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House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014

43945

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

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APPLICATION OF THE TOWN OF
LINDSAY TO AMEND WATER AND
SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY
(CCN) NOS. 13025 AND 20927 IN
COOKE COUNTY, TEXAS
APPLICATION NOS. 35096-C & 35097-C

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PUBLIC UTILITY COMMISSION
FILING CLERK
BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY

OF

DONALD L. METZLER

ON BEHALF OF

THE CITY OF LINDSAY

JUNE 9, 2008

LINDSAY EXHIBIT APP-2

2

PREFILED TESTIMONY OF

DONALD L. METZLER

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ATTACHMENTS

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

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

APPLICATION OF THE TOWN OF
LINDSAY TO AMEND WATER AND
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(CCN) NOS. 13025 AND 20927 IN
COOKE COUNTY, TEXAS
APPLICATION NOS. 35096-C & 35097-C

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PREFILED TESTIMONY OF
DONALD L. METZLER

I. INTRODUCTION AND QUALIFICATIONS

1

2 Q. WHAT IS YOUR NAME?

3 A. Donald L. Metzler.

4

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

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

8

9 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

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

13

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

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

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

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

4
5 **Q. HOW LONG HAVE YOU BEEN THE MAYOR *PRO TEMPORE* FOR THE**
6 **CITY?**

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

8
9 **Q. HAVE YOU HELD ANY OTHER POSITIONS WITH THE CITY OF**
10 **LINDSAY? IF SO, PLEASE EXPLAIN THE POSITION AND YEARS OF**
11 **SERVICE.**

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

17
18 **Q. IS YOUR RESUME ATTACHED TO THIS PREFILED TESTIMONY?**

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

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

4 A. Yes.

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

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

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

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

22 A. Yes, in a limited capacity.

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

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

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

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

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

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

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

8 A. Yes.

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

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

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

21 ~~A. Yes.~~

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

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

5 **II. PURPOSE OF TESTIMONY**

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

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

10

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

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

14

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

16 A. Yes.

17

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

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

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

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

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

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

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

10 A. August 31, 2005.
11

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

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

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

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

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

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

5

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

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

10

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

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

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

3 A. Yes.
4

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

8 A. Yes.
9

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

12 A. Yes.
13

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

17 A. Yes.
18

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

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

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

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

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

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

4

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

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

14

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

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

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

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

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

6 A. Not to my knowledge.
7

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

10 A. Yes. Approximately fifty-five property owners have provided requests for service to
11 the area. Copies of these letters are attached to my testimony as Attachment DLM-
12 10.
13

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7

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

12 A. Yes.

13

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

16 A. Yes.

17

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

21 A. Yes.

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

1 C. Question Nos. 3 and 4

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

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

6 D. Question No. 5 – Existing System Information

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

9 A. Yes. It requests information on Lindsay's existing systems.
10

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

13 A. Yes. Attachment/Exhibit B is a copy of the City's most recent inspection report letter
14 and the date of the City's last inspection. The information was current at the time the
15 Application was filed. Additionally, Attachment/Exhibit B contains correspondence
16 regarding the City's actions to correct any deficiencies that may have occurred.
17 Mr. Maroney will discuss the City's inspection reports in more detail in his prefiled
18 testimony.
19

20 Q. **WHAT IS CONTAINED IN QUESTION 5?**

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

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

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

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

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

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

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

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

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

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

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

3 A. Yes.
4

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

9 A. Yes.
10

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

13 A. Yes.
14

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

18 A. Yes.

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

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.~~

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 9th day of SEPTEMBER, 2002.

Harbert Mages
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

BY JP


FILED

In the State of Texas

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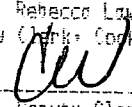
County of Cooke

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

ORDINANCE NO. 0607-1

Rebecca Lawlor
County Clerk, Cooke Co., TX
By 
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.

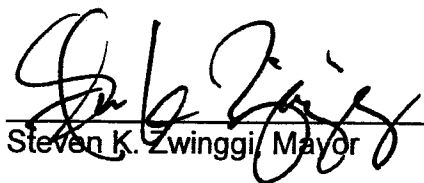
The City Secretary is hereby directed to file with the County Clerk of Cooke County, Texas, a certified copy of this ordinance.

PASSED on this the 11th 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.