

City of Lindsay, Texas CCN Application  
SOAH Docket No. 582-06-2023  
TCEQ Docket No. 2006-0272-UCR  
Residential Water Rates <sup>(1)</sup>

<u>Rank</u>	<u>City</u>	<u>5,000 Gallons</u>	<u>City</u>	<u>10,000 gallons</u>
1	Shenandoah	9.00	Texline	0.00
2	Rankin	10.93	Shenandoah	11.00
3	Booker	11.25	Leakey	16.70
4	Claude	11.50	Booker	17.50
5	McLean	11.50	Texhoma	17.60
6	Texhoma	11.60	McLean	17.75
7	La Coste	11.70	Rocksprings	19.00
8	Anton	12.50	Springlake	19.00
9	Gruver	12.50	Wickett	19.50
10	Morgan's Point	12.50	Opdyke West	20.00
11	White Deer	12.50	La Coste	20.20
12	Rocksprings	12.75	Anton	20.50
13	Springlake	12.75	Whiteface	21.00
14	McCamey	13.00	Camp Wood	21.24
15	Oyster Creek	13.20	Follett	22.00
16	Leakey	13.45	Oyster Creek	22.20
17	Whiteface	13.50	Rankin	22.43
18	Camp Wood	13.75	Morgan's Point	22.50
19	Wickett	14.50	Sudan	22.50
20	Higgins	14.75	Earth	23.00
21	Eldorado	15.00	Higgins	23.50
22	Plains	15.25	Wink	23.50
23	Groom	15.40	Gruver	23.75
24	Earth	15.50	White Deer	23.75
25	Meadowlakes	15.65	Bovina	23.80
26	Goldsmith	16.00	Claude	24.00
27	Daisetta	16.25	Plains	24.00
28	Palm Valley	16.35	Meadowlakes	24.15
29	Sabinal	16.45	Darrouzett	24.34
30	Vega	16.75	Groom	24.40
31	Sundown	16.80	Sabinal	24.70
32	Iraan	16.90	Sundown	24.80
33	Beasley	17.00	Daisetta	25.00
34	Follett	17.00	McCamey	25.75
35	Lexington	17.00	Orchard	25.94
36	New Waverly	17.00	Hart	26.00
37	Wink	17.00	Lexington	26.10
38	Bovina	17.30	Carmine	26.50
39	Darrouzett	17.74	Beasley	27.00
40	Wallis	17.75	New Waverly	27.00
41	Orchard	18.40	Wallis	27.00
42	Hart	18.50	Turkey	27.10
43	Menard	18.75	Eldorado	27.50
44	Charlotte	18.90	Snook	28.00
45	Lefors	19.00	Tenaha	28.00
46	Turkey	19.00	Valley Mills	28.00
47	Skellytown	19.10	Vega	28.00
48	Pineland	19.14	Palm Valley	28.10
49	Valley Mills	19.25	Iraan	28.40

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50	Sudan	19.75	Falls City	28.50
51	<b>Lindsay <sup>(2)</sup></b>	<b>19.80</b>	Hedley	28.50
52	Jewett	20.00	Nordheim	28.50
53	Muenster	20.00	Danbury	28.70
54	Opdyke West	20.00	Maud	28.79
55	Sterling City	20.00	Mertzton	29.00
56	Stockdale	20.00	Skellytown	29.10
57	Southside Place	20.15	Clarendon	29.40
58	Carmine	20.50	Garrison	29.50
59	Tenaha	20.50	Muenster	29.50
60	DeKalb	20.66	Bronte	30.00
61	Three Rivers	20.70	Menard	30.00
62	Falls City	21.00	Stockdale	30.00
63	Hedley	21.00	Charlotte	30.15
64	Mertzton	21.00	Ore City	30.15
65	Nordheim	21.00	Pineland	30.19
66	Woodsboro	21.00	Three Rivers	30.20
67	Ore City	21.15	Goldsmith	31.00
68	Hughes Springs	21.25	La Vernia	31.02
69	Omaha	21.38	<b>Lindsay <sup>(2)</sup></b>	<b>31.90</b>
70	Clarendon	21.40	Liverpool	32.00
71	Haslet	21.50	Lorenzo	32.25
72	Honey Grove	21.55	Grey Forest	32.50
73	Danbury	21.70	Hughes Springs	32.50
74	La Vernia	21.72	Jewett	32.50
75	Bloomburg	21.95	Sterling City	32.50
76	Garrison	22.00	Honey Grove	33.05
77	Rollingwood	22.16	Burton	33.20
78	Maud	22.19	Omaha	33.48
79	Robert Lee	22.20	Goldthwaite	33.75
80	Corrigan	22.25	Adrian	34.00
81	Goldthwaite	22.25	Haslet	34.00
82	Moulton	22.25	Orange Grove	34.25
83	Beckville	22.50	Sunray	34.25
84	Bronte	22.50	Emory	34.75
85	Gustine	22.50	Moulton	34.75
86	Winona	22.50	Gustine	35.00
87	East Mountain	22.55	Winona	35.00
88	Lorenzo	22.75	Woodbranch Village	35.00
89	Bogata	23.00	Woodsboro	35.00
90	Snook	23.00	Amherst	35.50
91	Texline	23.10	Hemphill	35.71
92	Farwell	23.15	Corrigan	36.00
93	Naples	23.25	Woodloch	36.50
94	Sunray	23.25	DeKalb	36.66
95	Brazos Country	23.50	Bloomburg	36.70
96	Roscoe	23.64	Southside Place	36.90
97	Warren City	23.75	Stinnett	37.00

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<u>Rank</u>	<u>City</u>	<u>5,000 Gallons</u>	<u>City</u>	<u>10,000 gallons</u>
98	Adrian	24.00	Florence	37.20
99	Dodd City	24.00	Eustace	37.50
100	Rule	24.00	Montgomery	37.50
101	Frankston	24.25	Stratford	37.50
102	Hawkins	24.25	Tioga	37.50
103	Saint Jo	24.25	Lakeside	37.93
104	Matador	24.50	Silverton	38.00
105	Stinnett	24.50	Matador	38.25
106	Paducah	24.70	Naples	38.25
107	Bandera	24.75	Big Sandy	38.50
108	Big Sandy	24.75	Gordon	38.72
109	Burton	24.80	Hawkins	38.75
110	Grey Forest	25.00	Paducah	38.95
111	Tioga	25.00	Robert Lee	38.95
112	Woodbranch Village	25.00	Ropesville	39.00
113	Woodloch	25.00	East Mountain	39.05
114	Centerville	25.08	Farwell	39.15
115	Baird	25.75	Sour Lake	39.45
116	Johnson City	25.86	Flatonia	39.50
117	Kress	26.00	Kress	39.50
118	Splendora	26.00	San Leanna	39.50
119	Whitewright	26.00	Josephine	39.65
120	Hemphill	26.11	Rollingwood	39.91
121	Tatum	26.15	Beckville	40.00
122	Stratford	26.25	Warren City	40.00
123	Avinger	26.50	Ector	40.50
124	Josephine	26.80	Browndell	41.00
125	Orange Grove	26.96	Cresson	41.00
126	Buffalo	27.00	Somerville	41.00
127	Flatonia	27.00	Splendora	41.00
128	Grapeland	27.00	Goree	41.30
129	Knox City	27.00	Dodd City	41.50
130	Liverpool	27.00	Melvin	41.50
131	Throckmorton	27.00	Frankston	41.75
132	Cumby	27.05	Crowell	42.00
133	Sour Lake	27.10	Yantis	42.00
134	Lakeside	27.24	Driscoll	42.10
135	Somerville	27.25	Whitewright	42.25
136	Eustace	27.50	Colmesneil	42.50
137	Montgomery	27.50	Ransom Canyon	42.63
138	Florence	27.70	Strawn	42.75
139	Queen City	27.90	Bogata	43.00
140	Amherst	28.00	Brownsboro	43.00
141	Brownsboro	28.00	Iredell	43.00
142	Ector	28.00	Centerville	43.62
143	Reklaw	28.00	Tatum	43.65
144	San Leanna	28.00	Cut and Shoot	44.00
145	Silverton	28.00	Murchison	44.00
146	Yantis	28.25	O'Donnell	44.00

