

SOAH DOCKET NO. 582-06-2023  
TCEQ DOCKET NO. 2006-0272-UCR

**APPLICATION OF THE TOWN OF LINDSAY TO AMEND A WATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13025 IN COOKE COUNTY; APPLICATION NO. 35096-C; and APPLICATION TO AMEND A SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 20927 IN COOKE COUNTY, TEXAS; APPLCIATION NO. 35097-C**

**BEFORE THE STATE OFFICE**

OF

## ADMINISTRATIVE HEARINGS

**THE EXECUTIVE DIRECTOR'S FIRST REQUESTS FOR DISCLOSURE,  
INTERROGATORIES, AND REQUESTS FOR PRODUCTION TO LINDSAY PURE  
WATER COMPANY**

**TO: LINDSAY PURE WATER COMPANY**

c/o John J. Carleton

**Attorney at Law**

**Amarust & Brown, LLP**

**100 Congress Avenue, Suite 1300**

**Austin, Texas 78701-2744**

**Tel: (512) 435-2308**

**Fax: (512) 435-2360**

238 FEB 21 PM 3: 52  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Pursuant to §2001 et seq. of the Administrative Procedure Act ("APA"); GOVERNMENT CODE (Vernon), Rules 190-197 of the Texas Rules of Civil Procedure and 30 Texas Administrative Code ("TAC") § 80.151, and TAC Title 1, Part VII, Section 155.23, you are required to answer in complete detail and in writing each of the following requests for disclosure, interrogatories, and requests for production. You are required to sign your answers to the questions or requests, to swear to the truth of your responses before a Notary Public or other judicial officer, and to deliver a complete, signed, and notarized copy of your answers to Brian MacLeod, Staff Attorney, Environmental Law Division, MC 173, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087 in accordance with the Administrative Law Judge's directive and the Rules of the Texas Commission on Environmental Quality.

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 21, 2008

**TO: THE TOWN OF LINDSAY**

c/o Arturo D. Rodriguez, Jr.  
Russell & Rodriguez, L.L.P.  
102 West Morrow Street, Suite 103  
Georgetown, Texas 78626  
TEL.: (512) 930-1317  
FAX: (512) 930-7742

Re: The Executive Director's First Requests For Disclosure, Interrogatories, And Requests For Production To The Town Of Lindsay; TCEQ Docket No. 2006-0272-UCR; SOAH Docket No. 582-06-2023

Dear Mr. Rodriguez:

Enclosed please find the Executive Director's First Requests For Disclosure, Interrogatories, And Requests For Production To The Town Of Lindsay.

The exact posture of the discovery in this case, is confusing. Discovery had already been sent out and responded to before the abatement (for example, the ED was served with requests for disclosure even though such requests were sent earlier and responded to).

It appears that we are starting over from scratch because the ED was served with the same discovery a second time. Therefore, I am reissuing the discovery I sent earlier. It would appear redundant to reply a second time to discovery to which the parties have already responded.

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COMMISSION  
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QUALITY  
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CHIEF CLERKS OFFICE

If you want to discuss how to handle discovery, please feel free to call so that we can handle everything as smoothly as possible. If you have any questions or comments, please call me at (512) 239-0750.

Sincerely,

A handwritten signature in black ink, appearing to read 'B MacLeod', with a stylized flourish at the end.

Brian MacLeod  
Staff Attorney  
Environmental Law Division

cc: Mailing List

Enclosures

SOAH DOCKET NO. 582-06-2023  
TCEQ DOCKET NO. 2006-0272-UCR

APPLICATION OF THE TOWN OF  
LINDSAY TO AMEND A WATER  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY (CCN) NO. 13025 IN COOKE  
COUNTY; APPLICATION NO. 35096-C;  
and APPLICATION TO AMEND A  
SEWER CERTIFICATE OF  
CONVENIENCE AND NECESSITY (CCN)  
NO. 20927 IN COOKE COUNTY, TEXAS;  
APPLCIATION NO. 35097-C

BEFORE THE STATE OFFICE

OF

## ADMINISTRATIVE HEARINGS

**THE EXECUTIVE DIRECTOR'S FIRST REQUESTS FOR DISCLOSURE,  
INTERROGATORIES, AND REQUESTS FOR PRODUCTION TO THE TOWN OF  
LINDSAY**

**TO: THE TOWN OF LINDSAY**  
c/o Arturo D. Rodriguez, Jr.  
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Pursuant to §2001 et seq. of the Administrative Procedure Act ("APA"), GOVERNMENT CODE (Vernon), Rules 190-197 of the Texas Rules of Civil Procedure and 30 Texas Administrative Code ("TAC") § 80.151, and TAC Title 1, Part VII, Section 155.23, you are required to answer in complete detail and in writing each of the following requests for disclosure, interrogatories, and requests for production. You are required to sign your answers to the questions or requests, to swear to the truth of your responses before a Notary Public or other judicial officer, and to deliver a complete, signed, and notarized copy of your answers to Brian MacLeod, Staff Attorney, Environmental Law Division, MC 173, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087 in accordance with the Administrative Law Judge's directive and the Rules of the Texas Commission on Environmental Quality.

