



Control Number: 43945



Item Number: 14

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

RECEIVED

43945

2014 DEC 11 PM 3:17

SOAH DOCKET NO. 582-06-2023  
 TCEQ DOCKET NO. 2006-0272-0000 UTILITY COMMISSION  
 FILING CLERK

APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE  
 LINDSAY TO AMEND WATER AND §  
 SEWER CERTIFICATES OF §  
 CONVENIENCE AND NECESSITY § OF  
 (CCN) NOS. 13025 AND 20927 IN §  
 COOKE COUNTY, TEXAS §  
 APPLICATION NOS. 35096-C & 35097-C § ADMINISTRATIVE HEARINGS

**CITY OF LINDSAY'S 2<sup>ND</sup> SUPPLEMENTAL RESPONSES TO  
 LINDSAY PURE WATER COMPANY'S REQUEST FOR DISCLOSURE**

TO: Lindsay Pure Water Company, by and through its attorney, Mr. John Carlton, Amberust & Brown, LLP, 100 Congress Avenue, Suite 1300, Austin, Texas 78701.

The City of Lindsay ("City" or "Lindsay"), serves this, its 2<sup>nd</sup> Supplemental Responses to Lindsay Pure Water Company's Request for Disclosure by and through its attorney, Mr. John Carlton, pursuant to Rules 196, 197, and 198 and other applicable rules of the Texas Rules of Civil Procedure, Chapter 2001 of the Texas Government Code, and applicable rules and regulations of the Texas Commission on Environmental Quality ("TCEQ" or "the Commission") and the State Office of Administrative Hearings ("SOAH").

**A. REQUEST FOR DISCLOSURE**

**Rule 194.2(f)** For any testifying expert:

- 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 you, employed by you, or otherwise subject to your control, documents reflecting such information.

**RESPONSE:** The substance of Mr. Stowe's mental impressions and opinions are more fully developed in his prefiled testimony filed on June 9, 2008. The bases for his beliefs and opinions can be found in the prefiled testimony.

The substance of Mr. Maroney's mental impressions and opinions are more fully developed in his prefiled testimony filed on June 9, 2008. The bases for his beliefs and opinions can be found in the prefiled testimony.

CHIEF CLERKS OFFICE

2008 JUN 9 AM 11:54

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**Rule 194.2(f)** For any testifying expert:

- 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.

**RESPONSE:** Mr. Maroney and Mr. Stowe have reviewed the Application filed by the City of Lindsay, all discovery produced in this docket and all pleadings provided in this docket. In addition, Mr. Stowe reviewed the attached documents in the preparation of his prefiled testimony. To the extent any party to this proceeding does not have these documents, copies will be made available by appointment, at the offices of Russell & Rodriguez, LLP located at 102 West Morrow, Suite 103, Georgetown, Texas. Please contact Arturo D. Rodriguez, Jr. at (512) 930-1317 to arrange an appointment.

Respectfully submitted,

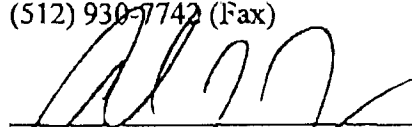
**Russell & Rodriguez, L.L.P.**

102 West Morrow Street, Suite 103

Georgetown, Texas 78626

(512) 930-1317

(512) 930-7742 (Fax)

  
ARTURO D. RODRIGUEZ, JR.

State Bar No. 00791551

**ATTORNEY FOR THE CITY OF LINDSAY**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of June, 2008, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel of record:

Mr. John Carlton, Attorney  
Armbrust & Brown, LLP  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Fax: 512/ 435-2360

Mr. Blas Coy, Attorney  
Office of Public Interest Counsel  
TCEQ - MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-6377

Mr. Brian MacLeod, Attorney  
Mr. Christiaan Siano  
Environmental Law Division  
TCEQ - MC 173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-0606

Docket Clerk  
Office of the Chief Clerk - MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-3311

CHIEF CLERKS OFFICE

2008 JUN -9 AM 11:54

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

  
ARTURO D. RODRIGUEZ, JR.

**Environmental Health**  
**Laura J. Blanton**

PHONE (940) 665-5451

**Cooke County Courthouse**  
**Gainesville, Texas 76240**

FAX (940) 665-9380

March 14, 2006

**COOKE COUNTY ENVIRONMENTAL HEALTH**  
**PERMIT REQUIREMENT FEES**

**APPLICATION / INSPECTION FEE:**

Inspection	\$250.00
Reinspection	\$100.00

**ALTERATION / REPAIR FEE:**

Application on File	\$100.00
No Application on File	\$250.00

**CERTIFICATION FEE:**

Application on File	\$100.00
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APP0527

**How do I get a permit for a Private On-site Sewage Facility in Cooke County?**

1<sup>st</sup> Obtain an Application for Flood Plain Development and Private Sewage Facility from the Cooke County Environmental Health office (940-668-5454)

2<sup>nd</sup> The homeowner must complete, sign, and return to the Cooke County Environmental Health office with \$250.00 fee. Please also include a drawing of the proposed layout of the building site, including house location, driveways, decks, water wells or lines, acreage of property (or building site) and approximate distances to property lines, fences, etc.

A copy of the deed must be submitted to verify ownership, show right-of-way and utility easements, and/or any liens against the said property.

3<sup>rd</sup> The Contractor, the Installer, or homeowner must contact and pay the fee for a certified Site Evaluator to perform a soil analysis and a site evaluation of the property. (See Installer List) The original copy of the soil analysis and site evaluation must be submitted to our office before a right-to-construct is issued to the OSSF Installer and a final inspection of the OSSF can be completed.

4<sup>th</sup> Please note if a Class IV soil texture is determined:

Affidavit to the Public must be signed by the homeowner and notarized before a final inspection is performed. There is a \$20.00 filing fee to file the affidavit in the County Clerk's Office.

A certified Professional Engineer or Registered Sanitarian must engineer an Aerobic Design. The original PE Design must be submitted to our office before a right-to-construct is issued to the OSSF Installer and a final inspection of the OSSF can be completed.

The homeowner and the service provider must sign a two-year initial service/maintenance contract and the original must be submitted to our office.

5<sup>th</sup> The installer will contact the inspector at least 24 hours in advance for the final inspection. 940-668-5454 If the original design, drawing, and/or layout of the septic system was altered or changed from the approved design, drawing, and/or layout, an as-built design, drawing, or layout must be submitted to the inspector at the time of final inspection.

APP0528

6" A final inspection report, drawing of the layout of the system and approval to operate will be available to the homeowner and installer upon request from the Cooke County Environmental Health office.

7" A 911 Rural Address must be assigned to the property before an OSSF permit is issued. To receive your 911 Rural Address please contact Lisa at the 911 Rural Addressing Department at 940-668-2561.

#### **LAND AMOUNT NEEDED FOR AN ON-SITE SEWAGE FACILITY:**

Land within the Lake Ray Roberts Planning and Zoning Commission must be 1.5 acres within the 2500 feet up to 5000 feet jurisdiction and land within the 2499 feet to the actual lake take line of Lake Ray Roberts is 2.5 acres to be permitted for an On-Site Sewage Facility, unless the land is deemed applicable under the Grand-Father Clause of less than the stated designated acreage.

All other areas of rural Cooke County must have at least one acre of land to be permitted for an On-Site Sewage Facility, unless a piece of land is deemed to be applicable under the Grand-Father Clause of less than one acre.

APP0529

## APPLICATION FOR ON-SITE SEWAGE FACILITY

DATE APPLIED: \_\_\_\_\_

INSTALLER: \_\_\_\_\_

PERMIT #: \_\_\_\_\_

TYPE OF SYSTEM: \_\_\_\_\_

DATE OF  
FINAL INSPECTION: \_\_\_\_\_

AMOUNT ENCLOSED: \$ \_\_\_\_\_

To the COOKE COUNTY ENVIRONMENTAL HEALTH OFFICE:

I hereby make application for Authorization to Construct and License to Operate a private sewage system in Cooke County as required by the Texas Natural Resource Conservation Commission (TNRCC) and the Cooke County Environmental Health Office.

PROPERTY OWNER(S) NAME:

LAST: \_\_\_\_\_ FIRST: \_\_\_\_\_

CURRENT MAILING ADDRESS:

RURAL ADDRESS:

TELEPHONE NUMBER(S):

HOME: \_\_\_\_\_ WORK: \_\_\_\_\_ OTHER: \_\_\_\_\_

DESCRIPTION OF LOCATION OF PROPERTY:

SUBDIVISION: \_\_\_\_\_ LOT NUMBER: \_\_\_\_\_

TYPE OF DWELLING:

( ) House ( ) Mobile Home / House Trailer ( ) RV / Travel Trailer ( ) School ( ) Church Building  
( ) Commercial ( ) Other \_\_\_\_\_

NUMBER OF PEOPLE PERMANENTLY LIVING IN DWELLING: \_\_\_\_\_ people

PROPOSED NUMBER OF BEDROOMS: \_\_\_\_\_ bedrooms

SQUARE FEET OF LIVING SPACE: \_\_\_\_\_ square feet

TYPE OF WATER SYSTEM: ( ) PUBLIC ( ) PRIVATE OR WATER WELL

DEVELOPMENT LOCATED IN A FLOOD HAZARD: ( ) YES ( ) NO

AUTHORIZATION IS HEREBY GIVEN TO THE COOKE COUNTY ENVIRONMENTAL HEALTH OFFICE, TCEQ AND TO THEIR AGENTS OR DESIGNEES, SIMULTANEOUSLY OR JOINTLY TO ENTER UPON THE ABOVE DESCRIBED PROPERTY DURING DAYLIGHT HOURS FOR THE PURPOSE OF MAKING INSPECTION ON THE PRIVATE SEWAGE SYSTEM OR ANY REASON CONSISTENT WITH THE WATER QUALITY PROGRAM BY TCEQ AND THE COOKE COUNTY ENVIRONMENTAL HEALTH DEPARTMENT.