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147	Coolidge	28.38	Rule	44.00
148	Savoy	28.38	Dickens	44.50
149	Blanket	28.50	Grapeland	44.50
150	Chillicothe	28.50	Bandera	44.75
151	Cut and Shoot	29.00	Walnut Springs	45.50
152	Murchison	29.00	Cumby	45.52
153	O'Donnell	29.00	Trenton	45.72
154	Rising Star	29.00	Johnson City	45.91
155	Strawn	29.00	Chillicothe	46.00
156	Balmorhea	29.50	Briarcliff	46.25
157	Benjamin	29.50	Smyer	46.50
158	Jamaica Beach	29.50	Runaway Bay	46.64
159	Gordon	29.58	Baird	47.00
160	Collinsville	29.92	Brazos Country	47.00
161	Browndell	30.00	Buffalo	47.00
162	Colmesneil	30.00	Knox City	47.00
163	Gorman	30.00	Northlake	47.00
164	Tehuacana	30.00	Queen City	47.00
165	Troy	30.25	Saint Jo	47.25
166	Ransom Canyon	30.38	Spur	47.40
167	Walnut Springs	30.50	Elmendorf	47.46
168	Ponder	30.65	Avinger	47.75
169	Coahoma	30.70	Blum	48.00
170	Trenton	30.82	Ponder	48.40
171	Cresson	31.00	Scotland	48.50
172	Cross Plains	31.00	Bruceville-Eddy	49.00
173	Runaway Bay	31.02	Throckmorton	49.00
174	Driscoll	31.50	Marion	49.25
175	Lakeside City	31.50	Alba	49.50
176	Melvin	31.50	Redwater	49.50
177	Edgewood	31.76	Thorndale	49.60
178	Goree	31.80	Cross Plains	49.75
179	Alba	32.00	Roscoe	49.96
180	Dickens	32.00	Gorman	50.00
181	Petrolia	32.00	Lakeside City	50.25
182	Redwater	32.00	Collinsville	50.32
183	Sadler	32.00	Lakewood Village	50.50
184	Thrall	32.15	Barstow	51.00
185	Cottonwood Shores	32.25	Crosbyton	51.00
186	Spur	32.40	Grandfalls	51.28
187	Buffalo Gap	32.50	Blanket	51.35
188	Hico	32.50	Cottonwood Shores	51.40
189	Lakewood Village	32.50	Benjamin	52.00
190	Maypearl	32.50	Jamaica Beach	52.00
191	Ropesville	32.50	Rogers	52.00
192	New Deal	32.80	Bells	52.10
193	Blum	33.00	Coolidge	52.13
194	Iredell	33.00	Jayton	52.28
195	Malone	33.00	Thrall	52.40

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196	Point Comfort	33.00	Savoy	52.48
197	Rio Vista	33.00	Tom Bean	52.80
198	Northlake	33.25	Malone	53.00
199	Bayside	33.50	Reklaw	53.00
200	Crosbyton	33.50	Rio Vista	53.00
201	Meridian	33.50	Godley	53.30
202	Scotland	33.50	Meridian	53.50
203	Wells	33.50	Rising Star	54.00
204	Briarcliff	33.75	Blue Ridge	54.25
205	Alto	34.00	Bertram	54.59
206	Bruceville-Eddy	34.00	Miles	55.00
207	Crowell	34.00	Tehuacana	55.00
208	Marion	34.25	Bayside	55.50
209	Chico	34.50	Grandview	55.50
210	Rogers	34.50	Trinidad	55.75
211	Bertram	34.59	New Deal	55.80
212	Emory	34.75	Wells	56.00
213	Thorndale	34.85	Clarksville City	56.25
214	Barstow	35.00	China	57.00
215	Clarksville City	35.00	Edgewood	57.31
216	Quinlan	35.00	Dawson	57.40
217	Tolar	35.00	Hico	57.50
218	Caddo Mills	35.12	Oak Ridge	57.50
219	Wolfe City	35.20	Huxley	58.00
220	Huxley	35.50	Star Harbor	58.30
221	Log Cabin	36.00	Westover Hills	58.90
222	Elmendorf	36.24	Sadler	59.00
223	Bells	36.25	Caddo Mills	59.13
224	Kosse	36.25	Callisburg	60.00
225	Trinidad	36.25	Maypearl	60.00
226	Smyer	36.50	Quinlan	60.00
227	Godley	36.55	Santa Anna	60.00
228	Roby	36.85	Tolar	60.00
229	Tom Bean	36.85	Troy	60.50
230	China	37.00	Lefors	61.00
231	Elkhart	37.20	Rhome	61.00
232	Callisburg	37.50	Elkhart	61.20
233	Grandview	37.50	Bangs	62.00
234	Riesel	37.50	Berryville	62.00
235	Carbon	37.60	Petrolia	62.00
236	Boyd	37.80	Wolfe City	62.20
237	Grandfalls	37.80	Coahoma	63.00
238	Rhome	37.82	Blooming Grove	63.66
239	Bangs	38.00	Alto	64.00
240	Blue Ridge	38.00	Covington	64.00
241	Megargel	38.00	Crawford	64.50
242	Rose City	38.00	Hubbard	64.80
243	Dawson	38.70	Buffalo Gap	65.00
244	Alvord	38.85	Log Cabin	65.00

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245	Lorena	39.02	Newcastle	65.48
246	Newcastle	39.35	Moody	65.50
247	Jayton	39.78	Point Comfort	65.50
248	Miles	40.00	Point	65.80
249	Oak Ridge	40.00	Balmorhea	66.25
250	Santa Anna	41.25	Kosse	66.25
251	Covington	41.50	East Tawakoni	67.00
252	Groveton	41.50	Milford	68.00
253	Hubbard	41.80	Carbon	68.60
254	Blooming Grove	42.06	Alvord	69.75
255	Star Harbor	42.35	West Tawakoni	69.80
256	Westover Hills	42.45	Rose City	70.00
257	Mertens	43.50	Lott	71.00
258	East Tawakoni	44.05	Megargel	72.00
259	Pelican Bay	44.10	Boyd	72.80
260	Berryville	44.50	Mount Calm	73.00
261	Ladonia	44.50	Roby	73.70
262	Moody	44.50	Streetman	74.00
263	Frost	44.60	Riesel	75.00
264	Graford	45.00	Cranfills Gap	76.50
265	Streetman	45.00	Wortham	77.47
266	Point	46.10	Lipan	78.00
267	Cranfills Gap	46.50	Blanco	78.55
268	Blanco	47.05	Ladonia	79.50
269	Crawford	48.00	Graford	80.00
270	Lipan	48.00	Lorena	80.54
271	Milford	48.00	Lueders	83.10
272	Moran	50.60	Groveton	84.25
273	Lott	51.00	Mertens	87.00
274	West Tawakoni	51.55	Frost	87.29
275	Lueders	52.60	Bryson	88.00
276	Wortham	53.22	Pelican Bay	88.20
277	Dell City	55.45	Moran	89.70
278	Mount Calm	55.50	Dell City	97.45
279	Bryson	58.00	Chico	102.00
280	Ingleside on the Bay	68.41	Ingleside on the Bay	102.71
281	Trent	76.00	Trent	131.00

Notes:

(1) Source: TML 2008 Water and Sewer Rate Survey

(2) Rates Calculated assuming a 3/4" meter, based upon rate schedule effective 10/1/2008

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*

September 21, 2005

Mr. Arturo D. Rodriguez, JR., Attorney  
Russell, Moorman & Rodriguez, LLP  
102 West Morrow, 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:

Your CCN applications for the Town of Lindsay, received on August 31, 2005, have been assigned Application Nos. 35096-C and 35097-C, but have not been accepted for filing. Please refer to these numbers in future correspondence.

The next step towards having your applications accepted is to provide the **revised** public notices without delay. The notice to the public must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Cooke County. It is the responsibility of the applicant to provide correct notice of the applications to any utilities within two (2) miles of your proposed service area, any city with an extraterritorial jurisdiction which overlaps the proposed service area or other affected parties in your requested area. You will also be required to provide mailed notice to all landowners included in your proposed CCN area pursuant to commission order dated October 21, 2004. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN lies. Check the notices carefully before mailing or publishing.

As proof that notice was provided, you are required to send us the following:

- a) an original and three copies of a publisher's affidavit of the newspaper publication with tear sheets of the published notice attached;
- b) four copies of each individual notice and map sent to neighboring utilities and affected parties;
- c) one copy of each individual landowner notice and map sent to landowners; and
- d) an original and three copies of the signed affidavits that individual notice to neighboring utilities, affected individuals and each landowner has been given. (Copies of the Affidavit forms are enclosed with this letter.)

P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: [www.tceq.state.tx.us](http://www.tceq.state.tx.us)

*Reporter Copy*

*APP-5*

Include the enclosed location map delineating the proposed service area with your individual notices to neighboring utilities, other affected parties and each landowner.

