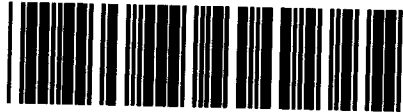


Control Number: 43990



Item Number: 61

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
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

**AN APPLICATION RECEIVED  
TO AMEND A WATER AND SEWER 8: 32  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR TAPATIO SPRINGS  
SERVICES COMPANY, INC.**

**Kendall County, Texas**

**Prepared for:**

Tapatio Springs Services Company, Inc.

**Prepared by:**

B & D Environmental, Inc.  
Austin, Texas

April 20, 2005

**EXHIBIT** 1



**APPLICATION TO OBTAIN OR AMEND A WATER OR SEWER  
CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)**



APPLICATION TO OBTAIN OR AMEND A WATER/SEWER  
CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN)

\*RN #101403129

\*CN #600646038

\*If known (See instructions)

RN #101223048

PURPOSE OF THIS APPLICATION  
OBTAIN ☐ New Water CCN ☐ New Sewer CCN

AMEND ☐ Water CCN # 12122 ☐ Sewer CCN # 20698

1. APPLICANT INFORMATION

Utility Name: Tapatio Springs Services Company, Inc.  
Utility Address (city/state/zip) P. O. Box 1335  
Boerne, Texas 78006  
Utility Phone and Fax Number (830) 537-5755 Phone (830) 537-5756 Fax

Contact Person: Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney, accountant, or other title related to the applicant.

Name: Darrell Nichols Title: Utility Consultant  
Address: P. O. Box 90544 Telephone (512) 264-9124  
City Austin St TX Zip 78709 Fax (512) 891-0740  
County(ies) in which service is proposed Kendall County

A. Provide the following information about the utility's certified operators

Name	Classes	License Number
Stan J. Scott	'C'-W, 'D'-WW	W- 456725324, WW0084873
Walter Hanna	'C'-W, 'C'-WW	WS0000295, WW0014554

- Attach additional sheet(s) if necessary -

B. Check the appropriate box and provide information regarding the legal status of the applicant:

<input type="checkbox"/>	Investor owned utility
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Home or Property Owners Association
<input checked="" type="checkbox"/>	For-profit corporation
<input type="checkbox"/>	Non-profit, member-owned, member-controlled cooperative corporation (Water Code Chapter 67, Water Supply or Sewer Service Corporation)
<input type="checkbox"/>	Municipality
<input type="checkbox"/>	District
<input type="checkbox"/>	Other Please explain:

- C. If the applicant is a For-Profit Corporation:
- Please provide a copy of the corporation's "Certification of Account Status" from the Texas State Comptroller of Public Accounts. (See Note below). **See Attachment A**
  - Please provide the corporation's charter number as recorded with the Office of the Texas Secretary of State. 0062108500
- D. If the applicant is a Water Code Chapter 67 water supply or sewer service corporation or other non-profit corporation:
- Please provide a copy of the Articles of Incorporation and By-Laws.
  - Please provide the corporation's charter number as recorded with the Office of the Texas Secretary of State

2. **LOCATION INFORMATION**

- A. Are there people already living in the proposed area?  
YES \_\_\_\_\_ NO X  
If YES, are any currently receiving utility service?  
YES \_\_\_\_\_ NO X, if YES, from Whom \_\_\_\_\_
- B. Have you received any requests for service in the requested service area?  
YES X NO \_\_\_\_\_ **See Attachment B**  
If yes, please indicate the number of verbal and number of written requests and provide a clear explanation of the need for service in the requested area.  
WRITTEN X VERBAL \_\_\_\_\_ **See Attachment B**  
On a separate page, list the name, address, and phone number of persons requesting service. Include any letters of intent, service inquiries, and/or any other documentation demonstrating a need for service in the proposed area. Requests for service must be identified on the large scale map. See 2.E.i.a below.  
If no, please justify the need for service in the proposed area. **See Attachment B**
- C. Is any portion of the proposed service area inside an incorporated city?  
YES \_\_\_\_\_ NO X  
If YES, within the city limits of: \_\_\_\_\_  
Provide a copy of any franchise, permit, or consent granted by the city. If not available, please explain: \_\_\_\_\_
- D. Is any portion of the proposed service area inside another utility's CCN area?  
YES \_\_\_\_\_ NO X  
If YES, has the current CCN holder agreed to decertify the proposed area.  
YES \_\_\_\_\_ NO \_\_\_\_\_  
If NO, are you seeking dual or single certification of the area? Explain why decertification of the area is in the public interest.
- E. Attach the following maps with each copy of the application: *(All maps should include applicant's name, address, telephone number, and date of drawing or revision. All maps should be folded to 8½ x 11 inches).*  
**See Attachment C**
- Subdivision plat or engineering plans or other large scale map showing the following:
    - The exact proposed service area boundary showing locations of requests for service and locations of existing connections (if applicable).