## I. DEFINITIONS

As used herein, the terms "you," "your," or "yourself," refer to **THE TOWN OF LINDSAY**, the party to whom these requests are addressed, as well as to each of its parents, predecessors, subsidiaries and affiliates, each of its present and former officers, employees, agents, representatives and attorneys acting on its behalf.

### REPRESENTATIVE

As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on your behalf.

### PERSON

As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, municipality, or department.

### DOCUMENT

As used herein, the term "document" means any medium upon which information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, facsimile transmission, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer tape or disk, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody, or control. The term "document" further means a copy of any document, as referred to above, if such copy contains notes, writings or is in any way different from or an alteration of the original document.

### COMMUNICATION

As used herein, the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

## IDENTIFICATION

As used herein, the terms "identification," "identify," or "identity," when used in reference to: (a) a natural individual - require you to state his or her full name and business address; (b) a corporation - require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices; (c) a business - require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those business, and the identity of the person or persons who own, operate, and control the business; (d) a document - require you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication - require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

## II. INSTRUCTIONS

### IDENTIFICATION OF DOCUMENTS

With respect to each request, in addition to supplying the information requested, you are to identify all documents that support, refer to or evidence the subject matter of each request and your answer thereto.

If any or all documents identified herein are no longer in your possession, custody or control because of destruction, loss or any other reason, then do the following with respect to each and every such document: (a) describe the nature of the document (e.g., letter or memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

If you contend that any material or information responsive to any of the interrogatories is privileged, state in response that: (a) the information or material responsive to the interrogatories has been withheld; (b) the interrogatory to which the information or material relates; and (c) the privilege or privileges asserted.

### CONTENTION REQUESTS

When a request requires you to "state the basis of" a particular claim, contention, or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to, or evidences such claim, contention, or allegation.

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS  
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CONTINUING REQUESTS

These requests are to be considered continuing in nature and you are under a duty to timely supplement any response given to such request(s) as required by Rule 193.5 of the Texas Rules of Civil Procedure.

III. 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(b),(c),(e),(f),(h) and (i) within twenty (30) days of the date of service of this request, as follows:

- (b) the name, address and telephone number of any potential parties;
- (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses;
- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (f) for any testifying expert:
  - (1) the expert's name, address, and telephone number;
  - (2) the subject matter on which the expert will testify;
  - (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
  - (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
    - (A) all documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
    - (B) the expert's current resume and bibliography;
- (h) any discoverable settlement agreements; and
- (i) any discoverable witness statements.

#### **IV. INTERROGATORIES**

**Interrogatory No. 1:** For each person THE TOWN OF LINDSAY 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 THE TOWN OF LINDSAY expects that person to provide.

**Interrogatory No. 2:** For each expert not listed in the response to the Request for Disclosure whom THE TOWN OF LINDSAY has consulted and whose mental impressions and opinions have been reviewed by an expert THE TOWN OF LINDSAY 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.

**Interrogatory No. 3:** Please describe in detail your position regarding the adequacy of water and sewer utility service currently provided to the areas requested in your water and sewer Certificate of Convenience and Necessity ("CCN") applications, including, if known, a description of whether people currently reside in the requested areas that receive water and/or sewer utility service, identification of each of those people, and identification of the water and/or sewer utility service provider for each of those people. Please distinguish between water and sewer in your response.

**Interrogatory No. 4:** Please describe in detail your position regarding the need for additional water and/or sewer utility service to the entire areas requested (18,230 acres) in your CCN applications, including, but not limited to, identification of any person or entity who has requested service in your requested area(s), identification of the name(s), address(es), and phone number(s) of each person or entity, description of the population in the proposed area(s) sought by each entity in its application(s), and description of the water and sewer utility service currently available to each identified person. Please distinguish between water and sewer in your response.

