

05-18-06 08:55am From: ARMBRUST & BROWN, L.L.P.

5124352360

T-490 P.02/02 F-593

ARMBRUST & BROWN, L.L.P.
ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

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

October 18, 2006

VIA FACSIMILE: (512) 930-7742

Arturo D. Rodriguez, Jr.
Russell & Rodriguez, L.L.P.
102 West Morrow Street, Suite 103
Georgetown, Texas 78626

VIA FACSIMILE: (512) 239-0606

Brian MacLeod
TCEQ - MC 173
P.O. Box 13087
Austin, Texas 78711-3087

Re: SOAH Docket No. 582-06-0203; TCEQ Docket No. 2006-0272-UCR; *Application of the Town of Lindsay to Amend Water and Sewer Certificates of Convenience and Necessity (CCN) Nos. 13025 and 20927 in Cooke County, Texas*; Application Nos. 35096-C & 35097-C

Dear Art and Brian:

This is an agreement pursuant to Texas Rules of Civil Procedure 11 and 191.1, TCEQ Rule 80.125, and Order No. 1, in this proceeding. This letter serves to extend the production of documents by Lindsay Pure Water Company and the Town of Lindsay to Monday, October 23, 2006. This letter also serves to extend the deadline to propound discovery from October 18, 2006 to Friday, October 27, 2006.

Upon your review and agreement to the proposal set forth in this letter, please memorialize this agreement by your signature below.

Sincerely,

ARMBRUST & BROWN, L.L.P.

John J. Carlton / with permission AB.
John J. Carlton
Attorney for Lindsay Pure Water Company

AGREED:

Arturo D. Rodriguez, Jr., for the Town of Lindsay

Brian MacLeod
Brian MacLeod, for the Executive Director

258583-1 10/18/2006

CWB

ARMBRUST & BROWN, L.L.P.
ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

FACSIMILE COVER PAGE

Date: September 22, 2006

NAME:	COMPANY:	FACSIMILE NO.:	TELEPHONE NO.:
James W. Norman, ALJ	State Office of Administrative Hearings	(512) 475-4994	
Arturo D. Rodriguez	Russell & Rodriguez, L.L.P.	(512) 930-7742	(512) 930-1317
Blas J. Coy, Jr.	Office of Public Interest Counsel	(512) 239-6377	(512) 239-6363
Brian MacLeod Christiaan Siano	Texas Commission on Environmental Quality	(512) 239-0606	(512) 239-0750 (512) 239-0600
Docket Clerk	Texas Commission on Environmental Quality	(512) 239-3311	(512) 239-3311

Please call us immediately if the document you receive is incomplete or illegible.

From: Amy Barrera	Telephone No.: (512) 435-2375
Client/Matter No.: 52515.0101	Total No. of Pages Sent: 5

REMARKS:

☐ Urgent ☐ For Your Review ☐ Reply ASAP ☐ Please Comment

☐ Original To Follow Via: ☐ Hand Delivery ☐ Federal Express ☐ First Class Mail

RE: SOAH Docket No. 582-06-0203; TCEQ Docket No. 2006-0272-UCR; *Application of the Town of Lindsay to Amend Water and Sewer Certificates of Convenience and Necessity (CCN) Nos. 13025 and 20927 in Cooke County, Texas*; Application Nos. 35096-C & 35097-C

ATTACHMENTS: Rule 11 Agreement

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT), AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U. S. POSTAL SERVICE. THANK YOU.

252890-1 08/23/2006

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

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

September 22, 2006

*Via Facsimile (512) 475-4994*James W. Norman
Administrative Law Judge
State Office of Administrative Hearings
300 West 15th Street
Austin, Texas 78701

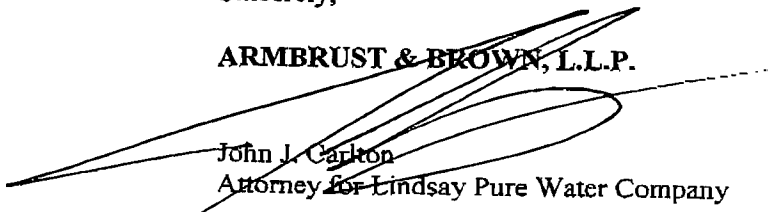
Re: SOAH Docket No. 582-06-0203; TCEQ Docket No. 2006-0272-UCR; *Application of the Town of Lindsay to Amend Water and Sewer Certificates of Convenience and Necessity (CCN) Nos. 13025 and 20927 in Cooke County, Texas*; Application Nos. 35096-C & 35097-C

Dear Judge Norman:

The Town of Lindsay, Lindsay Pure Water Company and the Executive Director have entered into a Rule 11 Agreement to extend discovery deadlines. A copy of the Rule 11 Agreement is attached for filing.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

ARMBRUST & BROWN, L.L.P.
John J. Carlton
Attorney for Lindsay Pure Water Company

Enclosure

cc: Arturo D. Rodriguez (via fax: (512) 930-7742)
Blas J. Coy (via fax: (512) 239-6377)
Brian MacLeod (via fax: (512) 239-0606)
Christiaan Siano (via fax: (512) 239-0606)
TCEQ Docket Clerk (via fax: (512) 239-3311)

256007-1 09/22/2006

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

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

September 20, 2006

VIA FACSIMILE: (512) 930-7742

Arturo D. Rodriguez, Jr.
Russell & Rodriguez, L.L.P.
102 West Morrow Street, Suite 103
Georgetown, Texas 78626

VIA FACSIMILE: (512) 239-0606

Brian MacLeod
TCEQ - MC 173
P.O. Box 13087
Austin, Texas 78711-3087

Re: SOAH Docket No. 582-06-0203; TCEQ Docket No. 2006-0272-UCR; *Application of the Town of Lindsay to Amend Water and Sewer Certificates of Convenience and Necessity (CCN) Nos. 13025 and 20927 in Cooke County, Texas*; Application Nos. 35096-C & 35097-C

Dear Counselors:

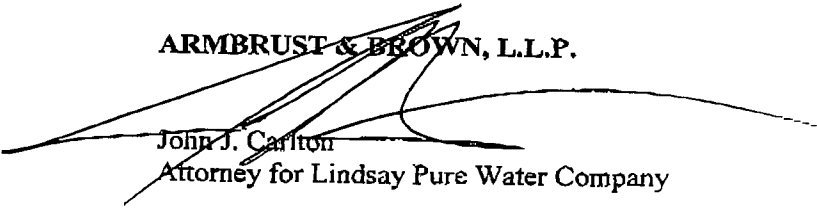
This is an agreement pursuant to Texas Rules of Civil Procedure 11 and 191.1, TCEQ Rule 80.125, and Order No. 1, in this proceeding. This letter serves to extend Lindsay Pure Water Company's responses to Town of Lindsay's Request for Disclosure and Request for Production from Thursday, September 21, 2006 to October 2, 2006 and to extend Town of Lindsay's responses to Lindsay Pure Water Company's Request for Disclosure from September 22, 2006 to October 2, 2006. This letter also serves to extend the deadline for responses to the Executive Director's First Request for Disclosure, Interrogatories and Requests for Production to the Town of Lindsay and Lindsay Pure Water Company from September 25, 2006 to October 9, 2006.