SIGNATURE OF APPLICANT \_\_\_\_\_

DATE: \_\_\_\_\_

MAIL APPLICATION TO:  
Cooke County Environmental Health Department  
Cooke County Courthouse - Room 112  
100 South Dixon Street  
Gainesville, Texas 76240  
940-668-5454 or 940-665-9380 (fax)

APP0530



## AFFIDAVIT TO THE PUBLIC

THE COUNTY OF COOKE \*\*  
STATE OF TEXAS \*\*

Before me, a certified notary of the public, on this day personally appeared \_\_\_\_\_, stating he/she/they are the owner parcel of land lying and being situated in Cooke County, Texas, and being more particularly described as follows:

According to the Texas Commission on Environmental Quality Rules for On-Site Sewage Facilities, this document is filed in the deed records of Cooke County, Texas.

The Texas Health and Safety Code, Chapter 366 authorizes the Texas Commission on Environmental Quality (TCEQ) to regulate on-site sewage facilities (OSSFs). Additionally, the Texas Water Code (TWC) 5.011 and 5.013, gives the TCEQ primary responsibility for implementing the laws of the State of Texas relating to water and adopting rules necessary to carry out its powers and duties under the TWC. The TCEQ, under the authority of the TWC and the Texas Health and Safety Code, requires owner's to provide notice to the public that certain types of OSSFs are located on specific pieces of property. To achieve this notice, the TCEQ requires a deed recording. Additionally, the owner must provide proof of the recording to the OSSF permitting authority. This deed certification is not a representation or warranty by the TCEQ or Cooke County Environmental Health Department of the suitability of the OSSF, nor does it constitute any guarantee by the TCEQ or the Cooke County Environmental Health Department that the appropriate OSSF was installed.

This OSSF must be covered by a continuous maintenance contract, according to the 50 Texas Administrative Code 285.911(2). All maintenance on this OSSF must be performed by an approved maintenance company, and a signed maintenance contract must be submitted to the Cooke County Environmental Health Department.

The owner or undersigned states that he/she will, upon any sale or transfer of the above described property, request a transfer of the permit for the OSSF to the buyer or the new owner. A signed maintenance contract by the new owner/transferee must be submitted to the Cooke County Environmental Health within 30 days after the property has been transferred. Any new owner or transferee is hereby notified that the same restrictions apply to them (new owner or transferee). A copy of the planning materials for the OSSF can be obtained from the Cooke County Environmental Health Department. For more information concerning the rules or regulations on on-site wastewater treatment systems, please contact the Division of Water Hygiene, Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756.

WITNESS MY/OUR HAND(S) ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

\_\_\_\_\_  
(Name(s) of Homeowner(s))

SWORN TO AND SUBSCRIBED BEFORE ME on this \_\_\_\_\_ Day of \_\_\_\_\_, 2007.

Notary Public, State of Texas  
Notary's Printed Name:  
My Commission Expires:

APP0531

Sheet1

# **INSTALLER LIST FOR COOKE COUNTY**

James	Barker	P.O. Box 41	Valley View	78272	940-637-2292		
George	Buckley Jr.	12 Jackson Court	Valley View	78272	940-637-2400	940-367-3884	
George	Buckley	12 Jackson	Valley View	78272	940-637-2480	940-367-3884	
Richard	Burgen	P.O. Box 1848	Gainesville	76240	940-665-8134	940-736-8371	Site Evaluator
Gary	Cannon	P.O. Box 772	Gainesville	76240	940-665-8134	727-2896	88-17137
Larry	Clark	8518 S. FM372	Gainesville	76240	940-665-5901	736-3033	
Phillip	Clark	RR 7 Box 198	Gainesville	76240	940-665-4001	736-7928	88-3901 f Site Evaluator
Glenn	Comer	88CR138	Gainesville	76240	940-665-4388	736-3005	88-1330 f Site Evaluator
Paige	Oey	1027 Clark Road	Gainesville	76240	940-665-6734	940-665-5901	
Gary	Oil	320 S. Red River	Gainesville	76240	940-665-6529	940-736-3405	
Doug	Fleiman	103CR493	Muenster	76252	940-736-5434	940-758-4006	Site Evaluator
Joe	Gerby	528 CR312	Gainesville	76240	940-665-3043	736-1704	
Bernard	Hesse	P.O. Box 418	Muenster	76252	940-758-4130	940-736-3702	
Ralph	Kirk	111 Kirk Road	Gainesville	76240	940-665-0611	665-4384	
Ray	Monday	P.O. Box 98	Muenster	76252	940-736-4073		
Nonald	Moore	407 Pioneer Valley Trail	Valley View	78272	940-637-2005		
Bobby	Perry	P.O. Box 1488	Gainesville	76240	940-665-2557	940-736-4924	
Matt	Sicking	P.O. Box 419	Muenster	76252	940-758-4812	940-736-4274	Site Evaluator

Note ~ Any installer Licensed with TNRCC can install an OBSF in Cooke County

Additional installers are available upon request

**RESTRICTIONS FOR THE RANGE SUBDIVISION****AN ADDITION IN COOKE COUNTY, TEXAS**

STATE OF TEXAS

COUNTY OF TEXAS

KNOW ALL MEN BY THESE PRESENTS THAT WHEREAS: Terry Comcau, being the owner of the following lots in The Range Subdivision, Cooke County, Texas, and being a portion of the JB Self Survey, A- 948;

Tracts 1-15, according to the herein reference plat thereof of Cooke County, Texas. In order to secure the erection of private residence buildings of a substantial high grade in order to insure uniformity and harmony in the character of such buildings and to maintain the suitability of the neighborhood for residential purposes, and to carry out a general plan of protection, use and benefit of each and every purchase of a Tract or Tracts in said The Range Subdivision, we do hereby adopt and prescribe and make for the record the covenants, conditions and restrictions covering the aforesaid lots, it being the intention of the dedicator to restrict use of said property, these covenants to be binding on the undersigned as well as subsequent owners and shall be covenants running with the aforesaid factors as follows:

1. All tracts in said Subdivision are and shall be known and described as single family residential lots, and the residence of such lots shall be one-story, one and one-half story or two story structures with a minimum of a two-car garage and shall be used for purposes of a residence in the usual and customary manner. All garages shall open to the side or rear with none opening to the front of the house.
2. No noxious or offensive trade or activity shall be carried on upon any lots, or shall anything be done thereon which may be or become an annoyance to the neighbors.
3. Any one-story residence erected shall have not less than 2,250 square feet of living area excluding all porch and garage area. Any two-story residence erected shall have not less than 2,500 square feet of living area, excluding all porch and garage areas. The exterior walls of the main structure erected on a lot shall be a minimum of 70% of the total outside wall area of brick, stone, stucco or hardy board plank except where Architectural Control Committee (known further in this document as ACC) shall approve other materials. The exterior walls of the carports, garages, barns or other outbuildings reasonably suitable to the single family residence on the lots shall be of the same materials in the same percentage as the main structure. The other 30% may be of wood or vinyl materials approved by the ACC.
4. Construction new buildings only shall be permitted. It being the intent of this covenant to prohibit the moving of any existing building onto a lot and remodeling or converting same into a dwelling unit or outbuilding upon the property.
5. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or waste; and such rubbish, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept clean and sanitary condition.
6. Easements for installation and maintenance of utilities and drainage facilities are reserved according to plat thereof Cooke County, Texas for The Range Subdivision.
7. These covenants, reservations and restrictions shall be binding on all parties and all persons and parties claiming under them, unless an instrument signed by 70% of the current owners of the lots has been recorded, agreeing to change said restrictions, reservations and covenants in whole or part.
8. Enforcement of these covenants, reservations and restrictions shall be proceedings at law or in equity against any party, person or persons violating or attempting to violate any covenant, reservation or restriction, either to restrain violation or to recover damages.
9. Lots must be kept mowed and clear of debris so as not to be annoyance nuisance, or eyesore to the neighborhood. If the lot is not mowed and/or cleared within 10 days from receipt of

notice from the ACC, then the Committee shall have the right to have said lots mowed, cleared, cleaned up or whatever else is necessary in order to bring the lot into conformance with this covenant. If the Committee has to take action under the terms of the covenant, then it shall be reimbursed by the lot owner for costs incurred plus a 15% administrative charge.

