

1 E. **Question No. 6 – Financial Information**

2 Q. **CAN YOU IDENTIFY APP EX. 1, QUESTION 6, APP1007?**

3 A. Yes. It requests Lindsay's financial information.

4

5 Q. **CAN YOU IDENTIFY APP EX. 1, ATTACHMENT/EXHIBITS C AND D,**  
6 **APP1025 THROUGH APP1067 AND APP1068 THROUGH APP1070,**  
7 **RESPECTIVELY?**

8 A. Yes. Attachment/Exhibit C is a copy of the City's Profit and Loss statement from  
9 November 2003 through October 2004. The City's most recent audited financial  
10 statement for year ended October 31, 2007, is attached to my testimony as  
11 Attachment DLM-15. Attachment/Exhibit D to APP EX. 1 contains the City's water  
12 and sewer rate schedule that was in existence at the time the Application was filed.  
13 The City has changed its rates since the Application was filed and I have attached the  
14 City's current rate schedule to my testimony as Attachment DLM-16.

15

16 Q. **DOES THE CITY HAVE THE FINANCIAL RESOURCES TO PROVIDE**  
17 **SERVICE TO THE PROPOSED SERVICE TERRITORY? IF SO, WHY DO**  
18 **YOU BELIEVE THIS?**

19 A. Yes. Mr. Jack Stowe will address this in his prefiled testimony.

20

21 Q. **WERE QUESTION 6 AND ATTACHMENT/EXHIBIT C AND D MADE AT**  
22 **OR NEAR THE TIME THE MATTER RECORDED OCCURRED?**

23 A. Yes.

1 Q. WERE QUESTION 6 AND ATTACHMENT/EXHIBIT C AND D MADE  
2 EITHER BY A PERSON WITH KNOWLEDGE OF THE MATTER  
3 RECORDED OR FROM INFORMATION TRANSMITTED BY A PERSON  
4 WITH KNOWLEDGE OF THE MATTER?

5 A. Yes.

6

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

9 A. Yes.

10

11 Q. TO THE BEST OF YOUR KNOWLEDGE, IS THE INFORMATION IN  
12 QUESTION 6 AND ATTACHMENT/EXHIBIT C AND D TRUE AND  
13 CORRECT, AS MODIFIED BY THE TESTIMONY INTRODUCED IN THIS  
14 PROCEEDING?

15 A. Yes.

16 *(Offer APP EX. 1, Question 6, Attachment/Exhibit C, and Attachment/Exhibit D,*  
17 *APP1007, APP1025 through APP1067, and APP1068 through APP1070)*

18 F. Question No. 7 – Notice Requirements

19 Q. CAN YOU IDENTIFY APP EX. 1, QUESTION 7, APP1007 THROUGH  
20 APP1008?

21 A. Yes. It provides guidance on the notice requirements for the Application.

1 Q. DID LINDSAY COMPLY WITH THE NOTICE REQUIREMENTS  
2 CONTAINED IN QUESTION 7?

3 A. Yes, it did.

4 *(Offer APP EX. 1, Question 7, APP1007 through APP1008)*

5 G. Oath

6 Q. CAN YOU IDENTIFY APP EX. 1, OATH, APP1009?

7 A. Yes. It is the Oath signed by the Mayor wherein he stated that the City will provide  
8 continuous and adequate service to all customers and qualified applicants for service  
9 within its certificated service area.

10

11 Q. WAS THE OATH MADE AT OR NEAR THE TIME THE MATTER  
12 RECORDED OCCURRED?

13 A. Yes.

14

15 Q. WAS THE OATH MADE EITHER BY A PERSON WITH KNOWLEDGE OF  
16 THE MATTER RECORDED OR FROM INFORMATION TRANSMITTED  
17 BY A PERSON WITH KNOWLEDGE OF THE MATTER?

18 A. Yes.

19

20 Q. IS IT THE REGULAR PRACTICE OF LINDSAY TO MAINTAIN SUCH  
21 RECORDS?

22 A. Yes.

1 Q. WAS THIS RECORD KEPT IN THE COURSE OF LINDSAY'S  
2 REGULARLY CONDUCTED BUSINESS?

3 A. Yes.

4

5 Q. TO THE BEST OF YOUR KNOWLEDGE, WAS THE INFORMATION IN  
6 THE OATH TRUE AND CORRECT, AS MODIFIED BY THE TESTIMONY  
7 INTRODUCED IN THIS PROCEEDING?

8 A. Yes.

9 (*Offer APP EX. 1, Oath, APP1009*)

10

**V. CONCLUSION**

11 Q. WILL SERVICE TO THE PROPOSED SERVICE TERRITORY CREATE  
12 IMPROVED WATER AND SEWER SERVICE TO THE AREA? IF SO, WHY  
13 DO YOU BELIEVE THIS?

14 A. Yes. Currently, there is limited water and sewer service provided in the Proposed  
15 Service Territory. Lindsay's wastewater treatment capacity and its long-term water  
16 and sewer planning places the City in a position to best provide service to an area that  
17 is not currently being served by any provider.

18

19 Q. AS LONG AS YOU HAVE BEEN THE MAYOR *PRO TEMPORE*, HAS THE  
20 CITY PROVIDED CONTINUOUS AND ADEQUATE SERVICE TO ITS  
21 WATER AND SEWER CUSTOMERS?

22 A. To the best of my knowledge, it has.

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.

*Let them  
have foundation*

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.

**RESUME' of DONALD METZLER**

**EDUCATION**

Graduated from Lindsay High School in May, 1973

Graduated from North Texas State University in December, 1977 with a BS degree in Education

Graduated from the University of North Texas in 1993 with a Masters of Education in Educational Administration

**PROFESSIONAL HISTORY**

January, 1978 – May, 1980	Lewisville Independent School District Special Education Teacher
June, 1980 – August, 1988	Manager of Metzler Bros. Drive-Inn Restaurant
September, 1988 – August, 1992	Texas Youth Commission Teacher
September, 1992 – Current	Callisburg Independent School District Campus and District Level Administrator

**QUALIFICATIONS**


Mayor, City of Lindsay	1986-1990, 1991-1992
Mayor Pro-Tem, City of Lindsay	1990-1991, 2008
City Council Member, City of Lindsay	2007-2008
Planning & Zoning Member City of Lindsay	2005-2007
Member of Texoma Council of Governments (TCOG)	1986-1992
Vice-President of TCOG	1988-1990
President of TCOG	1990-1992
Member of Cooke County United Way Executive Board	1998-Current
Cooke County United Way Allocations Committee Chairman	2000-Current

In the State of Texas

§  
§  
§

County of Cooke

I, Betsy Fleitman, City Secretary for the City of Lindsay, Texas, hereby certify that the attached document is a true and correct copy of a document taken from the official City files of the City of Lindsay, Texas, and is maintained in the regular course of business of the City of Lindsay, Texas. Given under my hand and the seal of office on June 3, 2008.

  
\_\_\_\_\_  
City Secretary  
City of Lindsay, Texas

**AN ORDINANCE OF THE TOWN OF LINDSAY, TEXAS  
CHANGING THE TOWN OF LINDSAY TO A TYPE "A"  
GENERAL LAW MUNICIPALITY**

**WHEREAS**, Chapter 6, Subchapter B, Section 6.011 Texas Local Government Code, authorizes any municipality in the State of Texas, containing six hundred (600) inhabitants or over, any municipality regardless of population containing one or more manufacturing establishments within the corporate limits, or any municipality regardless of population incorporated under any law of the Republic of Texas, to change to a Type A general-law municipality; and

**WHEREAS**, the Town of Lindsay has in excess of six hundred (600) inhabitants and contains more than one manufacturing establishments within the city limits;

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF LINDSAY:**

- Section 1. The Town of Lindsay hereby changes to a Type A general-law municipality.
- Section 2. A copy of this ordinance shall be entered upon the Minutes of the governing body of the Town, and a copy of the same, signed by the Mayor and attested by the Secretary under the corporate seal shall be filed in the office of Cooke County Clerk.
- Section 3. The official name of the Town shall hereafter be known as the City of Lindsay, and its governing body shall hereafter be known as the City Council.

**PASSED AND APPROVED**, at the Regular Meeting by a two-thirds (2/3) vote of the Governing Body, the 9<sup>th</sup> day of SEPTEMBER, 2002.

Harbert Magee  
Mayor

Attest:

Betsy Flutman  
Secretary

Certified Copy  
I certify this to be a true and correct  
copy of City of Lindsay, Texas.  
Date 9-10-2002

Betsy Flutman  
City Secretary

FILED FOR RECORD  
02 SEP 18 PM 1:12  
EVELYN WALTERS  
COUNTY CLERK COOKE COUNTY TEXAS  
BY JP




In the State of Texas

§  
§  
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County of Cooke

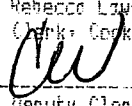
I, Betsy Fleitman, City Secretary for the City of Lindsay, Texas, hereby certify that the attached document is a true and correct copy of a document taken from the official City files of the City of Lindsay, Texas, and is maintained in the regular course of business of the City of Lindsay, Texas. Given under my hand and the seal of office on June 3, 2008.