This letter also serves to extend the discovery deadline from November 3, 2006 to November 17, 2006, extending the deadline to propound discovery from October 4, 2006 to October 18, 2006.

Upon your review and agreement to the proposal set forth in this letter, please memorialize this agreement by your signature below.

Sincerely,

ARMBRUST & BROWN, L.L.P.


John J. Carlton
Attorney for Lindsay Pure Water Company

255746-1 09/20/2006

09/22/06 FRI 16:57 [TX/RX NO 8612]

09-22-06

16:45

From-Armbrust & Brown L.L.P.

512 435 2360

T-921 P 004/005 F-905

Sep-20-06 02:46pm

From-ARMBRUST & BROWN, L.L.P.

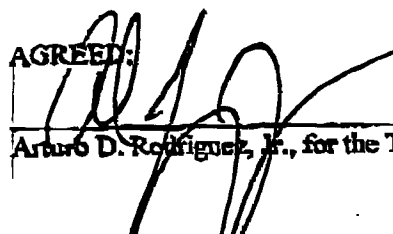
5124352360


T-293 P.03/03 F-442

ARMBRUST & BROWN, L.L.P.

Page 2

AGREED:


Arturo D. Rodriguez, Jr., for the Town of Lindsay


Brian MacLeod, for the Executive Director

255746-1 09/20/2006

09/22/06 FRI 16:57 [TX/RX NO 8612]

09-22-06 16:45

From-Armbrust & Brown L L P.

512 435 2360

T-921 P.005/005 F-905

Sep-20-06 02:53pm From-ARMBRUST & BROWN, L.L.P.

5124352360

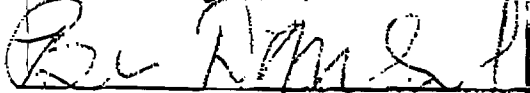
T-294 P.03/03 F-443

ARMBRUST & BROWN, L.L.P.

Page 2

AGREED:

Amro D. Rodriguez, Jr., for the Town of Lindsay



Brian MacLeod, for the Executive Director

255746-1 09/20/2006

09/22/06 FRI 16:57 [TX/RX NO 8612]



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION

ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: July 11, 2006

Name: Patrick Dillon Occupation: Consultant

Mailing Address: P.O. Box 830634 Richardson, TX 75083-0634
Street or P.O. Box City State Zip

Daytime Phone: (972) 680-3717 Fax #: (972) 680-0003

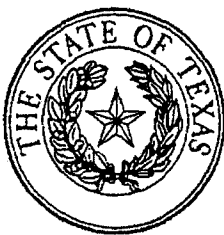
E-Mail address (if available): _____

Representing: ☐ Self ☒ Other (specify): City of Landray

Title of matter being considered:

SOAH Docket No. (if known): 582-06-2023

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION

ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 7/11/06

Name: CASSANDRA Harrington Occupation: LAW Clerk

Mailing Address: 102 West Morrow, Ste. 103 Georgetown TX 78626
Street or P.O. Box City State Zip

Daytime Phone: (512) 930 1317 Fax #: (512) 80 97742

E-Mail address (if available): CHarrington@txadminlaw.com

Representing: ☐ Self ☒ Other (specify): 582-06-2023 City of Lindsay

Title of matter being considered:

SOAH Docket No. (if known): Town of Lindsay Application to amend water & sewer CCN

Your position regarding the matter being considered: ☒ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION

ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: July 11, 2006

Name: Keith Wright Occupation: Paralegal

Mailing Address: 102 West Morrow, Ste. 103 Georgetown TX 78626
Street or P.O. Box City State Zip

Daytime Phone: (512) 930-7742 Fax #: (512) 930-7742

E-Mail address (if available): kwright@txadminlaw.com

Representing: ☐ Self ☒ Other (specify): City of Lindsay

Title of matter being considered: 582-06-2023

SOAH Docket No. (if known): Town of Lindsay Application to Amend water and sewer CEN

Your position regarding the matter being considered: ☒ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION

ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 7/11/06

Name: JOE ODell Occupation: Owner

Mailing Address: PO Box 262 Lindsay TX 76250
Street or P.O. Box City State Zip

Daytime Phone: (940) 734 3118 Fax #: (940) 465 5130

E-Mail address (if available): _____

Representing: ☒ Self ☒ Other (specify): Lindsay Pore water CV.

Title of matter being considered:

SOAH Docket No. (if known): 582-06-2023
Town of Lindsay CCW.

Your position regarding the matter being considered: ☐ In Favor ☒ Opposed ☐ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION

ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 7-11-06

Name: LEILA C. GUERRERO-SANTOQUIN Occupation: Auditor

Mailing Address: P.O. Box 13087 Austin TX 78737 78711
Street or P.O. Box City State Zip

Daytime Phone: (512) 239 2286 Fax #: (512) 239-0030

E-Mail address (if available): lguerrer@tcag.state.tx.us

Representing: ☐ Self ☒ Other (specify): TCEQ

Title of matter being considered: Town of Lindsay
SOAH Docket No. (if known): 582106-2023

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION

ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 7/11/06

Name: Tammy Benter Occupation: _____

Mailing Address: P.O. Box 13087 Austin TX 78711
Street or P.O. Box City State Zip

Daytime Phone: (512) 239-6136 Fax #: (512) 239-6972

E-Mail address (if available): _____

Representing: ☐ Self ☒ Other (specify): ED of ICEQ

Title of matter being considered: TOWN OF LINDSAY

SOAH Docket No. (if known): 582-06-2023

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☐ Observer



STATE OFFICE OF ADMINISTRATIVE HEARINGS
PUBLIC HEARING REGISTRATION

ALL PERSONS IN ATTENDANCE ARE REQUESTED TO COMPLETE
PLEASE PRINT CLEARLY

Date: 7/11/06

Name: Jaramena, Linda Occupation: Intern - TCEQ

Mailing Address: 1211 Fox Creek Dr Hillman TX 76543
Street or P.O. Box City State Zip

Daytime Phone: (254) 338-8006 Fax #: ()

E-Mail address (if available): LJEGERMA@TCEQ.STATE.TX.US

Representing: ☐ Self ☐ Other (specify):

Title of matter being considered:

SOAH Docket No. (if known): City of Lindero

Your position regarding the matter being considered: ☐ In Favor ☐ Opposed ☐ Undecided ☒ Observer

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

TO: LaDonna Castanuela, Chief Clerk

THRU: *DK* Doug Holcomb, P.E., Section Manager
3/17 Utilities & Districts Section
 Water Supply Division

FROM: *TB* Tammy Benter, Team Leader
3/16 Utilities & Districts Section
 Water Supply Division

DATE: March 21, 2006

THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a
 Texas Commission on Environmental Quality document,
 which is filed in the permanent records of the Commission.
 Given under my hand and the seal of office on

LaDonna Castanuela JUN 13 2006

LaDonna Castanuela, Chief Clerk
 Texas Commission on Environmental Quality

SUBJECT: Docket No. 2006-0272-UCR; Application from the Town of Lindsay to Amend a Water Certificate of Convenience and Necessity (CCN) No. 13025 in Cooke County; Application No. 35096-C

Docket No. 2006-0272-UCR; Application from the Town of Lindsay to Amend a Sewer Certificate of Convenience and Necessity (CCN) No. 20927 in Cooke County; Application No. 35097-C

CN: 601118607; RN: 104296488 (water) and 104315569 (sewer)

We hereby transfer the official file for the above referenced applications to the Chief Clerk's Office. Please refer these applications to the State Office of Administrative Hearings and request that a hearing be scheduled.