In addition to the notice requirements the following information is also necessary to proceed with your applications:

- a) Provide the name(s) and physical address(es) of any customers currently receiving water and/or sewer service from the City of Lindsay in the requested area. Distinguish between water and sewer service in your response.
- b) Provide copies of service application(s) and/or written request(s) from all landowner(s), developer(s) and/or potential customer(s) seeking to obtain water and/or sewer service in the requested area. Distinguish between water and sewer service in your response.
- c) Provide a map indicating the location of any and all requests for service received. Distinguish between water and sewer service in your response.
- d) Provide a construction cost breakdown and an estimated time line to indicate the cost and time-frame to provide water and/or sewer service to any request(s) for service received by the City of Lindsay. Distinguish between water and sewer service in your response.
- e) You will also be required to provide landowners consent for all proposed area located outside the City of College Station's current extraterritorial jurisdiction.

These items must be completed and returned by **October 21, 2005**. Processing of these applications cannot proceed until the close of the 30 day public comment period which begins after all the required notices have been given. If we do not receive the requested information by this date, your applications will be returned for failure to prosecute.

If you have any questions, please contact Ms. Karen Blaschke at 512/239-6932, or if by correspondence, include Mail Code 153 in the letterhead address.

Sincerely,



Michelle Abrams, Team Leader  
Utilities & Districts Section  
Water Supply Division

MA/KLB/ac

Enclosures

cc: TCEQ, Region 4 Office

*Notice for Publication*

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

The Town of Lindsay has filed applications 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.

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 copy of the proposed service area map is available at 608 Ash Street, Lindsay, Texas 76250, Phone Number 940/665-4455

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.

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

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_, 2005  
(Neighboring System or City)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

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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.

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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.

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

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_, 2005  
(Landowner)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

The Town of Lindsay has filed applications 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.

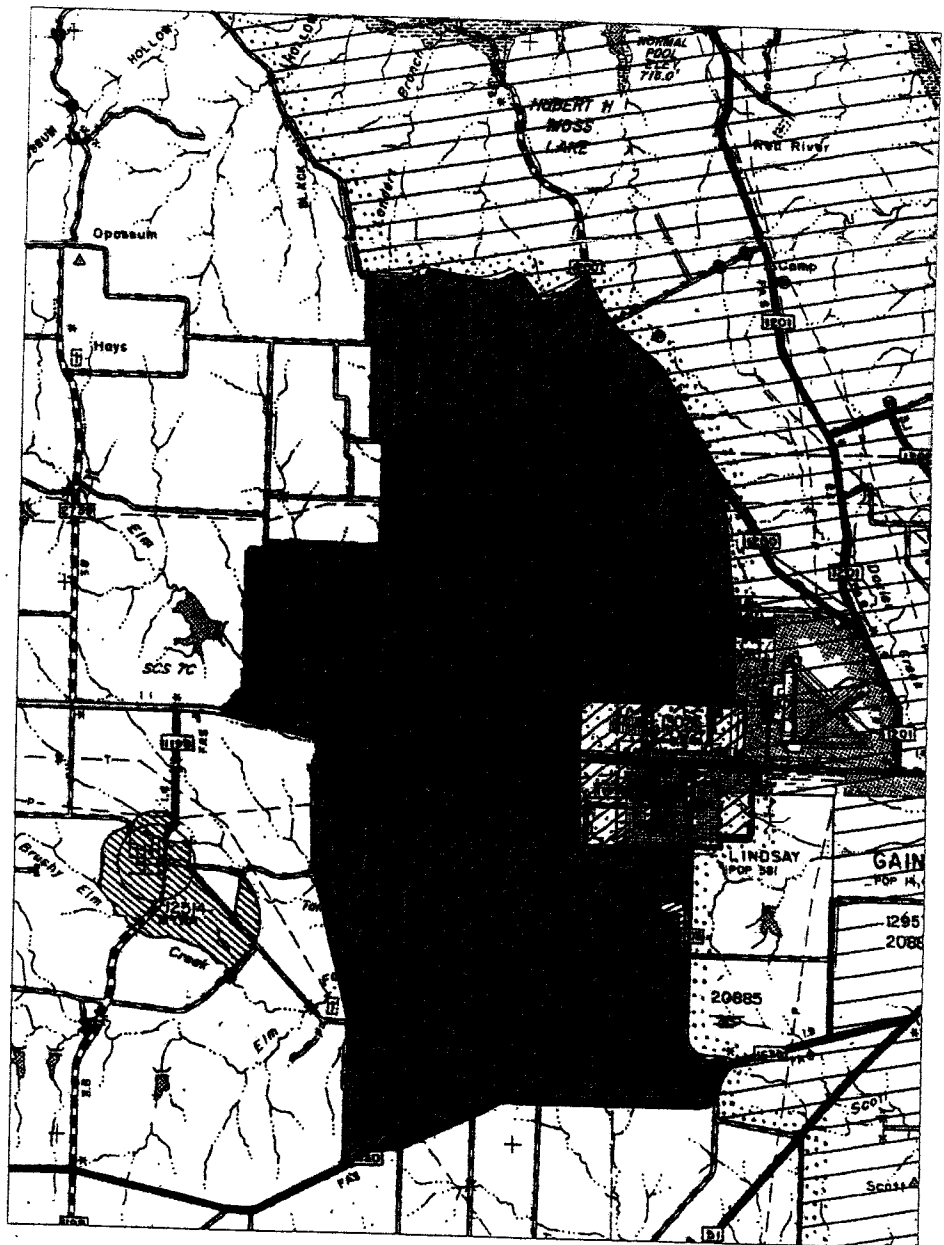
Persons who wish to intervene or comment should write the:

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.



# **LINDSAY PROPOSED WATER AND SEWER CCN**

- LINDSAY PROPOSED CCN AREA**
- REQUESTS FOR SERVICE LOCATIONS**



Texas Commission on Environmental Quality

APPLICATION NO. \_\_\_\_\_

PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,

who being by me duly sworn, deposes and says that (s)he is the \_\_\_\_\_ of the  
TITLE \_\_\_\_\_

NAME OF NEWSPAPER \_\_\_\_\_; that said

newspaper is regularly published in \_\_\_\_\_

County(ies) and generally circulated in \_\_\_\_\_

County (Counties), Texas; and that the attached notice was published in said newspaper on the following date(s), to wit: \_\_\_\_\_

\_\_\_\_\_  
Newspaper Representative's Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_



Texas Commission on Environmental Quality

APPLICATION NO. \_\_\_\_\_

AFFIDAVIT OF NOTICE TO LANDOWNERS

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual notice to  
the following entities:

DATE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OATH

I, \_\_\_\_\_, being duly sworn, file this form as  
\_\_\_\_\_ (indicate relationship to applicant, that is, owner,  
member of partnership, title of officer of corporation, or other authorized representative of applicant); that  
in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the  
notices given with this application, and have complied with all notice requirements in the application and  
application acceptance letter; and that all such statements made and matters set for therein are true and  
correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its'  
attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to certify  
which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public  
Commission Expires \_\_\_\_\_



Texas Commission on Environmental Quality

APPLICATION NO. \_\_\_\_\_

AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES AND AFFECTED PARTIES

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual notice to  
the following entities:

DATE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OATH

I, \_\_\_\_\_, being duly sworn, file this form as  
\_\_\_\_\_ (indicate relationship to applicant, that is, owner,  
member of partnership, title of officer of corporation, or other authorized representative of applicant); that  
in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the  
notices given with this application, and have complied with all notice requirements in the application and  
application acceptance letter; and that all such statements made and matters set for therein are true and  
correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its'  
attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to certify  
which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public  
Commission Expires \_\_\_\_\_

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

<b>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 &amp; 35097-C</b>	§ § § § § § §	<b>BEFORE THE STATE OFFICE      OF    ADMINISTRATIVE HEARINGS</b>
---	---------------------------------	---

**LINDSAY PURE WATER COMPANY'S RESPONSE TO THE CITY OF LINDSAY'S  
INTERROGATORIES AND 2<sup>ND</sup> SET OF REQUESTS FOR PRODUCTION**

TO: The City of Lindsay, by and through its attorney of record, Arturo D. Rodriguez, Jr. of Russell & Rodriguez, L.L.P, 102 West Morrow Street, Suite 103, Georgetown, Texas 78626.

COMES NOW, Lindsay Pure Water Company, Protestant herein, and files its Response to the City of Lindsay's Interrogatories and 2<sup>nd</sup> Set of Requests for Production.