**Interrogatory No. 5:** Please describe in detail your position regarding the effect of the proposed water and sewer CCNs requested by you, on any retail public utility of the same kind already serving the areas proximate to those areas requested in your CCN applications. Please distinguish between water and sewer in your response.

**Interrogatory No. 6:** Please describe in detail your ability to provide continuous and adequate water and/or sewer utility service to the areas requested in your CCN applications. Please distinguish between water and sewer in your response.



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**Interrogatory No. 7:** Please describe in detail your managerial capability to provide continuous and adequate water and/or sewer utility service to the requested service areas and identify any THE TOWN OF LINDSAY employee and/or contractor who will be utilized for providing managerial functions and/or services. Please distinguish between water and sewer in your response.

**Interrogatory No. 8:** Please describe in detail your position regarding the feasibility of obtaining water or sewer utility service from another retail public utility adjacent to the areas requested in your CCN applications. Please distinguish between water and sewer in your response.

**Interrogatory No. 9:** Please describe in detail the effect of granting your CCN applications would have on the environmental integrity of the service areas requested in your CCN applications. Please distinguish between water and sewer in your response.

**Interrogatory No. 10:** Please describe in detail your position regarding the probable improvement in service or lowering of cost to consumers in the areas requested in your CCN applications, should your applications be granted, including the rates you plan to charge those consumers. In your response, please include a description of historical water service reliability and historical water quality data in THE TOWN OF LINDSAY's proposed service areas, and describe current and projected costs to consumers in THE TOWN OF LINDSAY's proposed service areas. Also, please distinguish between water and sewer in your response.

**Interrogatory No. 11:** Please describe the proximity of the proposed areas sought your CCN to any existing facilities currently operated by THE TOWN OF LINDSAY and any other retail public utility, if known, and to any water and/or sewer facilities THE TOWN OF LINDSAY proposes to construct. Please distinguish between water and sewer in your response.

**Interrogatory No. 12:** Please identify and describe, including amount and type, any and all costs that will be passed to potential customers in the proposed THE TOWN OF LINDSAY water and sewer CCN areas if THE TOWN OF LINDSAY becomes the water and/or sewer utility service provider for those areas, including, but not limited to, any and all initial and long-term facility costs. Please distinguish between water and sewer in your response.

**Interrogatory No. 13:** If THE TOWN OF LINDSAY proposes to construct a new stand alone water and/or sewer system to serve any of the areas requested in its applications, please provide a detailed analysis of all the costs necessary for the first five years to construct, operate, and maintain those facilities.

**Interrogatory No. 14:** Is it your position that THE TOWN OF LINDSAY has a water treatment and distribution system and/or a wastewater treatment system in place that is adequate to provide utility service to the areas THE TOWN OF LINDSAY proposes to serve in its applications? If so, please describe any potable water treatment and delivery system that you believe is in place and adequate to

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS  
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provide water utility service to the proposed areas sought in THE TOWN OF LINDSAY's water CCN amendment application, as well as any wastewater treatment system. Please describe the capacities of each component of any such systems, including, but not limited to: well capacities (including a description of each well's depth, aquifer, and gallons per minute production during average and peak drought conditions); feet of distribution lines in the systems and the diameters of those lines; pumps and their rated capacities; and treatment plants and their capacities not already used to meet peak demands of existing THE TOWN OF LINDSAY customers and/or customers THE TOWN OF LINDSAY is already committed to serve. Please distinguish between water and sewer in your response.

**Interrogatory No. 15:** Please describe the financial stability of THE TOWN OF LINDSAY, including, if applicable, the adequacy of THE TOWN OF LINDSAY's debt-equity ratio and cash flow for debt service coverage.

**Interrogatory No. 16:** Please estimate the time it would take for THE TOWN OF LINDSAY to provide water and sewer utility service to THE TOWN OF LINDSAY's proposed water and sewer service areas in compliance with all applicable Commission rules and statutes, and please describe the time it would take THE TOWN OF LINDSAY to provide water and sewer utility service to any person requesting service in any outlying portions of the areas requested by THE TOWN OF LINDSAY in its applications. Please distinguish between water and sewer in your response.

**Interrogatory No. 17:** On large scale copies of the service area maps submitted with THE TOWN OF LINDSAY's original applications, please identify, to the best of your knowledge, all THE TOWN OF LINDSAY's existing and proposed water and/or sewer connection(s) located outside the corporate limits of THE TOWN OF LINDSAY. Please distinguish between water and sewer in your response.

**Interrogatory No. 18:** Please describe whether granting THE TOWN OF LINDSAY's water and/or sewer CCN applications would promote the Commission's policy goal of regionalization.

