



Protecting Texas
by Reducing and
Preventing Pollution

FAX TRANSMITTAL

DATE August 25 2006 NUMBER OF PAGES (including this cover sheet) 3

TO Name Arturo Rodriguez Jr. for The Town of Lindsay
Organization Russell & Rodriguez, L.L.P.
FAX Number (512) 930-7742

FROM **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

Name Brian MacLeod
Division/Region Environmental Law Division
Telephone Number (512) 239-0750
FAX Number (512) 239-0606

NOTES

RE

The Town Of Lindsay
TCEQ Docket No. 2006-0272-UCR

COPY TO

John J. Carleton for Lindsay Pure Water Company
(512) 435-2360

Docket Clerk
TCEQ, Office of the Chief Clerk
(512) 239-3311

Bias J. Coy, Jr.
TCEQ, Office of the Public Interest Counsel
(512) 239-6377

CHIEF CLERK'S OFFICE

COPIES
ON FILE

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 25, 2006

TO: THE TOWN OF LINDSAY
c/o Arturo D. Rodriguez, Jr.
Russell & Rodriguez, L.L.P.
102 West Morrow Street, Suite 103
Georgetown, Texas 78626
TEL.: (512) 930-1317
FAX: (512) 930-7742

Re: The Executive Director's First Requests For Disclosure, Interrogatories, And
Requests For Production To The Town Of Lindsay; TCEQ Docket No. 2006-
0272-UCR; SOAH Docket No. 582-06-2023

Dear Mr. Rodriguez:

Enclosed please find the Executive Director's First Requests For Disclosure,
Interrogatories, And Requests For Production To The Town Of Lindsay.

If you have any questions or comments, please call me at (512) 239-0750.

Sincerely,

A handwritten signature in black ink, appearing to read "B. MacLeod".

Brian MacLeod
Staff Attorney
Environmental Law Division

cc: Mailing List

Enclosures

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

APPLICATION OF THE TOWN OF
LINDSAY TO AMEND A WATER
CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) NO. 13025 IN COOKE
COUNTY; APPLICATION NO. 35096-C;
and APPLICATION TO AMEND A
SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY (CCN)
NO. 20927 IN COOKE COUNTY, TEXAS;
APPLCIATION NO. 35097-C

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**THE EXECUTIVE DIRECTOR'S FIRST REQUESTS FOR DISCLOSURE,
INTERROGATORIES, AND REQUESTS FOR PRODUCTION TO THE TOWN OF
LINDSAY**

TO: THE TOWN OF LINDSAY
c/o Arturo D. Rodriguez, Jr.
Russell & Rodriguez, L.L.P.
102 West Morrow Street, Suite 103
Georgetown, Texas 78626
TEL: (512) 930-1317
FAX: (512) 930-7742

CHIEF CLERK
TOWN OF LINDSAY
JAN 11 2007

Pursuant to §2001 et seq. of the Administrative Procedure Act ("APA"), GOVERNMENT CODE (Vernon), Rules 190-197 of the Texas Rules of Civil Procedure and 30 Texas Administrative Code ("TAC") § 80.151, and TAC Title 1, Part VII, Section 155.23, you are required to answer in complete detail and in writing each of the following requests for disclosure, interrogatories, and requests for production. You are required to sign your answers to the questions or requests, to swear to the truth of your responses before a Notary Public or other judicial officer, and to deliver a complete, signed, and notarized copy of your answers to Brian MacLeod, Staff Attorney, Environmental Law Division, MC 173, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087 in accordance with the Administrative Law Judge's directive and the Rules of the Texas Commission on Environmental Quality.

I. DEFINITIONS

As used herein, the terms "you," "your," or "yourself," refer to **THE TOWN OF LINDSAY**, the party to whom these requests are addressed, as well as to each of its parents, predecessors, subsidiaries and affiliates, each of its present and former officers, employees, agents, representatives and attorneys acting on its behalf.

REPRESENTATIVE

As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on your behalf.

PERSON

As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, municipality, or department.

DOCUMENT

As used herein, the term "document" means any medium upon which information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, facsimile transmission, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer tape or disk, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody, or control. The term "document" further means a copy of any document, as referred to above, if such copy contains notes, writings or is in any way different from or an alteration of the original document.

COMMUNICATION

As used herein, the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

IDENTIFICATION

As used herein, the terms "identification," "identify," or "identity," when used in reference to: (a) a natural individual - require you to state his or her full name and business address; (b) a corporation - require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices; (c) a business -require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those business, and the identity of the person or persons who own, operate, and control the business; (d) a document - require you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication - require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

II. INSTRUCTIONS

IDENTIFICATION OF DOCUMENTS

With respect to each request, in addition to supplying the information requested, you are to identify all documents that support, refer to or evidence the subject matter of each request and your answer thereto.

If any or all documents identified herein are no longer in your possession, custody or control because of destruction, loss or any other reason, then do the following with respect to each and every such document: (a) describe the nature of the document (e.g., letter or memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

If you contend that any material or information responsive to any of the interrogatories is privileged, state in response that: (a) the information or material responsive to the interrogatories has been withheld; (b) the interrogatory to which the information or material relates; and (c) the privilege or privileges asserted.

CONTENTION REQUESTS

When a request requires you to "state the basis of" a particular claim, contention, or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to, or evidences such claim, contention, or allegation.

CONTINUING REQUESTS

These requests are to be considered continuing in nature and you are under a duty to timely supplement any response given to such request(s) as required by Rule 193.5 of the Texas Rules of Civil Procedure.

III. REQUEST FOR DISCLOSURE

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose the information or material described in Rule 194.2(b),(c),(e),(f),(h) and (i) within twenty (30) days of the date of service of this request, as follows:

- (b) the name, address and telephone number of any potential parties;
- (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses;
- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (f) for any testifying expert:
 - (1) the expert's name, address, and telephone number;
 - (2) the subject matter on which the expert will testify;
 - (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
 - (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (A) all documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (B) the expert's current resume and bibliography;
- (h) any discoverable settlement agreements; and
- (i) any discoverable witness statements.

IV. INTERROGATORIES

Interrogatory No. 1: For each person THE TOWN OF LINDSAY expects to call as a fact witness at the evidentiary hearing in this matter, please provide: (a) the person's name and business address and telephone number; and (b) a brief description of the testimony THE TOWN OF LINDSAY expects that person to provide.

