

such that it would *not* seek certification for retail water as depicted by the blue crosshatch area on the map attached as Exhibit C. The City *was to receive* certification for retail water as depicted by the green crosshatch area on Exhibit C. The evidence provided by the City was sufficient to be granted the area referenced in Exhibit C.

In 2003, TCEQ granted both the sewer and water CCNs for the City; water CCN No. 13025 and sewer CCN No. 20927. The water map, however, was incorrectly drawn. The water CCN was granted for the area designated for the sewer CCN, and not the agreed upon area according to the settlement agreement. Thus, as depicted on Exhibit C and demonstrated in the Commission's map attached as Exhibit A, TCEQ granted a sewer and water CCN only for the area shown in solid blue, but neglected to grant the water CCN for the green crosshatch area.

II. ARGUMENT & AUTHORITIES

Texas Rules of Civil Procedure ("TRCP") 316 grants the Commission the authority to correct clerical mistakes made in the judgment. TRCP 316 states, "Clerical mistakes in the record of any judgment may be corrected by the judge in open court according to the truth or justice of the case...." Thus, the Commission can correct a clerical error in the judgment at any time. A clerical error is a discrepancy between the entry of a judgment in the official record and the judgment as actually rendered. *See Escobar v. Escobar*, 711 S.W.2d 230, 231 (Tex. 1986).

In this matter, the error in the judgment is a clerical error, which can be corrected by a judgment *nunc pro tunc* because the error was in a written judgment that did not reflect the settlement agreement made between the parties. *See Delaup v. Delaup*, 917 S.W.2d 411, 413 (Tex. App.—Houston [14th Dist.] 1996, no writ). The settlement agreement between the parties depicted a much larger area in which the City would be granted a CCN for water retail service.

The judgment, however, did not grant the water CCN as agreed upon but rather only granted a water CCN for the area coterminous for the sewer CCN.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the City of Lindsay requests the Commission to sign a judgment *nunc pro tunc* correcting the clerical error made in CCN No. 13025 regarding the service area for water retail service.

Respectfully submitted,

Russell & Rodriguez, L.L.P.

102 West Morrow, Suite 103

Georgetown, Texas 78626

(512) 930-1317

(512) 930-7742 (Fax)

ARTURO D. RODRIGUEZ, JR.

State Bar No. 00791551

**ATTORNEY FOR THE CITY OF LINDSAY,
TEXAS**

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of September, 2006, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel of record:

Mr. Todd Galiga, Attorney
Environmental Law Division
TCEQ - MC 173
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 239-0606

Ms. Tammy Benter
Water Supply Division
TCEQ, MC-153
P.O. Box 13087
Austin, Texas 78711-3087


Mr. Walter Lutkenhaus
779 County Road 438
Lindsay, Texas 786250-3001
Meridian, Texas 76665

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

Mr. Jodena Henneke, Director
Office of Public Assistance
TCEQ, MC-108
P.O. Box 13087
Austin, Texas 78711

Mr. John Carlton
Lindsay Pure Water Supply Company
Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Fax: 435-2360

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



ARTURO D. RODRIGUEZ, JR.

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Margaret Hoffman, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 27, 2003

TO: Persons on the attached mailing list.

RE: Town of Lindsay
CCN Nos. 20927 and 13025; Application Nos. 33338-C and 33339-C

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director has issued final approval of the above-named application.

You may file a **motion to overturn** with the chief clerk. A motion to overturn is a request for the commission to review the TCEQ executive director's approval of the application. Any motion must explain why the commission should review the TCEQ executive director's action.

A motion to overturn must be received by the chief clerk within 23 days after the date of this letter. An original and 11 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, a copy must be mailed to the applicant's address listed on the attached mailing list. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

Individual members of the public may seek further information by calling the TCEQ Office of Public Assistance, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink, appearing to read "LaDonna Castañuela".

LaDonna Castañuela
Chief Clerk

LDC/is

MAILING LIST
for
Town of Lindsay

Ronald Freeman
2304 Hancock Drive, Suite 6
Austin, Texas 78731

Tony Corbett
100 Congress Avenue, Suite 800
Austin, Texas 78701

Walter Lutkenhaus
779 CR 438
Lufkin, Texas 76250-3001

FOR THE EXECUTIVE DIRECTOR:

Tammy Benter, Staff Engineer
Texas Commission on Environmental Quality
Water Supply Division MC-153
P.O. Box 13087
Austin, Texas 78711-3087

Todd Galiga, Staff Attorney
Texas Commission on Environmental Quality
Legal Services Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Jodena Henneke, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL:

Scott Humphrey, Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

MAILING LIST FOR APPLICATION NOS. 33338-C and 33339-C

Mr. Ronald Freeman
2304 Hancock Drive, Suite 6
Austin, Texas 78731

Mr. Tony Corbett
100 Congress, Suite 800
Austin, Texas 78701

Mr. Walter Lutkenhaus
779-CR-438
Lindsay, Texas 76250-3001

Todd Galiga, Staff Attorney
Legal Services Division - MC 173
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Tammy Benter
Water Supply Division - MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Blas Coy, Attorney
Public Interest Counsel - MC 103
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

LaDonna Castanula
Office of the Chief Clerk - MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Ms. Janet R. Dewey, Administrative Law Judge
State Office of Administrative Hearings
300 West 15th, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025

TCEQ:

Region 8 Office

Luci Sainvilus and Teri Cisneros, Data Entry Team, MC 155,
Utilities & District Section, Water Supply Division, MC 153

Please send a copy of the signed order to Central Records to be included in the following
Certificate of Convenience and Necessity (CCN) permanent files:

Town of Lindsay, CCN Nos. 13025 (water) and 20927 (sewer)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



THE STATE OF TEXAS
NATURAL RESOURCE CONSERVATION COMMISSION

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. 582-02-0436
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

§
§
§
§
§
§
§

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 15th 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:

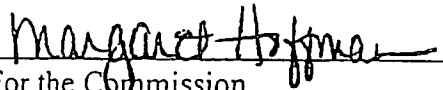
The applications by the Town of Lindsay for water and sewer Certificates of Convenience and Necessity as reflected in the attached copies of the official water and sewer service area maps for Cooke County, Texas, are hereby approved.

