCN No.
20650; Application of Hornsby Bend Utility Company to Amend CCN
No. 11978; SOAH Docket No. 582-02-3056; Notice of Withdrawal of
Protest to Sewer Certification Application by Creedmoor-Maha
Water Supply Corporation and the City of Mustang Ridge**

SENDER: Mark Zeppa

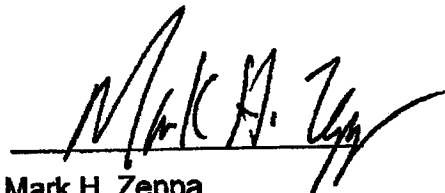
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withdraw their respective protests to Austin's sewer CCN application. Creedmoor and Mustang Ridge continue to oppose Austin's water CCN application.

Creedmoor and Mustang Ridge's withdrawal of their protest is conditioned upon the issuance of any sewer CCN by the TCEQ excluding the territory indicated in Exhibit 1. Creedmoor and Mustang Ridge reserve the right to re-assert their protests should any proposal for decision or proposed order of the agency include this service area.

Respectfully submitted,

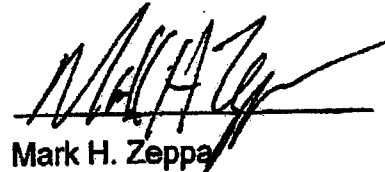


Mark H. Zeppa
State Bar No. 22260100
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ATTORNEY FOR CREEDMOOR-MAHA WSC,
AND THE CITY OF MUSTANG RIDGE

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, attorney for Creedmoor-Maha WSC and the City of Mustang Ridge in the above-referenced dockets, certify that true and correct copies of the foregoing pleading have been served on the following persons by hand delivery, fax and/or 1st class USPS mail on the 29th day of May 2003:


Mark H. Zeppa

Mailing List

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

Kenneth Ramirez
Monica Jacobs
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Representing: The City of Austin

John Deering, Staff Attorney
Geoffrey Kirshbaum, Staff Attorney
Legal Services Division - MC 173
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Representing: The Executive Director of
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Counsel

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Ambrust, Brown, & Davis, L.L.P.
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Ph: (512) 435-2300
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Representing: Hornsby Bend Utility
Company, Inc.

Docket Clerk
Office of Chief Clerk
Texas Natural Resource
Conservation Commission
P.O. Box 13087, MC 105
Austin, Texas 78711-3087
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Judge Kerry Sullivan
State Office of Administrative Hearings
P O Box 13025
Austin, Texas 78711-3025
Fax (512) 475-4994



111 Congress Avenue, Suite 2300
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Fax: 512.472.9123

-- May 28, 2003

Mr. Geoffrey Kirshbaum
Texas Commission on Environmental Quality
Office of Legal Services - MC 173
P.O. Box 13087
Austin, Texas 78711-3087

Re: SOAH Docket No. 582-02-3056; 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; 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

SOAH Docket No. 582-02-3056; Application of Hornsby Bend Utility Company to Amend Certificate of Convenience and Necessity No. 20650

Dear Geoff:

The purpose of today's letter is to request that the area identified in Exhibit A be removed from the area requested in the City of Austin's ("City") above-referenced sewer CCN application. The City is requesting this change as part of a settlement we have reached with Creedmoor-Maha Water Supply Corporation ("Creedmoor") and the City of Mustang Ridge ("Mustang Ridge"). As you can see in the attached letter agreement among the three parties, after the filing of this request for the removal of this area from the City's sewer CCN application, Creedmoor and Mustang Ridge will submit withdrawals of their protests to the City's sewer (but not water) application with the State Office of Administrative Hearings.

Exhibit 1



Geoffrey Kirshbaum

May 28, 2003

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Please contact me at 494-3620 if you have any questions.

Very truly yours,

Bracewell & Patterson, L.L.P.

A handwritten signature in cursive script, appearing to read 'Monica Jacobs'.