  
\_\_\_\_\_  
City Secretary  
City of Lindsay, Texas

**CITY OF LINDSAY, TEXAS**

Rebecca Lawlor  
County Clerk, Cooke Co., TX

**ORDINANCE NO. 0607-1**

B4   
Deputy Clerk

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED  
TERRITORY TO THE CITY OF LINDSAY, COOKE COUNTY, TEXAS,  
AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO  
INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN THE  
CITY LIMITS AND ADOPTING A SERVICE PLAN FOR SAID  
TERRITORY AND ITS INHABITANTS**

WHEREAS, the following certain property owner(s) or authorized representative(s) of the property owner(s), Theresa Hermes Trustee, Stacie Gieb Johnson, Louis Gieb, Melvin Bayer, Edward Schad by Louise Schad, Frances Zimmerer Trustee, Henry Zimmerer by Frances Zimmerer, Rose Mary Fangmann, Joe B. Hundt, Raymond Sandmann, Harold J. Schmitz by Clara Schmitz, Marie Koelzer, James Neusch, Lawrence Neusch Etux, Alvin J. Loerwald by David Arendt, Doug Gossett, Kevin Michael Schumacher, Sandmann Brothers by Frank Sandmann & Donald Sandmann, Henry & Jeanette Popp, Henry Kuhn, Jr. Ann A. Bengfort, Rosalee A. Zwinggi, Leonard & Eleanor Zwinggi, Ronald W. Sandmann Etal, Raymond Sandmann, Edward Sandmann, Curtis L. Conaway Etux, Paul Sandmann, Corey & Megan Anderle, Donald Sandmann Etux, Freddie Neu, Carla Dean, Milton Krebs, Kimberly Martin, Kenneth M. & Benelle Fitts, Donald C. Sandmann, Paul Russell Porter, Hugh Porter Etux Trustees, Sandmann Brothers by Frank and Donald Sandmann, Betty Luttmner Neu by Freddie Neu & Dorothy Krebs, have petitioned the City of Lindsay to have their property annexed to the City of Lindsay; and

WHEREAS, said property is adjacent to and adjoin the present boundaries of the City of Lindsay; and

WHEREAS, a service plan, providing for the extension of municipal services into the proposed annexed area and prepared in accordance with the statute, is attached hereto as Exhibit B and made an indivisible part of this ordinance; and

WHEREAS, after hearing the arguments for and against the annexation, the City Council has voted to annex said territory to the City of Lindsay, Texas.

NOW THEREFORE:

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

Section I. The land and territory described in Exhibit A, attached hereto and hereby made an integral part of this Ordinance, lying adjacent to and adjoining the present boundaries of the City of Lindsay, Texas, is hereby added and annexed to the City of Lindsay, Texas, and said territory hereinafter described shall hereafter be included

within the boundary limits of the City of Lindsay, Texas, and the present boundary limits of such city are altered and amended so as to include said area within the corporate limits of the City of Lindsay, Texas.

Section 2. The above described territory and the area so annexed shall be a part of the City of Lindsay, Texas, and the inhabitants thereof, if any, shall be entitled to all of the rights and privileges of all citizens and shall be bounded by the acts, ordinances, resolutions, and regulations of the City of Lindsay, Texas.

Section 3. The service plan providing for the extension of municipal services into the annexed area and attached to this ordinance as Exhibit B is hereby adopted.

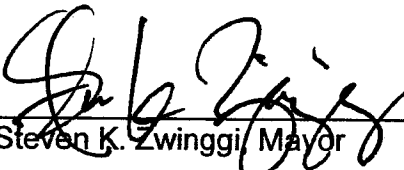
The City Secretary is hereby directed to file with the County Clerk of Cooke County, Texas, a certified copy of this ordinance.

PASSED on this the 11<sup>th</sup> day of June, 2007, by the following vote of the members of the City Council as present:

AYES	<u>4</u>
NAYS	<u>0</u>
ABSTAIN	<u>0</u>

APPROVED:

ATTEST:

  
\_\_\_\_\_  
Steven K. Zwinggi, Mayor

  
\_\_\_\_\_  
Betsy Fleitman, City Secretary

EXHIBIT B

ANNEXATION SERVICE PLAN

CERTAIN TRACT(S) OF LAND WITHIN THE  
FOLLOWING SURVEY(S):

H. WILKEY SURVEY, ABSTRACT NO. 1090; T. JESSUP SURVEY, ABSTRACT NO. 0523; J. BRADSHAW SURVEY, ABSTRACT NO. 0032; AND THE A. MYERS SURVEY, ABSTRACT NO. 0640. THE PROPERTY(S) BEING ANNEXED ARE LOCATED ADJACENT TO THE NORTH CITY LIMIT(S) LINE AND GENERALLY LOCATED EAST OF FM 1199, WEST AND SOUTH OF FM 1199, NORTH OF FM 1199 AND WEST OF CR 405, EAST OF CR 405, EAST AND SOUTH OF CR 405, AND WEST OF FM 1200.

AND

D.D. SACKETT SURVEY, ABSTRACT NO. 0940; B.F. CARPENTER SURVEY, ABSTRACT NO. 0229; J. ROSE SURVEY, ABSTRACT NO. 0843; C.E. ANDERSON SURVEY, ABSTRACT NO. 1657; AND THE E. YEAMAN SURVEY, ABSTRACT NO. 1174. THE PROPERTY(S) BEING ANNEXED ARE LOCATED ADJACENT TO THE SOUTH CITY LIMIT(S) LINE AND GENERALLY LOCATED EAST OF FM 3108 AND NORTH OF FM 1630.

## **CODE ENFORCEMENT**

Code Enforcement includes activities of inspecting properties and buildings and securing compliance with adopted ordinances and codes relative to the following:

- 1) Tall grass and weeds (except for agricultural and ranch properties)
- 2) Trash and debris
- 3) Stagnant water and unsanitary conditions
- 4) Junked vehicles and parts
- 5) Junked appliances and materials
- 6) Enforcement of the Minimum Housing Code pertaining to maintenance and habitability of existing housing

City code enforcement activities will be conducted in newly annexed territories under the same terms and on the same schedule and using the same procedures as for other areas inside the corporate limits,

Code enforcement services will be implemented immediately upon the effective date of this ordinance.

## **SOLID WASTE, BRUSH, AND REFUSE COLLECTION SERVICES**

### **Refuse Service**

Upon request, citizens in newly annexed areas may receive solid waste (trash) service in accordance with existing city ordinances. The City currently contracts with a private firm that provides solid waste collection services. The individual customer will be

provided information regarding solid waste collection services when the customer makes his/her water and/or sanitary sewer service deposit.

### **PLANNING, ZONING AND MAPPING**

The function of planning, zoning, and mapping is to implement ordinances relating to zoning classifications within the City and to provide mapping resources.

Zoning functions include the following:

- 1) Provide proper zoning classification of properties within the City. Zoning is a tool to designate the uses of property, such as residential, business, agricultural, industry, etc. Proper zoning ensures the best use for the property and, at the same time, protects adjacent properties from mixed uses that reduce property value and lower the quality of life for adjacent property owners and residents. It also regulates parking, building heights, lot coverage, noise pollution, setbacks, and regulations relating to the use of property.
- 2) Enforce zoning ordinances relating to uses permitted, parking, lot coverage, minimum building area, storage, heights, and other items.
- 3) Implement and enforce subdivision and plat requirements.
- 4) Provide assistance to citizens building on their property and handle complaints relating to land use and zoning.

Mapping and drafting functions include the following:

- 1) Provide mapping resources of new territories, zoning, streets, water and sewer lines, easements, right-of-ways, subdivisions, lots, and other related matters.
- 2) Assist citizens in matters related to their properties and maps containing requested information.

These services will be provided to residents and property owners in newly annexed territories on the same basis as they are provided to residents and property owners in the existing incorporated area.

Planning, zoning, and mapping services will be implemented immediately upon the effective date of this ordinance.

### **POLICE PROTECTION SERVICES**

The City has a Police Department. Police protection services are provided by the City of Lindsay Police Department within the existing corporate limits and will be provided within the newly annexed area upon the effective date of the annexation. Police Department personnel are available for consultation on public safety, crime prevention, and security related issues, on request by citizens and/or property owners of the community.

Police protection services will be implemented immediately upon the effective date of this ordinance.