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

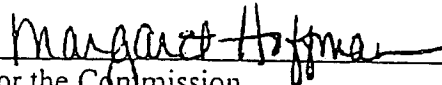
Town of Lindsay

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



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

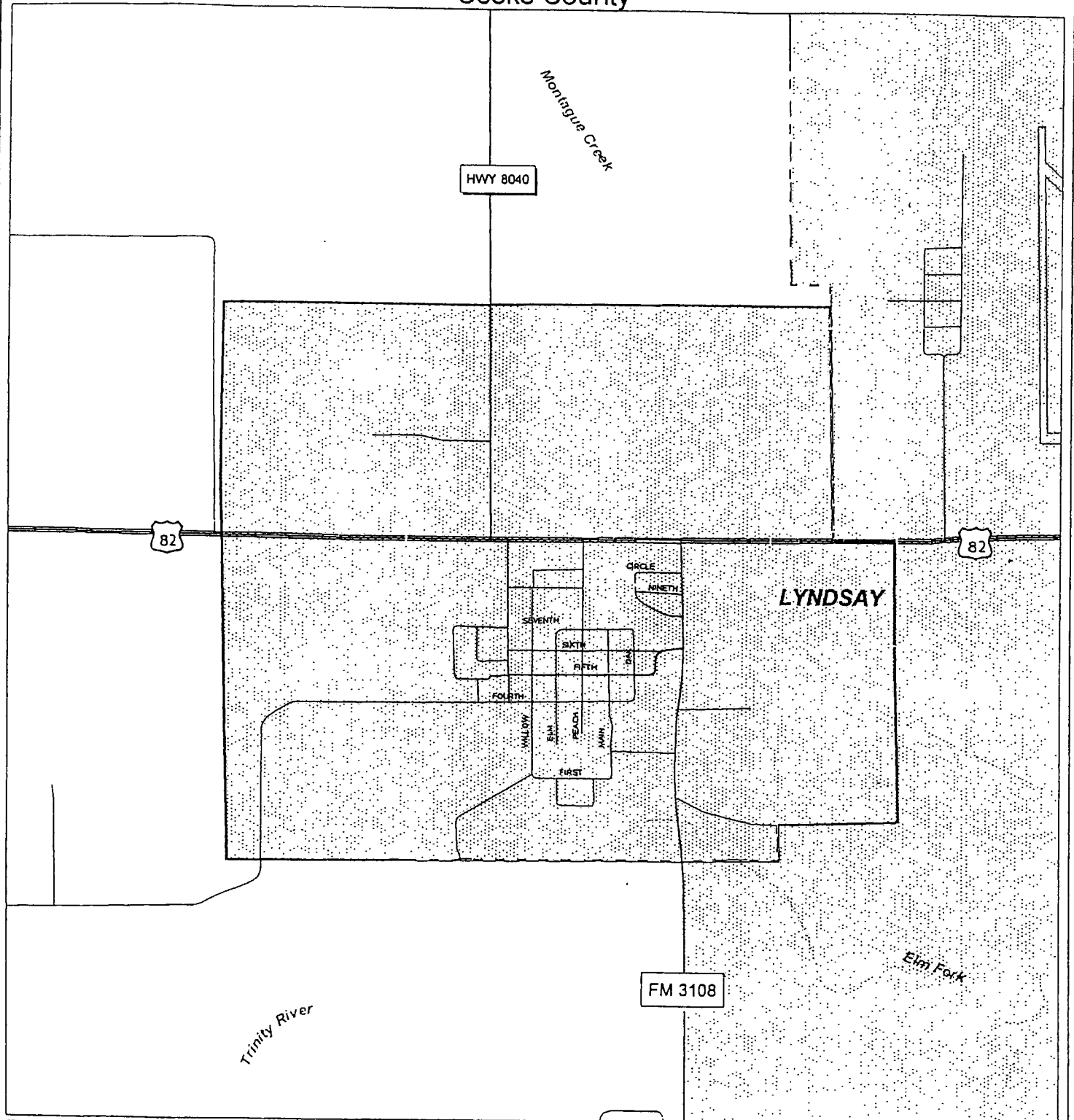
Certificate of Convenience and Necessity No. 13025

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

Margaret Hofma
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

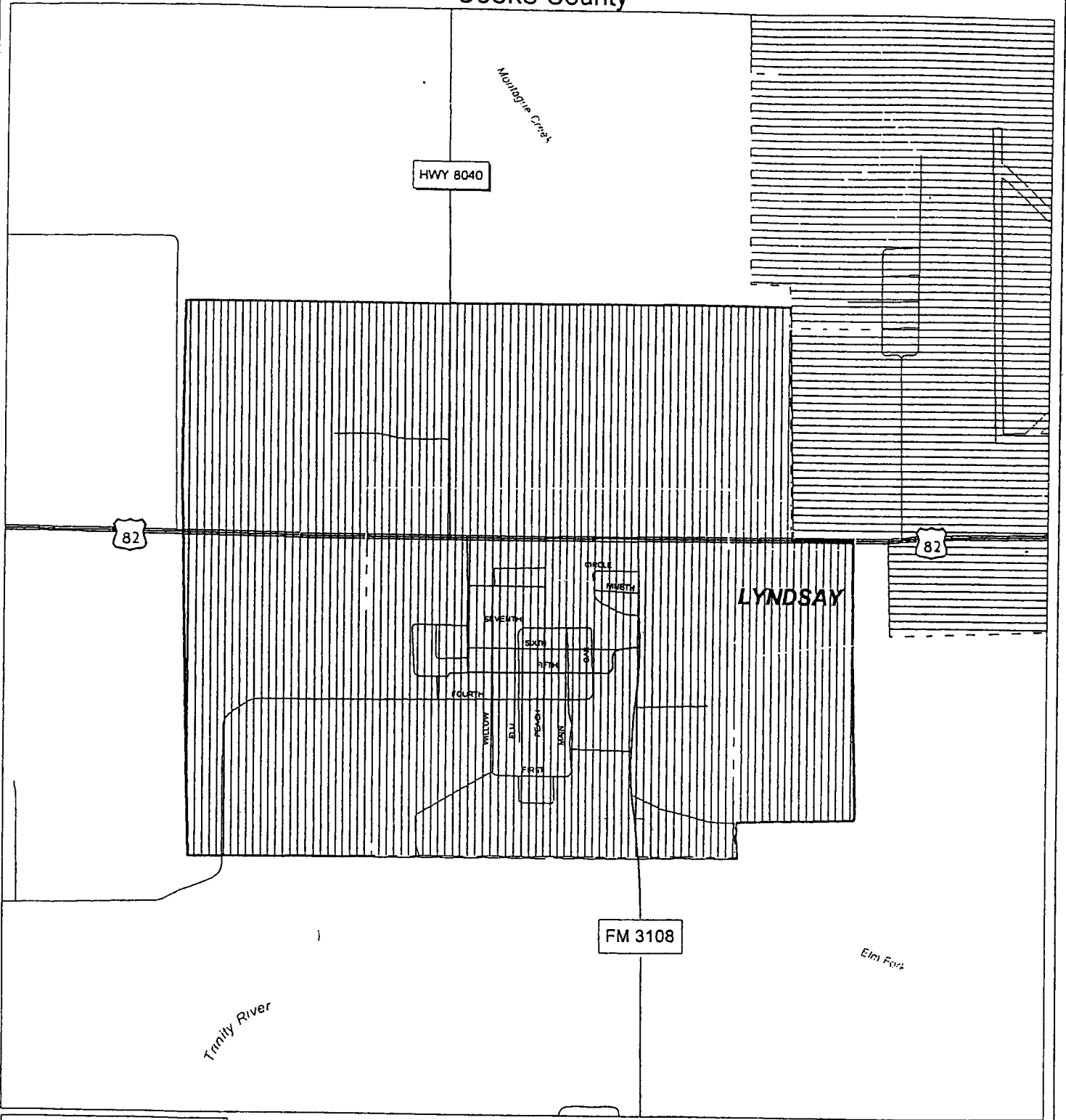
1000 0 1000 2000 3000 4000 Feet

1 inch = 2000 feet



Map created by T. Harbour 3/20/2003
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Project path: i:\maps\projects\33339c\33339c.apr

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



TCEQ
 Protecting Texas by
 Reducing and
 Preventing Pollution
 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

N
 Map created by T. Harbour 3/20/2003
 Data path: s:\udhec\ccn_working\ccn.shp
 Project path: i:\maps\projects\33338c&33339c.apr

SETTLEMENT AGREEMENT

This Settlement Agreement (the AAgreement@) is entered into between the Town of Lindsay, Texas (ALindsay@), Walter Lutkenhaus (ALutkenhaus@), and Lindsay Pure Water Company (the ACompany@) as of the 1 day of Apr., 2002.

Recitals

1. Lindsay, Lutkenhaus and the Company are parties to a proceeding before the Texas Natural Resource Conservation Commission (ATNRCC@) pending at the State Office of Administrative Hearings (ASOAH@) as Docket No. 582-02-0431 (ADocket No. 582-02-0431").
2. In Docket No. 582-02-0431, Lindsay has applied for a Certificate of Convenience and Necessity (ACCN@) to enable it to provide retail water and wastewater services in an area described in Lindsay=s application (the AApplication@). The Company and Lutkenhaus have each filed protests to Lindsay=s application.
3. The Company intends to file an application with the TNRCC to amend its existing CCN for retail water service. The Company=s application will seek certification of certain areas that are included in Lindsay=s application pending before SOAH.
4. As a result of negotiations between the parties, Lindsay has agreed to amend its CCN application such that it will no longer seek certification for retail water service to that area shown on Exhibit A, generally being described as south of Highway 82, west of the most westerly portion of Lindsay=s extraterritorial jurisdiction, and south of the most southerly boundary of Lindsay=s city limits, all as more particularly described on Exhibit A (the ACompany Area@). Lindsay has further agreed to not protest, either directly or indirectly, the Company=s application to amend its CCN, provided the Company seeks to expand its area of retail water service certification to include the Company Area only.
5. As a result of negotiations between the parties, the Company and Lutkenhaus have agreed to withdraw their respective protests of Lindsay=s CCN application pending as Docket No. 582-02-0431, provided the application is amended such that Lindsay shall not seek retail water certification of the Company Area.
6. The parties desire to enter into this Agreement to reflect their agreements concerning certification of the area set forth in Exhibit A, and in connection therewith, to fully settle and compromise all matters in dispute between them related to Docket No. 582-

02-0431, the Company=s CCN application, and certain other disputes as referenced herein.