Monica Jacobs

MMJ/jcb

Enclosure

cc: Mark H. Zeppa, P.C.
Marty Terry, Assistant City Attorney
Bart Jennings, Water and Wastewater Utility

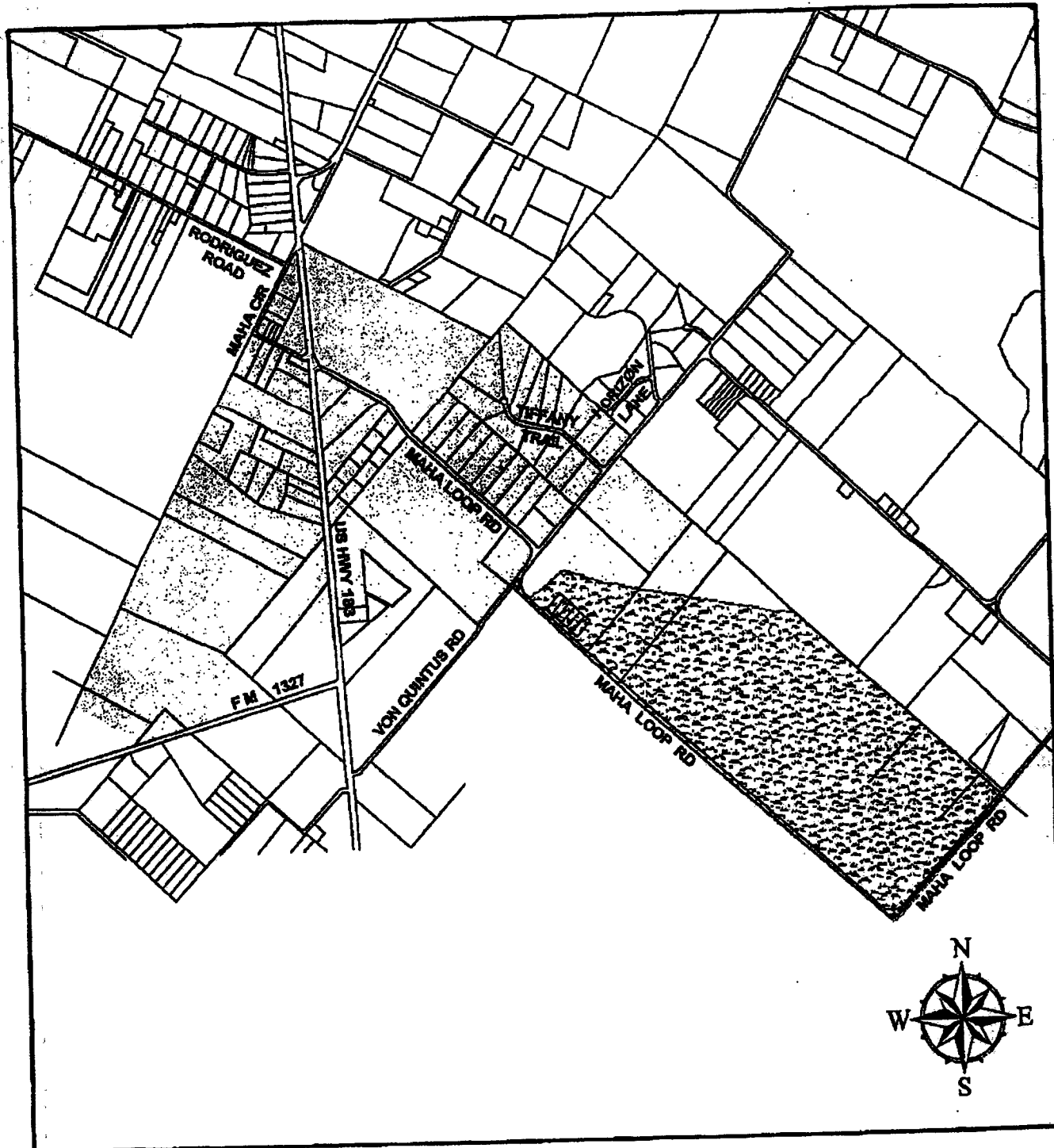


Exhibit A

Area to be Removed from Austin's Wastewater CCN



Area not included in Austin's Wastewater CCN

9-13-0003

This map has been produced by the City of Austin for its needs and purposes and is not warranted for any other use. No warranty is made by the City regarding its accuracy or completeness.