### **FIRE PROTECTION SERVICES**

The City is served by the Lindsay Volunteer Fire Department, a private non-profit corporation. Fire protection services provided by the Lindsay Volunteer Fire Department to the City include response to fire calls. All fire protection services provided by the Lindsay Volunteer Fire Department within the existing corporate limits will be provided within the newly annexed area upon the effective date of the

annexation. Volunteers are available for consultation on fire prevention on request by citizens and/or property owners of the community.

Fire protection services will be implemented immediately upon the effective date of this ordinance.

### **STREET MAINTENANCE**

The street maintenance function is primarily supported from ad valorem (property) and sales taxes. Maintenance activities are determined by the level of funding and the need for maintenance as determined by the city council. Once the annexation of property included in this ordinance has been completed, all streets, roads, and bridges included in the annexed area, that are not a part of the federal, state, or county road systems, will be added to the City's street maintenance program. Roadways in the newly annexed area will receive equal consideration with regard to maintenance as those within the existing corporate limits.

Street maintenance services will be implemented immediately upon the effective date of this ordinance or after the acceptance by the City of the streets in a new subdivision, whichever is appropriate.

### **WASTEWATER SERVICES**

Citizens in newly annexed areas will be offered sanitary sewer service in accordance with existing City ordinances. Generally these ordinances state that the customer must bear the cost of construction of sewer system facilities to a point where service to the customer can be provided. All sanitary sewer facilities must be constructed in



accordance with Texas Commission on Environmental Quality and City of Lindsay regulations and specifications.

The policy for private service lines will remain the same as exists in the current city limits. That is, the City will maintain main transmission lines only. Only one connection per structure is permitted without specific written approval from an authorized official of the City.

Sanitary sewer service rates will be assessed at the same rate as established for other city customers in the same use classification.

### **WATER SERVICES**

Residents and property owners in newly annexed areas will be offered water service in accordance with existing City ordinances. Generally, these ordinances state that the customer must bear the cost of construction of water system facilities to a point where suitable connection to the existing system can be made and service to the customer can be provided. Water service facilities designed to connect an unserved area to the City's existing system must be approved by the City Council and meet all City zoning, subdivision, and other relevant requirements. All water mains must be constructed in accordance with Texas Commission on Environmental Quality, Texas Department of Insurance, and City of Lindsay regulations and specifications.

The policy for private service lines will remain the same as exists in the current City limits. That is, the City will maintain water lines from the water main to the water meter.

All repairs/maintenance from the meter to the point of usage is the property owner's responsibility.

Water service charges will be assessed at the same rates as established for other city customers in the same use classification.

# **EXHIBIT A**

## **NORTH ANNEXATION**

### **TRACT 1**

SITUATED in Cooke County, Texas, a part of the Henry Wilkey Survey, Abstract No. 1090, and being part of the Theresa Hermes Trustee land;

BEGINNING at a point in the North City Limits Line of the City of Lindsay and the east right-of-way line of Farm to Market Highway Number 1199, said point also being in the west line of the said Theresa Hermes Trustee land said point also being approximately at the 6+05 station marker of the Farm to Market Highway Number 1199 project;

THENCE North 00 degrees 57 minutes 30 seconds East a distance of 2,640 feet to a point for corner in the east right-of-way line of Farm to Market Highway Number 1199;

THENCE South 89 degrees 2 minutes 30 seconds East a distance of 10 feet to a point for corner:

THENCE South 00 degrees 57 minutes 30 seconds West a distance of 2,639.89 feet to a point for corner in the north City Limits Line of the City of Lindsay;

THENCE North 89 degrees 41 minutes West a distance of 10 feet to the POINT OF BEGINNING and containing .61 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 2

SITUATED in Cooke County, Texas, a part of the H. Wilkey Survey, Abstract No. 1090, and being part of the Theresa Hermes Trustee land, the Stacie Gieb Johnson land, the Louis Gieb land, the Melvin Bayer land, the Louise Schad land;

BEGINNING at the north west corner of Tract 1 of Exhibit A a point in the east right-of-way line of Farm to Market Highway Number 1199, said point also being in the west line of the said Theresa Hermes Trustee land, said point also being approximately at the 33+05 station marker of the Farm to Market Highway Number 1199 project;

THENCE North 00 degrees 57 minutes 30 seconds East a distance of 377.85 feet to a point for corner;

THENCE North 00 degrees 48 minutes 30 seconds East a distance of 2,262.15 feet to a point for corner, said point also being approximately at the 59+45 station marker of the Farm to Market Highway Number 1199 project;

THENCE South 89 degrees 11 minutes 30 seconds East a distance of 10 Feet to a point for corner;

THENCE South 00 degrees 48 minutes 30 seconds West a distance of 2,262.15 feet to a point for corner;

THENCE South 00 degrees 57 minutes 30 seconds West a distance of 377.72 feet to a point for corner;

THENCE North 89 degrees 02 minutes 30 seconds West a distance of 10 feet to the east right-of-way line of Farm to Market Highway Number 1199 to the POINT OF BEGINNING and containing .61 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

### TRACT 3

SITUATED in Cooke County, Texas, a part of the H. Wilkey Survey, Abstract No. 1090, and being part of the Louise Schad land and the Frances Zimmerer Land;

BEGINNING at the north west corner of Tract 2 of Exhibit A a point in the east right-of-way line of Farm to Market Highway Number 1199, said point also being in the west line of the said Louise Schad land, said point also being approximately at the 59+45 station marker of the Farm to Market Highway Number 1199 project;

THENCE North 00 degrees 48 minutes 30 seconds East a distance of 668.14 feet to a point for corner;

THENCE North 00 degrees 41 minutes 30 seconds East a distance of 1,915.69 feet to a point for corner;

THENCE North 45 degrees 31 minutes 57 seconds East a distance of 72.45 feet to a point for corner;

THENCE South 89 degrees 51 minutes 00 seconds East a distance of 14.24 feet to a point for corner;

THENCE South 45 degrees 31 minutes 57 seconds West a distance of 78.46 feet to a point for corner;

THENCE South 00 degrees 41 minutes 30 seconds West a distance of 1,911.57 feet to a point for corner;

THENCE South 00 degrees 48 minutes 30 seconds West a distance of 668.15 feet to a point for corner;

THENCE North 89 degrees 11 minutes 30 seconds West a distance of 10 feet to the east right-of-way line of Farm to Market Highway Number 1199 to the POINT OF BEGINNING and containing .61 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 4

SITUATED in Cooke County, Texas, a part of the H. Wilkey Survey, Abstract No. 1090 and the Timothy Jessup Survey, Abstract No. 523, and being part of the Rose Mary Fangmann land and the Joe B. Hundt Land;

BEGINNING at the north west corner of Tract 3 of Exhibit A a point in the east right-of-way line of Farm to Market Highway Number 1199, said point also being in the west line of the Frances Zimmerer land;

THENCE North 89 degrees 51 minutes 00 seconds West a distance of 926.15 feet to a point for corner in the south right-of-way line of Farm to Market Highway 1199 and said point also being at station marker number 94+54 of the Farm to Market Highway project;

THENCE North 00 degrees 30 minutes 00 seconds East a distance of 2,474.69 feet to a point for corner;

THENCE North 89 degrees 30 minutes 00 seconds West a distance of 10.00 feet to a point for corner;

THENCE South 00 degrees 30 minutes 00 seconds West a distance of 2,484.75 feet to a point for corner;

THENCE South 89 degrees 51 minutes 00 seconds East a distance of 926.08 feet to a point for corner;

THENCE North 45 degrees 31 minutes 57 seconds East a distance of 14.24 feet to the east right-of-way line of Farm to Market Highway Number 1199 to the POINT OF BEGINNING and containing .78 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 5

SITUATED in Cooke County, Texas, a part of the J. Bradshaw Survey, Abstract No. 32 and the Timothy Jessup Survey, Abstract No. 523, and being part of the Joe B. Hundt Land, the Raymond Sandmann land, the Harold J. Schmitz land and the Marie Koelzer Land;

BEGINNING at the northeast corner of Tract 4 of Exhibit A a point in the east line of the Joe B. Hundt land;

THENCE North 89 degrees 30 minutes 00 seconds West a distance of 113.27 feet to a point for corner;

THENCE South 89 degrees 51 minutes 51 seconds East a distance of approximately 2,484.75 feet crossing County Road Number 405 to a point for corner;

THENCE North 00 degrees 33 minutes 09 seconds East a distance of 761.09 feet to a point for corner;

THENCE North 89 degrees 26 minutes 51 seconds West a distance of 10 feet to a point for corner in the east line of County Road number 405;

THENCE South 00 degrees 33 minutes 09 seconds West a distance of 751.16 feet to a point for corner;

THENCE North 89 degrees 51 minutes 51 seconds West a distance of 2,484.76 feet to a point for corner;

THENCE South 00 degrees 30 minutes 00 seconds West a distance of 123.21 feet to a point for corner;