Agreement

1. Lindsay agrees to amend the CCN Application that is the subject of Docket No. 582-02-0431 such that it shall not seek certification for retail water service for the Company Area depicted on Exhibit A. Lindsay shall file such amendment within 10 days of the date of execution of this Agreement by both parties.
2. The Company agrees to file an application with the TNRCC to amend its existing CCN for retail water service such that it will seek single certification for retail water service for the Company Area depicted on Exhibit A. The Company agrees to file such application within 10 days of the date of execution of this Agreement by the parties.
3. Lindsay agrees that it will not protest, directly or indirectly, or cause the protest of Company=s application, as described in paragraph 2 above.
4. The Company and Lutkenhaus mutually agree to withdraw their respective protests and requests for hearing with respect to Lindsay=s CCN application that is the subject of Docket No. 582-02-0431 within ten (10) days of receipt of notice that Lindsay has amended the application in accordance with paragraph 1 above.
5. If the Company provides retail water service within the Company Area, and Lindsay provides retail wastewater service within the area where the Company provides such retail water service, then the Company agrees to enter into an agreement with Lindsay to terminate water service in the event wastewater bills of the Company=s retail water customer owed to Lindsay are not paid timely in accordance with Lindsay=s service policies.
6. This Agreement shall in no manner restrict or compromise the right or ability of Lindsay or the Company to apply to the TNRCC in the future for certification to provide retail water or wastewater service in areas other than depicted on Exhibit A attached hereto. Similarly, either party may protest such subsequent applications that may be filed.
7. The parties agree to take all other actions necessary or convenient in connection with implementing this Agreement.
8. In the event that Lindsay executes this Agreement, together with the Company or Lutkenhaus, but not both of the protestants, the failure by such protestant will not

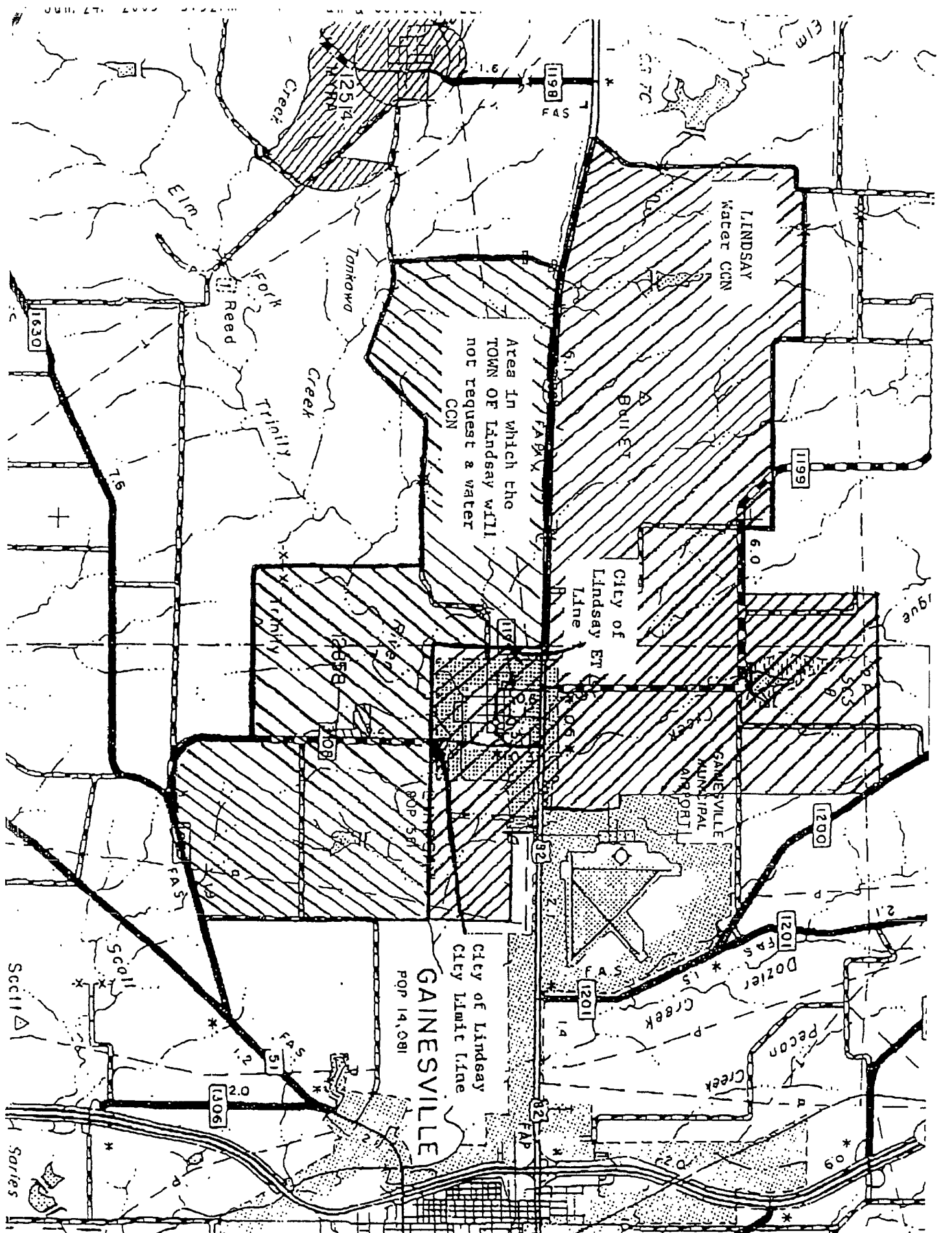
prevent this Agreement from being binding upon Lindsay and the executing protestant for all intents and purposes.

TOWN OF LINDSAY

By: Norbert Mages, Mayor
NORBERT MAGES, MAYOR

LINDSAY PURE WATER COMPANY

By: Walter Lutkenhaus
WALTER LUTKENHAUS



Area in which the
TOWN OF Lindsay will
not request a water
CCN

GAINESSVILLE

POP 14,081

City of Lindsay
City Limit Line

LINDSAY
Water CCN

City of
Lindsay Et
Line

GAINESSVILLE
MUNICIPAL
AIRPORT

Dozier
Creek

Pecon
Creek

12514

1199

1200

1201

1306

1630

Scot II

Series

April 16, 2002

Mr. Walter Lutkenhaus
779 CR 438
Lindsay, Texas 76250-3001

RE: Letter Agreement for water service by the City of Lindsay, Texas.

Dear Mr. Lutkenhaus:

This letter represents the proposal by the City of Lindsay for the terms under which the City would provide water service to the residence and property of Walter Lutkenhaus, (the "Owner") situated at 779 CR 438, just west of the City of Lindsay. The City of Lindsay is prepared to provide water service to the Walter Lutkenhaus residence and property under the following conditions:

1. The owner must pay the cost of both labor and materials to extend a six inch (6") water line from the west City Limits of the City of Lindsay existing as of the date of this agreement (that being April 16, 2002) along county road 438, to Mr. Walter Lutkenhaus' residence, such line to be constructed to the city specifications and dedicated to the city upon completion. The city would be responsible for any additional costs for increasing the size of the water line above a six inch diameter. The city will be responsible for the cost of extending the city's current water line to the west City Limits of the City of Lindsay when Lutkenhaus is ready to extend the line.
2. So long as the residence remains outside the city limits the water rate for service will be one and one-half (1 1/2) times the city rate for water service.
3. The owner would be required to pay for the typical new connection fees paid by a resident inside the city limits.
4. The city and the owner would agree to a pro-rata agreement to allow the owner to recoup up to 100% of his costs of construction of the line during a period of ten (10) years should any property situated adjacent to the water line desire to connect to the line constructed at Mr. Lutkenhaus' expense. The ten (10) year period shall commence when the owner begins the installation of the water line to his residence. The City does reserve the right to extend the line, however, at the west end.
5. The city shall not be obligated to furnish water service until all debts and bills related to the cost of extension of water line have been paid and the line has been dedicated to the city.