**INTERROGATORIES**

**INTERROGATORY NO. 1:** Please describe in detail the Company's existing water transmission lines, if any, capable of providing water service to any area in which the City has requested in its Application.

**RESPONSE:** The Company's existing water system consists of approximately three miles of six-inch diameter C900 pipe, which serves the existing 26 homes within the Company's CCN.

**INTERROGATORY NO. 2:** Please describe in detail the Company's existing booster stations, if any, capable of providing water service to any area in which the City has requested in its Application.

**RESPONSE:** The Company currently has one high-pressure pump, one high-volume pump, a 1,000 gallon pressure tank and a liquid chlorination system serving its existing CCN.

**INTERROGATORY NO. 3:** Please describe in detail the Company's existing water distribution lines, if any, capable of providing water service to any area in which the City has requested in its Application.

**RESPONSE:** See the response to Interrogatory No. 1.

**INTERROGATORY NO. 4:** Please describe in detail the Company's existing water storage tanks, if any, capable of providing water service to any area in which the City has requested in its Application.

**RESPONSE:** The Company currently has one 100,000 gallon vertical water storage tank, which is approximately 99 feet tall.

*Reporter Copy*



**INTERROGATORY NO. 5:** Please identify the Company's sources of water, including ground water and surface water, and explain whether surface water sources are secured by contract or permit.

**RESPONSE:** The Company's existing well is approximately 890 feet deep and produces water at approximately 100 gallons per minute from the Upper and Lower Trinity Aquifer.

Respectfully submitted,

*John J. Carlton*  
**JOHN J. CARLTON** *upelmsrinh8.*

State Bar No. 03817600

**ARMBRUST & BROWN, L.L.P.**

100 Congress Avenue, Suite 1300

Austin, Texas 78701-2744

(512) 435-2300 – Telephone

(512) 436-2360 – Telecopy

**ATTORNEYS FOR LINDSAY PURE  
WATER COMPANY**

**CERTIFICATE OF SERVICE**

By my signature above, I hereby certify that a true and correct copy of the foregoing Lindsay Pure Water Company's Response to City of Lindsay's Request for Disclosure and First Set of Requests for Production has been sent by Facsimile and/or First Class Mail on this 14 day of March, 2008, to the following:

Arturo D. Rodriguez, Jr.  
Russell & Rodriguez, L.L.P.  
102 West Morrow Street, Suite 103  
Georgetown, Texas 78626  
Phone: (512) 930-1317  
Facsimile: (512) 930-7742

Blas J. Coy, Jr.  
Office of Public Interest Counsel  
TCEQ – MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-6363  
Facsimile: (512) 239-6377

Brian MacLeod, Attorney  
TCEQ – MC-175  
P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-0750  
Facsimile: (512) 239-0606

Christiaan Siano, Attorney  
TCEQ – MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-0600  
Facsimile: (512) 239-0606

Docket Clerk  
Office of the Chief Clerk – MC 105  
Texas Commission on Environmental  
Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-3300  
Facsimile: (512) 239-3311

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

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

**DIRECT TESTIMONY**  
  
**OF**  
  
**DONALD L. METZLER**  
  
**ON BEHALF OF**  
  
**THE CITY OF LINDSAY**

**JUNE 9, 2008**

**LINDSAY EXHIBIT APP-2**

1 Q. WHAT YEAR DID LINDSAY RECEIVE ITS CURRENT WATER AND  
2 SEWER CCN?

3 A. Lindsay received its most recent sewer CCN amendment from the TCEQ on May 16,  
4 2003. The most recent water CCN was received from the TCEQ on September 30,  
5 2008. Certified copies of Lindsay's most recent sewer CCN amendment is attached  
6 hereto as Exhibit DLM-4 and the most recent water CCN amendment is attached  
7 hereto as Exhibit DLM-17.

8  
9 ~~Q. HAVE THERE BEEN ANY ADDITIONAL CHANGES SOUGHT TO THE~~  
10 ~~CITY'S WATER OR SEWER CCN SINCE THE LAST AMENDMENT WAS~~  
11 ~~GRANTED OTHER THAN THIS CURRENT APPLICATION?~~

12 ~~A. Yes. The City filed a Motion for Judgment Nunc Pro Tunc Under Texas Rule of Civil~~  
13 ~~Procedure 316 for its water CCN on September 1, 2006. A copy of the Motion is~~  
14 ~~attached to my testimony as DLM 5. When the TCEQ issued the City's water CCN~~  
15 ~~on May 16, 2003, they failed to grant the entirety of the area agreed to by the Parties~~  
16 ~~to the settlement agreement. On October 10, 2007, the TCEQ Commissioners~~  
17 ~~considered the Motion and they instructed the staff to modify the map to match the~~  
18 ~~settlement agreement. A letter confirming the action taken at the October 10, 2007~~  
19 ~~Agenda is attached to my testimony as DLM 6. On November 28, 2007, the City~~  
20 ~~transmitted its consent form to the TCEQ approving the amended map. The Consent~~  
21 ~~Form and amended map is attached to my testimony as DLM 7. On December 13,~~  
22 ~~2007, Mr. Holcomb transmitted a letter to the General Counsel of the Commission~~  
23 ~~informing of the intent to make the requested revisions. The letter further stated that~~

1 ~~an endorsement to the permit would be issued after the expiration of five business~~  
2 ~~days if no objections were received. The letter from Mr. Holcomb is attached to my~~

1 ~~testimony as DLM 8. To date, the City has not received any additional orders or the~~  
2 ~~revised CCN map from the TCEQ. At this time, the City still seeks the entirety of its~~  
3 ~~Proposed Service Territory. Once the amended map is issued by the TCEQ, we will~~  
4 ~~supplement the testimony to reflect the City's current water CCN area.~~

5  
6 **Q. ARE YOU FAMILIAR WITH THE SOURCES OF LINDSAY'S WATER**  
7 **SUPPLY?**

8 A. Yes.

9  
10 **Q. PLEASE DESCRIBE THE SOURCES OF LINDSAY'S WATER SUPPLY.**

11 A. Lindsay has three water wells from which it can provide water service to its existing  
12 customers and approximately 306 additional customers. Lindsay currently has  
13 approximately 0.25 miles of 3" distribution lines, 3.14 miles of 4" distribution lines,  
14 3.98 miles of 6" distribution lines, 0.48 miles of 8" distribution lines, and 3.41 miles  
15 of 10" distribution lines. The City also has two ground storage tanks that are 30,000  
16 gallons in size and two ground storage tanks that are 40,000 gallons in size.  
17 Additionally, the City has a 150,000 gallon elevated storage tank.

18  
19 ~~**Q. ARE YOU FAMILIAR WITH LINDSAY'S WASTEWATER TREATMENT**~~  
20 ~~**FACILITY?**~~

21 ~~A. Yes.~~

1 ~~Q. HOW DOES THE CITY MEET ITS WASTEWATER DEMANDS?~~

2 ~~A. The City owns and operates a wastewater treatment plant. Mr. Kerry Maroney will~~  
3 ~~provide more specific information on the demand and capacity the City has related to~~  
4 ~~wastewater.~~

5 **II. PURPOSE OF TESTIMONY**

6 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY HERE TODAY?**

7 A. To provide clear and accurate information regarding the City's position regarding its  
8 water/sewer service. I also sponsor the City's application to amend Lindsay's water  
9 CCN No. 13025 and sewer CCN No. 20927.

10

11 **Q. CAN YOU IDENTIFY APPLICANT'S EXHIBIT NO. 1?**

12 A. Yes. APP EX. 1 is Lindsay's application to amend its water CCN No. 13025 and its  
13 sewer CCN No. 20927 ("Application").

14

15 **Q. IS THIS A TRUE AND CORRECT COPY OF THE APPLICATION?**

16 A. Yes.

17

18 **Q. IS THE INFORMATION CONTAINED IN THE APPLICATION TRUE AND**  
19 **CORRECT?**

20 A. Yes, except as otherwise modified by my testimony or the testimony of other Lindsay  
21 witnesses.

1           **III. APPLICATION FOR AMENDED WATER AND SEWER CCN**

2    A.   **Question No. 1 – Applicant Information**

3    Q.    **CAN YOU IDENTIFY APP EX. 1, QUESTION 1, APP1000 TO APP1002?**

4    A.    Yes. It requests information regarding the City.

6    Q.    **WHAT IS CONTAINED IN QUESTION 1?**

7    A.    Question 1 contains applicant information, information on the City's certified  
8           operators, the legal status of the City, and the type of entity of the City. It states  
9           that the City is a municipality.