THENCE South 89 degrees 30 minutes 00 seconds East a distance of 10.00 feet to the POINT OF BEGINNING and containing .77 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 6

SITUATED in Cooke County, Texas, a part of the J. Bradshaw Survey, Abstract No. 32, and being part of the Marie Koelzer Land, the James Neusch Land the Lawrence Neusche land, and the Alvin J Loerwald Tract;

BEGINNING at the northwest corner of Tract 5 of Exhibit A a point in the west line of the Marie Koelzer Land;

THENCE North 00 degrees 33 minutes 09 seconds East a distance of 2,640 feet to a point for corner;

THENCE South 89 degrees 26 minutes 51 seconds East a distance of 10.00 feet to a point for corner;

THENCE South 00 degrees 33 minutes 09 seconds West a distance of 1,391.41 feet to a point for corner;

THENCE North 89 degrees 02 minutes 36 seconds East a distance of 742.34 feet to a point for corner;

THENCE North 00 degrees 57 minutes 24 seconds West a distance of 1,097.7 feet to a point for corner;

THENCE North 89 degrees 55 minutes 28 seconds East a distance of 585.43 feet to a point for corner;

THENCE South 00 degrees 00 minutes 26 seconds East a distance of 1,088.84 feet to a point for corner;

THENCE South 89 degrees 02 minutes 36 seconds West a distance of 557.32 feet to a point for corner;

THENCE South 00 degrees 57 minutes 24 seconds East a distance of 10.00 feet to a point for corner;

THENCE South 89 degrees 02 minutes 36 seconds West a distance of 752.60 feet to a point for corner;

THENCE South 00 degrees 33 minutes 9 seconds West a distance of 1,238.59 feet to a point for corner;

THENCE North 89 degrees 26 minutes 51 seconds West a distance of 10.00 feet to the POINT OF BEGINNING and containing 15.24 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.



## TRACT 7

SITUATED in Cooke County, Texas, a part of the J. Bradshaw Survey, Abstract No. 32, and being part of the Alvin J Loerwald land;

BEGINNING at the northwest corner of Tract 6 of Exhibit A a point in the west line of the Alvin J Loerwald land and the east line of County Road Number 405;

THENCE North 00 degrees 33 minutes 09 seconds East a distance of 1,954.67 feet to a point for corner;

THENCE North 45 degrees 27 minutes 52 seconds East a distance of 70.82 feet to a point for corner;

THENCE South 89 degrees 37 minutes 25 seconds East a distance of 1,211.03 feet to a point for corner in the west right-of-way line of Farm to Market Highway Number 1200 at station marker number 208+85;

THENCE South 30 degrees 28 minutes 00 seconds East a distance of 11.65 feet to a point for corner;

THENCE North 89 degrees 37 minutes 25 seconds West a distance of 1,212.87 feet to a point for corner;

THENCE South 45 degrees 27 minutes 52 seconds West a distance of 62.55 feet to a point for corner;

THENCE South 00 degrees 33 minutes 9 seconds West a distance of 1,950.54 feet to a point for corner;

THENCE North 89 degrees 26 minutes 51 seconds West a distance of 10.00 feet to the POINT OF BEGINNING and containing 0.74 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 8

SITUATED in Cooke County, Texas, a part of the J. Bradshaw Survey, Abstract No. 32, and being part of the Doug Gossett Land, the Kevin Michael Schumacher land, and the Sandmann Brothers (Frank and Donald) land;

BEGINNING at the northeast corner of Tract 7 of Exhibit A a point in the west right-of-way line of Farm to Market Highway Number 1200 at station marker number 208+85 and the south line of County Road Number 405;

THENCE North 30 degrees 28 minutes 00 seconds West a distance of 2,640 feet to a point for corner at Station Marker Number 235+25 of the Farm to Market Highway Number 1200 project;

THENCE South 59 degrees 32 minutes 00 seconds West a distance of 10.00 feet to a point for corner;

THENCE South 30 degrees 28 minutes 00 seconds East a distance of 2,634.03 feet to a point for corner;

THENCE South 89 degrees 37 minutes 25 seconds East a distance of 11.65 feet to the POINT OF BEGINNING and containing 0.61 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 9

SITUATED in Cooke County, Texas, a part of the J. Bradshaw Survey, Abstract No. 32, the T. Jessup Survey Abstract Number 523, and the A. Meyers Survey Abstract Number 640 and being part of the Sandmann Brothers (Frank and Donald) land, the Henry and Jeanette Popp, and the Henry Kuhn Jr. land;

BEGINNING at the northeast corner of Tract 8 of Exhibit A a point in the west right-of-way line of Farm to Market Highway Number 1200 at station marker number 235+25;

THENCE North 30 degrees 28 minutes 00 seconds West a distance of 2,575.32 feet to a point for corner at Station Marker Number 261+00.32 of the Farm to Market Highway Number 1200 project;

THENCE South 59 degrees 32 minutes 00 seconds West a distance of 10.00 feet to a point for corner;

THENCE South 30 degrees 28 minutes 00 seconds East a distance of 2,575.32 feet to a point for corner;

THENCE North 59 degrees 32 minutes 00 seconds East a distance of 10.00 feet to the POINT OF BEGINNING and containing 0.59 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 10

SITUATED in Cooke County, Texas, a part of the A. Meyers Survey Abstract Number 640 and being part of the Henry Kuhn Jr. land and the Ann A. Bengfort land;

BEGINNING at the northeast corner of Tract 9 of Exhibit A a point in the west right-of-way line of Farm to Market Highway Number 1200 at station marker number 261+00.32 said point also being the starting point of a curve to the left with a radius of 1,908.82 and a chord bearing of North 43 degrees 26 minutes 30 seconds West a distance of 857.16 feet;

THENCE with said curve to the left a distance of 864.53 feet to a point for corner at Station Marker Number 269+87.50 of the Farm to Market Highway Number 1200 project;

THENCE North 56 degrees 25 minutes 00 seconds West a distance of 1,797.70 feet to a point for corner;

THENCE South 33 degrees 35 minutes 00 seconds West a distance of 10.00 feet to a point for corner;

THENCE South 56 degrees 25 minutes 00 seconds East a distance of 1,797.70 feet to a point for corner in a curve to the right with a radius of 1,898.82 and a chord bearing of South 43 degrees 26 minutes 30 seconds East a distance of 852.67 feet;

THENCE with said curve to the right a distance of 860.00 feet to a point for corner at Station Marker Number 261+00.32 of the Farm to Market Highway Number 1200 project;

THENCE North 59 degrees 32 minutes 00 seconds East a distance of 10.00 feet to the POINT OF BEGINNING and containing 0.64 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 11

SITUATED in Cooke County, Texas, a part of the A. Meyers Survey Abstract Number 640 and being part of the Ann A. Bengfort land;

BEGINNING at the northeast corner of Tract 10 of Exhibit A a point in the west right-of-way line of Farm to Market Highway Number 1200 at station marker number 287+85.20;

THENCE North 56 degrees 25 minutes 00 seconds West a distance of 590.69 feet to a point for corner in a curve to the right with a radius of 4,651.02 feet and a chord bearing of North 43 degrees 38 minutes 44 seconds a distance of 2,056.27 feet;

THENCE with said curve to the right a distance of 2,073.40 feet to a point for corner at Station Marker Number 314+49.29 of the Farm to Market Highway Number 1200 project;

THENCE South 59 degrees 07 minutes 32 seconds West a distance of 10.00 feet to a point for corner in a non tangent curve to the left with a radius of 4,661.02 feet and a chord bearing of South 43 degrees 38 minutes 44 seconds East a distance of 2,060.69 feet;

THENCE with said curve to the left a distance of 2,077.85 feet to a point for corner;

THENCE South 56 degrees 25 minutes 00 seconds East a distance of 590.69 feet to a point for corner;

THENCE North 33 degrees 35 minutes 00 seconds East a distance of 10.00 feet to the POINT OF BEGINNING and containing 0.61 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

## TRACT 12

SITUATED in Cooke County, Texas, a part of the A. Meyers Survey Abstract Number 640 and being part of the Ann A. Bengfort land;

BEGINNING at the northeast corner of Tract 11 of Exhibit A a point in the west right-of-way line of Farm to Market Highway Number 1200 at station marker number 314+49.29 and said point also being in a curve to the right with a radius of 4,651.02 feet and a chord bearing of North 30 degrees 29 minutes 14 seconds a distance of 62.87 feet;

THENCE with said curve to the right a distance of 62.87 feet to a point for corner;

THENCE North 30 degrees 06 minutes 00 seconds West a distance of 872.18 feet to a point for corner in a curve to the right with a radius of 2,048.67 feet and a chord bearing of North 20 degrees 17 minutes 30 seconds West a distance of 697.99 feet;

THENCE with said curve to the right a distance of 701.41 feet to a point for corner;

THENCE North 10 degrees 29 minutes 00 seconds West a distance of 94.49 feet to a point for corner;

THENCE South 59 degrees 54 minutes 00 seconds West a distance of 10.62 feet;

THENCE South 10 degrees 29 minutes 00 seconds East a distance of 90.93 to a point for corner in a curve to the left with a radius of 2,058.67 feet and a chord bearing of South 20 degrees 17 minutes 30 seconds East a distance of 701.40 feet;

THENCE with said curve to the left a distance of 704.84 feet to a point for corner;

THENCE South 30 degrees 06 minutes 00 seconds East a distance of 872.18 feet to a point for corner in a curve to the left with a radius of 4,661.02 feet and a chord bearing of South 30 degrees 29 minutes 14 seconds East a distance of 63.01 feet;

THENCE with said curve to the left a distance of 63.01 feet to a point for corner;

THENCE North 59 degrees 07 minutes 32 seconds East a distance of 10.00 feet to the POINT OF BEGINNING and containing 0.40 acres of land more or less and extends the City limits one half mile to the north by petition of the land owners.