6. This Agreement shall inure to the benefit of and shall be enforceable by the parties to this agreement, their heirs, executors, successors in interest or assigns.

If these terms of service proposed by the City of Lindsay are acceptable, please indicate by signature below, wherein you acknowledge that you have seen and agree to these terms. This letter agreement will then be presented to the State Office of Administrative Hearings to indicate a waiver and withdrawal of any objections to the City of Lindsay request for a Certificate of Convenience and Necessity for the area that includes the property of Walter Lutkenhaus.

Thank you for your attention to this matter.

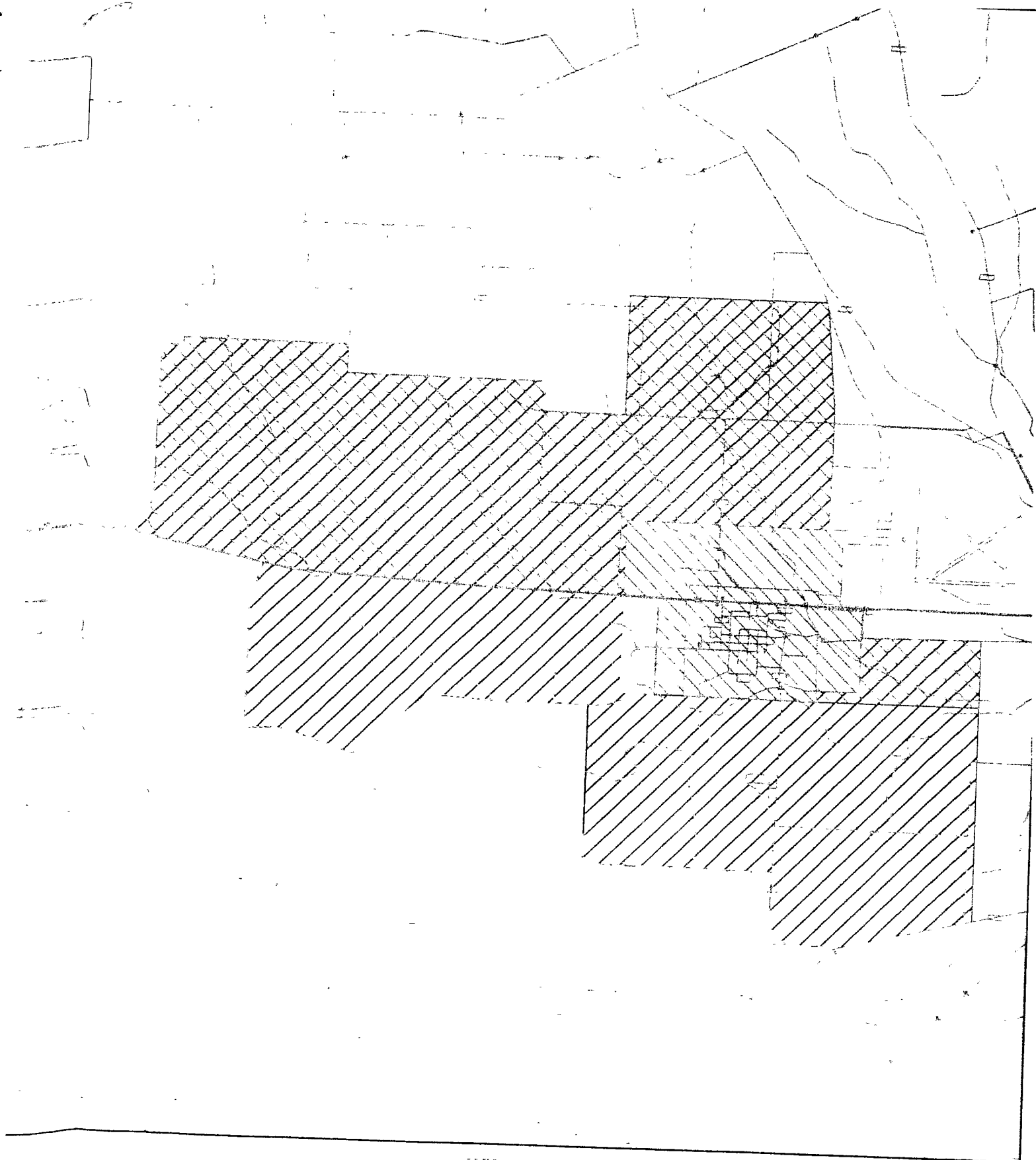
The City of Lindsay

By: Norb Mages
Norb Mages, Mayor





Date: April/8, 2002

I acknowledge that I have read and do accept the terms of this Agreement with the City of Lindsay and consent to the use of this Agreement before the State Office of Administrative Hearings by the City of Lindsay for the purpose stated above and I understand that this Agreement is in consideration for the withdrawal of the protest in the application for a Certificate of Convenience and necessity currently pending in Docket No. 582-02-0431 in the State Office of Administrative Hearings.

Walter Lutkenhaus 4-18-02
Walter Lutkenhaus



0 3,000 6,000 12,000 Feet
1 inch equals 6,000 feet

-  Lindsay_TCEQ_2003
-  Lindsay_Settlement_2002
-  Lindsay_Orig_2001
-  Gainesville_Water

Map created by GTUA August 2005

**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
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**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

TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY
2003 SEP - 1
CHIEF CLERK'S OFFICE

such that it would *not* seek certification for retail water as depicted by the blue crosshatch area on the map attached as Exhibit C. The City *was to receive* certification for retail water as depicted by the green crosshatch area on Exhibit C. The evidence provided by the City was sufficient to be granted the area referenced in Exhibit C.

In 2003, TCEQ granted both the sewer and water CCNs for the City; water CCN No. 13025 and sewer CCN No. 20927. The water map, however, was incorrectly drawn. The water CCN was granted for the area designated for the sewer CCN, and not the agreed upon area according to the settlement agreement. Thus, as depicted on Exhibit C and demonstrated in the Commission's map attached as Exhibit A, TCEQ granted a sewer and water CCN only for the area shown in solid blue, but neglected to grant the water CCN for the green crosshatch area.

II. ARGUMENT & AUTHORITIES

Texas Rules of Civil Procedure ("TRCP") 316 grants the Commission the authority to correct clerical mistakes made in the judgment. TRCP 316 states, "Clerical mistakes in the record of any judgment may be corrected by the judge in open court according to the truth or justice of the case...." Thus, the Commission can correct a clerical error in the judgment at any time. A clerical error is a discrepancy between the entry of a judgment in the official record and the judgment as actually rendered. *See Escobar v. Escobar*, 711 S.W.2d 230, 231 (Tex. 1986).

In this matter, the error in the judgment is a clerical error, which can be corrected by a judgment *nunc pro tunc* because the error was in a written judgment that did not reflect the settlement agreement made between the parties. *See Delaup v. Delaup*, 917 S.W.2d 411, 413 (Tex. App.—Houston [14th Dist.] 1996, no writ). The settlement agreement between the parties depicted a much larger area in which the City would be granted a CCN for water retail service.

The judgment, however, did not grant the water CCN as agreed upon but rather only granted a water CCN for the area coterminous for the sewer CCN.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the City of Lindsay requests the Commission to sign a judgment *nunc pro tunc* correcting the clerical error made in CCN No. 13025 regarding the service area for water retail service.

Respectfully submitted,

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

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

**ATTORNEY FOR THE CITY OF LINDSAY,
TEXAS**

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of September, 2006, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel of record:

Mr. Todd Galiga, Attorney
Environmental Law Division
TCEQ - MC 173
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 239-0606

Ms. Tammy Benter
Water Supply Division
TCEQ, MC-153
P.O. Box 13087
Austin, Texas 78711-3087

Mr. Walter Lutkenhaus
779 County Road 438
Lindsay, Texas 78625-3001
Meridian, Texas 76665

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

Mr. Jodena Henneke, Director
Office of Public Assistance
TCEQ, MC-108
P.O. Box 13087
Austin, Texas 78711

Mr. John Carlton
Lindsay Pure Water Supply Company
Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Fax: 435-2360

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



ARTURO D. RODRIGUEZ, JR.