Interrogatory No. 2: For each expert not listed in the response to the Request for Disclosure whom THE TOWN OF LINDSAY has consulted and whose mental impressions and opinions have been reviewed by an expert THE TOWN OF LINDSAY expects to testify in this matter, please provide: (a) the consulting expert's name and business address and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.

Interrogatory No. 3: Please describe in detail your position regarding the adequacy of water and sewer utility service currently provided to the areas requested in your water and sewer Certificate of Convenience and Necessity ("CCN") applications, including, if known, a description of whether people currently reside in the requested areas that receive water and/or sewer utility service, identification of each of those people, and identification of the water and/or sewer utility service provider for each of those people. Please distinguish between water and sewer in your response.

Interrogatory No. 4: Please describe in detail your position regarding the need for additional water and/or sewer utility service to the entire areas requested (18,230 acres) in your CCN applications, including, but not limited to, identification of any person or entity who has requested service in your requested area(s), identification of the name(s), address(es), and phone number(s) of each person or entity, description of the population in the proposed area(s) sought by each entity in its application(s), and description of the water and sewer utility service currently available to each identified person. Please distinguish between water and sewer in your response.

Interrogatory No. 5: Please describe in detail your position regarding the effect of the proposed water and sewer CCNs requested by you, on any retail public utility of the same kind already serving the areas proximate to those areas requested in your CCN applications. Please distinguish between water and sewer in your response.

Interrogatory No. 6: Please describe in detail your ability to provide continuous and adequate water and/or sewer utility service to the areas requested in your CCN applications. Please distinguish between water and sewer in your response.

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS
FOR DISCLOSURE, INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO THE TOWN OF LINDSAY

Interrogatory No. 7: Please describe in detail your managerial capability to provide continuous and adequate water and/or sewer utility service to the requested service areas and identify any THE TOWN OF LINDSAY employee and/or contractor who will be utilized for providing managerial functions and/or services. Please distinguish between water and sewer in your response.

Interrogatory No. 8: Please describe in detail your position regarding the feasibility of obtaining water or sewer utility service from another retail public utility adjacent to the areas requested in your CCN applications. Please distinguish between water and sewer in your response.

Interrogatory No. 9: Please describe in detail the effect of granting your CCN applications would have on the environmental integrity of the service areas requested in your CCN applications. Please distinguish between water and sewer in your response.

Interrogatory No. 10: Please describe in detail your position regarding the probable improvement in service or lowering of cost to consumers in the areas requested in your CCN applications, should your applications be granted, including the rates you plan to charge those consumers. In your response, please include a description of historical water service reliability and historical water quality data in THE TOWN OF LINDSAY's proposed service areas, and describe current and projected costs to consumers in THE TOWN OF LINDSAY's proposed service areas. Also, please distinguish between water and sewer in your response.

Interrogatory No. 11: Please describe the proximity of the proposed areas sought your CCN to any existing facilities currently operated by THE TOWN OF LINDSAY and any other retail public utility, if known, and to any water and/or sewer facilities THE TOWN OF LINDSAY proposes to construct. Please distinguish between water and sewer in your response.

Interrogatory No. 12: Please identify and describe, including amount and type, any and all costs that will be passed to potential customers in the proposed THE TOWN OF LINDSAY water and sewer CCN areas if THE TOWN OF LINDSAY becomes the water and/or sewer utility service provider for those areas, including, but not limited to, any and all initial and long-term facility costs. Please distinguish between water and sewer in your response.

Interrogatory No. 13: If THE TOWN OF LINDSAY proposes to construct a new stand alone water and/or sewer system to serve any of the areas requested in its applications, please provide a detailed analysis of all the costs necessary for the first five years to construct, operate, and maintain those facilities.

Interrogatory No. 14: Is it your position that THE TOWN OF LINDSAY has a water treatment and distribution system and/or a wastewater treatment system in place that is adequate to provide utility service to the areas THE TOWN OF LINDSAY proposes to serve in its applications? If so, please describe any potable water treatment and delivery system that you believe is in place and adequate to

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS
FOR DISCLOSURE, INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO THE TOWN OF LINDSAY

provide water utility service to the proposed areas sought in THE TOWN OF LINDSAY's water CCN amendment application, as well as any wastewater treatment system. Please describe the capacities of each component of any such systems, including, but not limited to: well capacities (including a description of each well's depth, aquifer, and gallons per minute production during average and peak drought conditions); feet of distribution lines in the systems and the diameters of those lines; pumps and their rated capacities; and treatment plants and their capacities not already used to meet peak demands of existing THE TOWN OF LINDSAY customers and/or customers THE TOWN OF LINDSAY is already committed to serve. Please distinguish between water and sewer in your response.

Interrogatory No. 15: Please describe the financial stability of THE TOWN OF LINDSAY, including, if applicable, the adequacy of THE TOWN OF LINDSAY's debt-equity ratio and cash flow for debt service coverage.

Interrogatory No. 16: Please estimate the time it would take for THE TOWN OF LINDSAY to provide water and sewer utility service to THE TOWN OF LINDSAY's proposed water and sewer service areas in compliance with all applicable Commission rules and statutes, and please describe the time it would take THE TOWN OF LINDSAY to provide water and sewer utility service to any person requesting service in any outlying portions of the areas requested by THE TOWN OF LINDSAY in its applications. Please distinguish between water and sewer in your response.

Interrogatory No. 17: On large scale copies of the service area maps submitted with THE TOWN OF LINDSAY's original applications, please identify, to the best of your knowledge, all THE TOWN OF LINDSAY's existing and proposed water and/or sewer connection(s) located outside the corporate limits of THE TOWN OF LINDSAY. Please distinguish between water and sewer in your response.

Interrogatory No. 18: Please describe whether granting THE TOWN OF LINDSAY's water and/or sewer CCN applications would promote the Commission's policy goal of regionalization.

V. REQUESTS FOR PRODUCTION

Request for Production No. 1: Please provide a copy of the report from the most recent inspection by the TCEQ region office on any THE TOWN OF LINDSAY public water system facility that may be used to provide water utility service to the area THE TOWN OF LINDSAY requests to serve in its water CCN amendment application and a copy of any notice of violation issued to THE TOWN OF LINDSAY and THE TOWN OF LINDSAY's response to the notice of violation.