11   Q.    **DOES LINDSAY HAVE THE TECHNICAL ABILITY TO PROVIDE**  
12           **WATER AND WASTEWATER SERVICE?**

13   A.    Yes. Lindsay has four (4) contract operators that are certified by TCEQ as  
14           groundwater treatment operators as well as wastewater treatment operators. One  
15           of the City's operators has a C-level certification for water treatment, one has a D-  
16           level certification for water treatment and is working towards a C-level, one has a  
17           C-level certification for wastewater treatment, and one has a B-level certification  
18           for wastewater treatment. This allows them to operate the City's water and  
19           wastewater system. At the time the Application was filed, the City had only one  
20           certified contract operator. The City is also training a City employee to become a  
21           licensed operator.

1     **B.     Question No. 2 – Location Information**

2     **Q.     CAN YOU IDENTIFY APP EX. 1, QUESTION NO. 2, APP1002 TO APP1003?**

3     A.     Yes. It requests information on the area Lindsay seeks to serve.

4

5     **Q.     CAN YOU IDENTIFY APP EX. 1, ATTACHMENT/EXHIBIT A APP1013-**  
6     **APP1015?**

7     A.     Yes. Attachment/Exhibit A contains maps that identify the City's proposed water and  
8     sewer service territory. The City seeks water and sewer service territory boundaries  
9     that are co-extensive or co-terminous. Because of the issuance of the most recent  
10    water CCN amendment shown in Exhibit DLM-17, the City's proposed water CCN  
11    has changed. The City's proposed water CCN is shown on Exhibit DLM-13. The  
12    term Proposed Service Territory as used in my testimony shall refer to the proposed  
13    water service territory found in Exhibit DLM-13.

14

15    **Q.     WHY    DO    YOU    REFER    TO    THE    ATTACHMENTS    AS**  
16    **ATTACHMENT/EXHIBIT?**

17    A.     An error was made in the application where the application referred to attachments to  
18    the application but the cover page for the attachments labeled them as exhibits. In  
19    order to avoid any confusion I will use the term Attachment/Exhibit for all  
20    attachments to the application.

- 1   **Q.    WHAT IS CONTAINED IN QUESTION 2?**
- 2    A.    Question 2 contains information on the utility service provided in the Proposed
- 3       Service Territory, information on requests for service, the location of the Proposed

1 Service Territory, information on whether another provider is serving the Proposed  
2 Service Territory, and maps showing the City's Proposed Service Territory.

3

4 **Q. ARE THERE AREAS IN THE PROPOSED SERVICE TERRITORY THAT**  
5 **CURRENTLY RECEIVE SERVICE?**

6 A. Not to my knowledge.

7

8 **Q. HAS LINDSAY RECEIVED REQUESTS FOR SERVICE IN THE PROPOSED**  
9 **SERVICE TERRITORY?**

10 A. Yes. Approximately fifty-five property owners have provided requests for service to  
11 the area. Copies of these letters are attached to my testimony as Attachment DLM-  
12 10.

13

14 **Q. CAN YOU LOCATE THE PERSONS THAT HAVE REQUESTED WATER**  
15 **~~AND SEWER~~ SERVICE FROM THE CITY?**

16 A. Yes. The map shown in Attachment DLM-11 shows the same water ~~and sewer~~  
17 requested service area requested in APP Exh. 1, Bates page No. 1014, but includes  
18 the locations and approximate property size of each requestor for retail water service  
19 from the City. ~~The map shown in Attachment DLM-12 shows the same water and~~  
20 ~~sewer requested service area requested in APP Exh. 1, Bates page No. 1015, but~~  
21 ~~includes the locations and approximate property size of each requestor for retail sewer~~  
22 ~~service from the City.~~ The maps do not show our current service territory as amended  
23 as a result of the City's Motion *Nunc Pro Tunc* discussed earlier. We wanted to

1 demonstrate the requested service areas on the same map that is attached to the City's  
2 CCN Application.

3

4 **Q. HOW FAR FROM THE CITY'S CORPORATE LIMITS DOES ITS**  
5 **EXTRATERRITORIAL JURISDICTION ("ETJ") EXTEND?**

6 A. The City's statutory ETJ extends one-half mile from the City's corporate limits. A  
7 copy of the City's corporate limits and ETJ is attached hereto as Attachment DLM-  
8 13.

9

10 **Q. IS THE ENTIRETY OF THE PROPOSED SERVICE TERRITORY IN THE**  
11 **CORPORATE LIMITS AND ETJ OF THE CITY?**

12 A. No. I have attached to my testimony maps of the Proposed Service Territory with the  
13 City's corporate limits and ETJ overlayed. As can be seen on Attachment DLM-13,  
14 the City's Proposed Service Territory extends beyond the City's corporate limits and  
15 ETJ. Attachment DLM-13 reflects the current city limits and ETJ as amended by the  
16 annexation ordinance attached to my testimony as DLM-3.

17

18 **Q. IS THERE IS A NEED FOR SERVICE IN THE PROPOSED SERVICE**  
19 **TERRITORY?**

20 A. Yes. With the growth that the City has experienced, the need for water and sewer  
21 service in the Proposed Service Territory is imminent. Additionally, as can be  
22 demonstrated in Attachment DLM-10, the City has received requests for water and  
23 sewer service throughout our Proposed Service Territory.

1   **Q.   WHY IS IT IMPORTANT FOR THE CITY TO SERVE THE AREA IN ITS**  
2       **ETJ AND BEYOND?**

3   A.   The area in the ETJ will ultimately be within the corporate limits of Lindsay. ~~Most~~  
4       ~~municipalities with utilities believe that it is key to provide utility services to its~~  
5       ~~citizens and residents of the ETJ.~~ Further, the City seeks to certificate in the area it  
6       believes will be served in the future, our future planning area.

7

8   **Q.   WERE QUESTION NO. 2 AND ATTACHMENT/EXHIBIT A MADE EITHER**  
9       **BY A PERSON WITH KNOWLEDGE OF THE MATTER RECORDED OR**  
10      **FROM INFORMATION TRANSMITTED BY A PERSON WITH**  
11      **KNOWLEDGE OF THE MATTER?**

12   A.   Yes.

13

14   **Q.   ARE THESE DOCUMENTS KEPT IN THE COURSE OF LINDSAY'S**  
15      **REGULARLY CONDUCTED BUSINESS?**

16   A.   Yes.

17

18   **Q.   TO THE BEST OF YOUR KNOWLEDGE, IS THE INFORMATION IN**  
19      **QUESTION 2 AND ATTACHMENT/EXHIBIT A TRUE AND CORRECT, AS**  
20      **MODIFIED BY THE TESTIMONY IN THIS PROCEEDING?**

21   A.   Yes.

22       *(Offer APP EX. 1, Question 2, Attachment/Exhibit A, APP1002 through APP1003*  
23       *and APP1013-APP1015)*

1 connections, information on the effect amending the City's CCN will have on  
2 neighboring utilities, and a water and sewer treatment capacity statement.

3  
4 **Q. IS THE INFORMATION CONTAINED IN QUESTION NO. 5.A., 5.B., 5.C.,**  
5 **AND 5.G. STILL CURRENT?**

6 A. No. Lindsay currently has approximately 399 (in September 2008) water connections  
7 and approximately 399 (in September 2008) sewer connections. Further, the City has  
8 received more recent inspection reports. Those will be discussed by Mr. Maroney.  
9 All other information is correct.

10  
11 **Q. WHY DID THE CITY NOT RESPOND TO QUESTION 5.D. AND 5.E.?**

12 A. The City seeks to amend both its water and sewer CCN. Thus, the questions are not  
13 applicable.

14  
15 **Q. DO YOU HAVE ANY CHANGES TO THE ANSWER TO QUESTION 5.F.?**

16 A. No. However, the response is more fully developed in the testimony provided by  
17 Mr. Maroney and Mr. Stowe.

18  
19 **Q. DOES LINDSAY HAVE THE ABILITY TO PROVIDE SERVICE IN THE**  
20 **PROPOSED SERVICE TERRITORY?**

21 A. Without a doubt, the City is able to provide service to the entirety of the Proposed  
22 Service Territory.

1 Q. IN YOUR OPINION AS THE MAYOR *PRO TEMPORE* FOR THE CITY,  
2 DOES THE CITY HAVE THE TECHNICAL, MANAGERIAL, AND  
3 FINANCIAL CAPABILITY TO PROVIDE CONTINUOUS AND ADEQUATE  
4 SERVICE TO THE AREAS IN THE PROPOSED SERVICE TERRITORY?