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Margaret Hoffman, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 27, 2003

TO: Persons on the attached mailing list.

RE: Town of Lindsay
CCN Nos. 20927 and 13025; Application Nos. 33338-C and 33339-C


This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director has issued final approval of the above-named application.

You may file a **motion to overturn** with the chief clerk. A motion to overturn is a request for the commission to review the TCEQ executive director's approval of the application. Any motion must explain why the commission should review the TCEQ executive director's action.

A motion to overturn must be received by the chief clerk within 23 days after the date of this letter. An original and 11 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, a copy must be mailed to the applicant's address listed on the attached mailing list. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

Individual members of the public may seek further information by calling the TCEQ Office of Public Assistance, toll free, at 1-800-687-4040.

Sincerely,


LaDonna Castañuela
Chief Clerk

LDC/is

MAILING LIST
for
Town of Lindsay

Ronald Freeman
2304 Hancock Drive, Suite 6
Austin, Texas 78731

Tony Corbett
100 Congress Avenue, Suite 800
Austin, Texas 78701

Walter Lutkenhaus
779 CR 438
Lufkin, Texas 76250-3001

FOR THE EXECUTIVE DIRECTOR:

Tammy Benter, Staff Engineer
Texas Commission on Environmental Quality
Water Supply Division MC-153
P.O. Box 13087
Austin, Texas 78711-3087

Todd Galiga, Staff Attorney
Texas Commission on Environmental Quality
Legal Services Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Jodena Henneke, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL:

Scott Humphrey, Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

MAILING LIST FOR APPLICATION NOS. 33338-C and 33339-C

Mr. Ronald Freeman
2304 Hancock Drive, Suite 6
Austin, Texas 78731

Mr. Tony Corbett
100 Congress, Suite 800
Austin, Texas 78701

Mr. Walter Lutkenhaus
779-CR-438
Lindsay, Texas 76250-3001

Todd Galiga, Staff Attorney
Legal Services Division - MC 173
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Tammy Benter
Water Supply Division - MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Blas Coy, Attorney
Public Interest Counsel - MC 103
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

LaDonna Castanula
Office of the Chief Clerk - MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Ms. Janet R. Dewey, Administrative Law Judge
State Office of Administrative Hearings
300 West 15th, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025

TCEQ:

Region 8 Office

Luci Sainvilus and Teri Cisneros, Data Entry Team, MC 155,
Utilities & District Section, Water Supply Division, MC 153

Please send a copy of the signed order to Central Records to be included in the following
Certificate of Convenience and Necessity (CCN) permanent files:

Town of Lindsay, CCN Nos. 13025 (water) and 20927 (sewer)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



THE STATE OF TEXAS
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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. 582-02-043
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

§
§
§
§
§
§
§

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 15th 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:

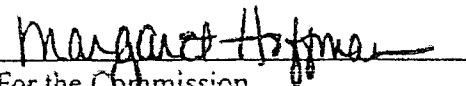
The applications by the Town of Lindsay for water and sewer Certificates of Convenience and Necessity as reflected in the attached copies of the official water and sewer service area maps for Cooke County, Texas, are hereby approved.

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

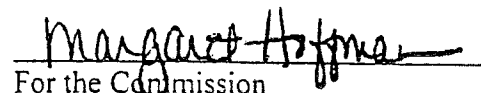
Town of Lindsay

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



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

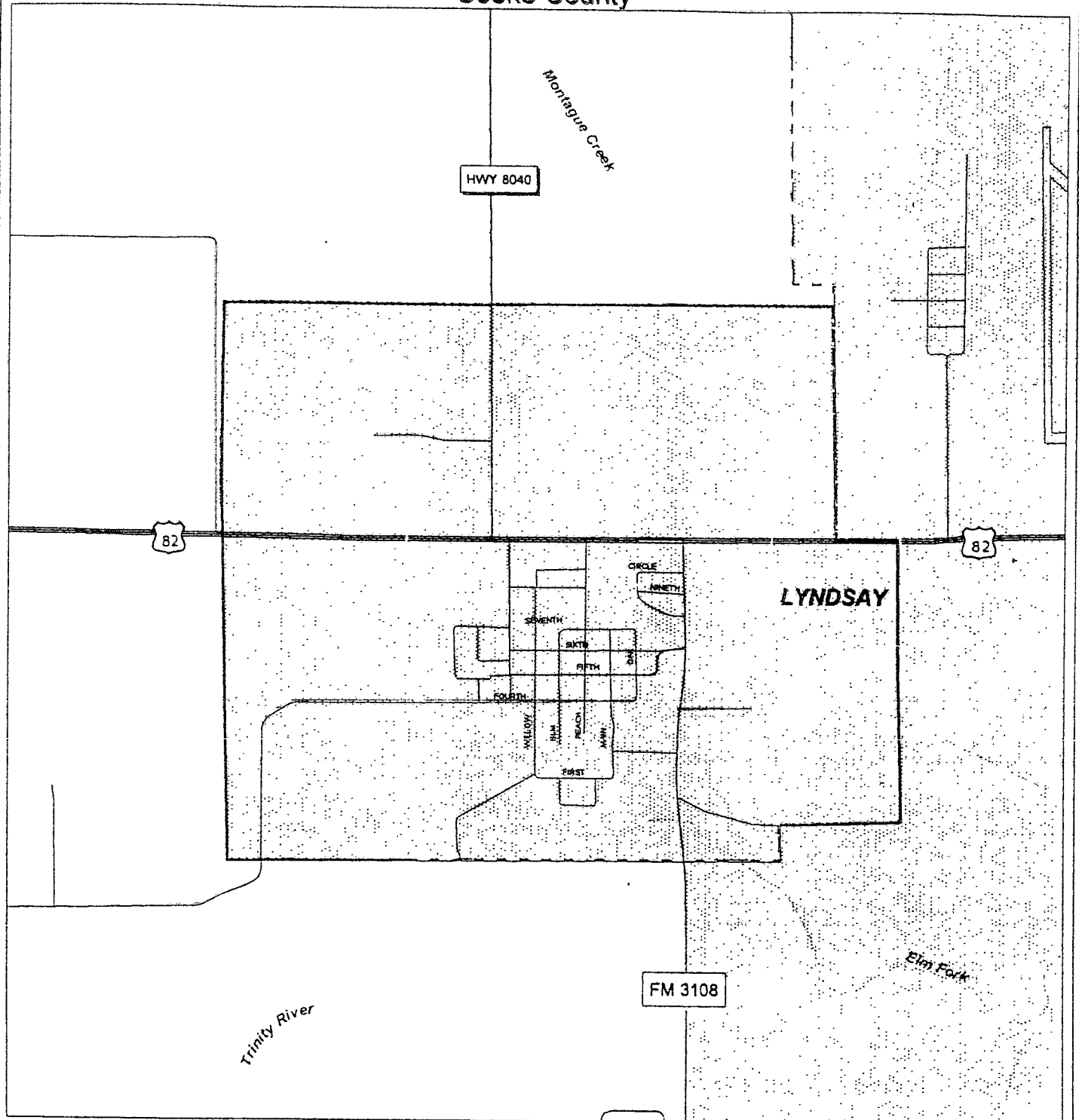
to provide continuous and adequate water utility service to that service area or those service areas in Cooke County name as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 33338-C is on file at the Commission offices in Austin, Texas; and 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

A handwritten signature in cursive script, reading "Margaret Hoffman".
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