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS
FOR DISCLOSURE, INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO THE TOWN OF LINDSAY

Request for Production No. 2: Please provide any and all documents relating to TCEQ, County and/or all other regulatory agency approvals required for THE TOWN OF LINDSAY's existing and proposed water and sewer utility service facilities. Please distinguish between water and sewer in your response.

Request for Production No. 3: Please provide THE TOWN OF LINDSAY's latest audit report or financial information for the past fiscal year and current balance sheet information.

Request for Production No. 4: Please provide any and all documents from any person or entity requesting service from you in the proposed areas sought in the TOWN OF LINDSAY applications and your response. Please distinguish between water and sewer in your response.

Request for Production No. 5: Please provide any and all maps showing the location or locations of those persons already receiving service and those requesting service in the proposed areas sought in the TOWN OF LINDSAY CCN applications. Please distinguish between water and sewer in your response.

Request for Production No. 6: Please provide any and all estimates of the capital costs for THE TOWN OF LINDSAY to provide water and sewer utility service to the proposed areas sought in the TOWN OF LINDSAY CCN applications. Please distinguish between water and sewer in your response.

Request for Production No. 7: Please provide any and all existing capital asset acquisition budgets for THE TOWN OF LINDSAY. Please distinguish between water and sewer in your response.

Request for Production No. 8: Please provide any and all maps that illustrate the location of all water and sewer treatment facilities currently in place in or within two miles of the proposed water and sewer utility service areas in the TOWN OF LINDSAY CCN applications. Please distinguish between water and sewer in your response.

Request for Production No. 9: Please provide any and all maps that illustrate the location(s) within the water and/or sewer service areas requested in THE TOWN OF LINDSAY's CCN applications where THE TOWN OF LINDSAY currently provides water and/or sewer service.

Request for Production No. 10: Please provide a copy of any and all complaints THE TOWN OF LINDSAY has received in the past five years related to THE TOWN OF LINDSAY's water or sewer utility service, operations, or management. Please distinguish between water and sewer in your response.

Request for Production No. 11: Please provide a copy of any and all requests or applications for loans or grants made by THE TOWN OF LINDSAY.

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS
FOR DISCLOSURE, INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO THE TOWN OF LINDSAY

Request for Production No. 12: Please produce copies of any and all water and/or sewer service agreements, either wholesale and/or retail, between THE TOWN OF LINDSAY and any other utility to provide water and sewer service.

Request for Production No. 13: Please produce copies of any and all documents identified in your responses to Interrogatory Nos. one (1) through eighteen (18) listed above.


Request for Production No. 14: Please produce a hard copy map and digital data with metadata to illustrate the requested water service area, the city limits and the extraterritorial jurisdiction boundary of the TOWN OF LINDSAY.

Request for Production No. 15: Please produce a hard copy map and digital data with metadata to illustrate the requested sewer service area, the city limits and the extraterritorial jurisdiction boundary of the TOWN OF LINDSAY.

Request for Production No. 16: Please produce copies of all written requests for service to include landowner requests, applications for service, letters from developers, etc.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Robert Martinez, Director
Environmental Law Division

By 
Brian D. MacLeod
Staff Attorney
Environmental Law Division
State Bar of Texas No. 12783500
P.O. Box 13087; MC 173
Austin, Texas 78711-3087
Phone: (512) 239-0750
Fax: (512) 239-0606

THE EXECUTIVE DIRECTOR'S FIRST REQUESTS
FOR DISCLOSURE, INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO THE TOWN OF LINDSAY

CERTIFICATE OF SERVICE

This is to certify that all parties on the attached Mailing List have been sent a copy of the foregoing document in accordance with TCEQ and SOAH rules on August 25, 2006.



Brian D. MacLeod
Staff Attorney
Environmental Law Division

Mailing List
City of THE TOWN OF LINDSAY
SOAH Docket Nos. 582-06-1641
TCEQ Docket Nos. 2006-0044-UCR

The Town of Lindsay

Arturo Rodriguez, Jr., Esq.,
Russell & Rodriguez, L.L.P.
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TCEQ Executive Director

Brian MacLeod
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TCEQ Chief Clerk:

Docket Clerk
TCEQ Office of Chief Clerk
P.O. Box 13087 (MC 105)
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Fax: (512) 239-3311

Protestant

Lindsay Pure Water Company
John J. Carleton
Attorney at Law
Armrust & Brown, LLP
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Tel: (512) 435-2308
Fax: (512) 435-2360

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

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512-435-2300

FACSIMILE 512-435-2360

AMY BARRERA
(512) 435-2375
abarrera@ubhouston.com

August 23, 2006

VIA FACSIMILE: (512) 930-7742 &
FIRST CLASS MAILArturo D. Rodriguez, Jr.
Russell & Rodriguez, L.L.P.
102 West Morrow Street, Suite 103
Georgetown, Texas 78626Re: SOAH Docket No. 582-06-0203; TCEQ Docket No. 2006-0272-UCR;
*Application of the Town of Lindsay to Amend Water and Sewer Certificates of
Convenience and Necessity (CCN) Nos. 13025 and 20927 in Cooke County,
Texas, Application Nos. 35096-C & 35097-C*

Dear Arturo:

Enclosed please find Lindsay Pure Water Company's Request for Disclosure to the City
of Lindsay.

If you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,

ARMBRUST & BROWN, L.L.P.

Amy L. Barrera
Legal Secretary for John J. Carlton

Enclosure

cc: Blas J. Coy, Jr - OPIC
Brian MacLeod - TCEQ
Christiaan Siano - TCEQ
TCEQ Docket Clerk

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

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

§ BEFORE THE STATE OFFICE
§
§
§ OF
§
§
§ ADMINISTRATIVE HEARINGS

**LINDSAY PURE WATER COMPANY'S REQUEST FOR DISCLOSURE
TO THE CITY OF LINDSAY**

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

COMES NOW, Lindsay Pure Water Company, Protestant herein, and files its Request for Disclosure to the City of Lindsay. Pursuant to Rule 194, you are requested to disclose, within 30 days of service of this request, the information or material described in Rule 194.2.

REQUEST FOR DISCLOSURE 194.2(a):The correct names of the parties to the contested case hearing.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(b):The name, address, and telephone number of any potential parties.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(c):The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial).