# **EXHIBIT A**

## **SOUTH ANNEXATION**

### **TRACT 1**

SITUATED in Cooke County, Texas, a part of the D.D. Sackett Survey, Abstract No. 940 and the B.F. Carpenter Survey, Abstract No. 229, and being part of the Rosalee A Zwinggi land, the Leonard & Eleanor Zwinggi Land, the Ronald W. Sandman Etal land, and the Raymond Sandmann Land recorded in Volume 564 page 499 of the Deed records of Cooke County;

BEGINNING at a point in the south City Limits Line of the City of Lindsay and the east right-of-way line of Farm to Market Highway Number 3108, said point also being in the west line of the said Rosalee A. Zwinggi said point also being approximately at the 32+00 station marker of the Farm to Market Highway Number 3108 project;

THENCE South 89 degrees 41 minutes East a distance of 10.0 feet following the south City Limits of Lindsay to a point for corner:

THENCE South 2,639.9 feet crossing the said Rosalee A. Zwinggi land, the Leonard & Eleanor Zwinggi Land, the Ronald W. Sandman Etal land, the Raymond Sandmann Land recorded in Volume 564 page 499 of the Deed records of Cooke to a point for corner said corner is in the north line of a private drive and approximately 25 feet north of the James Rose Survey, Abstract Number 843 north line and approximately at the 58+40 station marker of the farm to Market Highway Number 3108 project;

THENCE West 10 feet to the east right-of-way line of Farm to Market Highway Number 3108;

THENCE North with the east right-of-way line of Farm to Market Highway Number 3108 2,640 feet to the POINT OF BEGINNING and containing .61 acres of land more or less and extends the City limits one half mile to the south by petition of the land owners.

## TRACT 2

SITUATED in Cooke County, Texas, a part of the James Rose Survey Abstract No. 843 and the B.F. Carpenter Survey, Abstract No. 229, and being part of the Raymond Sandmann Land recorded in Volume 564 page 499 of the Deed records of Cooke County, the Edward Sandmann land, the Curtis L. Conaway & Etux Land, The Paul Sandmann Land, the Corey and Megan Anderle land, and the Donald Sandmann & Etux;

BEGINNING at a point in the east right-of-way line of Farm to Market Highway Number 3108, said point also being in the west line of the said Raymond Sandman said point also being approximately at the 58+40 station marker of the Farm to Market Highway Number 3108 project and approximately 23 feet north of the James Rose Survey Abstract Number 843;

THENCE East a distance of 10.0 feet to a point for corner;

THENCE South a distance of 2,640 feet to a point for corner:

THENCE West a distance of 10 feet to the east right-of-way line of Farm to Market Highway 3108 for a point for corner approximately at the 84+80 station marker of the Farm to Market Highway Number 3108 project;

THENCE North with the East line of Farm to Market Highway Number 3108 a distance of 2,640 feet to the POINT OF BEGINNING and containing .61 acres of land more or less and extends the City limits one half mile to the south by petition of the land owners.



### TRACT 3

SITUATED in Cooke County, Texas, a part of the James Rose Survey Abstract No. 843 Donald Sandmann & Etux, Freddie Neu land and the Carla Dean tract;

BEGINNING at a point in the east right-of-way line of Farm to Market Highway Number 3108, said point also being in the west line of the said Donald Sandman land said point also being approximately at the 84+80 station marker of the Farm to Market Highway Number 3108 project;

THENCE East a distance of 10.0 feet to a point for corner;

THENCE South a distance of 2,640 feet to a point for corner passing County Road Number 310 at the 90+99 to 91+54 station marker of the Farm to Market Highway Number 3108 project:

THENCE West a distance of 10 feet to the east right-of-way line of Farm to Market Highway 3108 for a point for corner approximately at the 111+20 station marker of the Farm to Market Highway Number 3108 project;

THENCE North with the East line of Farm to Market Highway Number 3108 a distance of 2,640 feet to the POINT OF BEGINNING and containing .61 acres of land more or less and extends the City limits one half mile to the south by petition of the land owners.

## TRACT 4

SITUATED in Cooke County, Texas, a part of the James Rose Survey Abstract No. 843, The C.E. Anderson Survey Abstract Number 1657, and the Elias Yeaman Survey Abstract Number 1174, and being part of land owned by Donald Sandmann & Etux, Freddie Neu land and the Carla Dean land, The Milton Krebs land, the Kimberly Martin land, and the Kenneth M. and Benelle Fitts Land;

BEGINNING at a point in the east right-of-way line of Farm to Market Highway Number 3108, said point also being in the west line of the said Carla Dean Land said point also being approximately at the 111+20 station marker of the Farm to Market Highway Number 3108 project and approximately 217 feet north of the C.E. Anderson Survey Abstract Number 1657;

THENCE East a distance of 10.0 feet to a point for corner;

THENCE South a distance of 1,052 feet to a point for corner;

THENCE East a distance of 2,561.29 feet to a point for corner;

THENCE South 00 degrees 39 minutes West a distance of 1,521.06 feet to a point for corner;

THENCE North 89 degrees 21 minutes West a distance of 10 feet to a point for corner;

THENCE North 00 degrees 39 minutes East a distance of 1,510.94 feet to a point for corner;

THENCE West a distance of 2,561.17 feet to the east right-of-way line of Farm to Market Highway 3108 for a point for corner approximately at the 121+82 station marker of the Farm to Market Highway Number 3108 project;

THENCE North with the East line of Farm to Market Highway Number 3108 a distance of 1,062 feet to the POINT OF BEGINNING and containing 1.18 acres of land more or less and extends the City limits one half mile to the south by petition of the land owners.

## TRACT 5

SITUATED in Cooke County, Texas, a part of the Elias Yeaman Survey Abstract Number 1174, and being part of land owned by Donald Sandmann, Paul Russell Porter, and Hugh Porter Etux Trustees, Frank and Donald Sandmann, and Betty Luttmner New (Freddie) & Dorothy Krebs;

BEGINNING at a point in the most southwesterly point of Tract 4 of Exhibit A and said point being in the west line of land owned by Donald Sandmann;

THENCE South 00 degrees 39 minutes West with the west line of the Donald Sandmann tract a distance of 941.12 feet to a point for corner;

THENCE North 89 degrees 21 minutes East a distance of 1,322.05 feet to a point for corner in a curve to the right with a radius of 1,214.60 feet and a chord bearing of North 44 degrees 40 minutes 37 seconds west a distance of 1,707.99 feet;

THENCE with said curve to the right a distance of 1,894.11 feet to a point for corner;

THENCE North 376.89 feet to a point for corner in the North property line of Paul Porter for a point for corner;

THENCE West a distance of 10 feet to a point in the east right-of-way of Farm to Market Highway Number 3108 at 130+26 station marker of the Farm to Market Highway Number 3108;

THENCE South with the east right-of-way of Farm to Market Highway Number 3108 a distance of 376.89 feet to a point for corner in a curve to the left with a radius of 1224.60 feet and a chord bearing of South 44 degrees 40 minutes 30 seconds East a distance of 1,721.99 feet;

THENCE with said curve to the left a distance of 1224.60 feet following the east and north right-of-way line of Farm to Market Highway Number 3108 to a point for corner;

THENCE South 89 degrees 21 minutes East a distance of 1,868.10 feet to a point for corner approximately at the 173+09.48 station marker of the Farm to Market Highway Number 3108 project and at the 95+81.03 station marker of the Farm to Market Highway Number 1630 project;

THENCE North 73 degrees 39 minutes East a distance of 263.09 feet to a point for corner in the north line of Farm to Market Highway Number 1630;

THENCE North 75 degrees 33 minutes 33 seconds East a distance of 300.17 feet to a point for corner in the north line of Farm to Market Highway Number 1630;

THENCE North 74 degrees 39 minutes East a distance of 1,600.58 feet to a point for corner in the north line of Farm to Market Highway Number 1630;

THENCE leaving the right-of-way of Farm to Market Highway Number 1630 North 15 degrees 21 minutes West a distance of 10 feet to a point for corner;

THENCE South 74 degrees 39 minutes West a distance of 1,600.50 feet to a point for corner;

THENCE South 75 degrees 33 minutes 33 seconds West a distance of 300.26 feet to a point for corner;

THENCE South 73 degrees 39 minutes West a distance of 261.76 feet to a point for corner in the north line of Farm to Market Highway Number 1630;

THENCE North 89 degrees 21 minutes West a distance of 534.56 feet to a point for corner;

THENCE North 00 degrees 39 minutes East a distance of 941.12 feet to a point for corner;

THENCE North 89 degrees 21 minutes West a distance of 10 feet to the POINT OF BEGINNING and containing 1.67 acres of land more or less and extends the City limits one half mile to the south by petition of the land owners.