Kenneth Ramirez
Partner

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kramirez@bracepatt.com

-- May 21, 2003

CONFIDENTIAL
COMPROMISE NEGOTIATIONS

Mark H. Zeppa, P.C.
Law Offices of Mark H. Zeppa, P.C.
4833 Spicewood Springs Road, Suite 202
Austin, TX 78759-8436

Re: Withdrawal of Creedmoor-Maha Water Supply Corporation and the City of Mustang Ridge as Parties to the Contested Case Hearing Regarding the Application of the City of Austin for a Sewer Certificate of Convenience and Necessity

SOAH Docket No. 582-02-3056; 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; 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

SOAH Docket No. 582-02-3056; Application of Hornsby Bend Utility Company to Amend Certificate of Convenience and Necessity No. 20650

Dear Mr. Zeppa:

On August 31, 2001, you submitted a letter of protest to the Texas Commission on Environmental Quality ("TCEQ"), on behalf of Creedmoor-Maha Water Supply Corporation ("Creedmoor") requesting a public hearing regarding the above-referenced City of Austin ("City") applications for water and sewer Certificates of Convenience and Necessity ("CCN"). Similarly, on June 20, 2002, you submitted a letter of protest on behalf of the City of Mustang Ridge ("Mustang Ridge") regarding the above-referenced hearing. As you know, both Mustang Ridge and Creedmoor are now parties to this hearing, and their interests are aligned for purposes of this proceeding.



Mark Zeppa
May 21, 2003
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Pursuant to our client's recent discussions with the General Manager of Creedmoor and the Mayor Pro Tem of Mustang Ridge, Creedmoor, Mustang Ridge, and the City have agreed as follows:

- (1) The City will file a request with TCEQ to remove the area identified in Exhibit A from the City's wastewater CCN application within three (3) days of the execution date of this letter agreement.
- (2) In consideration for the above action, Creedmoor and Mustang Ridge will file a Withdrawal of Protest and Motion to be Dismissed as Parties with respect to the City's application for a sewer CCN only to the State Office of Administrative Hearings within three (3) days of the receipt of a copy of the above filing.

If you agree with the terms and conditions in this letter, please memorialize your agreement by signing in the space below. Please see a draft of the City's letter to the TCEQ attached to this letter. Please sign both copies of this letter and return them to me at the address on this letterhead. I will then send you an executed original for your files.

On behalf of the City, I thank you and your clients for your cooperation in this matter.

Very truly yours,

Bracewell & Patterson, L.L.P.

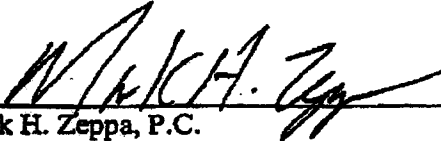
A handwritten signature in black ink, appearing to read 'Kenneth Ramirez', written over a horizontal line.

Kenneth Ramirez

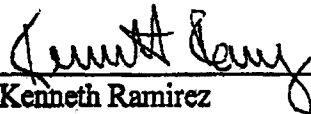


Mark Zeppa
May 21, 2003
Page 3

Agreed to:


Mark H. Zeppa, P.C.
for Creedmoor-Maha Water Supply
Corporation and the City of Mustang Ridge

Dated: 5-27-03


Kenneth Ramirez
for the City of Austin

Dated: 5-21-03

cc: Chris Lippe, P.E., Director, Water and Wastewater Utility
Bart Jennings, Water and Wastewater Utility