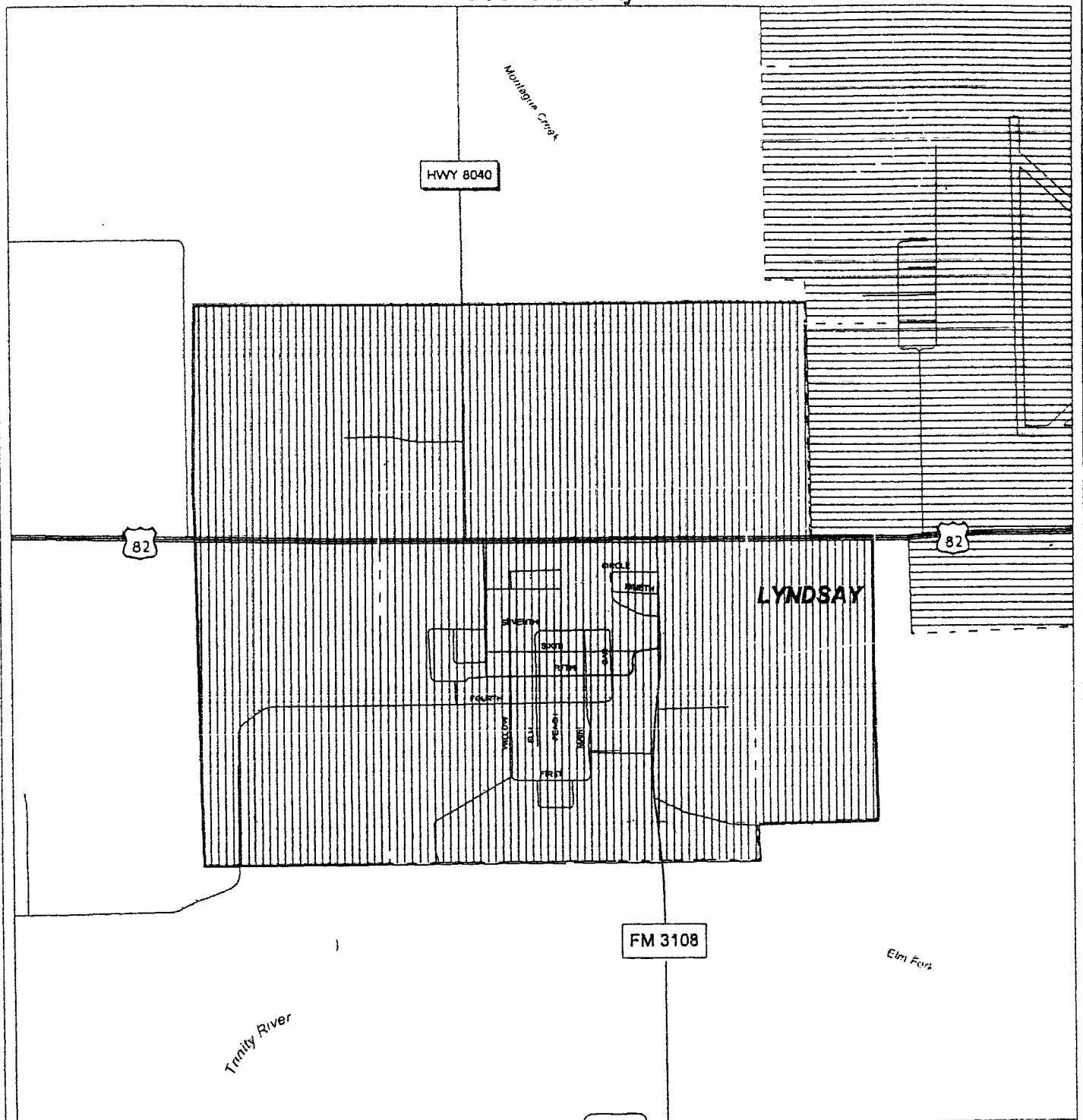
1000 0 1000 2000 3000 4000 Feet

1 inch = 2000 feet



Map created by T Harbour 3/20/2003
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Project path: f:\maps\projects\33339c\33339c.apr

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

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. Harbour 3/20/2003
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 Project path: i:\maps\projects\33338c&33339c.apr

SETTLEMENT AGREEMENT

This Settlement Agreement (the Agreement) is entered into between the Town of Lindsay, Texas (ALindsay), Walter Lutkenhaus (ALutkenhaus), and Lindsay Pure Water Company (the ACompany) as of the 1 day of Apr., 2002.

Recitals

1. Lindsay, Lutkenhaus and the Company are parties to a proceeding before the Texas Natural Resource Conservation Commission (ATNRCC) pending at the State Office of Administrative Hearings (ASOAH) as Docket No. 582-02-0431 (ADocket No. 582-02-0431").
2. In Docket No. 582-02-0431, Lindsay has applied for a Certificate of Convenience and Necessity (ACCN) to enable it to provide retail water and wastewater services in an area described in Lindsay's application (the AApplication). The Company and Lutkenhaus have each filed protests to Lindsay's application.
3. The Company intends to file an application with the TNRCC to amend its existing CCN for retail water service. The Company's application will seek certification of certain areas that are included in Lindsay's application pending before SOAH.
4. As a result of negotiations between the parties, Lindsay has agreed to amend its CCN application such that it will no longer seek certification for retail water service to that area shown on Exhibit A, generally being described as south of Highway 82, west of the most westerly portion of Lindsay's extraterritorial jurisdiction, and south of the most southerly boundary of Lindsay's city limits, all as more particularly described on Exhibit A (the ACompany Area). Lindsay has further agreed to not protest, either directly or indirectly, the Company's application to amend its CCN, provided the Company seeks to expand its area of retail water service certification to include the Company Area only.
5. As a result of negotiations between the parties, the Company and Lutkenhaus have agreed to withdraw their respective protests of Lindsay's CCN application pending as Docket No. 582-02-0431, provided the application is amended such that Lindsay shall not seek retail water certification of the Company Area.
6. The parties desire to enter into this Agreement to reflect their agreements concerning certification of the area set forth in Exhibit A, and in connection therewith, to fully settle and compromise all matters in dispute between them related to Docket No. 582-

02-0431, the Company=s CCN application, and certain other disputes as referenced herein.

Agreement

1. Lindsay agrees to amend the CCN Application that is the subject of Docket No. 582-02-0431 such that it shall not seek certification for retail water service for the Company Area depicted on Exhibit A. Lindsay shall file such amendment within 10 days of the date of execution of this Agreement by both parties.
2. The Company agrees to file an application with the TNRCC to amend its existing CCN for retail water service such that it will seek single certification for retail water service for the Company Area depicted on Exhibit A. The Company agrees to file such application within 10 days of the date of execution of this Agreement by the parties.
3. Lindsay agrees that it will not protest, directly or indirectly, or cause the protest of Company=s application, as described in paragraph 2 above.
4. The Company and Lutkenhaus mutually agree to withdraw their respective protests and requests for hearing with respect to Lindsay=s CCN application that is the subject of Docket No. 582-02-0431 within ten (10) days of receipt of notice that Lindsay has amended the application in accordance with paragraph 1 above.
5. If the Company provides retail water service within the Company Area, and Lindsay provides retail wastewater service within the area where the Company provides such retail water service, then the Company agrees to enter into an agreement with Lindsay to terminate water service in the event wastewater bills of the Company=s retail water customer owed to Lindsay are not paid timely in accordance with Lindsay=s service policies.
6. This Agreement shall in no manner restrict or compromise the right or ability of Lindsay or the Company to apply to the TNRCC in the future for certification to provide retail water or wastewater service in areas other than depicted on Exhibit A attached hereto. Similarly, either party may protest such subsequent applications that may be filed.
7. The parties agree to take all other actions necessary or convenient in connection with implementing this Agreement.
8. In the event that Lindsay executes this Agreement, together with the Company or Lutkenhaus, but not both of the protestants, the failure by such protestant will not

prevent this Agreement from being binding upon Lindsay and the executing protestant
for all intents and purposes.