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(d):The amount and any method of calculating economic damages.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(e):The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(f):For any testifying expert:

- (i) the expert's name, address and telephone number;
- (ii) the subject matter on which the expert will testify;
- (iii) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (iv) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (a) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (b) the expert's current resume and bibliography.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(g):Any indemnifying and insuring agreements described in Rule 192.3(f).

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(h):Any settlement agreements described in Rule 192.3(g).

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(i):Any witness statements described in Rule 192.3(h).

RESPONSE:

Respectfully submitted,

JOHN J. CARLTON

State Bar No. 03817600

ARMBRUST & BROWN, L.L.P.

100 Congress Avenue, Suite 1300

Austin, Texas 78701-2744

(512) 435-2300 – Telephone

(512) 436-2360 – Telecopy

**ATTORNEYS FOR LINDSAY PURE
WATER COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Lindsay Pure Water Company's Request for Disclosure to the City of Lindsay, Inc. has been sent by Facsimile and/or First Class Mail on this 23 day of August, 2006, to the following:


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

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Facsimile: (512) 239-0606

Christiaan Siano, Attorney
TCEQ - MC-173
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Facsimile: (512) 239-0606

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Phone: (512) 239-3300
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JOHN J. CARLTON

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

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FACSIMILE 512-435-2360

CHIEF OF STAFF
COUNCIL
OFFICE
OF
THE
GOVERNOR
OF
THE
STATE
OF
TEXAS

FACSIMILE COVER PAGE

Date: August 23, 2006

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

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

From: Amy Barrera	Telephone No.: (512) 435-2375
Client/Matter No.: 52515 0101	Total No. of Pages Sent: 5

REMARKS:

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

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

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

ATTACHMENTS: Lindsay Pure Water Company's Request for Disclosure to the City of Lindsay

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

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

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

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**CITY OF LINDSAY'S REQUEST FOR DISCLOSURE AND 1ST SET OF REQUESTS
FOR PRODUCTION TO LINDSAY PURE WATER COMPANY**

TO: Lindsay Pure Water Company, by and through its attorney, Mr. John Carlton, Armbrust & Brown, LLP, 100 Congress Avenue, Suite 1300, Austin, Texas 78701.

The City of Lindsay ("City" or "Lindsay"), serves this, its Request for Disclosure and 1st Set of Requests for Production, on Lindsay Pure Water Company ("Lindsay PWC"), by and through its attorney, Mr. John Carlton, pursuant to Chapter 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, and applicable rules and regulations of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings. Within thirty (30) days of service of this request, Lindsay PWC must serve a signed copy of the responses to these requests upon counsel for City, Arturo D. Rodriguez, Jr., at the following address: Russell & Rodriguez, L.L.P., 102 West Morrow, Suite 103, Georgetown, Texas 78626.

A. DEFINITIONS

The following paragraphs state definitions that apply to this Request in its entirety, including the Instructions noted below:

1. "City" or "Lindsay" refers to the City of Lindsay, and each of its officers, employees, agents, representatives, attorneys, and all other natural persons, business or legal entities, presently or formerly acting in concert with, under their direct or indirect control of, or on behalf of City.
2. "You," "your," and "Lindsay PWC" means Lindsay Pure Water Company, its officers, employees, agents, representatives, attorneys, and all other natural persons, businesses or legal entities, presently or formerly, acting in concert with, under the direct or indirect control of, or on behalf of Lindsay Pure Water Company.

3. "Document(s)" means all written, typed, or printed matters, and all magnetic or other records, papers, or documentation of any kind or description (including, without limitation, letters, correspondence, telegrams, memoranda, notes, minutes, contracts, agreements, notations of telephone or in-person conversations, conferences, inter-office communications, e-mail, microfilm, bulletins, circulars, accounts, writings, drawings, graphs, charts, pamphlets, books, facsimiles, invoices, tape recordings, video recordings, photographs, computer printouts and work sheets), including all originals and all drafts and copies not identical to the originals, all photographs and graphic matter, however produced or reproduced, and all compilations of data from which information can be obtained, and any and all writings or recordings of any type or nature, whether or not prepared by you, in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, representatives, consultants, accountants, attorneys, agents, other natural persons, business or legal entities, presently or formerly acting in concert with, under their direct or indirect control of, or on behalf of Lindsay PWC.
4. "Describe" or "identify," when used in reference to a document, means you must state, to the fullest extent possible, the following:
- a) The nature (e.g., letter, handwritten note) of the document;
 - b) The title or heading that appears on the document;
 - c) The date of the document and the date of each addendum, supplement, or other addition or change;
 - d) The identity of: the author of the document; any signatory(ies) to the document; and the person on whose behalf or at whose request or direction the document was prepared or delivered; and
 - e) The present location of the document, and the name, address, position or title, and telephone number(s) of the person(s) having custody of the document.
5. "Describe" or "identify," when used in reference to a natural person, means you must state, to the fullest extent possible, the following:
- a) The full name;
 - b) The present or last known residential address, including zip code;
 - c) The present or last known residential and office telephone number(s);
 - d) The present or last known occupation, job title, employer, and employer's address, including zip code;
 - e) The occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular interrogatory; and

- d) In the case of any person other than an individual, identify the officer, employee, or agent most closely connected with the subject matter of the interrogatory, and the officer who is responsible for supervising that officer or employee.
6. "Communication" means any oral or written communication of which Lindsay PWC has knowledge, information, or belief.
7. "File" means any collection or group of documents maintained held, stored, or used together, including, without limitation, all collections of documents maintained, held, or stored in folders, notebooks, or other devices for separating or organizing documents.
8. "Person(s)" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all other predecessors or successors in interest.
9. "Concerning" means, in whole or in part, directly or indirectly, referring to, relating to, being connected with, commenting on, responding to, showing, describing, analyzing, reflecting, embodying, mentioning, or constituting the subject matter identified in the request.
10. "Date" means the exact day, month, and year, if ascertainable or, if not, the best approximation.
11. The word "and" means "and/or."
12. The word "or" means "or/and."
13. "Application" refers to Application of the City of Lindsay to Amend its Water and Sewer Certificates of Convenience and Necessity No. 13025 and 20927 in Cooke County, Application Nos. 35096-C and 35097-C, TCEQ Docket No. 2006-02729-UCR, SOAH Docket No. 582-06-1367, pending before the Texas Commission on Environmental Quality ("TCEQ") and/or the State Office of Administrative Hearings ("SOAH") and any and all information gathered, generated, compiled, or submitted to any other state or federal agency by or on behalf of Lindsay PWC related to Application Nos. 35096-C and 35097-C.
14. All definitions found in 30 TEX. ADMIN. CODE Ch. 291 and Texas Water Code Ch. 11 and Ch. 13 are incorporated herein, verbatim.