10. Prior to the construction, remodeling or alteration of any buildings or other structure, two (2) complete set of plans and specifications, showing plot layout, exterior elevation and materials therefor, and structural designs covering such proposed work shall be submitted to the ACC (as herein after defined) for approval and no construction shall commence until plans have been approved. The ACC will retain one set of plans for future reference and return one set to owner with approval noted.
11. There shall be no commercial improvements or structures erected on the premises
12. Invalidation of any of the covenants by judgment or court order shall in no wise affect any of the covenants, all of which not so affected shall remain in full force and effect.
13. The dedicator, herein, or its assigns, shall the right to sell, assign, transfer or convey to any person, firm or corporation, any or all of the rights, reservations, reversions, easements and privileges herein stated, or those that may be placed in the deed or deeds of conveyance of such rights, such grantees, as well as successive grantees, may reassign such rights.
14. All electricity shall be run in accordance to plat easements and the approval of COSERV.
15. No garage or carport shall open to the front of any lot nor toward the side of any lot, which is adjacent to a public street or thoroughfare.
16. The roof of any structure shall be tile, composition, cedar shakes, shingles or metal roof at least 26 gauge material that have been treated by fire retardant chemicals approved by the ACC, except the ACC permits the use of other materials. Roof lines on one-story residences must not be less than 6/12 or more than 12/12 pitch unless otherwise approved by the ACC.
17. No motor home may be stored, maintained or kept on any lot covered by these covenants unless it shall be parked in rear of the property out of public view. No mobile home shall be permitted in this addition at any time or any place.
18. No truck tractor or trailer may be kept or parked in the driveway or any place on the lot at any time and / or vehicle of any size which transports inflammatory or explosive cargo may be kept or parked in the driveway or any place on the lot at any time. A motor boat, houseboat, or other similar water borne vehicle may be maintained, stored or kept on any lot covered by these covenants only if housed completely with a structure or behind a fence wall out of view from the public.
19. Every residence constructed on any residential lot shall front on the street which provides access.
20. Construction of any residence shall be completed within one year from the date of start (foundation poured). If not complete within this period, the amount of \$25.00 per day will be assessed by Developer and will continue until residence is completed.
21. No structure of a temporary character, trailer, mobile home, tent shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. No garage, servant house, garage house or out building shall be occupied by owner or tenant or anyone prior to the erection of the main building.
22. No sign of any kind shall be displayed to the public view on any lot except one which is not more than (5) square feet advertising the property for sale or rent or signs used by the builder to advertise the property during the construction and sales period. The owner (as above defined) may display larger signs advertising the sale of lots until such time as all lots are sold. Occupant name and address signs are exempted from this restriction; however they must have the approval of the ACC.
23. No trade or business of any kind that would require a change in zoning shall be conducted upon the property or any part thereof.
24. No poultry or swine of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept in reasonable numbers so long as they do not constitute an annoyance or nuisance to the neighborhood and provided that they are not kept, bred, or maintained for any commercial purposes. Anything pertaining to this restriction is subject to all applicable county, state and/or federal laws, rules and regulations.

25. No radio, television towers, or aerial wires shall be maintained on any lot that does not contain a residential structure, and no commercial towers for that purpose shall be constructed. Any such proposed structure must have approval of the ACC. Any of the above must be located to the back of the residence.
26. The location and design of any proposed swimming pool, including fencing, pumps and any other related paraphernalia must be approved by the ACC in the same manner as set forth in paragraph 10 herein. The location of any television satellite dish shall also have the approval of the Committee.
27. All construction shall comply with all applicable zoning, ordinances, building codes, fire codes and any other laws, ordinances or regulations of any applicable governmental body or agency including but not limited to city, county, state and federal governments or agencies.
28. No automotive maintenance or repair of any kind whatsoever shall be permitted outside of an enclosed garage.
29. No above ground or propane tanks shall be placed on any of the lots in the addition, unless completely enclosed by a wooden fence so as to be out of sight or otherwise with approval of the ACC.
30. All mail box structures shall be of the same material as the principal material of the exterior of the main structure. The configuration design of each mail box structure shall be in conformance with the U.S. Post Office regulations and have the approval of the ACC. Before installation of the mailbox, the location must be approved by the appropriate commissioner of the precinct.
31. The drainage easements shown in the recorded plat are provided for the utilities. Each lot owner is responsible for the upkeep and maintenance of that portion of the easement that fall on his lot.
32. All culverts must meet County specifications.
33. All water wells must be installed to State specifications.
34. All septic systems must be a type of Waste Water Aerobic System and must abide by the Texas Commission on Environmental Quality and the County Environmental Health Department's rules and regulations.
35. All exterior fencing will of pipe and cable, pipe top rail; and solid rock fence construction if located from the front of the house to the street. There may be wood private fencing for pools and patio areas. Any fencing from the house to the rear or side of house must have the approval of the ACC.
36. The owner may include restrictions, other than those set out herein, in any contract or deed to any tracts without otherwise modifying the general plan above outlined, and such other restrictions shall inure to the benefit of and bind the respective parties in the same manner as though they have been expressed herein.
37. The restrictions herein set out shall be referred to, adopted and made a part of each and every contract and deed executed by and on behalf of the undersigned conveying said property or any part thereof to all such intents and purposes as though incorporated in full therein; and each such contract and deed shall be conclusively held to have so executed, delivered and accepted upon the expressed conditions herein stated.
38. The ACC shall be composed of Terry Comcau, Owner/Developer and assigns. The Committee shall act by execution of any approval or other document or such Committee may designate in writing representatives to act in its stead. And upon completion of this development, the current ACC will dissolve and the new ACC will consist of the three longest owned land owners of this subdivision. This will be at the option of each land owner to serve on the ACC and if they do not choose to serve, the opportunity will pass to owner in line of succession. The ACC duties are to see that the restrictions are continued to be enforced.
39. Approval or disapproval of any plans or specifications submitted to the ACC hereunder shall be based, among other things, on the adequacy of site dimensions, adequacy of structural design, quality, conformity and harmony of exterior design with the neighboring structures, effect of locations and use on neighboring lots and improvement situated thereon, relation to topography, grade and finish ground elevations of the lot being improved to that of neighboring lots, proper facing of main elevations with the respect to nearby streets and conformity of the plans and specifications to the purpose and plan intent to these protective

covenants, all as determined by the ACC in its sole discretion exercised in good faith. The ACC shall not in bad faith arbitrarily withhold its approval of such plans and specifications. If the ACC fails to either approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it as evidenced by written dated receipt of any member of the ACC, or its designated representatives, it shall be conclusively presumed that the ACC has approved such plans and specifications.

40. Neither the owner or any member of the ACC nor their successors or assigns shall be liable for damages to anyone submitting plans for approval, or to any owner or lessee of land affected by these protective covenants by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the consenting or failing to consent, approving or failing to approve any matter, with respect to which the Owner and/or ACC may have authority under the terms hereof. Every person who submits plans to the owner for approval agrees, by submission of such plans, and every owner or lessee of any of said property agrees, by acquiring title thereto, or leasehold interest therein, that he will not bring any action or suit against Owner or any member of the ACC, their successors and assigns, to recover any such damage.
41. If it becomes necessary for the ACC, or Owner to bring action or suit against any lot owner in order to insure compliance with the protective covenants, committee or Owner shall be entitled to recover all costs in connection therewith, including limited to reasonable attorneys fees.

NOW THEREFORE, the dedicator of The Range Subdivision in Cooke County, Texas, does hereby affix and sign its name to this instrument by and through its authorized representatives, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Terry Comeau

STATE OF TEXAS

COOKE COUNTY

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2004 by \_\_\_\_\_

\_\_\_\_\_  
Notary Public of Texas

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

APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE  
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THE CITY OF LINDSAY'S 2<sup>ND</sup> SUPPLEMENTAL RESPONSES TO THE  
EXECUTIVE DIRECTOR'S REQUEST FOR DISCLOSURE

TO: The Executive Director of the Texas Commission on Environmental Quality, by and through his attorney, Mr. Brian MacLeod, P.O. Box 13087, MC 173, Austin, TX 78711-3087.

The City of Lindsay ("City" or "Lindsay"), serves this, its 2<sup>nd</sup> Supplemental Response to the Executive Director's Request for Disclosure by and through his attorney, Mr. Brian MacLeod, pursuant to Rules 196, 197, and 198 and other applicable rules of the Texas Rules of Civil Procedure, Chapter 2001 of the Texas Government Code, and applicable rules and regulations of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") and the State Office of Administrative Hearings ("SOAH").

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- 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 you, employed by you, or otherwise subject to your control, documents reflecting such information.

**RESPONSE:** The substance of Mr. Stowe's mental impressions and opinions are more fully developed in his prefiled testimony filed on June 9, 2008. The bases for his beliefs and opinions can be found in the prefiled testimony.

The substance of Mr. Maroney's mental impressions and opinions are more fully developed in his prefiled testimony filed on June 9, 2008. The bases for his beliefs and opinions can be found in the prefiled testimony.

**Rule 194.2(f)** For any testifying expert:

- 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.

**RESPONSE:** Mr. Maroney and Mr. Stowe have reviewed the Application filed by the City of Lindsay, all discovery produced in this docket and all pleadings provided in this docket. In addition, Mr. Stowe reviewed the attached documents in the preparation of his proffiled testimony. To the extent any party to this proceeding does not have these documents, copies will be made available by appointment, at the offices of Russell & Rodriguez, LLP located at 102 West Morrow, Suite 103, Georgetown, Texas. Please contact Arturo D. Rodriguez, Jr. at (512) 930-1317 to arrange an appointment.

Respectfully submitted,

**Russell & Rodriguez, L.L.P.**

102 West Morrow Street, Suite 103

Georgetown, Texas 78626

(512) 930-1317

(512) 930-7742 (Fax)

ARTURO D. RODRIGUEZ, JR.

State Bar No. 00791551

**ATTORNEY FOR THE CITY OF THE TOWN  
OF LINDSAY**



**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of June, 2008, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel or party representatives of record:

Mr. John Carlton, Attorney  
Armbrust & Brown, LLP  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Fax: 512/ 435-2360

Mr. Blas Coy, Attorney  
Office of Public Interest Counsel  
TCEQ - MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-6377

Mr. Brian MacLeod, Attorney  
Mr. Christiaan Siano  
Environmental Law Division  
TCEQ - MC 173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-0606

Docket Clerk  
Office of the Chief Clerk – MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-3311

  
ARTURO D. RODRIGUEZ, JR.