## TRACT 6

SITUATED in Cooke County, Texas, a part of the Elias Yeaman Survey Abstract Number 1174, and being part of land owned by Betty Luttmner Neu (Freddie) & Dorothy Krebs;

BEGINNING at a point in the most southeasterly point of Tract 5 of Exhibit A and said point being in the north right-of-way line of Farm to Market Highway 1630 at station marker number 74+17.36;

THENCE North 74 degrees 39 minutes East a distance of 1,368.36 feet to a point for corner in the north right-of-way line of Farm to Market Highway 1630;

THENCE leaving the said north right-of-way line of Farm to Market Highway North 15 degrees 21 seconds West a distance of 10 feet;

THENCE South 74 degrees 39 minutes West a distance of 1,368.36 feet to a point for corner;

THENCE South 15 degrees 21 minutes East a distance of 10 feet to the POINT OF BEGINNING and containing 0.31 acres of land more or less and extends the City limits one half mile to the northeast by petition of the land owners.

214/30987/3338-C/100

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



SOAH DOCKET NO. 582-02-0431  
TCEQ DOCKET NOS. 2001-1045-UCR AND 2001-1046-UCR  
APPLICATION NOS. 33338-C AND 33339-C

IN THE MATTER OF THE  
APPLICATIONS OF THE TOWN OF  
LINDSAY TO OBTAIN WATER AND  
SEWER CERTIFICATES OF  
CONVENIENCE AND NECESSITY IN  
COOKE COUNTY, TEXAS

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

ORDER

Applications by the Town of Lindsay ("Applicant or Lindsay") to obtain Certificates of Convenience and Necessity ("CCN") to provide water and sewer services in Cooke County, Texas were presented to the Executive Director of the Texas Commission on Environmental Quality ("Commission") for approval pursuant to Section 5.122 of the Texas Water Code ("Code") and the Commission rules.

On January 31, 2001, Lindsay filed applications with the Commission pursuant to Section 13.241 *et. seq.* of the Code to obtain water and sewer CCNs to provide water and sewer services in Cooke County, Texas. The applications were accepted for filing and assigned Application Nos. 33338-C and 33339-C, respectively. Notice was provided to the affected persons and neighboring utilities by the Applicant on March 15, 2001. Notice of the application was published on March 16, 2001, and March 23, 2001, in the *Gainesville Daily Register*, a newspaper generally circulated in Cooke County, Texas. The notice complied with the notice requirements of 30 *Texas Administrative Code* ("TAC"), Section 291.106, and was sufficient to place affected persons on notice regarding

the applications for service. The Commission received several requests for a public hearing on the applications.

On November 27, 2001, Ms. Janet Dewey, an administrative law judge with the State Office of Administrative Hearings ("SOAH") held a preliminary hearing in the matter, assumed jurisdiction, set a procedural schedule, and designated the following parties: the Applicant, represented by Ronald J. Freeman; the Executive Director of the Commission ("ED") represented by Todd Galiga; the Public Interest Counsel of the Commission ("PIC") who did not participate; Lindsay Pure Water Company ("LPWC") represented by Tony Corbett; and Walter Lutkenhaus representing himself.

The parties continued to engage in settlement discussions on an informal basis. LPWC, by letter dated April 1, 2002, withdrew its protest pursuant to the terms of a settlement agreement it entered into with Lindsay. The Applicant then entered into a settlement agreement signed by Walter Lutkenhaus on April 18, 2002, the terms of which called for a withdrawal of his protest.

The ED and the Applicant filed a Joint Motion to Abate Proceeding Pending Settlement and to Approve Withdrawal of Protestant on April 26, 2002. Judge Dewey granted the motion to abate on May 2, 2002, approved the withdrawal of protests, canceled the hearing on the merits, and ordered the parties to file status reports on the 15<sup>th</sup> of each month until the matter has been resolved by way of settlement or has been reset for hearing.

On May 15, 2002, the Applicant filed a motion to remand the application to the ED, representing that all issues between the parties were resolved and that nothing remained requiring a contested case hearing. Judge Dewey granted the motion on July 19, 2002, remanded the application to the Executive Director for processing as an uncontested matter, and dismissed the case from the SOAH docket.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

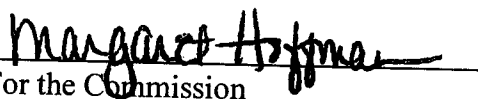
The applications by the Town of Lindsay for water and sewer Certificates of Convenience and Necessity as reflected in the attached copies of the official water and sewer service area maps for Cooke County, Texas, are hereby approved.

The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties, and the Commission shall issue water and sewer Certificates of Convenience and Necessity to the applicant.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: MAY 16 2003

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
For the Commission





# Texas Commission On Environmental Quality

By These Presents Be It Known To All That

**Town of Lindsay**

having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

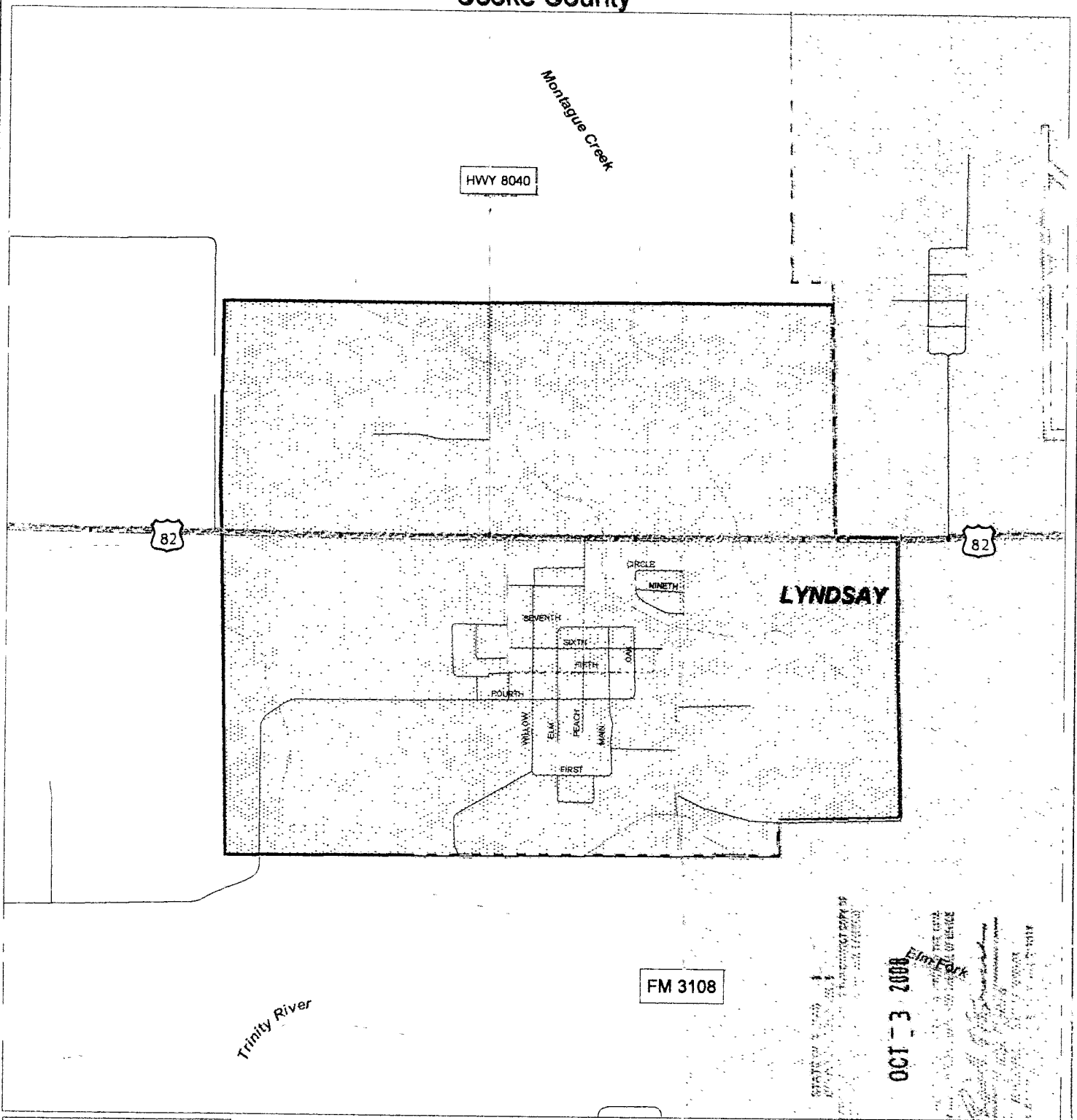
## **Certificate of Convenience and Necessity No. 20927**

to provide continuous and adequate sewer utility service to that service area or those service areas in Cooke County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No 33339-C is on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Town of Lindsay to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this MAY 16 2003