These applications have been protested by Lindsay Pure Water Company and various landowners. Lindsay Pure Water Company is concerned that the applications may affect a settlement reached between Lindsay Pure Water Company and the applicant in 2002 to address portions of the requested area. The majority of the landowners feel they don't need service from the Town of Lindsay. Additional concerns listed by the landowners include concerns about the Town of Lindsay's capability to serve its current customers, future city limits implications, future property tax implications, and the possibility of restrictions imposed on their property rights.

The individuals on the attached mailing list protested these applications. Staff estimates 30 people to attend this hearing.

The staff assigned to these cases are:

Technical - *T.T.* Tuyet Truong and Tammy Benter
3/16/06

Legal -

If we may be of further service regarding this matter, please call.

Doug Holcomb
 Doug Holcomb, P.E., Section Manager

DH/TT/TB/ac

cc: TCEQ Public Interest Counsel; ATTN: Vic McWherter
TCEQ Agency Communications; ATTN: Andy Saenz, Director
TCEQ Chief Clerk's Office; ATTN: Steve Brachel, SOAH Docket Clerk
TCEQ Legal Office; ATTN: Robert Martinez

BN

**TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY**

TRANSMITTAL OF ADMINISTRATIVE RECORD

DATE: June 14, 2006

TO: SOAH Natural Resources Docket Clerk

FROM: SB Steve Brachel, Final Documents Team

RE: Town of Lindsay
SOAH Docket No. 582-06-2023; TCEQ Docket No. 2006-0272-UCR

Pursuant to 30 TAC § 80.6(b)(4) regarding referrals to SOAH, a copy of the Chief Clerk's case file is attached. Please find certified copies of the following documents:

- ✓ 1. the application;
- ✓ 2. public hearing notice and Chief Clerk's affidavit

If any of these documents are not included as enclosures with this memo, please notify Steve Brachel at (512) 239-2207 or Deanna Avalos, Final Documents Team Leader at (512) 239-3327.

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

CERTIFIED MAIL

March 21, 2006

Mr. Arturo D. Rodriguez, Jr.
Russell, Moorman & Rodriguez, LLP
102 West Morrow Street, Suite 103
Georgetown, Texas 78626

Re: Application from the Town of Lindsay to Amend Certificate of Convenience and Necessity (CCN) No. 13025 in Cooke County; Application No. 35096-C

Application from the Town of Lindsay to Amend CCN No. 20927 in Cooke County; Application No. 35097-C

CN: 601118607; RN: 104296488 (water) and 104315569 (sewer)

Dear Mr. Rodriguez:

The Texas Commission on Environmental Quality (TCEQ) has received several protests regarding the application referenced above. The Commission's Chief Clerk has assigned Docket No. 2006-0272-UCR to this matter. Any further communications should refer to this docket number. V.T.C.A. Water Code, Section 13.246 provides that affected parties may protest the applications and request a hearing on whether the CCNs should be amended. Please see the enclosed list of protestants.

This matter has been referred to the State Office of Administrative Hearings to schedule a hearing. When a hearing has been scheduled, you will receive a notice of hearing which explains when and where the hearing will be held.

In order to review the CCN applications, the staff of the TCEQ may need additional information regarding your utility's service. You may be receiving Staff Requests for Information (RFI's) within a few weeks. We would appreciate your cooperation in providing the information requested.

If you have questions about this process or what material you should bring with you to the hearing, please contact Ms. Tuyet Truong at (512) 239-0605 or Ms. Tammy Benter at 512/239-6136.

Sincerely,

A handwritten signature in cursive script that reads "Doug Holcomb".

Doug Holcomb, P.E., Section Manager
Utilities & Districts Section
Water Supply Division

DH/TT/TB/ac

Town of Lindsay
Mailing List
Application Nos. 35096-C & 35097-C

Mr. Arturo D. Rodriguez, Jr.
Russell, Moorman & Rodriguez, LLP
102 West Morrow Street, Suite 103
Georgetown, Texas 78626

Representing: Town of Lindsay

Mr. John J. Carlton, Attorney
Ambrust & Brown, LLP
100 Congress Avenue, Suite 1300
Leonard, Texas 75452

Representing: Lindsay Pure Water Company

Mr. & Mrs. Bill and Monica Laux
3792 FM 199
Gainesville, Texas 76240

Landowner Protestant

Mr. Christopher W. Sikes
12588 County Road 352
Gainesville, Texas 76240

Landowner Protestant

Mr. Kenneth J. Thurman
1733 County Road 404
Gainesville, Texas 76240

Landowner Protestant

Mr. Bradley Franklin &
Ms. Ronda Lynn Metzler
6030 West Highway 82
Gainesville, Texas 76240

Landowner Protestant

Mr. & Mrs. Jimmy and Barbara Mosman
1290 County Road 418
Gainesville, Texas 76240

Landowner Protestant

Ms. Darlene B. Huebner
2127 County Road 327
Gainesville, Texas 76240

Landowner Protestant

Ms. Kathleen M. Hacker
1230 County Road 434
Gainesville, Texas 76240

Landowner Protestant

Mr. Herbert Schmidlkofer
3416 County Road 409
Gainesville, Texas 76240

Landowner Protestant

Ms. Ella Mae Rohmer
302 North Sycamor`
Muenster, Texas 76252

Landowner Protestant

Ms. Mary Ann Arendt
3055 County Road 306
Gainesville, Texas 76240

Landowner Protestant

Mr. & Mrs. Damian & Lucy Krah
5434 FM 1199
Gainesville, Texas 76240

Landowner Protestant

Mr. Alvin Fleitman
4372 County Road 306
Gainesville, Texas 76240

Landowner Protestant

TCEQ:

Region 4 Office
Tuyet Truong, MC -153, Water Supply Division
Tammy Benter, MC-153, Water Supply Division

35096-C

TAT

THB
Rec'd 2/16/06

RM&R

RUSSELL, MOORMAN & RODRIGUEZ, L.L.P.
ATTORNEYS AT LAW

TEXAS HERITAGE PLAZA · 102 WEST MORROW STREET, SUITE 103

GEORGETOWN, TEXAS 78626

PHONE (512) 930-1317 · FAX (512) 930-7742

Email: arodriguez@rmrlawfirm.com

February 15, 2006

VIA HAND DELIVERY

Mr. Doug Holcomb
Texas Commission on Environmental Quality
Utilities & Districts Section
P.O. Box 13087, MC-153
Austin, Texas 78711-3087

RECEIVED

THB
FEB 16 2006

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY
UTILITIES AND DISTRICTS

Re: *Application from the Town of Lindsay to Amend Certificate of Convenience and Necessity (CCN) No. 13025 in Cooke County; Application No. 35096-C*

Application from the Town of Lindsay to Amend CCN No. 20927 in Cooke County; Application No. 35097-C

CN: 601118607; RN: 104296488 (water) and 104315569 (sewer)

Dear Mr. Holcomb,

This letter serves as a supplement to our October 21, 2005, letter to Ms. Karen Blaschke wherein the Town of Lindsay ("Town") asserted that the Town did not need to demonstrate landowner consent outside of its extraterritorial jurisdiction ("ETJ") in order for the Commission to consider the Town's application to amend its water and sewer CCNs outside of its ETJ. The Town asserted that the request to provide landowner consent for all proposed service area located outside of the Town's current ETJ is not a legal requirement of the Commission's CCN application process. This understanding of the Commission's rules in relation to House Bill 2876 has been substantiated and supported through the Executive Director's response to a filing in another case, which was received yesterday.