**Environmental Health****Laura J. Blanton**

PHONE (940) 665-4454

Cooke County Courthouse  
Guthrieville, Texas 76240

FAX (940) 665-9380

March 14, 2006

**COOKE COUNTY ENVIRONMENTAL HEALTH  
PERMIT REQUIREMENT FEES****APPLICATION / INSPECTION FEE:**

Inspection	\$250.00
Reinspection	\$100.00

**ALTERATION / REPAIR FEE:**

Application on File	\$100.00
No Application on File	\$250.00

**CERTIFICATION FEE:**

Application on File	\$100.00
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APP0527

**How do I get a permit for a Private On-site Sewage Facility in Cooke County?**

1<sup>st</sup> Obtain an Application for Flood Plain Development and Private Sewage Facility from the Cooke County Environmental Health office (940-668-5454)

2<sup>nd</sup> The homeowner must complete, sign, and return to the Cooke County Environmental Health office with \$250.00 fee. Please also include a drawing of the proposed layout of the building site, including house location, driveways, decks, water wells or lines, acreage of property (or building site), and approximate distances to property lines, fences, etc.

A copy of the deed must be submitted to verify ownership, show right-of-way and utility easements, and/or any liens against the said property.

3<sup>rd</sup> The Contractor, the Installer, or homeowner must contact and pay the fee for a certified Site Evaluator to perform a soil analysis and a site evaluation of the property. (See Installer List) The original copy of the soil analysis and site evaluation must be submitted to our office before a right-to-construct is issued to the OSSF Installer and a final inspection of the OSSF can be completed.

4<sup>th</sup> Please note if a Class IV soil texture is determined:

Affidavit to the Public must be signed by the homeowner and notarized before a final inspection is performed. There is a \$20.00 filing fee to file the affidavit in the County Clerk's Office.

A certified Professional Engineer or Registered Sanitarian must engineer an Aerobic Design. The original PE Design must be submitted to our office before a right-to-construct is issued to the OSSF Installer and a final inspection of the OSSF can be completed.

The homeowner and the service provider must sign a two-year initial service/maintenance contract and the original must be submitted to our office.

5<sup>th</sup> The installer will contact the inspector at least 24 hours in advance for the final inspection. 940-668-5454 If the original design, drawing, and/or layout of the septic system was altered or changed from the approved design, drawing, and/or layout, an as-built design, drawing, or layout must be submitted to the inspector at the time of final inspection.

APP0528

6<sup>th</sup> A final inspection report, drawing of the layout of the system and approval to operate will be available to the homeowner and installer upon request from the Cooke County Environmental Health office.

7<sup>th</sup> A 911 Rural Address must be assigned to the property before an OSSF permit is issued. To receive your 911 Rural Address please contact Lisa at the 911 Rural Addressing Department at 940-668-2561.

**LAND AMOUNT NEEDED FOR AN ON-SITE SEWAGE FACILITY:**

Land within the Lake Ray Roberts Planning and Zoning Commission must be 1.5 acres within the 2500 feet up to 5000 feet jurisdiction and land within the 2499 feet to the actual lake lake line of Lake Ray Roberts is 2.5 acres to be permitted for an On-Site Sewage Facility, unless the land is deemed applicable under the Grand-Father Clause of less than the stated designated acreage.

All other areas of rural Cooke County must have at least one acre of land to be permitted for an On-Site Sewage Facility, unless a piece of land is deemed to be applicable under the Grand-Father Clause of less than one acre.

APP0529

## APPLICATION FOR ON-SITE SEWAGE FACILITY

DATE APPLIED: \_\_\_\_\_

INSTALLER: \_\_\_\_\_

PERMIT #: \_\_\_\_\_

TYPE OF SYSTEM: \_\_\_\_\_

DATE OF  
FINAL INSPECTION: \_\_\_\_\_

AMOUNT ENCLOSED: \$ \_\_\_\_\_

To the COOKE COUNTY ENVIRONMENTAL HEALTH OFFICE:

I hereby make application for Authorization to Construct and License to Operate a private sewage system in Cooke County as required by the Texas Natural Resource Conservation Commission (TNRCC) and the Cooke County Environmental Health Office.

PROPERTY OWNER(S) NAME:

LAST: \_\_\_\_\_ FIRST: \_\_\_\_\_

CURRENT MAILING ADDRESS:

RURAL ADDRESS:

TELEPHONE NUMBER(S):

HOME: \_\_\_\_\_ WORK: \_\_\_\_\_ OTHER: \_\_\_\_\_

DESCRIPTION OF LOCATION OF PROPERTY:

SUBDIVISION: \_\_\_\_\_ LOT NUMBER: \_\_\_\_\_

TYPE OF DWELLING:

( ) House ( ) Mobile Home / House Trailer ( ) RV / Travel Trailer ( ) School ( ) Church Building  
 ( ) Commercial ( ) Other \_\_\_\_\_

NUMBER OF PEOPLE PERMANENTLY LIVING IN DWELLING: \_\_\_\_\_ people

PROPOSED NUMBER OF BEDROOMS: \_\_\_\_\_ bedrooms

SQUARE FEET OF LIVING SPACE: \_\_\_\_\_ square feet

TYPE OF WATER SYSTEM: ( ) PUBLIC ( ) PRIVATE OR WATER WELL

DEVELOPMENT LOCATED IN A FLOOD HAZARD: ( ) YES ( ) NO

AUTHORIZATION IS HEREBY GIVEN TO THE COOKE COUNTY ENVIRONMENTAL HEALTH OFFICE, TCEQ AND TO THE AGENTS OR DESIGNEES, SINGULARLY OR JOINTLY TO ENTER UPON THIS ABOVE DESCRIBED PROPERTY DURING DAYLIGHT HOURS FOR THE PURPOSE OF MAKING INSPECTION ON THE PRIVATE SEWAGE SYSTEM OR ANY REASON CONSISTENT WITH THE WATER QUALITY PROGRAM BY TCEQ AND THE COOKE COUNTY ENVIRONMENTAL HEALTH DEPARTMENT.

SIGNATURE OF APPLICANT \_\_\_\_\_

DATE: \_\_\_\_\_

MAIL APPLICATION TO:  
 Cooke County Environmental Health Department  
 Cooke County Courthouse - Room 112  
 100 South Dixon Street  
 Guineville, Texas 76240  
 940-668-5154 or 940-665-9380 (fax)

APP0530

## AFFIDAVIT TO THE PUBLIC

THE COUNTY OF COOKE \* \*  
STATE OF TEXAS \* \*

Before me, a certified notary of the public, on this day personally appeared \_\_\_\_\_, stating he/she/they are the owner/partial owner of land lying and being situated in Cooke County, Texas, and being more particularly described as follows:

According to the Texas Commission on Environmental Quality Rules for On-Site Sewage Facilities, this document is filed in the deed records of Cooke County, Texas.

The Texas Health and Safety Code, Chapter 366 authorizes the Texas Commission on Environmental Quality (TCEQ) to regulate on-site sewage facilities (OSSFs). Additionally, the Texas Water Code (TWC), 2.012 and 2.013, gives the TCEQ primary responsibility for implementing the laws of the State of Texas relating to water and adopting rules necessary to carry out its powers and duties under the TWC. The TCEQ, under the authority of the TWC and the Texas Health and Safety Code, requires owner's to provide notice to the public that certain types of OSSFs are located on specific pieces of property. To achieve this notice, the TCEQ requires a deed recording. Additionally, the owner must provide proof of the recording to the TCEQ permitting authority. This deed certification is not a representation or warranty by the TCEQ or Cooke County Environmental Health Department of the suitability of the OSSF, nor does it constitute any guarantee by the TCEQ or the Cooke County Environmental Health Department that the appropriate OSSF was installed.

This OSSF must be covered by a continuous maintenance contract, according to the 30 Texas Administrative Code 285.91(12). All maintenance on this OSSF must be performed by an approved maintenance company, and a signed maintenance contract must be submitted to the Cooke County Environmental Health Department.

The owner or undersigned states that he/she will, upon any sale or transfer of the above described property, request a transfer of the permit for the OSSF to the buyer or the new owner. A signed maintenance contract by the new owner/transferee must be submitted to the Cooke County Environmental Health within 30 days after the property has been transferred. Any new owner or transferee is hereby notified that the same restrictions apply to them (new owner or transferee). A copy of the planning materials for the OSSF can be obtained from the Cooke County Environmental Health Department. For more information concerning the rules or regulations on on-site wastewater treatment systems, please contact the Division of Water Hygiene, Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756.

WITNESS MY/OUR HAND(S) ON THIS \_\_\_\_\_

DAY OF \_\_\_\_\_

2007.