5 A. Yes. The City has properly trained individuals running our water and wastewater  
6 treatment facilities. Our customers have always received continuous and adequate  
7 service. Further, Lindsay is in a strong financial position and can finance any  
8 improvements needed to its water or wastewater system.

9

10 ~~Q. IF THE CERTIFICATE IS ISSUED, WILL THE ACCOMMODATION,~~  
11 ~~SERVICE, CONVENIENCE, AND SAFETY OF THE PUBLIC BE BEST~~  
12 ~~SERVED BY AMENDING THE CITY'S CCN?~~

13 ~~A. Yes.~~

14

15 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

16 A. Yes. However, with the Judge's permission, I reserve the right to amend my  
17 testimony as required.

**PREFILED TESTIMONY OF**

**DONALD L. METZLER**

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## ATTACHMENTS

- DLM-1      Resume of Donald L. Metzler
- DLM-2      City of Lindsay Ordinance No. 09-02-03
- DLM-3      City of Lindsay Ordinance No. 0607-1
- DLM-4      City of Lindsay's water and sewer CCN Amendment Order issued by TCEQ on May 16, 2003
- DLM-5      City of Lindsay's *Motion for Judgment Nunc Pro Tunc under Texas Rule of Civil Procedure 316*
- DLM-6      Letter from Mr. Doug Holcomb to Ms. Celeste Baker, dated October 17, 2007
- DLM-7      City of Lindsay executed Consent Form and proposed map
- DLM-8      Letter from Mr. Doug Holcomb to Mr. Les Trobman, dated December 13, 2007
- DLM-9      November 21, 2005, letter from TCEQ declaring the application accepted for filing and notice of technical review
- DLM-10     Written Service Requests from property owners
- DLM-11     Map depicting location of property owners who made a written request for service within the City's requested water service area
- DLM-12     Map depicting location of property owners who made a written request for service within the City's requested sewer service area
- DLM-13     Map depicting location of Proposed Service Territory, City's corporate limits, and City's ETJ
- DLM-14     Settlement Agreement between the City of Lindsay, Lindsay Pure Water Company, and Walter Lutkenhaus
- DLM-15     City of Lindsay, Texas Report of Financial Statements for the year ended September 30, 2007
- DLM-16     City of Lindsay current rates for water and sewer service

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

<b>APPLICATION OF THE TOWN OF LINDSAY TO AMEND WATER AND SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NOS. 13025 AND 20927 IN COOKE COUNTY, TEXAS APPLICATION NOS. 35096-C &amp; 35097-C</b>	§ § § § § § §	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
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**PREFILED TESTIMONY OF  
DONALD L. METZLER**

**I. INTRODUCTION AND QUALIFICATIONS**

1

2    **Q.    WHAT IS YOUR NAME?**

3    A.    Donald L. Metzler.

4

5    **Q.    WHAT IS YOUR BUSINESS ADDRESS AND TELEPHONE NUMBER?**

6    A.    My business address is City of Lindsay, P.O. Box 3, Lindsay, Texas. My telephone  
7           number is (940) 665-4455.

8

9    **Q.    WHAT IS YOUR EDUCATIONAL BACKGROUND?**

10   A.    I graduated from North Texas State University in December 1977 with a Bachelor of  
11           Science in Education. In 1993, I received a Masters of Education in Educational  
12           Administration from the University of North Texas.

13

14   **Q.    IN WHAT CAPACITY DO YOU SERVE THE CITY OF LINDSAY?**

15   A.    I am the Mayor *Pro Tempore* for the City of Lindsay ("City" or "Lindsay").

1 Q. WHAT IS YOUR LEVEL OF INVOLVMENT WITH CITY ACTIVITES?

2 A. I work closely with City staff, but the City Council has final authority over the  
3 activities of the City.

4

5 Q. HOW LONG HAVE YOU BEEN THE MAYOR *PRO TEMPORE* FOR THE  
6 CITY?

7 A. I have been the Mayor *Pro Tempore* since May 2008.

8

9 Q. HAVE YOU HELD ANY OTHER POSITIONS WITH THE CITY OF  
10 LINDSAY? IF SO, PLEASE EXPLAIN THE POSITION AND YEARS OF  
11 SERVICE.

12 A. Yes. I served as the City's Mayor from 1986 through 1990 and 1991 through 1992. I  
13 served as a City Council person from 2007 through 2008. I am currently Mayor *Pro*  
14 *Tempore*, but also served in that capacity from 1990 through 1991. I served on the  
15 City's Planning and Zoning Commission from 2005 through my election as  
16 Councilperson in 2007.

17

18 Q. IS YOUR RESUME ATTACHED TO THIS PREFILED TESTIMONY?

19 A. Yes. A true and correct copy is attached as Attachment DLM-1.

1 Q. IS THE INFORMATION IN YOUR RESUME, CONTAINED IN  
2 ATTACHMENT DLM-1, AN ACCURATE REFLECTION OF YOUR  
3 EDUCATION, PROFESSIONAL HISTORY, AND QUALIFICATIONS?

4 A. Yes.

5  
6 Q. PLEASE DESCRIBE THE CITY OF LINDSAY TO THE JUDGE.

7 A. Lindsay is situated in Cooke County, Texas. On September 9, 2002, Lindsay passed  
8 Ordinance No. 09-02-03 which changed the Town of Lindsay to a type "A" general  
9 law municipality. The Town of Lindsay is also known as the City of Lindsay. Many  
10 documents at the TCEQ still reflect Lindsay's name as the Town of Lindsay. I have  
11 attached the Ordinance to my testimony as Attachment DLM-2.

12 Additionally, Lindsay has received numerous requests to annex additional  
13 properties into the City limits. On June 11, 2007, the City of Lindsay passed  
14 Ordinance No. 0607-1. This ordinance extended the city limits and extraterritorial  
15 jurisdiction of Lindsay. A copy of the referenced ordinance is attached to my  
16 testimony as Attachment DLM-3.

17  
18 Q. ARE YOU FAMILIAR WITH THE TEXAS COMMISSION ON  
19 ENVIRONMENTAL QUALITY'S ("TCEQ" OR "COMMISSION")  
20 REGULATIONS CONCERNING CERTIFICATES OF CONVENIENCE AND  
21 NECESSITY ("CCN")?

22 A. Yes, in a limited capacity.

1 Q. WHAT YEAR DID LINDSAY RECEIVE ITS CURRENT WATER AND  
2 SEWER CCN?

3 A. Lindsay received its most recent water and sewer CCN amendment from the TCEQ  
4 on May 16, 2003. Certified copies of Lindsay's most recent water and sewer CCN  
5 amendment are attached hereto as Exhibit DLM-4.  
6

7 Q. HAVE THERE BEEN ANY ADDITIONAL CHANGES SOUGHT TO THE  
8 CITY'S WATER OR SEWER CCN SINCE THE LAST AMENDMENT WAS  
9 GRANTED OTHER THAN THIS CURRENT APPLICATION?

10 A. Yes. The City filed a *Motion for Judgment Nunc Pro Tunc Under Texas Rule of Civil*  
11 *Procedure 316* for its water CCN on September 1, 2006. A copy of the *Motion* is  
12 attached to my testimony as DLM-5. When the TCEQ issued the City's water CCN  
13 on May 16, 2003, they failed to grant the entirety of the area agreed to by the Parties  
14 to the settlement agreement. On October 10, 2007, the TCEQ Commissioners  
15 considered the Motion and they instructed the staff to modify the map to match the  
16 settlement agreement. A letter confirming the action taken at the October 10, 2007  
17 Agenda is attached to my testimony as DLM-6. On November 28, 2007, the City  
18 transmitted its consent form to the TCEQ approving the amended map. The Consent  
19 Form and amended map is attached to my testimony as DLM-7. On December 13,  
20 2007, Mr. Holcomb transmitted a letter to the General Counsel of the Commission  
21 informing of the intent to make the requested revisions. The letter further stated that  
22 an endorsement to the permit would be issued after the expiration of five business  
23 days if no objections were received. The letter from Mr. Holcomb is attached to my

1 testimony as DLM-8. To date, the City has not received any additional orders or the  
2 revised CCN map from the TCEQ. At this time, the City still seeks the entirety of its  
3 Proposed Service Territory. Once the amended map is issued by the TCEQ, we will  
4 supplement the testimony to reflect the City's current water CCN area.  
5

6 **Q. ARE YOU FAMILIAR WITH THE SOURCES OF LINDSAY'S WATER**  
7 **SUPPLY?**

8 A. Yes.  
9

10 **Q. PLEASE DESCRIBE THE SOURCES OF LINDSAY'S WATER SUPPLY.**

11 A. Lindsay has three water wells from which it can provide water service to its existing  
12 customers and approximately 306 additional customers. Lindsay currently has  
13 approximately 0.25 miles of 3" distribution lines, 3.14 miles of 4" distribution lines,  
14 3.98 miles of 6" distribution lines, 0.48 miles of 8" distribution lines, and 3.41 miles  
15 of 10" distribution lines. The City also has two ground storage tanks that are 30,000  
16 gallons in size and two ground storage tanks that are 40,000 gallons in size.  
17 Additionally, the City has a 150,000 gallon elevated storage tank.  
18

19 **Q. ARE YOU FAMILIAR WITH LINDSAY'S WASTEWATER TREATMENT**  
20 **FACILITY?**

21 A. Yes.

1 Q. HOW DOES THE CITY MEET ITS WASTEWATER DEMANDS?

2 A. The City owns and operates a wastewater treatment plant. Mr. Kerry Maroney will  
3 provide more specific information on the demand and capacity the City has related to  
4 wastewater.