In another case currently pending before the State Office of Administrative Hearings, I filed a Motion for Summary Disposition based on my understanding of the Executive Director's position that pending CCN applications would not be granted to municipal applicants if it contained service territory outside its ETJ. The Executive Director requested denial of the Motion for Summary Disposition, which is attached hereto as Attachment 1, by stating that it is the Commission's position that the preamble to the new Chapter 291 rules is not conclusive and that an application filed prior to January 1, 2006, is not governed by the rule package approved by the Commission on December 14, 2005. This firm has requested a directive from the Commission on this new rule as it has consistently been this firm's position that this new rulemaking and HB 2876 cannot be retroactive to municipalities but only prospectively applied

Mr. Doug Holcomb
February 15, 2006
Page 2 of 2

to applications filed after January 1, 2006. This position had not been clearly articulated by the Executive Director, until the attached response was received.

As I know that the Commission strives to consistently apply its rules and policies, I ask that you apply the Executive Director's position, as articulated in the attached document, to the above-referenced application. Without doubt, the Executive Director has clearly stated that municipal CCN applications filed prior to January 1, 2006, do not need to demonstrate ETJ boundaries or landowner consent outside the ETJ boundaries. Because of the Commission's desire to treat all applicants in a consistent manner, I request that the Town's application be processed in an expedited manner under the TCEQ rules as they existed prior to the Commission's December 14, 2005, meeting. As such, the Town may be granted an amendment to its water and sewer CCNs outside its ETJ boundaries without landowner consent. Please continue to process the above-referenced application in this manner, as it is consistent with the Executive Director's position.

Thank you very much for your attention to this matter.

Sincerely,



Arturo D. Rodriguez, Jr.

Attachment as stated in letter

cc: Mr. Glenn Shankle, Executive Director
Mr. Derek Seal, General Counsel
Mr. Blas Coy, Public Interest Counsel
✓ Ms. Tammy Holguin-Benter
Mr. Pat Dillon
Mr. Steven Zwinggi

SOAH DOCKET NOS. 582-05-7095 and 582-05-7096
TCEQ DOCKET NOS. 2005-0864-UCR and 2005-0863-UCR

APPLICATIONS OF THE CITY OF	§	
LEANDER TO AMEND WATER	§	BEFORE THE STATE OFFICE
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY (CCN) NO. 10302	§	
AND SEWER CCN NO. 20626 IN	§	
WILLIAMSON AND TRAVIS	§	
COUNTIES, AND OBTAIN DUAL	§	OF
CERTIFICATION WITH A PORTION	§	
OF THE CITY OF CEDAR PARK'S	§	ADMINISTRATIVE HEARINGS
CCN NOS. 10160 AND 20580 IN	§	
TRAVIS COUNTY, TEXAS	§	

THE EXECUTIVE DIRECTOR'S RESPONSE TO THE
CITY OF LIBERTY HILL'S MOTION FOR
PARTIAL SUMMARY DISPOSITION

COMES NOW, the representative for the Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "Commission"), and files the Executive Director's Response to the City of Liberty Hill's Motion for Partial Summary Disposition, and would respectfully show the following:

I. BACKGROUND

On January 25, 2006, the City of Liberty Hill ("Liberty Hill" or "Movant") filed a Motion for Partial Summary Disposition involving the portions of the application filed by the City of Leander ("Leander") to amend its water and sewer Certificates of Convenience and Necessity ("CCN") Nos. 10302 and 20626 ("Amended Applications") to add areas that are outside of Leander's ETJ. In Liberty Hill's Motion for Partial Summary Disposition they asserted that they should be granted a summary disposition on the portion of the Amended Applications because there

are no genuine issues as to any material fact and they also asserted that there were, "...no issues of law in the disputed area because there is not a valid application by Leander for that area," (*City of Liberty Hill's Motion for Partial Summary Disposition*, See Attachment ED-A, page 3).

II. ARGUMENT

The Executive Director disagrees with the motion for partial summary disposition, and recommends that Liberty Hill's motion be denied.

A. THE MOTION DOES NOT COMPLY WITH PROCEDURAL REQUIREMENTS

In Liberty Hill's request for summary disposition they raise the point that there are no genuine issues as to any material fact, and that they should be afforded a partial summary disposition as a matter of law. In order to receive relief for a summary disposition the movant must show the following, pursuant to Title 1, Chapter 155 of the Texas Administrative Code, Rule §155.57 (State Office of Administrative Hearings - Summary Disposition):

(b) A motion for summary disposition shall state the specific grounds therefor.

(1) A party may move with or without supporting affidavits for summary disposition upon all or any part of a contested case.

(2) *The motion shall include a separate statement setting forth plainly and concisely all material facts that the moving party contends are undisputed. Each of the material facts stated shall be followed by a reference to the supporting evidence.* The failure to comply with the requirement of a separate fact statement may, in the judge's discretion, constitute sufficient grounds for the denial of the motion (Emphasis Added).

In this instance the Movant has failed to substantiate their motion, since they have failed to plead all material and undisputed facts to afford them a partial summary disposition as a matter of law. Liberty Hill has not attached any evidence of pertinent facts to show that the City of Leander has not received landowner consent beyond Leander's Extra Territorial Jurisdiction ("ETJ") as applicable

to the Amended Applications. Although Liberty Hill asserts that the City of Leander would not be permitted to amend their CCN beyond their ETJ without landowner consent they have not stated specific grounds nor substantiated this issue through factual evidence by reference within their pleading for a partial summary disposition. Thus, Liberty Hill has not met their burden by showing that there are no controverted issues of material facts to support their motion for partial summary disposition.

**B. LIBERTY HILL HAS NOT SHOWN IT IS ENTITLED TO THE RELIEF
REQUESTED AS A MATTER OF LAW**

The City of Liberty Hill asserts that because of, "...the position of the Commission and the newly promulgated rules, there are no issues of law in the disputed area because there is not a valid application by Leander for that area," (*City of Liberty Hill's Motion for Partial Summary Disposition*, See Attachment ED-A, page 3). Liberty Hill must show that as a matter of law, it is entitled to the relief requested in its Motion for Partial Summary Disposition. In seeking to make this showing, Liberty Hill relies entirely upon a statement in the preamble to the Commission's adoption of amendments to CCN rules in 30 Texas Administrative Code, Chapter 291 to implement House Bill 2876. As discussed below, Liberty Hill has not met its burden on the Motion for Partial Summary Disposition.