(Name(s) of Homeowner(s))

SWORN TO AND SUBSCRIBED BEFORE ME on this \_\_\_\_\_ Day of \_\_\_\_\_

2007

Notary Public, State of Texas  
Notary's Printed Name:  
My Commission Expires:

APP0531

Sheet1

# **INSTALLER LIST FOR COOKE COUNTY**

James Barker	P.O. Box 41	Valley View	76272	940-637-2292		
George Buckley Jr.	12 Jackson Court	Valley View	76272	940-637-2480	940-367-3884	
George Buckley	12 Jackson	Valley View	76272	940-637-2480	940-367-3984	
Richard Burgan	P.O. Box 1645	Gainesville	76240	903-429-0405	940-736-4371	Site Evaluator
Gary Cannon	P.O. Box 772	Gainesville	76240	940-665-8134	727-2096	88-17137
Larry Clark	9518 S. FM372	Gainesville	76240	940-885-5901	736-3053	
Philipp Clark	RR 7 Box 198	Gainesville	76240	940-885-4881	736-7928	88-59011 Site Evaluator
Oleyn Corner	88CR138	Gainesville	76240	940-665-4588	736-3005	88-13361 Site Evaluator
Paige Day	1027 Clark Road	Gainesville	76240	940-885-8734	940-885-5901	
Carly Dill	320 E. Red River	Gainesville	76240	940-665-8529	940-736-3405	
Doug Flehman	105CR483	Muenster	76252	940-736-5434	940-736-4085	Site Evaluator
Joe Gentry	328 CR312	Gainesville	76240	940-885-3043	736-1704	
Demond Heese	P.O. Box 418	Muenster	76252	940-758-4130	940-736-3702	
Ralph Kirk	111 Kirk Road	Gainesville	76240	940-888-8811	885-4384	
Roy Moriday	P.O. Box 98	Muenster	76252	940-736-4073		
Norald Moore	407 Pioneer Valley Trail	Valley View	76272	940-637-2085		
Bobby Perry	P.O. Box 1486	Gainesville	76240	940-885-2557	940-736-4824	
Matt Sicking	P.O. Box 419	Muenster	76252	940-758-4812	940-736-4274	Site Evaluator
Note --	Any Installer	Licensed with TNRCC	can install on	OSSF in	Cooke County	
	Additional	Installers are available	upon request			

**RESTRICTIONS FOR THE RANGE SUBDIVISION****AN ADDITION IN COOKE COUNTY, TEXAS**

STATE OF TEXAS

COUNTY OF TEXAS

KNOW ALL MEN BY THESE PRESENTS THAT WHEREAS: Terry Comeau, being the owner of the following lots in The Range Subdivision, Cooke County, Texas, and being a portion of the JB Self Survey, A- 948;

Tracts 1-15, according to the herein reference plat thereof of Cooke County, Texas. In order to secure the erection of private residence buildings of a substantial high grade in order to insure uniformity and harmony in the character of such buildings and to maintain the suitability of the neighborhood for residential purposes, and to carry out a general plan of protection, use and benefit of each and every purchase of a Tract or Tracts in said The Range Subdivision, we do hereby adopt and prescribe and make for the record the covenants, conditions and restrictions covering the aforesaid lots, it being the intention of the dedicator to restrict use of said property, these covenants to be binding on the undersigned as well as subsequent owners and shall be covenants running with the aforesaid factors as follows:

1. All tracts in said Subdivision are and shall be known and described as single family residential lots, and the residence of such lots shall be one-story, one and one-half story or two story structures with a minimum of a two-car garage and shall be used for purposes of a residence in the usual and customary manner. All garages shall open to the side or rear with none opening to the front of the house.
2. No noxious or offensive trade or activity shall be carried on upon any lots, or shall anything be done thereon which may be or become an annoyance to the neighbors.
3. Any one-story residence erected shall have not less than 2,250 square feet of living area excluding all porch and garage area. Any two-story residence erected shall have not less than 2,500 square feet of living area, excluding all porch and garage areas. The exterior walls of the main structure erected on a lot shall be a minimum of 70% of the total outside wall area of brick, stone, stucco or hardy board plank except where Architectural Control Committee (known further in this document as ACC) shall approve other materials. The exterior walls of the carports, garages, barns or other outbuildings reasonably suitable to the single family residence on the lots shall be of the same materials in the same percentage as the main structure. The other 30% may be of wood or vinyl materials approved by the ACC.
4. Construction new buildings only shall be permitted. It being the intent of this covenant to prohibit the moving of any existing building onto a lot and remodeling or converting same into a dwelling unit or outbuilding upon the property.
5. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or waste; and such rubbish, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept clean and sanitary condition.
6. Easements for installation and maintenance of utilities and drainage facilities are reserved according to plat thereof Cooke County, Texas for The Range Subdivision.
7. These covenants, reservations and restrictions shall be binding on all parties and all persons and parties claiming under them, unless an instrument signed by 70% of the current owners of the lots has been recorded, agreeing to change said restrictions, reservations and covenants in whole or part.
8. Enforcement of these covenants, reservations and restrictions shall be proceedings at law or in equity against any party, person or persons violating or attempting to violate any covenant, reservation or restriction, either to restrain violation or to recover damages.
9. Lots must be kept mowed and clear of debris so as not to be annoyance nuisance, or eyesore to the neighborhood. If the lot is not mowed and/or cleared within 10 days from receipt of



notice from the ACC, then the Committee shall have the right to have said lots mowed, cleared, cleaned up or whatever else is necessary in order to bring the lot into conformance with this covenant. If the Committee has to take action under the terms of the covenant, then it shall be reimbursed by the lot owner for costs incurred plus a 15% administrative charge.

10. Prior to the construction, remodeling or alteration of any buildings or other structure, two (2) complete set of plans and specifications, showing plot layout, exterior elevation and materials therefor, and structural designs covering such proposed work shall be submitted to the ACC (as herein after defined) for approval and no construction shall commence until plans have been approved. The ACC will retain one set of plans for future reference and return one set to owner with approval noted.
11. There shall be no commercial improvements or structures erected on the premises
12. Invalidity of any of the covenants by judgment or court order shall in no wise affect any of the covenants, all of which not so affected shall remain in full force and effect.
13. The dedicator, herein, or its assigns, shall the right to sell, assign, transfer or convey to any person, firm or corporation, any or all of the rights, reservations, reversion, easements and privileges herein stated, or those that may be placed in the deed or deeds of conveyance of such rights, such grantees, as well as successive grantees, may reassign such rights.
14. All electricity shall be run in accordance to plat easements and the approval of COSERV.
15. No garage or carport shall open to the front of any lot nor toward the side of any lot, which is adjacent to a public street or thoroughfare.
16. The roof of any structure shall be tile, composition, cedar shakes, shingles or metal roof at least 26 gauge material that have been treated by fire retardant chemicals approved by the ACC, except the ACC permits the use of other materials. Roof lines on one-story residences must not be less than 6/12 or more than 12/12 pitch unless otherwise approved by the ACC.
17. No motor home may be stored, maintained or kept on any lot covered by these covenants unless it shall be parked in rear of the property out of public view. No mobile home shall be permitted in this addition at any time or any place
18. No truck tractor or trailer may be kept or parked in the driveway or any place on the lot at any time and / or vehicle of any size which transports inflammatory or explosive cargo may be kept or parked in the driveway or any place on the lot at any time. A motor boat, houseboat, or other similar water borne vehicle may be maintained, stored or kept on any lot covered by these covenants only if housed completely with a structure or behind a fence wall out of view from the public
19. Every residence constructed on any residential lot shall front on the street which provides access.
20. Construction of any residence shall be completed within one year from the date of start (foundation poured). If not complete within this period, the amount of \$25.00 per day will be assessed by Developer and will continue until residence is completed.
21. No structure of a temporary character, trailer, mobile home, tent shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. No garage, servant house, garage house or out building shall be occupied by owner or tenant or anyone prior to the erection of the main building.
22. No sign of any kind shall be displayed to the public view on any lot except one which is not more than (5) square feet advertising the property for sale or rent or signs used by the builder to advertise the property during the construction and sales period. The owner (as above defined) may display larger signs advertising the sale of lots until such time as all lots are sold. Occupant name and address signs are exempted from this restriction; however they must have the approval of the ACC.
23. No trade or business of any kind that would require a change in zoning shall be conducted upon the property or any part thereof.
24. No poultry or swine of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept in reasonable numbers so long as they do not constitute an annoyance or nuisance to the neighborhood and provided that they are not kept, bred, or maintained for any commercial purposes. Anything pertaining to this restriction is subject to all applicable county, state and/or federal laws, rules and regulations.

25. No radio, television towers, or aerial wires shall be maintained on any lot that does not contain a residential structure, and no commercial towers for that purpose shall be constructed. Any such proposed structure must have approval of the ACC. Any of the above must be located to the back of the residence.
26. The location and design of any proposed swimming pool, including fencing, pumps and any other related paraphernalia must be approved by the ACC in the same manner as set forth in paragraph 10 herein. The location of any television satellite dish shall also have the approval of the Committee.
27. All construction shall comply with all applicable zoning, ordinances, building codes, fire codes and any other laws, ordinances or regulations of any applicable governmental body or agency including but not limited to city, county, state and federal governments or agencies.
28. No automotive maintenance or repair of any kind whatsoever shall be permitted outside of an enclosed garage.
29. No above ground or propane tanks shall be placed on any of the lots in the addition, unless completely enclosed by a wooden fence so as to be out of sight or otherwise with approval of the ACC.
30. All mail box structures shall be of the same material as the principal material of the exterior of the main structure. The configuration design of each mail box structure shall be in conformance with the U.S. Post Office regulations and have the approval of the ACC. Before installation of the mailbox, the location must be approved by the appropriate commissioner of the precinct.
31. The drainage easements shown in the recorded plat are provided for the utilities. Each lot owner is responsible for the upkeep and maintenance of that portion of the easement that fall on his lot.
32. All culverts must meet County specifications.
33. All water wells must be installed to State specifications.
34. All septic systems must be a type of Waste Water Aerobic System and must abide by the Texas Commission on Environmental Quality and the County Environmental Health Department's rules and regulations.
35. All exterior fencing will of pipe and cable, pipe top rail; and solid rock fence construction if located from the front of the house to the street. There may be wood private fencing for pools and patio areas. Any fencing from the house to the rear or side of house must have the approval of the ACC.
36. The owner may include restrictions, other than those set out herein, in any contract or deed to any tracts without otherwise modifying the general plan above outlined, and such other restrictions shall inure to the benefit of and bind the respective parties in the same manner as though they have been expressed herein.
37. The restrictions herein set out shall be referred to, adopted and made a part of each and every contract and deed executed by and on behalf of the undersigned conveying said property or any part thereof to all such intents and purposes as though incorporated in full therein; and each such contract and deed shall be conclusively held to have so executed, delivered and accepted upon the expressed conditions herein stated.
38. The ACC shall be composed of Terry Comeau, Owner/Developer and assigns. The Committee shall act by execution of any approval or other document or such Committee may designate in writing representatives to act in its stead. And upon completion of this development, the current ACC will dissolve and the new ACC will consist of the three longest owned land owners of this subdivision. This will be at the option of each land owner to serve on the ACC and if they do not choose to serve, the opportunity will pass to owner in line of succession. The ACC duties are to see that the restrictions are continued to be enforced.
39. Approval or disapproval of any plans or specifications submitted to the ACC hereunder shall be based, among other things, on the adequacy of site dimensions, adequacy of structural design, quality, conformity and harmony of exterior design with the neighboring structures, effect of locations and use on neighboring lots and improvement situated thereon, relation to topography, grade and finish ground elevations of the lot being improved to that of neighboring lots, proper facing of main elevations with the respect to nearby streets and conformity of the plans and specifications to the purpose and plan intent to these protective