  
For the Commission

**Town of Lindsay  
Sewer Service Area - CCN No. 20927  
Application No. 33339-C  
Cooke County**



**Protecting Texas by  
Reducing and  
Preventing Pollution**

Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

March 20, 2003

**Sewer CCN Service Areaa**  
 **20927 - TOWN OF LINDSAY**  
 **20885 - CITY OF GAINSVILLE**

1000 0 1000 2000 3000 4000 Feet

1 inch = 2000 feet



Map created by T. Harbour 3/20/2003  
Data path: s:\work\ccn\_working\ccn.shp  
Project path: i:\maps\projects\33339c\33339c.apr

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



THE STATE OF TEXAS

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

*LeDonna Castanuela*

MAY 27 2003

LeDonna Castanuela, Chief Clerk  
Texas Commission on Environmental Quality

SOAH DOCKET NO. 582-02-0431  
TCEQ DOCKET NOS. 2001-1045-UCR AND 2001-1046-UCR  
APPLICATION NOS. 33338-C AND 33339-C

IN THE MATTER OF THE  
APPLICATIONS OF THE TOWN OF  
LINDSAY TO OBTAIN WATER AND  
SEWER CERTIFICATES OF  
CONVENIENCE AND NECESSITY IN  
COOKE COUNTY, TEXAS

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## ORDER

Applications by the Town of Lindsay ("Applicant or Lindsay") to obtain Certificates of Convenience and Necessity ("CCN") to provide water and sewer services in Cooke County, Texas were presented to the Executive Director of the Texas Commission on Environmental Quality ("Commission") for approval pursuant to Section 5.122 of the Texas Water Code ("Code") and the Commission rules.

**APP0033**

On January 31, 2001, Lindsay filed applications with the Commission pursuant to Section 13.241 *et. seq.* of the Code to obtain water and sewer CCNs to provide water and sewer services in Cooke County, Texas. The applications were accepted for filing and assigned Application Nos. 33338-C and 33339-C, respectively. Notice was provided to the affected persons and neighboring utilities by the Applicant on March 15, 2001. Notice of the application was published on March 16, 2001, and March 23, 2001, in the *Gainesville Daily Register*, a newspaper generally circulated in Cooke County, Texas. The notice complied with the notice requirements of 30 *Texas Administrative Code* ("TAC"), Section 291.106, and was sufficient to place affected persons on notice regarding

the applications for service. The Commission received several requests for a public hearing on the applications.

On November 27, 2001, Ms. Janet Dewey, an administrative law judge with the State Office of Administrative Hearings ("SOAH") held a preliminary hearing in the matter, assumed jurisdiction, set a procedural schedule, and designated the following parties: the Applicant, represented by Ronald J. Freeman; the Executive Director of the Commission ("ED") represented by Todd Galiga; the Public Interest Counsel of the Commission ("PIC") who did not participate; Lindsay Pure Water Company ("LPWC") represented by Tony Corbett; and Walter Lutkenhaus representing himself.

The parties continued to engage in settlement discussions on an informal basis. LPWC, by letter dated April 1, 2002, withdrew its protest pursuant to the terms of a settlement agreement it entered into with Lindsay. The Applicant then entered into a settlement agreement signed by Walter Lutkenhaus on April 18, 2002, the terms of which called for a withdrawal of his protest.

The ED and the Applicant filed a Joint Motion to Abate Proceeding Pending Settlement and to Approve Withdrawal of Protestant on April 26, 2002. Judge Dewey granted the motion to abate on May 2, 2002, approved the withdrawal of protests, canceled the hearing on the merits, and ordered the parties to file status reports on the 15<sup>th</sup> of each month until the matter has been resolved by way of settlement or has been reset for hearing.

On May 15, 2002, the Applicant filed a motion to remand the application to the ED, representing that all issues between the parties were resolved and that nothing remained requiring a contested case hearing. Judge Dewey granted the motion on July 19, 2002, remanded the application to the Executive Director for processing as an uncontested matter, and dismissed the case from the SOAH docket.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

**APP0034**

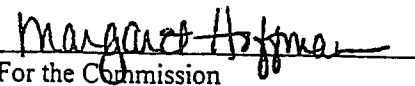
The applications by the Town of Lindsay for water and sewer Certificates of Convenience and Necessity as reflected in the attached copies of the official water and sewer service area maps for Cooke County, Texas, are hereby approved.

The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties, and the Commission shall issue water and sewer Certificates of Convenience and Necessity to the applicant.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: MAY 16 2003

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
For the Commission



## Texas Commission On Environmental Quality

By These Presents Be It Known To All That

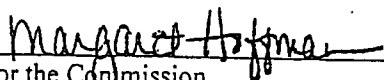
**Town of Lindsay**

having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

### **Certificate of Convenience and Necessity No. 20927**

to provide continuous and adequate sewer utility service to that service area or those service areas in Cooke County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No 33339-C is on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Town of Lindsay to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this MAY 16 2003

  
For the Commission

**APP0036**



## Texas Commission On Environmental Quality

By These Presents Be It Known To All That

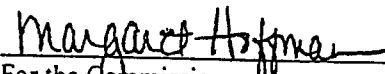
Town of Lindsay

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

### Certificate of Convenience and Necessity No. 13025

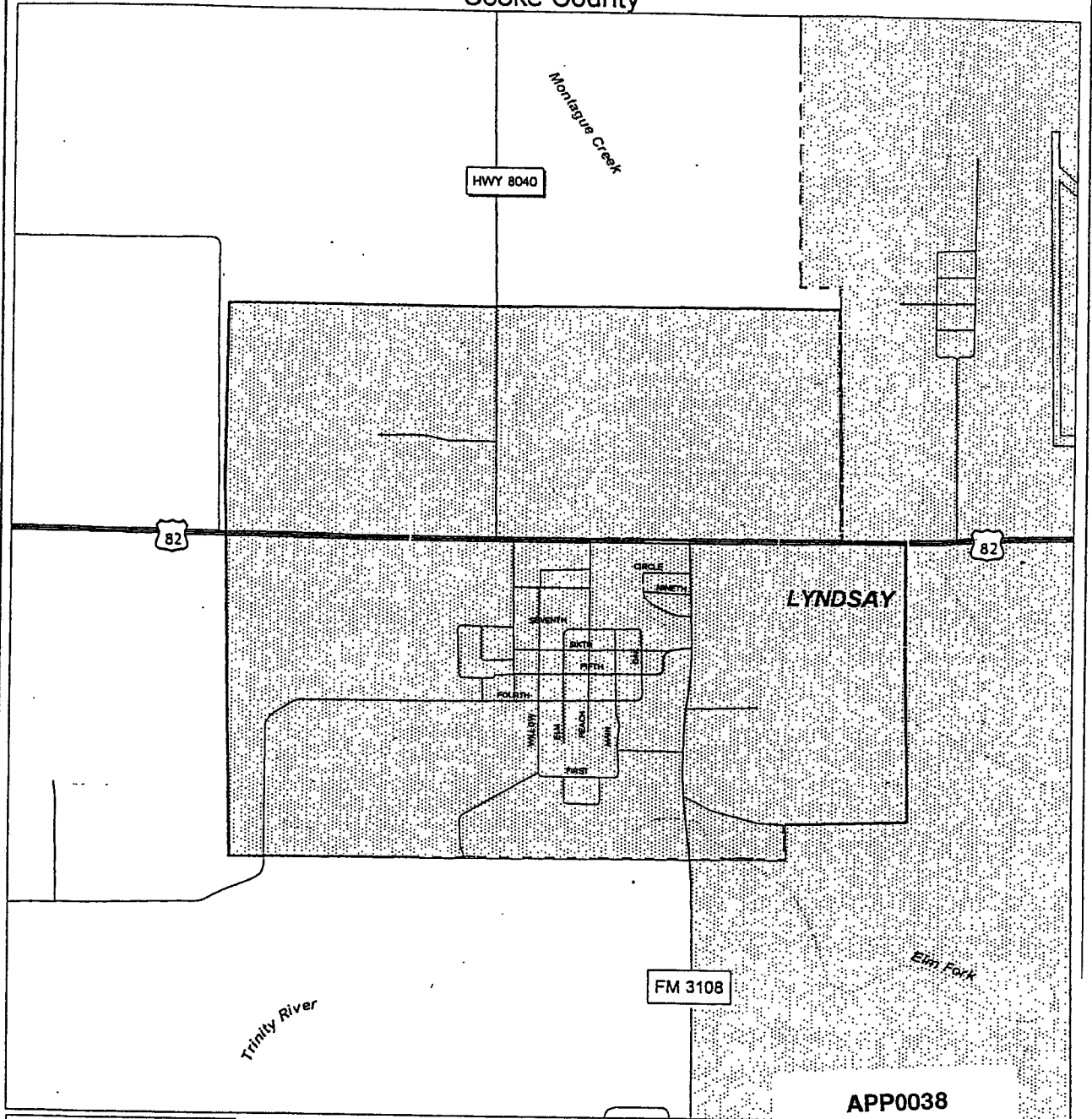
to provide continuous and adequate water utility service to that service area or those service areas in Cooke County name as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 33338-C is on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Town of Lindsay to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this MAY 16 2003