In adopting the CCN rule amendments, the Commission did not state a position on whether House Bill 2876 would void a city's CCN located outside of its ETJ without landowner consent on an application that was submitted before January 1, 2006. Instead, the Commission deleted proposed rule language that would have stated that city CCN areas located outside their ETJ without landowner consent are void on September 1, 2005, the effective date of House Bill 2876. In the

preamble the Commission stated that "as a result of input and comments from affected parties and the public, the Commission recognizes the existence of interpretative differences in regard to CCNs outside cities' ETJs." The Commission then stated that, "the Commission will not take any affirmative action cities CCNs outside their ETJ until after January 1, 2008...[and that] [d]uring this period, the Commission will consider those portions of cities' pending CCN applications that are outside their ETJ only if they provide landowner consent for those areas." The Commission stated that it was taking this course of action "in order to conduct a study and to provide opportunities to cities to obtain any necessary landowner consent in these areas [and to] also allow the legislature to further consider this important issue."

In summary, the Commission did not state a position on the legal effect House Bill 2876 would have on cities' CCNs located outside of their ETJ without landowner consent that were granted on applications that were submitted before January 1, 2006. However, the Commission recognized that there were different legal interpretations on the effect of House Bill 2876 on those CCNs and, in recognition of the different legal interpretations, stated in the preamble an intended course of action until January 1, 2008 in which it would consider those portions of cities' pending CCN applications that are outside their ETJ only if they provide landowner consent, conduct a study on the issue, and allow cities the opportunity to obtain landowner consent. Since the Commission did not state a position on the legal effect of House Bill 2876 as stated above, but instead recognized that there were different interpretations, the Commission's preamble statement does not support the argument that Liberty Hill is entitled to the requested relief as a matter of law. Therefore, the Motion for Partial Summary Disposition should be denied.

III. CONCLUSION

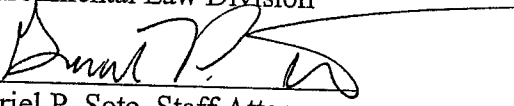
The Executive Director respectfully requests that the Administrative Law Judge deny the City of Liberty Hill's Motion for Partial Summary Disposition in order to proceed with the evidentiary hearing on the current applications pending before SOAH.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

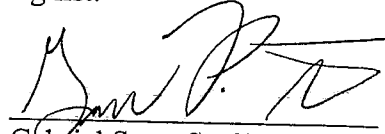
Glenn W. Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

By: 
Gabriel P. Soto, Staff Attorney
Environmental Law Division
State Bar of Texas No. 24037531
MC-173, P.O. Box 13087
Austin, Texas 78711-3087
Phone: (512) 239-3668
Fax: (512) 239-0606

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2006, a true and correct copy of the foregoing document was delivered via facsimile, hand delivery, interagency mail, or deposit in the U.S. Mail to all persons on the attached mailing list.



Gabriel Soto, Staff Attorney
Environmental Law Division
Texas Commission on
Environmental Quality

MAILING LIST

City of Leander

SOAH Docket No. 582-05-7095 and 582-05-7096

TCEQ Docket No. 2005-0864-UCR and 2005-0854-UCR

Honorable Cassandra J. Church
Administrative Law Judge
State Office of Administrative Hearings
300 West Fifteenth Street, Suite 502
Austin, Texas 78701
Tel.: (512) 475-4993
Fax: (512) 475-4994

LaDonna Castañuela (MC-105)
TCEQ Office of the Chief Clerk
P.O. Box 13087
Austin, Texas 78711-3087
Tel.: (512) 239-3300
Fax: (512) 239-3311

Mr. Blas J. Coy, Jr. (MC-103)
Office of Public Interest Counsel
P.O. Box 13087
Austin, Texas 78711
Tel.: (512) 239-4014
Fax: (512) 239-6377

Mr. Arturo D. Rodriguez, Jr.
Russell, Moorman & Rodriguez, L.L.P.
102 West Morrow, Suite 103
Georgetown, Texas 78626-4304
Tel.: (512) 435-2300
Fax: (512) 930-7742

Mr. Richard L. Hamala
Tiemann, Shahady & Hamala, P.C.
P.O. Box 1190
Pflugerville, Texas 78691-1190
Tel.: (512) 251-1920
Fax: (512) 251-8540

Mr. John J. Carlton
Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Tel.: (512) 435-2300
Fax: (512) 435-2360

Mr. Nelson R. Barrett
P.O. Box 307
Liberty Hill, Texas 78642-0307
Fax: (512) 515-6172

Ms. Lauren Kalisek
Mr. Michael Gershon
Lloyd Gosselink Blevins Rochelle &
Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Tel.: (512) 322-5847
Fax: (512) 472-0532

Mr. Gabriel Soto (MC-173)
Environmental Law Division
Texas Commission on Environmental
Quality
P.O. Box 13087
Austin, Texas 78711-3087
Tel.: (512) 239-3668
Fax: (512) 239-0606

SOAH DOCKET NO. 582-05-7095 AND 582-05-7096
TCEQ DOCKET NO. 2005-0864-UCR and 2005-0863-UCR

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
LEANDER TO AMEND WATER	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY (CCN) NO. 10032 AND	§	
SEWER CCN NO. 20626 IN	§	
WILLIAMSON AND TRAVIS	§	
COUNTIES, AND OBTAIN DUAL	§	OF
CERTIFICATION WITH A PORTION	§	
OF THE CITY OF CEDAR PARK'S CCN	§	
NOS. 10160 AND 20580 IN TRAVIS COUNTY	§	ADMINISTRATIVE HEARINGS

CITY OF LIBERTY HILL'S MOTION FOR PARTIAL SUMMARY DISPOSITION

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The City of Liberty Hill ("Liberty Hill" or "City") hereby files its Motion for Partial Summary Disposition in the above referenced matter. Liberty Hill's Motion is brought pursuant to 30 TEX. ADMIN. CODE § 80.137 and TEX. R. CIV. P. 166 (a). Liberty Hill asserts that there are no genuine issues as to any material fact regarding any of the issues discussed below and that Liberty Hill is entitled to partial summary disposition as a matter of law on all issues expressly set out in this motion.

I. BACKGROUND

This proceeding involves an application filed by the City of Leander ("Leander") with the Texas Commission on Environmental Quality ("TCEQ" or "Commission") to amend its water and sewer certificates of convenience and necessity ("CCN") Nos. 10032 and 20626, respectively. On September 15, 2005, Liberty Hill filed its *Motion to Abate Proceedings and Motion to Certify Questions to the Texas Commission on Environmental Quality* based on proposed rules to implement House Bill 2876. Such rules held that as of September 1, 2005, all CCNs outside of a municipalities' extraterritorial jurisdiction would be void. On December 14,

EXHIBIT

ED - A

2005, the Commission held an agenda on adoption of their proposed rules. Commissioner Marquez included a new statement that was added to the preamble of the new rules, Texas Administrative Code, Title 30, Chapter 291, which provides: "As a result of input and comments from affected parties and the public, the commission recognizes the existence of interpretive differences in regard to CCNs outside cities' ETJs. Therefore, the commission will not take any affirmative action on cities' CCNs outside their ETJ until after January 1, 2008, in order to conduct a study and to provide opportunities to cities to obtain any necessary landowner consent in those areas. This will also allow the legislature to further consider this very important issue. During this period, the commission will consider those portions of cities' pending CCN applications that are outside their ETJ only if they provide landowner consent for those areas."¹ The Commission voted unanimously to include this language into the preamble of said rules.

On December 19, 2005, Leander filed its prefiled testimony and attached as Exhibit AP 12B, a map which clearly depicts Leander's ETJ, city limits, and requested sewer CCN amendment. Exhibit AP 12B shows that most of the disputed area between Leander and Liberty Hill lies outside of Leander's ETJ. All exhibits are incorporated herein by reference.