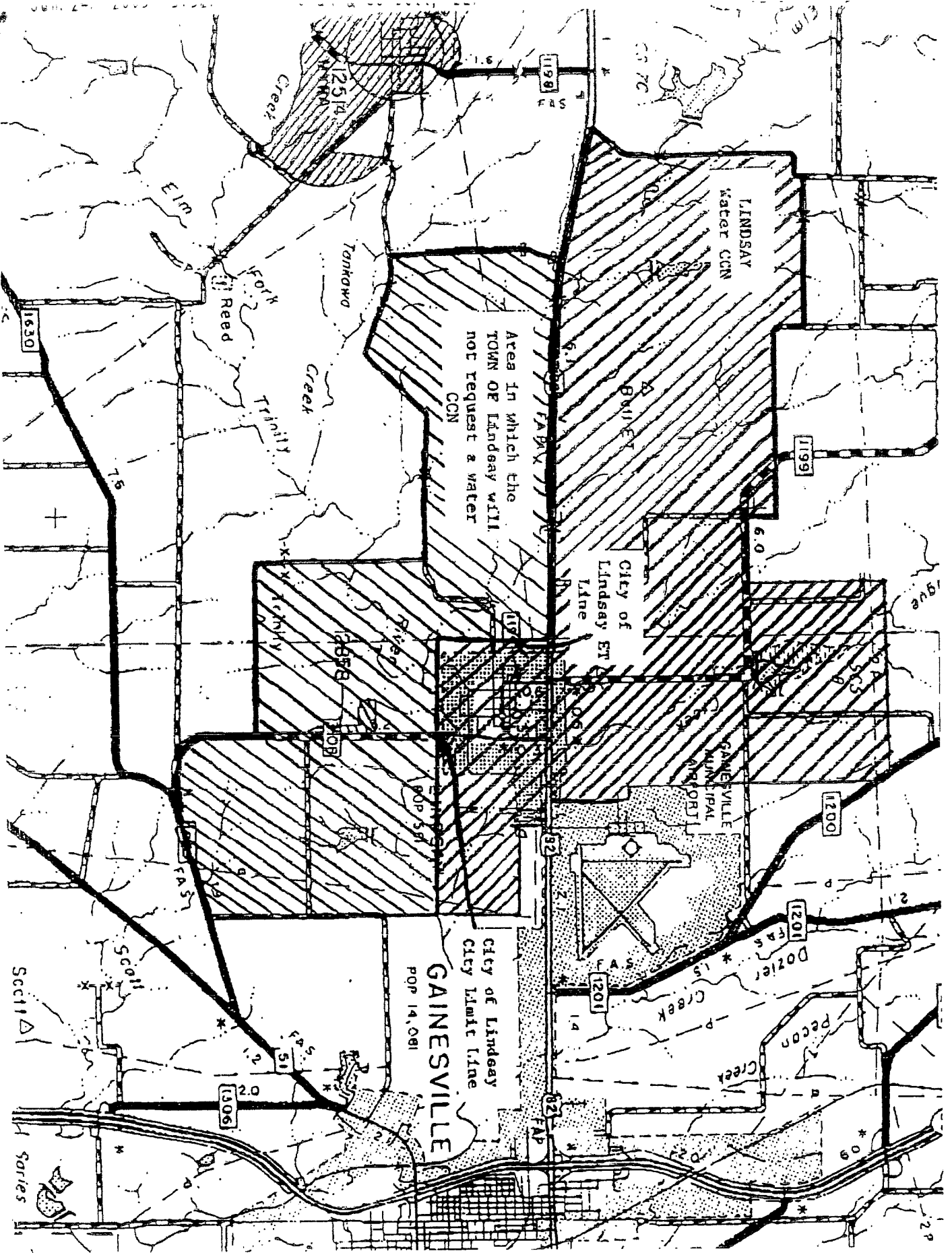
TOWN OF LINDSAY

BY: Norbert Mages, Mayor
NORBERT MAGES, MAYOR

LINDSAY PURE WATER COMPANY

BY: [Signature]
WALTER LUTKENHAUS

AUSTIN 1118664311
25361-1 - 03/28/2002



Area in which the
TOWN OF Lindsay will
not request a water
CCN

LINDSAY
Water CCN

BRUNET

City of
Lindsay ET
Lane

GAINEVILLE
MUNICIPAL
AIRPORT

City of Lindsay
City Limit Line

GAINEVILLE
POP 14,081

Sec 11
Series

April 16, 2002

Mr. Walter Lutkenhaus
779 CR 438
Lindsay, Texas 76250-3001

RE: Letter Agreement for water service by the City of Lindsay, Texas.

Dear Mr. Lutkenhaus:

This letter represents the proposal by the City of Lindsay for the terms under which the City would provide water service to the residence and property of Walter Lutkenhaus, (the "Owner") situated at 779 CR 438, just west of the City of Lindsay. The City of Lindsay is prepared to provide water service to the Walter Lutkenhaus residence and property under the following conditions:

1. The owner must pay the cost of both labor and materials to extend a six inch (6") water line from the west City Limits of the City of Lindsay existing as of the date of this agreement (that being April 16, 2002) along county road 438, to Mr. Walter Lutkenhaus' residence, such line to be constructed to the city specifications and dedicated to the city upon completion. The city would be responsible for any additional costs for increasing the size of the water line above a six inch diameter. The city will be responsible for the cost of extending the city's current water line to the west City Limits of the City of Lindsay when Lutkenhaus is ready to extend the line.
2. So long as the residence remains outside the city limits the water rate for service will be one and one-half (1 1/2) times the city rate for water service.
3. The owner would be required to pay for the typical new connection fees paid by a resident inside the city limits.
4. The city and the owner would agree to a pro-rata agreement to allow the owner to recoup up to 100% of his costs of construction of the line during a period of ten (10) years should any property situated adjacent to the water line desire to connect to the line constructed at Mr. Lutkenhaus' expense. The ten (10) year period shall commence when the owner begins the installation of the water line to his residence. The City does reserve the right to extend the line, however, at the west end.
5. The city shall not be obligated to furnish water service until all debts and bills related to the cost of extension of water line have been paid and the line has been dedicated to the city.

6. This Agreement shall inure to the benefit of and shall be enforceable by the parties to this agreement, their heirs, executors, successors in interest or assigns.

If these terms of service proposed by the City of Lindsay are acceptable, please indicate by signature below, wherein you acknowledge that you have seen and agree to these terms. This latter agreement will then be presented to the State Office of Administrative Hearings to indicate a waiver and withdrawal of any objections to the City of Lindsay request for a Certificate of Convenience and Necessity for the area that includes the property of Walter Lutkenhaus.

Thank you for your attention to this matter.