B. INSTRUCTIONS

1. You may not object to requests for disclosure.
2. You are required to answer each of the following requests for documents separately by listing the documents and by describing them as defined herein. If documents are numbered for production, in each response provide both the information that identifies the document and the document's number.

3. As to any interrogatory or requests for production to which you refuse to respond or are unable to respond to in whole or in part, for any reason, please state the grounds for your refusal or inability to respond. When you believe that a complete answer to a particular request for production or part thereof is not possible, please answer each request for production to the extent possible and furnish a statement explaining: 1) the reason for your inability to respond further; and 2) whatever information or knowledge you have concerning the non-responsive portion.
4. For each document or other requested information that you assert is privileged or is not discoverable, identify that document or other requested information, and state the specific grounds for the claim of privilege or other ground for exclusion. Also, for each document you assert is not discoverable, state the date of the document; state the name, job title, and address of the person who prepared it; state the name, address, and job title of the person to whom it was addressed, circulated, or who saw it; state the name, job title, and address of the person now in possession of the document; describe the subject matter of the document; and state the present location and the custodian for the document.
5. For every document that no longer exists or cannot be located, or for any requested information about a document that no longer exists or cannot be located: identify the document; state how and when the document passed out of existence, or when it could no longer be located; and state the reason(s) for the disappearance; identify each person having knowledge about the disposition or loss of the document; and identify each document evidencing the existence or nonexistence of each document that cannot be located.
6. It is requested that all documents that might impact on the subject matter of the Application be preserved and that any ongoing process of document destruction involving such documents cease.
7. Furnish all information available to you and known by you, or in your possession or that of your agents and attorneys, or appearing in your records.
8. In those instances when requested information or requested documents are stored only on software, computer based information, or other data compilations, you should either produce the raw data along with all codes and programs for translating it into usable form, or produce the information in a finished usable form that includes all necessary glossaries, keys, and indices for interpretation of the material.
9. You are under a duty to supplement your answers to these requests for disclosure that are incomplete or incorrect when made. Furthermore, you are under a duty to timely amend your answers if you obtain information on the basis of which you know that an answer either: 1) was incorrect or incomplete when made; or 2) although correct and complete when made, is no longer true and complete and the circumstances are such that failure to amend the answer is in substance misleading.
10. Unless otherwise indicated, the discovery requested herein Lindsay's First Set of Requests for Production relates to the time period from January 1, 1997 through the

present. All requested documents, data compilations, and recordings whenever actually prepared or generated that relate to this time period are to be produced.

C. REQUESTS FOR DISCLOSURE

Pursuant to TEX. R. CIV. P. 194, Lindsay PWC, is requested to disclose, within 30 days of service of this request, the information or material described in Rule 194.2.

Rule 194.2(c) The legal theories and, in general, the factual bases of the responding party's claims or defenses.

RESPONSE:

Rule 194.2(d) The amount and any method of calculating economic damages.

RESPONSE:

Rule 194.2(e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

RESPONSE:

Rule 194.2(f) For any testifying expert:

- 1) The expert's name, address, and telephone number.

RESPONSE:

Rule 194.2(f) For any testifying expert:

- 2) The subject matter on which the expert will testify.

RESPONSE:

Rule 194.2(f) For any testifying expert:

- 3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by you, employed by you, or otherwise subject to your control, documents reflecting such information.

RESPONSE:

Rule 194.2(f) For any testifying expert:

- 4) If the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (a) All documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (b) The expert's current resume and bibliography.

RESPONSE:

Rule 194.2(i) Any witness statements described in Rule 192.3(h).

RESPONSE:

D. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Produce all documents and tangible things including, but not limited to, all reports, working papers, notes, calculations, diagrams, photographs, physical models, exhibits, compilations of data, drafts, treatises, rules, regulations, guidelines, statutes, policies, procedures, authoritative materials, or other materials prepared by or reviewed by each facts witness and expert you expect to call to testify during the Hearing on the Merits regarding Lindsay's Application, and by each consulting expert whose work has been reviewed by a testifying expert.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2:

For each expert you expect to testify during the Hearing on the Merits regarding Lindsay's Application, and for each consulting expert whose opinions or observations a testifying expert will review or has reviewed, produce a curriculum vitae, a list of all cases in which the expert has testified either by deposition or live at trial or hearing, and a list of all articles or publications by the expert.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3:

Produce all billing and fee related documents including, but not limited to, all invoices, bills, or other billing materials for each expert you expect to testify during the Hearing on the Merits regarding Lindsay's Application, and for each consulting expert whose opinions or observations a testifying expert will review or has reviewed.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4:

For each person you expect to call as a fact witness during the Hearing on the Merits regarding Lindsay's Application, please produce each and every document that has been reviewed by the witness regarding Lindsay's Application.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5:

Produce all agreements for settlement, indemnification, compromise, guarantee, or any other kind of agreement, which you have entered into with any party, or non-party, as a result of, concerning, or relating to Lindsay's Application.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6:

Produce all documents and tangible things including, but not limited to, all reports, working papers, notes, calculations, diagrams, photographs, physical models, exhibits, compilations of data, drafts, treatises, rules, regulations, guidelines, statutes, policies, procedures, authoritative materials, or other materials prepared by you or for you, submitted by you, for you, or to you, or reviewed by you or for you relating to or concerning Lindsay's Application.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7:

Produce all documents relating to or concerning any and all investigations made by or for you regarding Lindsay's Application including, but not limited to, documents identifying the person who initially requested that the investigation be undertaken, the dates on which the investigation was initiated and completed, all persons who were responsible for conducting the investigation, all persons who did any work whatsoever in connection with the investigation, and every person interviewed or contacted in any manner with regard to the investigation; the current custodian(s) of any written statement or recording; and the date and substance of any oral communication.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8:

Produce all documents relating to or concerning Lindsay's Application including, but not limited to, all correspondence, notes of telephone conferences or other oral communications, meeting notes, agendas, notices, letters, statements, or any other documents evidencing or relating to communications, whether written or oral, between you and any of the following entities:

- (a) any municipal entity;
- (b) any county entity;
- (c) any state agency;
- (d) any federal agency;
- (e) any testifying or consulting expert;
- (f) any party to this proceeding;
- (g) any elected official;
- (h) any representative(s), agent, or affiliate of any individual or business entity that provides any type of wastewater services; or
- (i) any representative(s), agent, or affiliate of any individual or business entity that provides any type of water services.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9:

Produce all documents relating to or concerning your position against Lindsay's Application prepared by you or for you, submitted by you or for you or to you, or reviewed by you or for you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10:

Produce all documents that you will or may use or introduce as exhibits during the Hearing on the Merits regarding Lindsay's Application.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11:

Produce all documents relating to or concerning the agreement under which you have engaged the services of your fact witnesses, consultants and expert witnesses regarding Lindsay's Application.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12:

Produce all documents relating to or concerning each and every meeting held by or for Lindsay PWC, including, but not limited to, meeting notices, agendas, minutes, and sign-in sheets in which Lindsay's Application was discussed.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13:

Produce all documents created by, received by, or distributed by you relating to or concerning Lindsay's Application including, but not limited to, any press release, public relation document, letter to the editor, newspaper article, flyer, information sheet, or background material.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14:

Produce all documents concerning or relating to Lindsay PWC's corporate structure, organization, and operation, including, but not limited to, by-laws, rules, regulations, declarations, articles of incorporation, articles of amendment, and qualifications for membership.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15:

With respect to all preliminary, final, or other written reports of any kind prepared by or for you, any other person, or entity, concerning or relating to Lindsay's Application, please identify the person who currently has custody of each report along with the date and author of each report.

ANSWER:

REQUEST FOR PRODUCTION NO. 16:

Produce any and all documents purporting to give you authority to participate in this proceeding.

ANSWER:

REQUEST FOR PRODUCTION NO. 17:

Produce any and all documents between you and the Texas Commission on Environmental Quality purporting to give you authority to provide water in the area requested in Lindsay's Application.

ANSWER:

REQUEST FOR PRODUCTION NO. 18:

Produce a copy of your current CCN.

ANSWER:

REQUEST FOR PRODUCTION NO. 19:

Produce any and all documents related to any loans sought or received by you from the United States Department of Agriculture Rural Development Agency or any other federal agency.

ANSWER:

REQUEST FOR PRODUCTION NO. 20:

Produce any and all documents related to any grants sought or received by you from the United States Department of Agriculture Rural Development Agency or any other federal agency.

ANSWER:

REQUEST FOR PRODUCTION NO. 21:

Produce any and all documents related to receiving or purchasing water from any entity or person.

ANSWER:

Respectfully submitted,

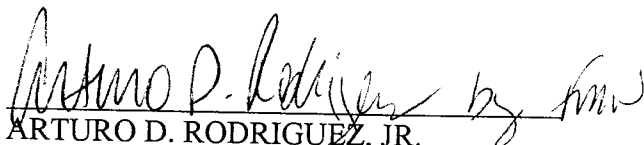
Russell & Rodriguez, L.L.P.

102 West Morrow Street, 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

CERTIFICATE OF SERVICE

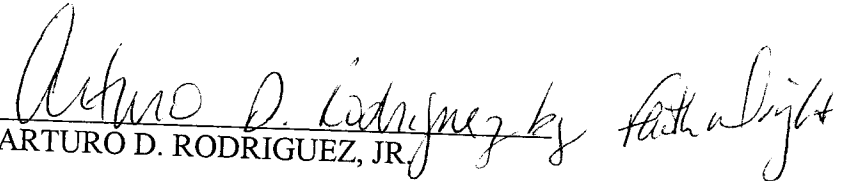
I hereby certify that on this 22nd day of August, 2006, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel of record:

Mr. John Carlton, Attorney
Armbrust & Brown, LLP
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Fax: 512/ 435-2360

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

Mr. Brian MacLeod, Attorney
Mr. Christiaan Siano
Environmental Law Division
TCEQ - MC 173
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 239-0606

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.

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

APPLICATION OF THE TOWN OF
LINDSAY TO AMEND WATER AND
SEWER CERTIFICATES OF
CONVENIENCE AND NECESSITY
(CCN) NOS. 13025 AND 20927 IN
COOKE COUNTY, TEXAS

APPLICATION NOS. 35096-C & 35097-C

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**CITY OF LINDSAY'S REQUEST FOR DISCLOSURE AND 1ST SET OF REQUESTS
FOR PRODUCTION TO LINDSAY PURE WATER COMPANY**

TO: Lindsay Pure Water Company, by and through its attorney, Mr. John Carlton, Armbrust & Brown, LLP, 100 Congress Avenue, Suite 1300, Austin, Texas 78701.

The City of Lindsay ("City" or "Lindsay"), serves this, its Request for Disclosure and 1st Set of Requests for Production, on Lindsay Pure Water Company ("Lindsay PWC"), by and through its attorney, Mr. John Carlton, pursuant to Chapter 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, and applicable rules and regulations of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings. Within thirty (30) days of service of this request, Lindsay PWC must serve a signed copy of the responses to these requests upon counsel for City, Arturo D. Rodriguez, Jr., at the following address: Russell & Rodriguez, L.L.P., 102 West Morrow, Suite 103, Georgetown, Texas 78626.

A. DEFINITIONS

The following paragraphs state definitions that apply to this Request in its entirety, including the Instructions noted below:

1. "City" or "Lindsay" refers to the City of Lindsay, and each of its officers, employees, agents, representatives, attorneys, and all other natural persons, business or legal entities, presently or formerly acting in concert with, under their direct or indirect control of, or on behalf of City
2. "You," "your," and "Lindsay PWC" means Lindsay Pure Water Company, its officers, employees, agents, representatives, attorneys, and all other natural persons, businesses or legal entities, presently or formerly, acting in concert with, under the direct or indirect control of, or on behalf of Lindsay Pure Water Company.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of August, 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. John Carlton, Attorney
Armbrust & Brown, LLP
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Fax: 512/435-2360

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

Mr. Brian MacLeod, Attorney
Mr. Christiaan Siano
Environmental Law Division
TCEQ - MC 173
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 239-0606

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 by Kathleen Light
ARTURO D. RODRIGUEZ, JR.