- convenants, all as determined by the ACC in its sole discretion exercised in good faith. The ACC shall not in bad faith arbitrarily withhold its approval of such plans and specifications. If the ACC fails to either approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it as evidenced by written dated receipt of any member of the ACC, or its designated representatives, it shall be conclusively presumed that the ACC has approved such plans and specifications.
40. Neither the owner or any member of the ACC nor their successors or assigns shall be liable for damages to anyone submitting plans for approval, or to any owner or lessee of land affected by these protective covenants by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the consenting or failing to consent, approving or failing to approve any matter, with respect to which the Owner and/or ACC may have authority under the terms hereof. Every person who submits plans to the owner for approval agrees, by submission of such plans, and every owner or lessee of any of said property agrees, by acquiring title thereto, or leasehold interest therein, that he will not bring any action or suit against Owner or any member of the ACC, their successors and assigns, to recover any such damage.
41. If it becomes necessary for the ACC, or Owner to bring action or suit against any lot owner in order to insure compliance with the protective covenants, committee or Owner shall be entitled to recover all costs in connection therewith, including limited to reasonable attorneys fees.

NOW THEREFORE, the dedicator of The Range Subdivision in Cooke County, Texas, does hereby affix and sign its name to this instrument by and through its authorized representatives, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Terry Comeau

STATE OF TEXAS

COOKE COUNTY

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2004 by \_\_\_\_\_

\_\_\_\_\_  
Notary Public of Texas

## RUSSELL &amp; RODRIGUEZ, L.L.P.

Attorneys at Law

Texas Heritage Plaza, 102 West Morrow Street, Suite 103, Georgetown, Texas 78626

Phone (512) 930-1317

E-mail: arodriguez@txadminlaw.com

Fax (512) 930-7742

## FACSIMILE COVER PAGE

June 9, 2008

*Please Deliver the Following page(s) to:*

Mr. John Carlton, Attorney

Fax Number: (512) 435-2360

Mr. Blas Coy, Attorney

Fax Number: (512) 239-6377

Mr. Brian MacLeod

Fax Number: (512) 239-0606

TCEQ Chief Clerk

Fax Number: (512) 239-3311

Client Number: 1140-00

From: Arturo D. Rodriguez, Jr.

Direct Phone: (512) 930-1317

Pages: 27 (Including Cover Sheet)

Re:

Comments: City of Lindsay's 2<sup>nd</sup> Supp. Responses to ED's and LPWC's RFD

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 JUN -9 AM 11:54  
CHIEF CLERKS OFFICE

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

APPLICATION OF THE TOWN OF § BEFORE THE STATE OFFICE  
LINDSAY TO AMEND WATER AND §  
SEWER CERTIFICATES OF §  
CONVENIENCE AND NECESSITY § OF  
(CCN) NOS. 13025 AND 20927 IN §  
COOKE COUNTY, TEXAS §  
APPLICATION NOS. 35096-C & 35097-C § ADMINISTRATIVE HEARINGS

**THE TOWN OF LINDSAY'S 1<sup>ST</sup> SUPPLEMENTAL RESPONSES TO THE  
EXECUTIVE DIRECTOR'S FIRST INTERROGATORIES**

TO: The Executive Director of the Texas Commission on Environmental Quality, by and through his attorney, Mr. Brian MacLeod, P.O. Box 13087, MC 173, Austin, TX 78711-3087.

The Town of Lindsay ("Town" or "Lindsay"), serves this, its First Supplemental Responses to the Executive Director's First Set of Interrogatories by and through his attorney, Mr. Brian MacLeod, pursuant to Rules 196, 197, and 198 and other applicable rules of the Texas Rules of Civil Procedure, Chapter 2001 of the Texas Government Code, and applicable rules and regulations of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") and the State Office of Administrative Hearings ("SOAH"). Because the responsive documents are voluminous, as they total more than 100 pages, the documents are available for inspection and copying at the requestor's expense in the offices of the undersigned counsel at the office of Russell and Rodriguez, 102 West Morrow, Suite 103, Georgetown, Texas 78626, at a time mutually agreeable to both parties. Please telephone the undersigned counsel to arrange a date and time.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 JUN -3 PM 1:46  
CHIEF CLERK'S OFFICE

## A. 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.

**RESPONSE:** Don Metzler is expected to testify regarding the City's ability to provide water and sewer to the entirety of the requested area. Mr. Metzler is the mayor pro-tem for the City and will also be sponsoring the City's Application in its entirety.

**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 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.

**RESPONSE:** Lindsay has the managerial capability to provide continuous and adequate water and sewer utility services to the requested service areas. The City has two contract operators, Mr. Robert Walterscheid, who holds a Groundwater Treatment Operator Class C license and Mr. Joe Geray who has a Class D license and is working towards his Class C license. The City has a contract operator, Mr. Charles Young, who holds a Class B wastewater operators license. Mr. Norbert Mages is the City's Public Works Director. Overall oversight is provided by the City Council.

**Interrogatory No. 15:** Please describe the financial stability of The Town of Lindsay, including, of applicable, the adequacy of The Town of Lindsay's debt-equity ration and cash flow for debt service coverage.

**RESPONSE: OBJECTION:**

Lindsay objects to this request because it exceeds the permissible amount of Interrogatories allowed under 30 Tex. Admin. Code § 80.152(c).

Subject to the above objection, Lindsay provides the following response:

Because of prudent management, the City of Lindsay is financially stable and possesses the financial capabilities to serve the requested area. Based upon the City's 2007 audited financial statements, the only debt currently issued by the City is a capital lease for the Water and Sewer Fund. The debt-equity ratio for the City's Governmental Funds is 0, while the debt-equity ratio for the Water and Sewer Fund, as of September 30, 2007, is 0.28.

As of September 30, 2007, the City maintained a capital lease reserve of \$39,955, which is equivalent to approximately 97% of the then current capital lease payable, or 12.6% of the total outstanding balance of the Capital Lease as of September 30, 2007. Additionally, as of September 30, 2007, the City's Water and Sewer Fund's net cash provided by operating activities was \$96,790. Excluding depreciation, which represents a non-cash item, the Fund's net cash was \$66,995, or approximately 1.63 times the then current capital lease payable.

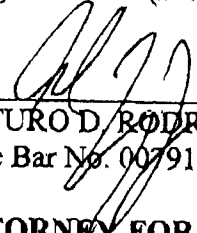
**B. REQUESTS FOR PRODUCTION**

**Request for Production No. 11:** Please provide any and all requests or applications for loans or grants made by The Town of Lindsay.

**RESPONSE:** The Applicant has and will produce the documents responsive to this Request at the Georgetown offices of the Applicant's counsel at a mutually agreeable time.

Respectfully submitted,

**Russell & Rodriguez, L.L.P.**  
102 West Morrow Street, Suite 103  
Georgetown, Texas 78626  
(512) 930-1317  
(512) 930-7742 (Fax)



---

ARTURO D. RODRIGUEZ, JR.  
State Bar No. 00791551

**ATTORNEY FOR THE CITY OF THE TOWN  
OF LINDSAY**



### CERTIFICATE OF SERVICE

I hereby certify that on this 3<sup>rd</sup> day of June 2008, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel or party representatives of record:

Mr. John Carlton, Attorney  
Armbrust & Brown, LLP  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Fax: 512/435-2360

Mr. Blas Coy, Attorney  
Office of Public Interest Counsel  
TCEQ - MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-6377

Mr. Brian MacLeod, Attorney  
Mr. Christiaan Siano  
Environmental Law Division  
TCEQ - MC 173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-0606

Docket Clerk  
Office of the Chief Clerk – MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-3311

CHIEF CLERKS OFFICE

2008 JUN -3 PM 1:46

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

  
ARTURO D. RODRIGUEZ, JR.

RUSSELL & RODRIGUEZ, L.L.P.

Attorneys at Law

Texas Heritage Plaza, 102 West Morrow Street, Suite 103, Georgetown, Texas 78626

Phone (512) 930-1317

E-mail: [arodriguez@txadminlaw.com](mailto:arodriguez@txadminlaw.com)

Fax (512) 930-7742

FACSIMILE COVER PAGE

June 3, 2008

*Please Deliver the Following page(s) to:*

Mr. John Carlton, Attorney

Fax Number: (512) 435-2360

Mr. Blas Coy, Attorney

Fax Number: (512) 239-6377

Mr. Brian MacLeod

Fax Number: (512) 239-0606

TCEQ Chief Clerk

Fax Number: (512) 239-3311

Client Number: 1140-00

From: Arturo D. Rodriguez, Jr.