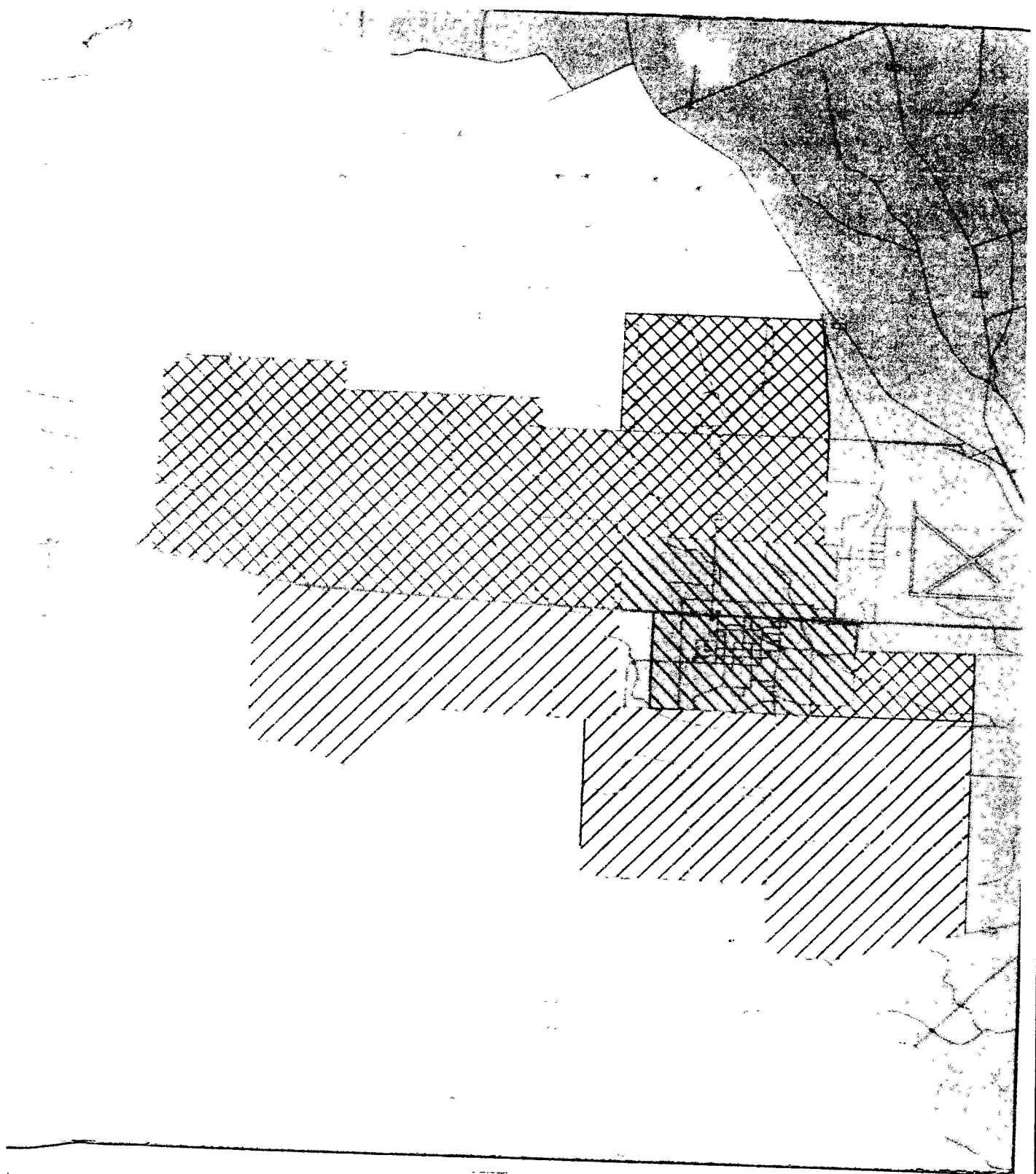
The City of Lindsay

By: Norb Magee
Norb Magee, Mayor





Date: April 8, 2002

I acknowledge that I have read and do accept the terms of this Agreement with the City of Lindsay and consent to the use of this Agreement before the State Office of Administrative Hearings by the City of Lindsay for the purpose stated above and I understand that this Agreement is in consideration for the withdrawal of the protest in the application for a Certificate of Convenience and necessity currently pending in Docket No. 582-02-0431 in the State Office of Administrative Hearings.

Walter Lutkenhaus 4-18-02
Walter Lutkenhaus



0 3,000 6,000 12,000 Feet
1 inch equals 6,000 feet

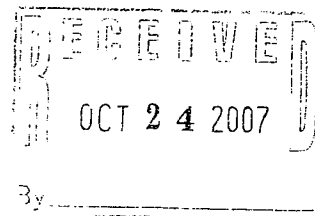
-  Lindsay_TCEQ_2003
-  Lindsay_Settlement_2002
-  Lindsay_Org_2001
-  Gainesville_Water

Map created by GTUA August 2008

Exhibit C



Buddy Garcia, *Chairman*
 Larry R. Soward, *Commissioner*
 Glenn Shankle, *Executive Director*



Texas Commission on Environmental Quality

Protecting Texas by Reducing and Preventing Pollution

October 17, 2007

2008 OCT - 1 AM 11:21

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

CHIEF CLERKS OFFICE

OCT - 1 2008

Ms. Celsa Baker, Acting General Counsel
 Texas Commission on Environmental Quality
 P.O. Box 13087 (MC 101)
 Austin, Texas 78711-3087

Re: **TCEQ DOCKET NO. 2006-1778-UCR**, EXECUTIVE DIRECTOR'S REQUEST
 FOR A CORRECTION TO CITY OF LINDSAY'S CERTIFICATE OF
 CONVENIENCE AND NECESSITY UNDER 30 TEX. ADMIN. CODE § 50.145.

Dear Ms. Baker:

On May 16, 2003, the Executive Director issued an Order approving the City of Lindsay's application for a water CCN. The Order stated that approval was reflected in the copy of the official water service area map for Cooke County, Texas, which was attached to the Order.

On September 1, 2006, the Chief Clerk of the Commission received the City's *Motion for Judgment Nunc Pro Tunc*. The City claimed that the water CCN map approved in the Order was a clerical mistake and requested that the Commission correct the purported error by substituting that map with maps attached to the City's settlement agreements with the protestants.

The Commission heard the City's request at the October 10, 2007, Commission Meeting and gave guidance to the Executive Director that the substitution of the maps would correct an error and therefore would constitute a nonsubstantive correction to the CCN under 30 TAC §§50.145(b)(4) and (5).

Pursuant to 30 TAC §50.145(c), the Executive Director hereby provides notice to the Office of the General Counsel and the Office of the Public Interest Counsel of the Executive Director's intent to make the requested map revisions. The Executive Director has spoken with the City and is awaiting digital mapping which will be used to accomplish the revisions. When the Executive Director receives adequate maps to accomplish the revision, the Executive Director will issue an endorsement to the permit.

DLM-6

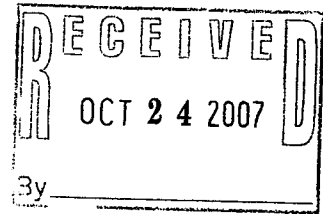
MAILING LIST
TCEQ Docket No. 2006-1778-UCR

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

City of Lindsay
P.O. Box 3
Lindsay, Texas 76250

cc: Todd Chenoweth, Director, Water Supply Division, MC 154
Doug Holcomb, Manager, Utilities & Districts Section, MC 153
Tammy Benter, Utilities Financial Review Team, MC 153
Ross Henderson, Staff Attorney, Water Supply Division (MC 173)
Todd Galiga, Senior Attorney, Environmental Law Division (MC 173)
Blas Coy, Office of the Public Interest Counsel (MC 103)

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



Texas Commission on Environmental Quality
Protecting Texas by Reducing and Preventing Pollution

October 17, 2007

Ms. Celeste Baker, Acting General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087 (MC 101)
Austin, Texas 78711-3087

Re: **TCEQ DOCKET NO. 2006-1778-UCR**, EXECUTIVE DIRECTOR'S REQUEST
FOR A CORRECTION TO CITY OF LINDSAY'S CERTIFICATE OF
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DLM-6

MAILING LIST
TCEQ Docket No. 2006-1778-UCR

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

City of Lindsay
P.O. Box 3
Lindsay, Texas 76250

cc: Todd Chenoweth, Director, Water Supply Division, MC 154
Doug Holcomb, Manager, Utilities & Districts Section, MC 153
Tammy Benter, Utilities Financial Review Team, MC 153
Ross Henderson, Staff Attorney, Water Supply Division (MC 173)
Todd Galiga, Senior Attorney, Environmental Law Division (MC 173)
Blas Coy, Office of the Public Interest Counsel (MC 103)

R&R
RUSSELL & RODRIGUEZ, L.L.P.
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November 28, 2007

VIA HAND DELIVERY

Ms. Tammy Holguin-Benter
Texas Commission on Environmental Quality
Water Supply Division, MC-154
P.O. Box 13087
Austin, Texas 78711-3087

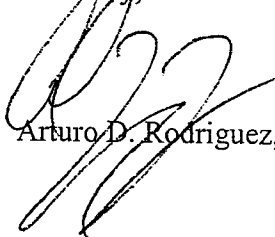
RE: TCEQ Docket No. 2006-1776-UCR; *City of Lindsay's Motion for Judgment Nunc Pro Tunc under Texas Rule of Civil Procedure 316*

Dear Ms. Benter:

This firm represents the City of Lindsay ("City"). Enclosed with this letter is the Consent Form which has been executed by the Mayor, Mr. Steven Zwinggi. The City concurs with the recommendation contained in the staff memorandum transmitted in your November 12, 2007, letter.

Thank you for your cooperation in resolving this issue. If you have any questions, please feel free to contact me at the above telephone number.

Sincerely,



Arturo D. Rodriguez, Jr.

ENCLOSURE

cc: (w/out enclosure)
Ms. Betsy Fleitman
Mr. Pat Dillon
Mr. Todd Chenoweth, Director
Mr. Mike Cowan
Mr. Doug Holcomb
Mr. Todd Galiga
Mr. Ross Henderson

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TCEQ
WATER SUPPLY DIV.
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