  
For the Commission

APP0037

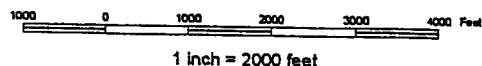
Town of Lindsay  
Sewer Service Area - CCN No. 20927  
Application No. 33339-C  
Cooke County



APP0038

**TCEQ** Protecting Texas by  
Reducing and  
Preventing Pollution  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087  
March 20, 2003

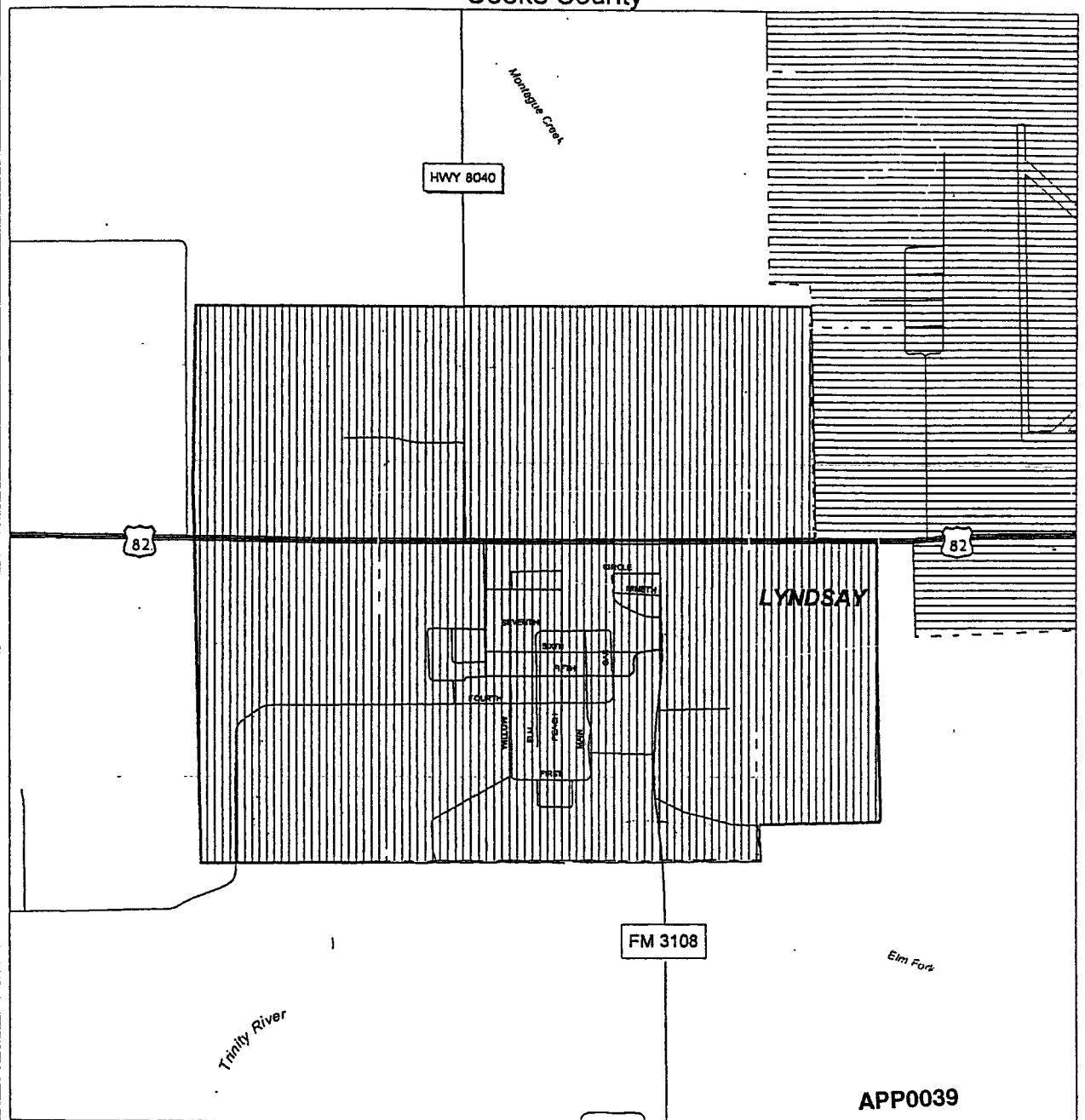
Sewer CCN Service Areaa  
20927 - TOWN OF LINDSAY  
20885 - CITY OF GAINSVILLE



Map created by T. Harbour 3/20/2003  
Data path: c:\data\arcview\_working\ccn.spr  
Project path: c:\maps\proj\ccn\33339c\33339c.apr



Town of Lindsay  
 Water Service Area - CCN No. 13025  
 Application No. 33338-C  
 Cooke County



APP0039

Protecting Texas by  
 Reducing and  
 Preventing Pollution  
**TCEQ**  
 Texas Natural Resource Conservation Commission  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
 March 20, 2003

Water CCN Service Areas  
 13025 - TOWN OF LINDSAY  
 12957 - CITY OF GAINSVILLE

1000 0 1000 2000 3000 4000 Feet

1 inch = 2000 feet



Map created by T. Harbauer 3/20/2003  
 Data path: c:\nsr\ccn\map\working\lindsay.shp  
 Project path: c:\nsr\projects\33338\33338c.apr

SOAH DOCKET NO. 582-02-0431  
TNRCC/TCEQ DOCKET NOS. 2001-1045-UCR and 2001-1046-UCR

APPLICATIONS BY THE TOWN OF  
LINDSAY TO OBTAIN WATER AND  
SEWER CERTIFICATES OF  
CONVENIENCE AND NECESSITY  
IN COOKE COUNTY, TEXAS

§  
§  
§  
§  
§

BEFORE THE STATE OFFICE

OF  
ADMINISTRATIVE HEARINGS

CITY OF LINDSAY'S MOTION FOR JUDGMENT NUNC PRO TUNC  
UNDER TEXAS RULE OF CIVIL PROCEDURE 316

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY:

COMES NOW, the City of Lindsay ("City") and requests the Texas Commission on  
Environmental Quality ("TCEQ") sign a judgment *Nunc Pro Tunc* under the authority of Texas  
Rule of Civil Procedure 316.

I. BACKGROUND

On January 31, 2001, the City filed an application to obtain water and sewer certificates  
of convenience and necessity ("CCN") to provide water and sewer services in Cooke County,  
Texas. Sufficient notice to affected persons was provided pursuant to the notice requirements of  
30 Tex. Admin. Code § 291.106. There was no opposition to the sewer application and it was  
granted on May 16, 2003. A copy of the Commission's order is attached as Exhibit A.

The application for a water CCN was protested. A preliminary hearing on the matter was  
held on November 27, 2001. At this hearing, jurisdiction was established, a procedural schedule  
was set, and the following parties were designated: the City, as Applicant; the Executive  
Director of the Commission; the Public Interest Counsel; Lindsay Pure Water Company; and  
Walter Lutkenhaus. On April 1, 2002, a settlement agreement was reached between these parties  
and the case was dismissed. A copy of the Settlement Agreement is attached hereto as Exhibit  
"B". Pursuant to the settlement agreement, the City agreed to amend the Water CCN application