Direct Phone: (512) 930-1317

Pages: 6 (Including Cover Sheet)

Re:

Comments: City of Lindsay's 1<sup>st</sup> Supp. Responses to ED's 1<sup>st</sup> Interrogs. and RFP

TEXAS  
COMMISSION  
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QUALITY  
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NOTICE: The following material is intended for the use of the individual or entity to which it is addressed. The material may contain information that is attorney-client privileged, or otherwise confidential and exempt from disclosure under law. If you are not the specified recipient, do not read this material. Any use, dissemination or copying of this material is strictly prohibited. If you have received this material in error, please notify us by telephone at the above number and return to us by U.S. Mail.

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

APPLICATION OF THE TOWN OF § BEFORE THE STATE OFFICE  
LINDSAY TO AMEND WATER AND §  
SEWER CERTIFICATES OF §  
CONVENIENCE AND NECESSITY § OF  
(CCN) NOS. 13025 AND 20927 IN §  
COOKE COUNTY, TEXAS §  
APPLICATION NOS. 35096-C & 35097-C § ADMINISTRATIVE HEARING

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 MAY 29 PM 1:33  
CHIEF CLERK OFFICE

**THE TOWN OF LINDSAY'S 1<sup>ST</sup> SUPPLEMENTAL RESPONSES TO THE  
EXECUTIVE DIRECTOR'S SECOND INTERROGATORIES  
AND REQUESTS FOR PRODUCTION**

TO: The Executive Director of the Texas Commission on Environmental Quality, by and through his attorney, Mr. Brian MacLeod, P.O. Box 13087, MC 173, Austin, TX 78711-3087.

The Town of Lindsay ("Town" or "Lindsay") serves this, its 1<sup>st</sup> Supplemental Responses to the Executive Director's Second Interrogatories and Requests for Production by and through his attorney, Mr. Brian MacLeod, pursuant to Rules 196, 197, and 198 and other applicable rules of the Texas Rules of Civil Procedure, Chapter 2001 of the Texas Government Code, and applicable rules and regulations of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") and the State Office of Administrative Hearings ("SOAH").

**A. INTERROGATORIES**

**Interrogatory No. 1:** For each request for service received, please identify the type of retail water service being requested (i.e., water, sewer, or both) from the Town of Lindsay in the requested area.

**RESPONSE: OBJECTION:**

Lindsay objects to this request because it exceeds the permissible amount of Interrogatories allowed under 30 Tex. Admin. Code § 80.152(c).

Subject to the above objection, Lindsay provides the following response:

All requests for service have been for both water and sewer service.

**Interrogatory No. 2:** Please indicate whether the 362 customers currently receiving service from the Town of Lindsay, as indicated in the application, are located in the requested area.

**RESPONSE: OBJECTION:**

Lindsay objects to this request because it exceeds the permissible amount of Interrogatories allowed under 30 Tex. Admin. Code § 80.152(c).

Subject to the above objection, Lindsay provides the following response:

All current customers are located within the current CCN of the City of Lindsay.

**Interrogatory No. 3:** Please discuss and describe in detail whether the Town of Lindsay has received additional requests for retail water or sewer service in the requested area. Distinguish between water or sewer service in your response.

**RESPONSE: OBJECTION:**

Lindsay objects to this request because it exceeds the permissible amount of Interrogatories allowed under 30 Tex. Admin. Code § 80.152(c).

Subject to the above objection, Lindsay provides the following response:

The City has not received any additional requests for service other than the ones previously provided.

**Interrogatory No. 6:** The Town of Lindsay's response to the Executive Director's first Interrogatory No. 11 included an attached spreadsheet which detailed all lines and their proximity to the proposed area. Please distinguish whether or not each of the Town of Lindsay's facilities identified in the response is an existing facility and which is a proposed facility.

**RESPONSE: OBJECTION:**

Lindsay objects to this request because it exceeds the permissible amount of Interrogatories allowed under 30 Tex. Admin. Code § 80.152(c).

Subject to the above objection, Lindsay provides the following response:

All facilities and lines shown on the referenced spreadsheet are current facilities.

**C. REQUESTS FOR PRODUCTION**

**Request for Production No. 3:** Please provide a copy of the report from the most recent wastewater comprehensive compliance investigation for the Town of Lindsay's wastewater system.

**RESPONSE:** See documents Bates labelled as APP0496-APP0500, produced in the City of Lindsay's 1<sup>st</sup> Supplemental Responses to Lindsay Pure Water Company's Interrogatories and Requests for Production.

**Request for Production No. 5:** Please provide a copy of any notice of violation letters received from TCEQ and any responses to address these violations regarding the Town of Lindsay's wastewater system for the past 2 years.

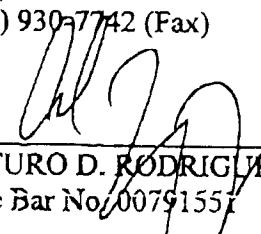
**RESPONSE:** See documents Bates labelled as APP0496-APP0500, produced in the City of Lindsay's 1<sup>st</sup> Supplemental Responses to Lindsay Pure Water Company's Interrogatories and Requests for Production.

**Request for Production No. 8:** Please provide a copy of the resume or curriculum vitae for each expert the Town of Lindsay expects to call in this proceeding.

**RESPONSE:** See documents Bates labelled as APP0469-APP0472 previously produced in the City of Lindsay's 1<sup>st</sup> Supplemental Response to the Executive Director's Request for Disclosure.

Respectfully submitted,

**Russell & Rodriguez, L.L.P.**  
102 West Morrow Street, Suite 103  
Georgetown, Texas 78626  
(512) 930-1317  
(512) 930-7742 (Fax)

  
\_\_\_\_\_  
ARTURO D. RODRIGUEZ, JR.  
State Bar No. 00791551

**ATTORNEY FOR THE CITY OF THE TOWN  
OF LINDSAY**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of May, 2008, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel or party representatives of record:

Mr. John Carlton, Attorney  
Armbrust & Brown, LLP  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Fax: 512/435-2360

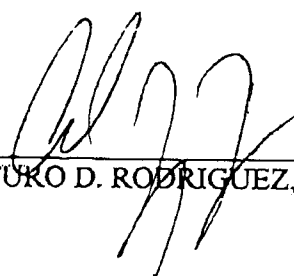
Mr. Blas Coy, Attorney  
Office of Public Interest Counsel  
TCEQ - MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-6377

Mr. Brian MacLeod, Attorney  
Mr. Christiaan Siano  
Environmental Law Division  
TCEQ - MC 173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-0606

Docket Clerk  
Office of the Chief Clerk - MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-3311

2008 MAY 29 PM 1:33  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

  
ARTURO D. RODRIGUEZ, JR.

## RUSSELL &amp; RODRIGUEZ, L.L.P.

Attorneys at Law

Texas Heritage Plaza, 102 West Morrow Street, Suite 103, Georgetown, Texas 78626

Phone (512) 930-1317

E-mail: arodriguez@txadminlaw.com

Fax (512) 930-7742

## FACSIMILE COVER PAGE

May 29, 2008

*Please Deliver the Following page(s) to:*

Mr. John Carlton, Attorney

Mr. Blas Coy, Attorney

Mr. Brian MacLeod

TCEQ Chief Clerk

Fax Number: (512) 435-2360

Fax Number: (512) 239-6377

Fax Number: (512) 239-0606

Fax Number: (512) 239-3311

Client Number: 1140-00

From: Arturo D. Rodriguez, Jr.

Direct Phone: (512) 930-1317

Pages: 6 (Including Cover Sheet)

Re:

Comments: City of Lindsay's 1<sup>st</sup> Supp. Responses to ED's 2<sup>nd</sup> Interrogs. and RFP

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 MAY 29 PM 1:33  
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SOAH DOCKET NO. 582-06-2023  
TCEQ DOCKET NO. 2006-0272-UCR

APPLICATION OF THE TOWN OF § BEFORE THE STATE OFFICE  
LINDSAY TO AMEND WATER AND §  
SEWER CERTIFICATES OF §  
CONVENIENCE AND NECESSITY § OF  
(CCN) NOS. 13025 AND 20927 IN §  
COOKE COUNTY, TEXAS §  
APPLICATION NOS. 35096-C & 35097-C § ADMINISTRATIVE HEARINGS

**THE CITY OF LINDSAY'S RESPONSES TO LINDSAY PURE WATER COMPANY'S  
REQUESTS FOR PRODUCTION**

TO: Lindsay Pure Water Company, by and through their attorney, Mr. John Carlton, 100 Congress Avenue, Austin, TX 78701-2744.

The City of Lindsay ("City" or "Lindsay") serves this, its 1<sup>st</sup> Supplemental Responses to Lindsay Pure Water Company's Request for Disclosure, Interrogatories, and Requests for Production by and through their attorney, Mr. John Carlton, pursuant to Rules 196, 197, and 198 and other applicable rules of the Texas Rules of Civil Procedure, Chapter 2001 of the Texas Government Code, and applicable rules and regulations of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") and the State Office of Administrative Hearings ("SOAH").

**A. INTERROGATORIES**

**INTERROGATORY NO. 13:** Please identify any and all violations of any TCEQ regulation committed by or attributed to the City (which includes its Water & Wastewater Department) during the past three (3) years concerning any areas for which the City provides water or wastewater service.