RUSSELL & RODRIGUEZ, L.L.P.
Attorneys at Law

Texas Heritage Plaza, 102 West Morrow Street, Suite 103, Georgetown, Texas 78626
Phone (512) 930-1317 E-mail: arodriguez@txadminlaw.com Fax (512) 930-7742

FACSIMILE COVER PAGE

August 22, 2006

Please Deliver the Following page(s) to:

Mr. John Carlton, Attorney
Mr. Blas Coy, Attorney
Mr. Brian MacLeod
TCEQ Chief Clerk
Mr. Pat Dillon

Fax Number: (512) 435-2360
Fax Number: (512) 239-6377
Fax Number: (512) 239-0606
Fax Number: (512) 239-3311
Fax Number: (972) 680-0003

Client Number: 1140-00

From: Arturo D. Rodriguez, Jr.

Direct Phone: (512) 930-1317

Pages: 13 (Including Cover Sheet)

Re:

Comments: City of Lindsay's Request for Disclosure and 1st Set of Requests for Production to Lindsay Pure Water Company

CHIEF CLERK'S OFFICE
AUG 22 2006
11:30 AM

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

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

FACSIMILE 512-435-2360

AMY BARRERA
(512) 435-2375
abarrera@abaustin.com

August 23, 2006

VIA FACSIMILE: (512) 930-7742 &
FIRST CLASS MAIL

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

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

Dear Arturo:

Enclosed please find Lindsay Pure Water Company's Request for Disclosure to the City
of Lindsay.

If you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,

ARMBRUST & BROWN, L.L.P.



Amy L. Barrera
Legal Secretary for John J. Carlton

Enclosure

cc: Blas J. Coy, Jr. – OPIC
Brian MacLeod – TCEQ
Chistiaan Siano – TCEQ
TCEQ Docket Clerk

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

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

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**LINDSAY PURE WATER COMPANY'S REQUEST FOR DISCLOSURE
TO THE CITY OF LINDSAY**

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

COMES NOW, Lindsay Pure Water Company, Protestant herein, and files its Request for Disclosure to the City of Lindsay. Pursuant to Rule 194, you are requested to disclose, within 30 days of service of this request, the information or material described in Rule 194.2.

REQUEST FOR DISCLOSURE 194.2(a):The correct names of the parties to the contested case hearing.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(b):The name, address, and telephone number of any potential parties.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(c):The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial).

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(d):The amount and any method of calculating economic damages.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(e):The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(f):For any testifying expert:

- (i) the expert's name, address and telephone number;
- (ii) the subject matter on which the expert will testify;
- (iii) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (iv) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (a) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (b) the expert's current resume and bibliography.

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(g):Any indemnifying and insuring agreements described in Rule 192.3(f).

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(h):Any settlement agreements described in Rule 192.3(g).

RESPONSE:

REQUEST FOR DISCLOSURE 194.2(i):Any witness statements described in Rule 192.3(h).

RESPONSE:

Respectfully submitted,



JOHN J. CARLTON

State Bar No. 03817600

ARMBRUST & BROWN, L.L.P.

100 Congress Avenue, Suite 1300

Austin, Texas 78701-2744

(512) 435-2300 – Telephone

(512) 436-2360 – Telecopy

**ATTORNEYS FOR LINDSAY PURE
WATER COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Lindsay Pure Water Company's Request for Disclosure to the City of Lindsay, Inc. has been sent by Facsimile and/or First Class Mail on this 23 day of August, 2006, to the following:

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

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

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

Christiaan Siano, Attorney
TCEQ – MC-173
P.O. Box 13087
Austin, Texas 78711-3087
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JOHN J. CARLTON

**SOAH DOCKET NO. 582-06-2247
TCEQ DOCKET NO. 2006-0386-UCR**

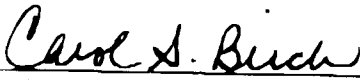
**PETITION OF G & W WATER SUPPLY § BEFORE THE STATE OFFICE
CORPORATION FOR A CEASE AND §
DESIST ORDER AGAINST CALDWELL § OF
WATSON REAL ESTATE IN WALLER §
COUNTY § ADMINISTRATIVE HEARINGS**

**ORDER NO. 1
GRANTING MOTION FOR ABATEMENT**

On July 25, 2006, Petitioner G & W Water Supply Corporation filed a motion to abate the case to allow time for the proper parties to this proceeding to be identified, and for settlement negotiations. Petitioner asserted that there were no objections from other parties.

THEREFORE, based upon the representations of Petitioner, the pre-hearing conference was canceled, and the motion is **GRANTED**; further proceedings in this case are **ABATED** until further order. Petitioner is directed to file a status report or a motion to dismiss no later than **October 6, 2006**.

SIGNED August 21, 2006.



**CAROL S. BIRCH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

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AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: G & W WATER SUPPLY CORP

SOAH DOCKET NUMBER: 582-06-2247

REFERRING AGENCY CASE: 2006-0386-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ADMINISTRATIVE LAW JUDGE

ALJ CAROL S. BIRCH

REPRESENTATIVE / ADDRESS

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REGARDING:

ORDER NO. 1 GRANTING MOTION FOR ABATEMENT

DOCKET NUMBER:

582-06-2247

FROM:

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COMMISSION
AUG 21 2006

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

**APPLICATION FROM THE TOWN OF
LINDSAY TO AMEND A WATER
CERTIFICATE OF CONVENIENCE
AND NECESSITY (CCN) NO. 13025 IN
COOKE COUNTY; APPLICATION NO.
35096-C; and APPLICATION TO
AMEND A SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY
(CCN) IN COOKE COUNTY, TEXAS;
APPLICATION NO. 35097-C**

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORDER NO. 1
CONFIRMING ACTION TAKEN AT PRELIMINARY HEARING AND
SETTING PROCEDURAL SCHEDULE

This Order confirms actions taken at the preliminary hearing in the above-captioned matter, which convened on July 11, 2006, in Austin, Texas.

I. JURISDICTION

Based upon documents placed in the record at the preliminary hearing, which demonstrated public notice of these applications and of the scheduling of the preliminary hearing, the Administrative Law Judge (ALJ) accepted jurisdiction over this matter on behalf of the Texas Commission on Environmental Quality (TCEQ) and the State Office of Administrative Hearings (SOAH).