On January 19, 2006, Liberty Hill filed its prefiled testimony of Mr. Kerry Maroney, Liberty Hill Exhibit LH-2, and attached Attachment KDM-13 which shows the ETJ of Liberty Hill. As can be seen when comparing the two maps, most of the disputed area lies outside of Leander's ETJ and inside of Liberty Hill's ETJ. Also attached to Liberty Hill Exhibit LH-2 is Attachment KDM-10 which is the preamble to the rules of the Commission, which became effective January 6, 2006. All exhibits are incorporated herein by reference.

¹ 30 Tex. Reg. 8961 (Dec. 30, 2005).

It has been expressly stated by staff members of the water utilities division of the Commission that it is the Executive Director's and the Commission's policy that *all* pending applications must demonstrate landowner consent for any CCN area being sought outside of the City's ETJ, *regardless of what date the application was filed.*

II. ARGUMENT AND AUTHORITIES

Summary disposition shall be rendered if the pleadings and other case documents show there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion.² As can be seen in Leander's Exhibit AP 12B and Liberty Hill's Exhibit LH-2, Attachments KDM-10 and KDM-13, because of the position of the Commission and the newly promulgated rules, there are no issues of law in the disputed area because there is not a valid application by Leander for that area. Additionally, Liberty Hill requested that Leander provide all requests for water and/or sewer service in the disputed area. Leander has not produced any written requests for service in the disputed area. In fact, during the deposition of Mr. Wayne Watts a map was presented for Mr. Watts to mark where requests had been received. Mr. Watts was not able to identify any requests received in the northwest area, or the disputed area. This map was attached to Liberty Hill's Exhibit LH-2, Attachment KDM-12. No genuine issues as to any material fact regarding any of the issues in this proceeding exist as it relates to the area requested by Leander outside its ETJ and Liberty Hill is entitled to partial summary disposition as a matter of law on all issues expressly set out in this motion. Liberty Hill is entitled to partial summary disposition as to the area in dispute between Leander and Liberty Hill, otherwise known as the "Northwest CCN area."

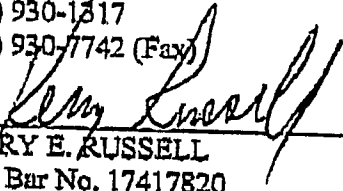
² 30 TEX. ADMIN. CODE § 80.137.

III. PRAYER

For the reasons stated herein, Liberty Hill respectfully requests that its Motion for Partial Summary Disposition be in all things granted and that the disputed area between Leander and Liberty Hill be removed from this proceeding. Liberty Hill further prays for any additional relief to which it is justly entitled.

Respectfully submitted,

Russell, Moorman & Rodriguez, L.L.P.
102 West Morrow Street, Suite 103
Georgetown, Texas 78626
(512) 930-1517
(512) 930-7742 (Fax)


KERRY E. RUSSELL
State Bar No. 17417820

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

ATTORNEYS FOR THE CITY OF LIBERTY
HILL, TEXAS

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of January 2006, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following:

State Office of Administrative Hearings
Honorable Cassandra Church
Administrative Law Judge
300 West 15th Street, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025
Fax: 512/ 475-4994

Docket Clerk
Office of the Chief Clerk
TCEQ - MC 105
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 512/ 239-3311

Executive Director of the TCEQ
Mr. Gabriel Soto
Environmental Law Division
TCEQ - MC 173
P.O. Box 13087
Austin, TX 78711-3087
Fax: 512/ 239-0606

City of Cedar Park
Mr. John Carlton
Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Fax: 512/ 435-2360

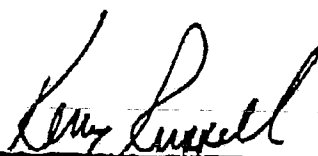
Public Interest Counsel
Mr. Blas Coy, Attorney
Office of the Public Interest Counsel
TCEQ - MC 103
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 512/ 239-6377

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Jack and Camille A. Garey
Mr. Richard Hamala
Tiemann, Shahady & Blackman, P.C.
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Elmer McLester
Gary Brown
Mr. John Carlton
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Fax: 512/ 435-2360

City of Leander
Ms. Lauren Kalisek
Mr. Michael Gershon
Lloyd Gosselink, et al.
816 Congress Avenue
Suite 1900
Austin, Texas
Fax: 512/472-0532

Aligned Protestants
Mr. Nelson Barrett
P.O. Box 307
Liberty Hill, Texas 78642
Fax: 512/515-6172



KERRY E. RUSSELL

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 8, 2005

Mr. Arturo D. Rodriguez, Jr.
Russell, Moorman & Rodriguez, L.L.P.
102 West Morrow, Suite 103
Georgetown, Texas 78626

Re: Application from the City (Town) of Lindsay to Amend Certificate of Convenience and Necessity (CCN) No. 13025 in Cooke County; Application No. 35096-C

Application from the City (Town) of Lindsay to Amend CCN No. 20927 in Cooke County; Application No. 35097-C

CN: 601118607; RN: 104296488 (water) and 104345569 (sewer)

Dear Mr. Rodriguez:

Enclosed are copies of protest letters received from various individuals in the proposed area. These individuals are requesting a hearing on the applications referenced above. Copies of these letters are enclosed to allow the City of Lindsay an attempt to resolve the issues brought forward in their letters.

Please, respond to these individuals in writing and forward a copy of the response to this office. If the Commission does not receive a written withdrawal letter from each individual protesting the City of Lindsay's applications by **January 8, 2005**, the applications will be sent to the State Office of Administrative Hearings to schedule a hearing.

Thank you for your attention to this matter. If you have any questions, please call me at 512/239-6136, by fax at 512/239-6972, by email at tholguin@tceq.state.tx.us, or if by correspondence, include please include MC 153 in the letterhead address.

Sincerely,

A handwritten signature in cursive script that reads "Tammy Holguin-Benter".

Tammy Holguin-Benter
Utilities & Districts Section
Water Supply Division

THB/ac

Enclosures

**City (Town) of Lindsay
Mailing List
Application Nos. 35096-C & 35097-C**

Mr. John J. Carlton, Attorney
Ambrust & Brown, LLP
100 Congress Avenue, Suite 1300
Leonard, Texas 75452

Representing: Lindsay Pure Water Company

Mr. & Mrs. Bill and Monica Laux
3792 FM 199
Gainesville, Texas 76240

Landowner Protestant

Mr. Christopher W. Sikes
12588 County Road 352
Gainesville, Texas 76240

Landowner Protestant

Mr. Kenneth J. Thurman
1733 County Road 404
Gainesville, Texas 76240

Landowner Protestant

Mr. Bradley Franklin &
Ms. Ronda Lynn Metzler
6030 West Highway 82
Gainesville, Texas 76240

Landowner Protestant

Mr. & Mrs. Jimmy and Barbara Mosman
1290 County Road 418
Gainesville, Texas 76240