5 **II. PURPOSE OF TESTIMONY**

6 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY HERE TODAY?

7 A. To provide clear and accurate information regarding the City's position regarding its  
8 water/sewer service. I also sponsor the City's application to amend Lindsay's water  
9 CCN No. 13025 and sewer CCN No. 20927.

10

11 Q. CAN YOU IDENTIFY APPLICANT'S EXHIBIT NO. 1?

12 A. Yes. APP EX. 1 is Lindsay's application to amend its water CCN No. 13025 and its  
13 sewer CCN No. 20927 ("Application").

14

15 Q. IS THIS A TRUE AND CORRECT COPY OF THE APPLICATION? ✓

16 A. Yes.

17

18 Q. IS THE INFORMATION CONTAINED IN THE APPLICATION TRUE AND  
19 CORRECT?

20 A. Yes, except as otherwise modified by my testimony or the testimony of other Lindsay  
21 witnesses.

*Handwritten signature: J. Metzler*

*Handwritten signature: J. Metzler*

1 Q. WHICH PORTIONS OF LINDSAY'S APPLICATION ARE YOU  
2 SPONSORING?

3 A. I am sponsoring the entire Application and all attachments to the Application.  
4

5 Q. IN WHAT CAPACITY ARE YOU SPONSORING THE APPLICATION?

6 A. I am sponsoring the Application as the Mayor *Pro Tempore* for the City of Lindsay.  
7

8 Q. BEFORE WE DISCUSS THE SPECIFICS OF THE APPLICATION, PLEASE  
9 TELL ME WHEN THE CITY'S CCN APPLICATION WAS FILED.

10 A. August 31, 2005.  
11

12 Q. WHEN DID THE CITY RECEIVE NOTICE FROM THE COMMISSION  
13 THAT ALL DOCUMENTS HAD BEEN PRESENTED TO THEM?

14 A. On November 21, 2005, the City received a letter from the TCEQ stating that all  
15 documents requested had been received and that its application was accepted for  
16 filing. The letter is attached hereto and incorporated herein for all purposes as  
17 Attachment DLM-9. It notes that the City's application had been accepted for  
18 technical review.

*a copy  
you  
will receive  
before*

1           **III. APPLICATION FOR AMENDED WATER AND SEWER CCN**

2    A.   **Question No. 1 – Applicant Information**

3    Q.    **CAN YOU IDENTIFY APP EX. 1, QUESTION 1, APP1000 TO APP1002?**

4    A.    Yes. It requests information regarding the City.

5  
6    Q.    **WHAT IS CONTAINED IN QUESTION 1?**

7    A.    Question 1 contains applicant information, information on the City's certified  
8           operators, the legal status of the City, and the type of entity of the City. It states that  
9           the City is a municipality.

10  
11   Q.    **DOES LINDSAY HAVE THE TECHNICAL ABILITY TO PROVIDE WATER**  
12           **AND WASTEWATER SERVICE?**

13   A.    Yes. Lindsay has four (4) contract operators that are certified by TCEQ as  
14           groundwater treatment operators as well as wastewater treatment operators. One of  
15           the City's operators has a C-level certification for water treatment, one has a D-level  
16           certification for water treatment and is working towards a C-level, one has a C-level  
17           certification for wastewater treatment, and one has a B-level certification for  
18           wastewater treatment. This allows them to operate the City's water and wastewater  
19           system. At the time the Application was filed, the City had only one certified  
20           contract operator.

1 Q. WAS QUESTION 1 ANSWERED AT OR NEAR THE TIME THE MATTER  
2 RECORDED OCCURRED?

3 A. Yes.  
4

5 Q. WAS QUESTION 1 ANSWERED EITHER BY A PERSON WITH  
6 KNOWLEDGE OF THE MATTER RECORDED OR FROM INFORMATION  
7 TRANSMITTED BY A PERSON WITH KNOWLEDGE OF THE MATTER?

8 A. Yes.  
9

10 Q. IS THIS RECORD KEPT IN THE COURSE OF LINDSAY'S REGULARLY  
11 CONDUCTED BUSINESS?

12 A. Yes.  
13

14 Q. TO THE BEST OF YOUR KNOWLEDGE, IS THE INFORMATION  
15 CONTAINED IN QUESTION 1 TRUE AND CORRECT, AS MODIFIED BY  
16 THE TESTIMONY IN THIS PROCEEDING?

17 A. Yes.  
18

19 Q. WHY WERE SUBPARTS C AND D OF QUESTION NO. 1 NOT  
20 ANSWERED?

21 A. Because the City is a municipality, so therefore, the subparts were inapplicable to  
22 Lindsay.

23 *(Offer APP EX. 1, Question 1, APP1000 to APP1002)*

1    **B.     Question No. 2 – Location Information**

2    **Q.     CAN YOU IDENTIFY APP EX. 1, QUESTION NO. 2, APP1002 TO APP1003?**

3    A.     Yes. It requests information on the area Lindsay seeks to serve.

4  
5    **Q.     CAN YOU IDENTIFY APP EX. 1, ATTACHMENT/EXHIBIT A APP1013-**  
6       **APP1015?**

7    A.     Yes. Attachment/Exhibit A contains maps that identify the City's proposed water and  
8       sewer service territory ("Proposed Service Territory"). The City seeks water and  
9       sewer service territory boundaries that are co-extensive or co-terminous. Therefore,  
10      unless otherwise indicated, Proposed Service Territory shall refer to the areas for  
11      which the City seeks a water and sewer CCN.

12  
13   **Q.     WHY    DO    YOU    REFER    TO    THE    ATTACHMENTS    AS**  
14       **ATTACHMENT/EXHIBIT?**

15   A.     An error was made in the application where the application referred to attachments to  
16       the application but the cover page for the attachments labeled them as exhibits. In  
17       order to avoid any confusion I will use the term Attachment/Exhibit for all  
18       attachments to the application.

19  
20   **Q.     WHAT IS CONTAINED IN QUESTION 2?**

21   A.     Question 2 contains information on the utility service provided in the Proposed  
22       Service Territory, information on requests for service, the location of the Proposed

1 Service Territory, information on whether another provider is serving the Proposed  
2 Service Territory, and maps showing the City's Proposed Service Territory.

3  
4 **Q. ARE THERE AREAS IN THE PROPOSED SERVICE TERRITORY THAT**  
5 **CURRENTLY RECEIVE SERVICE?**

6 A. Not to my knowledge.  
7

8 **Q. HAS LINDSAY RECEIVED REQUESTS FOR SERVICE IN THE PROPOSED**  
9 **SERVICE TERRITORY?**

10 A. Yes. Approximately fifty-five property owners have provided requests for service to  
11 the area. Copies of these letters are attached to my testimony as Attachment DLM-

12 10.

*Goal 101*  
*State of NM*  
*Says what we*  
*own (as owners, proper*  
*12*  
*101 owners, tenants, or*  
*101*  
*101*

13  
14 **Q. CAN YOU LOCATE THE PERSONS THAT HAVE REQUESTED WATER**  
15 **AND SEWER SERVICE FROM THE CITY?**

16 A. Yes. The map shown in Attachment DLM-11 shows the same water and sewer  
17 requested service area requested in APP Exh. 1, Bates page No. 1014, but includes  
18 the locations and approximate property size of each requestor for retail water service  
19 from the City. The map shown in Attachment DLM-12 shows the same water and  
20 sewer requested service area requested in APP Exh. 1, Bates page No. 1015, but  
21 includes the locations and approximate property size of each requestor for retail sewer  
22 service from the City. The maps do not show our current service territory as amended  
23 as a result of the City's Motion *Nunc Pro Tunc* discussed earlier. We wanted to

1 demonstrate the requested service areas on the same map that is attached to the City's  
2 CCN Application.