## **V. REQUESTS FOR PRODUCTION**

**Request for Production No. 1:** Please provide a copy of the report from the most recent inspection by the TCEQ region office on any THE TOWN OF LINDSAY public water system facility that may be used to provide water utility service to the area THE TOWN OF LINDSAY requests to serve in its water CCN amendment application and a copy of any notice of violation issued to THE TOWN OF LINDSAY and THE TOWN OF LINDSAY's response to the notice of violation.

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS  
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**Request for Production No. 2:** Please provide any and all documents relating to TCEQ, County and/or all other regulatory agency approvals required for THE TOWN OF LINDSAY's existing and proposed water and sewer utility service facilities. Please distinguish between water and sewer in your response.

**Request for Production No. 3:** Please provide THE TOWN OF LINDSAY's latest audit report or financial information for the past fiscal year and current balance sheet information.

**Request for Production No. 4:** Please provide any and all documents from any person or entity requesting service from you in the proposed areas sought in the TOWN OF LINDSAY applications and your response. Please distinguish between water and sewer in your response.

**Request for Production No. 5:** Please provide any and all maps showing the location or locations of those persons already receiving service and those requesting service in the proposed areas sought in the TOWN OF LINDSAY CCN applications. Please distinguish between water and sewer in your response.

**Request for Production No. 6:** Please provide any and all estimates of the capital costs for THE TOWN OF LINDSAY to provide water and sewer utility service to the proposed areas sought in the TOWN OF LINDSAY CCN applications. Please distinguish between water and sewer in your response.

**Request for Production No. 7:** Please provide any and all existing capital asset acquisition budgets for THE TOWN OF LINDSAY. Please distinguish between water and sewer in your response.

**Request for Production No. 8:** Please provide any and all maps that illustrate the location of all water and sewer treatment facilities currently in place in or within two miles of the proposed water and sewer utility service areas in the TOWN OF LINDSAY CCN applications. Please distinguish between water and sewer in your response.

**Request for Production No. 9:** Please provide any and all maps that illustrate the location(s) within the water and/or sewer service areas requested in THE TOWN OF LINDSAY's CCN applications where THE TOWN OF LINDSAY currently provides water and/or sewer service.

**Request for Production No. 10:** Please provide a copy of any and all complaints THE TOWN OF LINDSAY has received in the past five years related to THE TOWN OF LINDSAY's water or sewer utility service, operations, or management. Please distinguish between water and sewer in your response.

**Request for Production No. 11:** Please provide a copy of any and all requests or applications for loans or grants made by THE TOWN OF LINDSAY.

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS  
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**Request for Production No. 12:** Please produce copies of any and all water and/or sewer service agreements, either wholesale and/or retail, between THE TOWN OF LINDSAY and any other utility to provide water and sewer service.

**Request for Production No. 13:** Please produce copies of any and all documents identified in your responses to Interrogatory Nos. one (1) through eighteen (18) listed above.

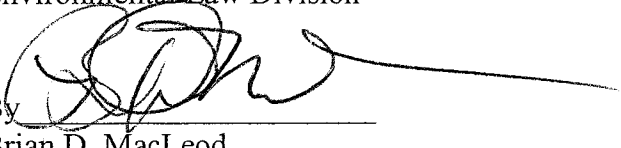
**Request for Production No. 14:** Please produce a hard copy map and digital data with metadata to illustrate the requested water service area, the city limits and the extraterritorial jurisdiction boundary of the TOWN OF LINDSAY.

**Request for Production No. 15:** Please produce a hard copy map and digital data with metadata to illustrate the requested sewer service area, the city limits and the extraterritorial jurisdiction boundary of the TOWN OF LINDSAY.

**Request for Production No. 16:** Please produce copies of all written requests for service to include landowner requests, applications for service, letters from developers, etc.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Robert Martinez, Director  
Environmental Law Division

By   
Brian D. MacLeod  
Staff Attorney  
Environmental Law Division  
State Bar of Texas No. 12783500  
P.O. Box 13087; MC 173  
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THE EXECUTIVE DIRECTOR'S FIRST REQUESTS  
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**CERTIFICATE OF SERVICE**

This is to certify that all parties on the attached Mailing List have been sent a copy of the foregoing document in accordance with TCEQ and SOAH rules on February 21, 2008.

A handwritten signature in black ink, appearing to read "B. MacLeod", written over a horizontal line.

Brian D. MacLeod  
Staff Attorney  
Environmental Law Division