Landowner Protestant

Ms. Darlene B. Huebner
2127 County Road 327
Gainesville, Texas 76240

Landowner Protestant

Ms. Kathleen M. Hacker
1230 County Road 434
Gainesville, Texas 76240

Landowner Protestant

Mr. Herbert Schmidlkofer
3416 County Road 409
Gainesville, Texas 76240

Landowner Protestant

Ms. Ella Mae Rohmer
302 North Sycamor'
Muenster, Texas 76252

Landowner Protestant

Ms. Mary Ann Arendt
3055 County Road 306
Gainesville, Texas 76240

Landowner Protestant

Mr. & Mrs. Damian & Lucy Krah
5434 FM 1199
Gainesville, Texas 76240

Landowner Protestant

Mr. Alvin Fleitman
4372 County Road 306
Gainesville, Texas 76240

Landowner Protestant

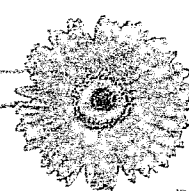
TCEQ:

Region 4 Office

25094-C

RECEIVED

OCT 27 2005



TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

1. ALVIN FLEITMAN
4372 CR 306
GAINESVILLE, TX 76240
1-940-736-2328
2. TOWN OF LINDSAY^{TX} CON NOS. 13025
AND 20927
3. "I/WE REQUEST A PUBLIC HEARING
4. WE HAVE WATER AND SEWER
WOULD HAVE TO PAY FOR WATER
AND SEWER,
5. NOT TO HAVE IT OUT HERE
WE DO NOT ^{WENT} IT, WE HAVE OUR OWN
WE LIVE ^{IT WOULD COST} ~~THAT~~ OUT TOO MUCH
OF LINDSAY

TAMM

CCN 13025

35096-C

October 19, 2005

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P.O. Box 13087
Austin, TX 78711-3087

(1) Name: Damian & Lucy Krah! and family
Lucinda, Travis, Louis, & Maggie Krah!
5434 FM 1199
Gainesville, TX 76240
(940) 668-8332 daytime
(940) 668-1356 home

(2) Applicant's Name: Town of Lindsay
RN 101388338

(3) "We request a public hearing" on the proposed amendment of CCN Nos. 13025 & 20927.

(4) We live 5 1/2 miles north of the Town of Lindsay on 135 acres of farm land. About 98% of the land north of Lindsay is agricultural farm and pasture land. We do not want the city to include our property in their CCN application. Granting this application would adversely affect our family and property by giving the city authority over our property. This could mean that someday the city would tell us what we can and cannot do with our own property. Also they could someday tax us for services we know they can never afford to provide. We have our own sewer and water and do not need the city to have any jurisdiction over our property. We have no need or desire to have the city involved in any phase of our life. We live in the country in order to stay away from city jurisdiction. Granting this application would restrict our property rights.

(5) We would gladly withdraw our request for a hearing if the CCN application would not include property so far north of Lindsay including our property. We request that the CCN application be changed to exclude property so far away from the city.

Please consider our request:
Damian & Lucy Krah! Family

Damian J. Krah!
Lucy M. Krah!

Enclosed: Notice of Application for CCN and map

RECEIVED

OCT 20 2005

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Notice to Landowners

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE WATER/SEWER UTILITY SERVICE IN COOKE COUNTY**

To:

Damian & Lucy Krah
5434 FM 1199
Gainesville, TX 76240

Date Notice Mailed: October 11, 2005

The Town of Lindsay has filed an application to amend CCN Nos. 13025 and 20927 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Cooke County.

The proposed utility service area is located approximately 4.6 miles north, 3.5 miles south, .6 miles east, and 4.1 miles west of downtown Lindsay, Texas, and is generally bounded on the north by CR 434; on the east by Gainesville Airport; on the south by FM 1630; and on the west by CR 415. See enclosed map of the proposed service area.

The total area being requested for water service includes approximately 18,230 acres and 371 current customers. The total area being requested for sewer service includes approximately 18,230 acres and 362 current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

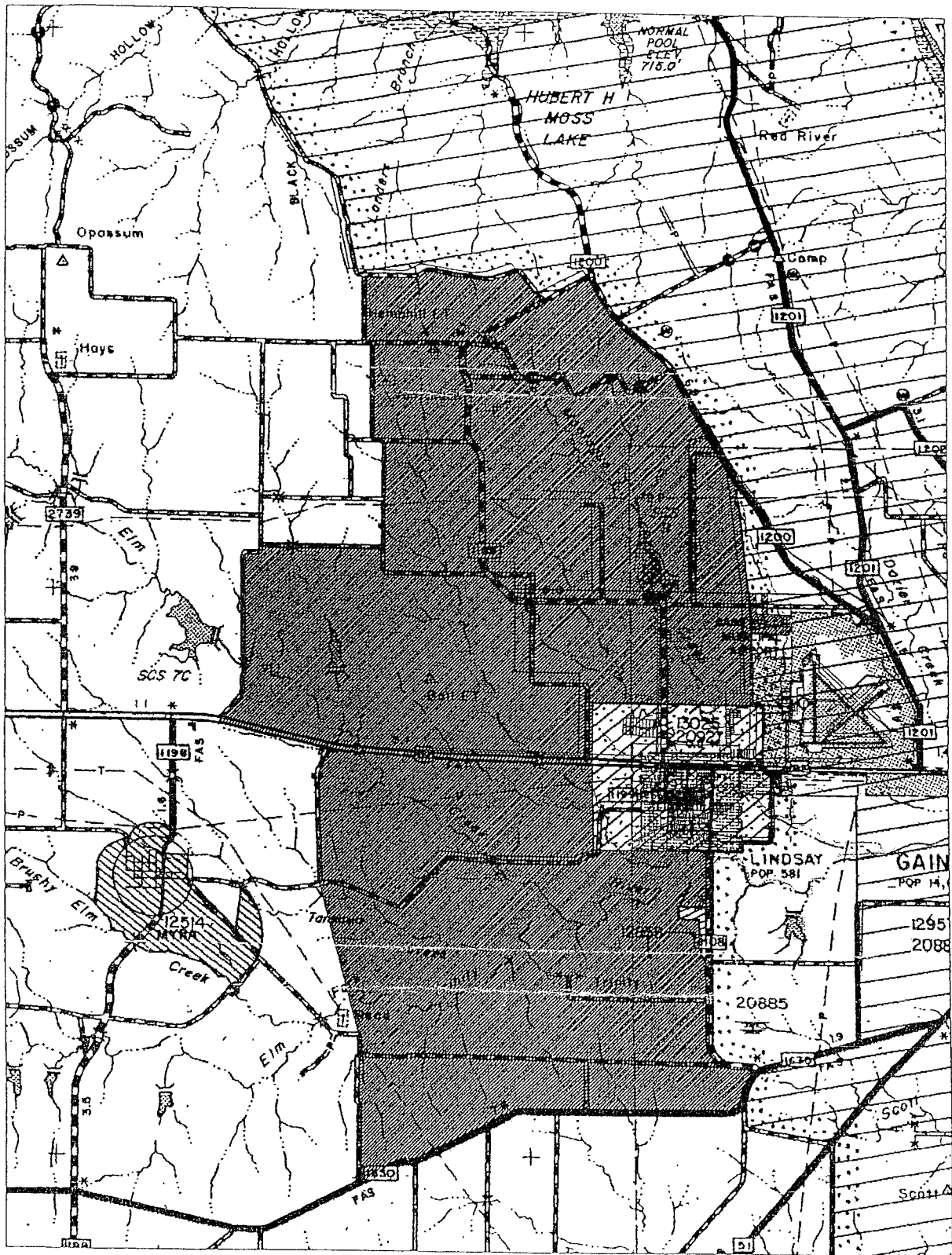
Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Si desea informacion en Espanol, puede llamar al 1-800-687-4040.