II. PARTIES

The following are designated as parties to this proceeding:

- The Applicants, Town of Lindsay (represented by Arturo Rodriguez);
- The Executive Director of the TCEQ (represented by Brian MacLeod and Christiaan Siano); and
- Lindsay Pure Water Company (represented by John J. Carlton).

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TNRCC Docket No. 2006-0272-UCR

Order No. 1

Page 2

III. AGREED SCHEDULE

Subsequent to the preliminary hearing, the parties have submitted the following agreed procedural schedule, which is adopted for this proceeding:

<u>Date</u>	<u>Action</u>
July 11, 2006	Discovery begins
November 3, 2006	Discovery ends; All discovery must be served on or before October 4, 2006 (30 days for response)
December 8, 2006	Applicant testimony due
January 19, 2007	Protestant and OPIC Testimony due
February 23, 2007	ED Testimony due
March 30, 2007	Depositions end
May 4, 2007	Written objections to all testimony due
May 18, 2007	Responses to written objections to all testimony due
May 21, 2007	Prehearing telephone conference at 10:00 a.m.
May 23-25, 2007	Hearing on the Merits (HOM)

IV. GENERAL PROCEDURES

Prefiled evidence. All parties shall prefile their entire direct case evidence by the indicated date on the procedural schedule. Documents to be admitted through cross-examination need not be prefiled. The prefiled evidence should include all testimony and exhibits necessary to support the party's direct case. The parties should also bring the original copies of all exhibits and testimony to offer into the record at hearing.

SOAH Docket No. 582-06-2023
TNRCC Docket No. 2006-0272-UCR

Order No. 1

Page 3

Evidence that is not prefiled may not be introduced through direct examination absent a showing of good cause. Good cause will be considered on a case-by-case basis upon a showing of need, the reasonableness of not having anticipated its use, and consideration of whether other parties will be prejudiced by its late entry into the record. Therefore, all evidence under consideration for use in a direct testimony should be prefiled, although a party later may choose not to introduce every item it prefiles.

Prefiled testimony should be written as if the questions were asked by the party's representative and answered by the witness. The witness must be called to testify and adopt the prefiled testimony under oath, the testimony must be offered as an exhibit, and the witness must be passed for cross-examination by the other parties. When no party wishes to cross-examine a witness, the parties should agree to the admission of the witness' testimony so that the witness need not come to the hearing for no purpose.

Because the purpose of prefiling evidence is to shorten the length and minimize the cost of the hearing, the ALJ will discourage any non-substantive evidentiary objections to pre-filed evidence such as form-of-the-question and leading-the-witness objections. Counsel to all parties are expected to confer and reach agreements on ways to minimize all evidentiary objections.

Every page of every pre-filed document shall be appropriately numbered to allow easy identification and reference. In addition, prefiled testimony shall be on numbered lines.

Objections to prefiled testimony. Objections to prefiled testimony shall provide the specific basis for the objection and shall specifically reference the page and line number(s) of the objected-to testimony.

Exhibits used on cross examination. The parties should bring to the hearing enough copies of all exhibits they anticipate using during cross examination to distribute to all parties and the ALJ.

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TNRCC Docket No. 2006-0272-UCR

Order No. 1

Page 4

Discovery. Copies of discovery requests and responses should not be served on the ALJ unless the ALJ is called upon to deal with a dispute pertaining to specific requests or responses. Irrespective of the schedule and procedures established herein, the parties may exchange information on a voluntary basis at any time and through any mechanism. The ALJ encourages such voluntary discovery.

Discovery disputes. The parties are expected to attempt to resolve discovery disputes between themselves, however, significant disputes which cannot be resolved should be brought to the ALJ's attention – in the form of a written motion copied to all parties – as they occur. Any request for relief should include a copy of any discovery correspondence necessary for an informed ruling on the dispute.

Responses to motions. Except as otherwise provided in this Order, parties may respond to motions within one week after receipt of the motion. Motions shall be actually delivered to other parties the same day they are delivered to the ALJ. Rulings will be based on the written pleadings unless the ALJ determines that a prehearing conference is necessary.

Agreed modifications to procedural schedule. The parties may agree to alter the procedural schedule, with the exception of the hearing date. Such agreements should be in writing. Any changes to the hearing date must be approved by the ALJ following a motion filed by one or more parties.

Conferring prior to seeking relief. The parties are directed to confer and attempt in good faith to negotiate an agreed resolution to all procedural and discovery disputes prior to seeking relief from the ALJ. Any party seeking relief shall certify that this attempt has been made.

Telephone conferences. If a party desires a telephone conference for any purpose, that party is responsible for arranging a time for the conference call and for setting up the call. The party must ascertain that the ALJ is available.

SOAH Docket No. 582-06-2023
TNRCC Docket No. 2006-0272-UCR

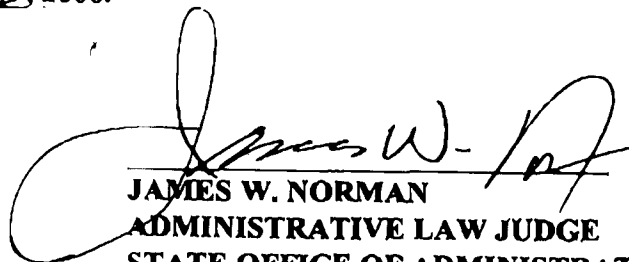
Order No. 1

Page 5

Mailing List. When submitting to the ALJ any pleading or correspondence relating to this matter, the sender must submit the original of the document to the Docket Clerk of the TCEQ, whose address is noted on the attached mailing list. One copy should be provided to the ALJ and one copy to each other person on the mailing list.

Clarification or modification of procedures. Any party seeking clarification or modification of this Order or any procedures relating to this hearing may file a written motion with the ALJ.

SIGNED July ¹² 2006.



JAMES W. NORMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: TOWN OF LINDSAY

SOAH DOCKET NUMBER: 582-06-2023

REFERRING AGENCY CASE: 2006-0272-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

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REGARDING: ORDER NO. 1 - CONFIRMING ACTION TAKEN AT PRELIMINARY HEARING AND SETTING
PROCEDURAL SCHEDULE

DOCKET NUMBER:

582-06-2023

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Docket No. 2006-0272-UCR, issued and mailed on June 12, 2006.

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Environmental Quality
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Austin, TX 78711-3087



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