**RESPONSE:** See documents provided in response to Request for Production No. 28.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 MAY 29 AM 10:04  
CHIEF CLERKS OFFICE

**B. REQUEST FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** Please produce any and all documents in your actual or constructive possession, including, but not limited to, budgets, reports, projections, estimates, and supporting or underlying documentation, concerning the City's financial ability to provide water service to the City's entire proposed CCN area.

**RESPONSE:** See attached documents.

**REQUEST FOR PRODUCTION NO. 3:** Please produce any and all documents or tangible things in your actual or constructive possession concerning the City's anticipated residential or other growth or development in the City's entire proposed CCN area.

**RESPONSE:** See attached documents.

**REQUEST FOR PRODUCTION NO. 6:** Please produce any and all documents or tangible things in your actual or constructive possession concerning your annual operating budgets for water service for the previous five years.

**RESPONSE:** See attached documents.

**REQUEST FOR PRODUCTION NO. 9:** Please produce any and all documents or tangible things in your actual or constructive possession concerning the individuals who operate your water and wastewater facilities and their level(s) and type(s) of training.

**RESPONSE:** See attached documents.

**REQUEST FOR PRODUCTION NO. 28:** Please produce any and all documents or tangible things in your actual or constructive possession concerning your answer to Interrogatory No. 13. The Company does not expect you to produce documents excluded from discovery by a lawful privilege.

**RESPONSE:** See attached documents.

**REQUEST FOR PRODUCTION NO. 31:** Please produce any and all documents or tangible things in your actual or constructive possession regarding the City's population as of the date the Application was filed.

**RESPONSE:** See attached documents.

**REQUEST FOR PRODUCTION NO. 32:** Please produce any and all documents or tangible things in your actual or constructive possession regarding the City's current population.

**RESPONSE:** See attached documents.

Respectfully submitted,

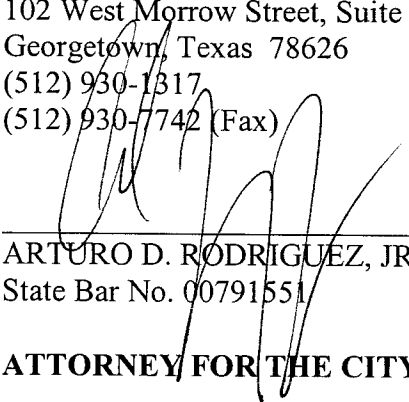
**Russell & Rodriguez, L.L.P.**

102 West Morrow Street, Suite 103

Georgetown, Texas 78626

(512) 930-1317

(512) 930-7742 (Fax)



---

ARTURO D. RODRIGUEZ, JR.

State Bar No. 00791551

**ATTORNEY FOR THE CITY OF LINDSAY**

### CERTIFICATE OF SERVICE

I hereby certify that on this 28<sup>th</sup> day of May, 2008, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel or party representatives of record:

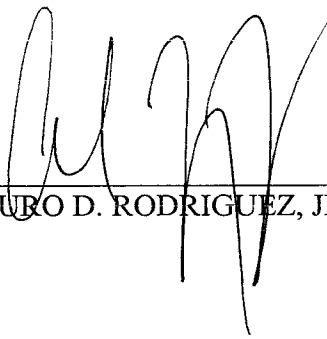
Mr. John Carlton, Attorney  
Armbrust & Brown, LLP  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Fax: 512/ 435-2360

Mr. Blas Coy, Attorney  
Office of Public Interest Counsel  
TCEQ - MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-6377

Mr. Brian MacLeod, Attorney  
Mr. Christiaan Siano  
Environmental Law Division  
TCEQ - MC 173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-0606

Docket Clerk  
Office of the Chief Clerk – MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Fax: 239-3311

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 MAY 29 AM 10:04  
CHIEF CLERKS OFFICE

  
\_\_\_\_\_  
ARTURO D. RODRIGUEZ, JR.

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

APPLICATION OF THE TOWN OF	§	BEFORE THE STATE OFFICE
LINDSAY TO AMEND WATER AND	§	
SEWER CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	OF
(CCN) NOS. 13025 AND 20927 IN	§	
COOKE COUNTY, TEXAS	§	
APPLICATION NOS. 35096-C & 35097-C	§	ADMINISTRATIVE HEARINGS

THE CITY OF LINDSAY'S RESPONSES TO  
LINDSAY PURE WATER COMPANY'S REQUESTS FOR PRODUCTION

RFP NO. 1 & 6

**CITY OF LINDSAY, TEXAS**

**ORDINANCE NO. 0907-4**

AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, APPROVING AND ADOPTING A BUDGET FOR THE CITY FOR THE FISCAL YEAR OCTOBER 1, 2007, THROUGH SEPTEMBER 30, 2008, AND PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET.

WHEREAS, the Mayor of the City of Lindsay, Texas, has heretofore filed with the City Secretary a proposed budget for the City covering the fiscal year October 1, 2007, through September 30, 2008; and

WHEREAS, the governing body of the City has this date concluded its public hearing on said budget;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINDSAY, TEXAS:

SECTION 1: That said budget, as amended and approved by the City Council, be attached to this ordinance as "Exhibit A, B and C" and made a part hereof for all purposes.

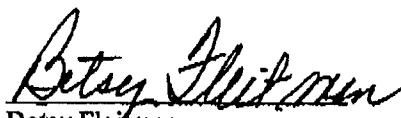
SECTION 2: That subject to the above-mentioned amendments, if any, said budget attached hereto as "Exhibit A, B, and C" be and the same is hereby approved and adopted by the City Council as the official budget for the City for the fiscal year aforesaid.

SECTION 3: That expenditures during the fiscal year shall be made in accordance with the budget approved by this ordinance unless otherwise authorized by the City Council.

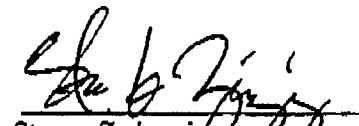
SECTION 4: That the necessity for making and approving a budget for the fiscal year as required by the laws of the State of Texas, creates an urgency and an emergency and requires that this ordinance shall take effect from and after its passage, as the law in such cases provides.

DULY PASSED by the City Council of the City of Lindsay, Texas, on this the 10th day of September, 2007.

ATTEST:

  
Betsy Fleitman  
City Secretary

APPROVED:

  
Steven Zwinggi  
Mayor



**City of Lindsay  
2007-2008 Budgets**

**This budget will raise more total property taxes than last year's budget by \$7,387.44 or 8%, and of that amount \$4, 368.79 is tax revenue to be raised from new property added to the tax roll this year.**

CITY OF LINDSAY  
UNAUDITED BUDGET INFORMATION  
FINAL FIGURES

Exhibit A

ACCOUNT	2007-2008 BUDGET
<b>INCOME ACCOUNTS</b>	
Interest on CD's	\$30,725.00
Interest on Checking Acct.	\$8,000.00
Hotel/Motel Tax	\$10,250.00
Sales Tax	\$94,207.00
Grants	
1. Street Grant	\$125,000.00
2. Planning Grant	\$5,000.00
Property Tax	\$103,445.44 based on 0.221600
Beverage Licenses	\$1,520.00
Permits	\$9,548.00
Franchise fees	\$40,158.00
Mixed Drink Tax	\$8,229.00
Recreation Fees	\$2,500.00
Dump Ground Lease	\$86.50
Misc Income	\$4,500.00
Municipal Court Fees	\$19,500.00
Reserve Fund Transfer	<u>\$138,000.00</u>
<b>TOTAL INCOME</b>	<b>\$601,884.94</b>
<b>EXPENSE ACCOUNTS</b>	
Department Asset Expense	\$500.00
1. Trailer	\$500.00 (1/2 of cost)
Salaries	\$17,500.00
Police Department Budget	\$52,066.80
Fire Department Budget	\$2,500.00
S.S. & Tac Taxes	\$2,700.00
TML Property & Liability	\$1,500.00
Worker's Comp	\$2,500.00
Election Expenses	\$400.00
Contract Labor	\$1,840.00
Legal Notices	\$1,000.00
Dues & Membership	\$800.00
Utilities	\$18,053.00
Telephone	\$1,526.00
Vehicle Operating Expense	\$1,000.00
Administration Costs	\$4,335.00
Maintenance Building Supplies	\$2,000.00
Tax Collection & Assessment Cost	\$1,953.00
Street Repairs	\$2,500.00
Street Sign Maintenance	\$2,100.00
Street Improvements	\$300,000.00
1. Paving Project	\$250,000.00
2. Miscellaneous Street	\$50,000.00
City Improvements	\$75,500.00
1. Keep Lindsay Beautiful	\$3,000.00
2. Planning Project	\$15,000.00
3. Park /Miscellaneous Improvements	\$57,500.00
Drainage System Expense	\$8,000.00
Legal Services	\$4,500.00
Repair & Replacement Fund 1/4 sales tax	\$31,480.00
Municipal Court Fees to Police Vehicle Fur	\$2,000.00
Municipal Court Fees Paid to State	\$4,500.00
Park Maintenance	\$2,500.00
Postage & Delivery	\$330.00
Accountant Services	\$4,166.00
Building Inspection Services	\$8,230.00
Consulting Fees	\$7,800.00
Engineering Fees	\$15,000.00
Filing Fees	\$250.00
Municipal Court Expenses	\$3,720.00
Business Entertainment	\$550.00
Miscellaneous Expense	\$1,500.00
Disaster Preparedness Project	\$6,500.00
Tourism	\$10,250.00
<b>TOTAL EXPENSES</b>	<b>\$600,819.80</b>
<b>BUDGET OVER/SHORT</b>	<b>\$845.14</b>

APP0475