U ——— CITY OF LINDSAY
 ● REQUESTS FOR SERVICE LOCATIONS

LINDSAY PROPOSED WATER AND SEWER CCN

- LINDSAY PROPOSED CCN AREA
- REQUESTS FOR SERVICE LOCATIONS

35095-C

4
35096-C

Bentley

Date Oct 24, 2005

3055

I am interested in *water and sewer* service to my property located on CR 306.
I hope that my City of Lindsay at some point in the future will be able to provide these
services to my property. For this reason I would like to be included in the CCN for the
City of Lindsay

Sincerely,

Mary Ann Grandt

Full Name
Address

3055 CR 306 - Gainesville TX
76240

Phone #

940-736-2254

RECEIVED

RECEIVED

OCT - 8 2005

OCT 28 2005

ON

TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY

CITY

3 5095-2
3 5096-C

Notice to Landowners

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE WATER/SEWER UTILITY SERVICE IN COOKE COUNTY**

To:

Ella Mae Rohmer Trustee
302 N. Sycamore Dr.
Muenster, TX 76252

Date Notice Mailed: October 11, 2005

The Town of Lindsay has filed an application to amend CCN Nos. 13025 and 20927 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Cooke County.

The proposed utility service area is located approximately 4.6 miles north, 3.5 miles south, .6 miles east, and 4.1 miles west of downtown Lindsay, Texas, and is generally bounded on the north by CR 434; on the east by Gainesville Airport; on the south by FM 1630; and on the west by CR 415. See enclosed map of the proposed service area.

The total area being requested for water service includes approximately 18,230 acres and 371 current customers. The total area being requested for sewer service includes approximately 18,230 acres and 362 current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Si desea informacion en Espanol, puede llamar al 1-800-687-4040.

(over)

I request a public hearing on the Sewer & Water
utility services in Cooke County -

my name Ella Mae Rohmer

address. 302 N. Ly Camore

Muenster TX 76252

Phone # 940-759-4399

Cell 940 736-3778

Notice to Landowners

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)
TO PROVIDE WATER/SEWER UTILITY SERVICE IN COOKE COUNTY**

To:

Ella Mae Rohmer
302 N. Sycamore Dr.
Muenster, TX 76252

Date Notice Mailed: October 11, 2005

The Town of Lindsay has filed an application to amend CCN Nos. 13025 and 20927 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Cooke County.

The proposed utility service area is located approximately 4.6 miles north, 3.5 miles south, .6 miles east, and 4.1 miles west of downtown Lindsay, Texas, and is generally bounded on the north by CR 434; on the east by Gainesville Airport; on the south by FM 1630; and on the west by CR 415. See enclosed map of the proposed service area.

The total area being requested for water service includes approximately 18,230 acres and 371 current customers. The total area being requested for sewer service includes approximately 18,230 acres and 362 current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

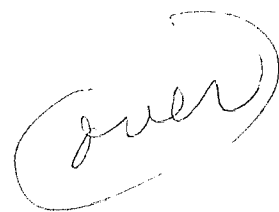
Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Si desea informacion en Espanol, puede llamar al 1-800-687-4040.

A handwritten signature in dark ink, possibly reading "J. Over", is written in a cursive style within a faint circular outline.

I request a public hearing on the
sewer + water utility services in Cooke
County.

my name: Ella Mae Bohner
address 302 N Sycamore

Muenster, TX 76252

phone 940-759-4399

cell 940-736-3778

RECEIVED

NOV 14 2005

TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY

Dear Austin,

I am a Land owner in Cooke County in which you sent a letter about "to provide water/sewer utility service in Cooke County"-in Lindsay area, (CCN #s 13025 + 20927)

I'm not sure what this means cause I already have these thing and have for some years. Would this affect me in any way? I'm not sure I want a hearing but if there is one I would like to be there, please.

How does this affect people who are already in this area and are set up. I hope this doesn't include us in the Lindsay city limits cause I don't want that.

P.S my dad feels the same and would like to know more.
Herbert Schmidt Kofen
3416 C.R. 409
Gainesville Tx 76240
946-665-9256

Thanks, Kathy Hacker
Kathleen M. Hacker
1236 CR 434
Gainesville Tx 76240
946-668-7088

THOMAS

35046 (4) 35097-C

November 5, 2005

Texas Commission on Environmental Quality
Water Supply Division
Utilities and District Section, MC-153
P.O. Box 13087
Austin, Texas 78711-3087

In response to the application filed by
the Town of Lindsay to Amend Nos. 13025
and 20927 with the Texas Commission on
Environmental Quality to provide water
and sewer utility service in Cook County,
I am very much against this pro-
posal!

Darleen B. Hubner
2127 CR327
Lancaster, Texas 76240

I would ~~like~~ appreciate it, if I can be notified
of proceedings.

11/15/2005

Jimmy & Barbara Mosman
1290 CR 418
Gainesville, TX 76240

November 3, 2005

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P.O. Box 13087
Austin, TX 78711-3087

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35097 C

To Whom It May Concern;

Our names are Jimmy & Barbara Mosman, and mailing address is 1290 County Rd 418, Gainesville, TX 76240. We are located north of downtown Lindsay, Texas. We can be reached during the daytime by cell phone number: (940)727-2940.

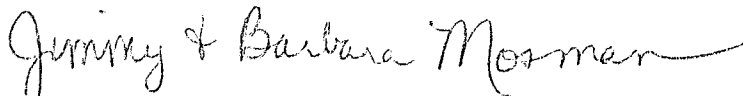
The Town of Lindsay has filed an application to amend CCN Nos. 13025 and 20927 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Cooke County.

We request a public hearing. We would be adversely affected by the granting of the application for a CCN, as it is not a convenience, nor a necessity for us. We have our own water and sewer and therefore we do not need to acquire any utilities from the Town of Lindsay. We do not have any desire for the Town of Lindsay to "come out to the country" and try to run our lives and also raise our taxes by eventually putting us in the city limits when they get the application granted.

We would be satisfied if The Town of Lindsay would stay how it is presently, and leave me and my family alone.

Thank You for your time and consideration of this important matter.

Sincerely,



Jimmy & Barbara Mosman

NOV 04 2005

To: Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC 153
P.O. Box 13087
Austin, TX 78711-3087

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From: Bradley Franklin & Ronda Lynn Metzler
6030 W. Hwy 82
Gainesville, TX 76240
(940)668-6477

The Town of Lindsay has filed an application to amend CCN Nos. 13025 and 20927 to provide water and sewer utility service in Cooke County. I, Bradley Franklin Metzler **request a public hearing** regarding this matter. As a property owner, outside the city limits, I would adversely be affected by the granting of the application for a CCN. Since 2001 I have had a water well drilled and two septic systems put in on my property, so I see no benefit for me. I purchased this property because it was outside the city limits. I feel that the granting a CCN would be the first step to placing my property inside the city limits, thus increasing my property tax. I would like to have my property excluded from this request.

RECEIVED
JAN 10 2001
TARRANT COUNTY
CLERK