3  
4 **Q. HOW FAR FROM THE CITY'S CORPORATE LIMITS DOES ITS**  
5 **EXTRATERRITORIAL JURISDICTION ("ETJ") EXTEND?**

6 A. The City's statutory ETJ extends one-half mile from the City's corporate limits. A  
7 copy of the City's corporate limits and ETJ is attached hereto as Attachment DLM-  
8 13.

9  
10 **Q. IS THE ENTIRETY OF THE PROPOSED SERVICE TERRITORY IN THE**  
11 **CORPORATE LIMITS AND ETJ OF THE CITY?**

12 A. No. I have attached to my testimony maps of the Proposed Service Territory with the  
13 City's corporate limits and ETJ overlayed. As can be seen on Attachment DLM-13,  
14 the City's Proposed Service Territory extends beyond the City's corporate limits and  
15 ETJ. Attachment DLM-13 reflects the current city limits and ETJ as amended by the  
16 annexation ordinance attached to my testimony as DLM-3.

17  
18 **Q. IS THERE IS A NEED FOR SERVICE IN THE PROPOSED SERVICE**  
19 **TERRITORY?**

20 A. Yes. With the growth that the City has experienced, the need for water and sewer  
21 service in the Proposed Service Territory is imminent. Additionally, as can be  
22 demonstrated in Attachment DLM-10, the City has received requests for water and  
23 sewer service throughout our Proposed Service Territory.

1 Q. WHY DOES THE CITY SEEK TO CERTIFICATE THE PROPOSED  
2 SERVICE TERRITORY?

3 A. To provide service to our citizens and residents of the City's ETJ as well as the  
4 Proposed Service Territory. Providing service in the Proposed Service Territory  
5 ensures that areas which Lindsay will eventually annex will be connected to a safe,  
6 efficient water and wastewater system and will not rely on septic systems. It is  
7 important that the City preserve the environmental integrity within its ETJ and  
8 outlying area.

9 Additionally, the City felt it was important to seek to certificate the requested  
10 area as Lindsay Pure Water Company and the City entered into an agreement on April  
11 1, 2002, wherein the area was to have been sought for certification by Lindsay Pure  
12 Water Company. The executed agreement was between the City of Lindsay, Walter  
13 Lutkenhaus, and Lindsay Pure Water Company in another contested docket  
14 concerning an application filed by Lindsay. Provision no. 2 under the "Agreement"  
15 section required Lindsay Pure Water Company file an application to amend their  
16 water CCN within 10 days of the date of the execution of the Agreement by the  
17 Parties. To date, Lindsay Pure Water Company has not filed an application to amend  
18 their water CCN. I have attached a copy of the April 1, 2002, Settlement Agreement  
19 to my testimony as Attachment DLM-14.

1 Q. WHY IS IT IMPORTANT FOR THE CITY TO SERVE THE AREA IN ITS  
2 ETJ AND BEYOND?

3 A. The area in the ETJ will ultimately be within the corporate limits of Lindsay. ~~Most~~  
4 ~~municipalities with utilities believe that it is key to provide utility services to its~~  
5 ~~citizens and residents of the ETJ.~~ Further, the City seeks to certificate in the area it  
6 believes will be served in the future, out future planning area.  
7

8 Q. WERE QUESTION NO. 2 AND ATTACHMENT/EXHIBIT A MADE EITHER  
9 BY A PERSON WITH KNOWLEDGE OF THE MATTER RECORDED OR  
10 FROM INFORMATION TRANSMITTED BY A PERSON WITH  
11 KNOWLEDGE OF THE MATTER?

12 A. Yes.  
13

14 Q. ARE THESE DOCUMENTS KEPT IN THE COURSE OF LINDSAY'S  
15 REGULARLY CONDUCTED BUSINESS?

16 A. Yes.  
17

18 Q. TO THE BEST OF YOUR KNOWLEDGE, IS THE INFORMATION IN  
19 QUESTION 2 AND ATTACHMENT/EXHIBIT A TRUE AND CORRECT, AS  
20 MODIFIED BY THE TESTIMONY IN THIS PROCEEDING?

21 A. Yes.

22 *(Offer APP EX. 1, Question 2, Attachment/Exhibit A, APP1002 through APP1003*  
23 *and APP1013-APP1015)*

1 C. Question Nos. 3 and 4

2 Q. DID LINDSAY RESPOND TO QUESTIONS 3 AND 4? IF NOT, WHY NOT?

3 A. No. Lindsay did not provide the requested information in Question 3. Question 3 is  
4 only voluntary, not mandatory. Question 4 is inapplicable to the City as the City  
5 already has a CCN so the City just inserted "N/A" into each blank.

6 D. Question No. 5 – Existing System Information

7 Q. CAN YOU IDENTIFY APP EX. 1, QUESTION 5, APP1005 THROUGH  
8 APP1006?

9 A. Yes. It requests information on Lindsay's existing systems.

10

11 Q. CAN YOU IDENTIFY APP EX. 1, ATTACHMENT/EXHIBIT B, APP1016  
12 THROUGH APP1024?

13 A. Yes. Attachment/Exhibit B is a copy of the City's most recent inspection report letter  
14 and the date of the City's last inspection. The information was current at the time the  
15 Application was filed. Additionally, Attachment/Exhibit B contains correspondence  
16 regarding the City's actions to correct any deficiencies that may have occurred.  
17 Mr. Maroney will discuss the City's inspection reports in more detail in his prefiled  
18 testimony.

19

20 Q. WHAT IS CONTAINED IN QUESTION 5?

21 A. Question 5 contains information on the City's public water supply number (0490003),  
22 the City's wastewater discharge permit number (WQ10923-001), utility service

1 connections, information on the effect amending the City's CCN will have on  
2 neighboring utilities, and a water and sewer treatment capacity statement.

3  
4 **Q. IS THE INFORMATION CONTAINED IN QUESTION NO. 5.A., 5.B., 5.C.,**  
5 **AND 5.G. STILL CURRENT?**

6 A. No. Lindsay currently has approximately 396 (in May 2008) water connections and  
7 approximately 396 (in May 2008) sewer connections. Further, the City has received  
8 more recent inspection reports. Those will be discussed by Mr. Maroney. All other  
9 information is correct.

10  
11 **Q. WHY DID THE CITY NOT RESPOND TO QUESTION 5.D. AND 5.E.?**

12 A. The City seeks to amend both its water and sewer CCN. Thus, the questions are not  
13 applicable.

14  
15 **Q. DO YOU HAVE ANY CHANGES TO THE ANSWER TO QUESTION 5.F.?**

16 A. No. However, the response is more fully developed in the testimony provided by  
17 Mr. Maroney and Mr. Stowe.

18  
19 **Q. DOES LINDSAY HAVE THE ABILITY TO PROVIDE SERVICE IN THE**  
20 **PROPOSED SERVICE TERRITORY?**

21 A. Without a doubt, the City is able to provide service to the entirety of the Proposed  
22 Service Territory.

1 Q. WERE QUESTION 5 AND ATTACHMENT/EXHIBIT B MADE AT OR  
2 NEAR THE TIME THE MATTER RECORDED OCCURRED?

3 A. Yes.  
4

5 Q. WERE QUESTION 5 AND ATTACHMENT/EXHIBIT B MADE EITHER BY  
6 A PERSON WITH KNOWLEDGE OF THE MATTER RECORDED OR  
7 FROM INFORMATION TRANSMITTED BY A PERSON WITH  
8 KNOWLEDGE OF THE MATTER?

9 A. Yes.  
10

11 Q. ARE THESE DOCUMENTS KEPT IN THE COURSE OF LINDSAY'S  
12 REGULARLY CONDUCTED BUSINESS?

13 A. Yes.  
14

15 Q. TO THE BEST OF YOUR KNOWLEDGE, IS THE INFORMATION IN  
16 QUESTION 5 AND ATTACHMENT/EXHIBIT B TRUE AND CORRECT, AS  
17 MODIFIED BY THE TESTIMONY INTRODUCED IN THIS PROCEEDING?

18 A. Yes.

19 *(Offer APP EX. 1, Question 5, Attachment/Exhibit B, APP1005 through APP1006,*  
20 *and APP1016 through APP1024)*