★ NOTE: Applicant may send their facility line map showing current connections (if available), OR estimate the number of connections along each side of the street on the large scale map.

- C. The existing service area (if applicable).
- D. Metes and bounds (if available).

- D. Proposed and existing service area boundaries should be plotted on the map in relation to verifiable natural and man-made landmarks such as roads, creeks, rivers, railroads, etc.
- E. *Service area boundaries should be shown with such exactness that they can be located on the ground.*

★ NOTE: *Applicant may use a USGS 7.5"-minute series map if no other large scale map is available.*

- ii. Small scale location map delineating the proposed service area. The proposed service area boundary should be delineated on a copy of the TCEQ official CCN map. This map will assist TCEQ staff in locating the proposed service area in relation to neighboring utility service areas. *A copy of the TCEQ official CCN map may be obtained by contacting the Utilities & Districts Section at 512/239-4691 or by mailing a written request to the following address:*

**See Attachment C**  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
Water Supply Division  
Utilities & Districts Section  
MC-153  
P.O. Box 13087  
Austin, TX 78711-3087

★ NOTE: If the proposed service areas shown on the large scale map and small scale map do not delineate the same area, the more detailed large scale map will be used to delineate the official CCN service area.

iii. **Hard copy maps should include the following items:**

- A. Map scale should be prominently displayed.
- B. Color coding should be used to differentiate the applicants existing service areas from the proposed service area.
- C. Attach a written description of the proposed service area.
- D. Proposed service area should be the same on all maps.
- E. Include map information in digital format (if available), *see Section 3, GIS Information.*

- iv. Each utility shall make available to the public at each of its business offices and designated sales offices within Texas the map of the proposed service area currently on file with the Commission. The applicant employees shall lend assistance to persons requesting to see a map of the proposed area upon request.

### 3. GIS INFORMATION

We are currently developing a state wide Geographic Information Systems (GIS) coverage of all CCN service areas. The mylar maps are being retired. In order to assist us in this move, we are requesting that a digital file of the proposed CCN service area boundary be submitted with the 3 hard copy maps. **This is not a requirement.** It is understood that not all utilities employ the services of an engineering company or use mapping software to produce a map of the proposed CCN service area boundary. However, by submitting the information digitally, the evaluation of your CCN will be faster and more accurate. Also, by receiving the information in digital form it is easier for us to update and maintain the CCN GIS coverage.

- A. **Digital Map Requirements** In order that your digital data can be properly used, the following information is necessary:

- 1. Submit digital data of the proposed CCN service area on a 3.25" diskette or CD. Only one

- diskette or CD is necessary. Most files of CCNs (minus the base map) should be small enough to zip up and put on a diskette or CD.
- ii. The digital data should include all items represented in the hard copy maps (see Section 2, items E.i and E.ii).
  - iii. Please identify data file format, projection information, map units and base map used.

**Acceptable Data File Formats:**

ArcView shape file (preferred)

- 1. AutoCAD dwg file
- 2. Arc/Info E00 file
- 3. DXF file
- 4. Microstation dgn files

★ NOTE: If you use a format that is not listed, contact the Cartographer at the number listed below to see if we can use the data.

- a. **Projection, Datum, and Units Information** The data should be submitted in the Texas State Mapping System (TSMS) Projection. However, if it cannot be submitted in TSMS, list the Projection (e.g. State Plane Central Zone, NAD27) or coordinate system being used and Units (e.g. meters, feet, etc.)

- b. **Base Map Information**

List the base map used (e.g. TxDOT county digital road maps, USGS maps, etc.)

Base map information should be included only if it has been produced in-house and is not easily available at most data repositories.

★ NOTE: TCEQ uses TxDOT county (urban) digital road maps as the official CCN base map. Copies of these files can be obtained from Texas Natural Resources Information Systems (TNRIS) at (512) 463-8337 or downloaded from the TNRIS website at <http://www.tnris.state.tx.us/DigitalData/TxDOT/txdot.htm>.

- c. **Read-me text file**

Data file format, base map used, projection and units information, and other necessary information can be specified in a read-me text file.

**B. Important Information**

For those applicants that submit digital data:

- i. Please make sure the proposed service area boundary shown on the hard copy map is identical to the digital data. If the proposed service area shown on the digital data does not delineate the same area shown on the hard copy map, the hard copy map will be used to delineate the official CCN service area.
- ii. Modifications may be made to submitted digital data in order to match the proposed service area boundary to features represented on the TxDOT base map, as opposed to the same features used in the applicants base map.
- iii. If an applicant proposes to amend a portion of their existing CCN service area, the existing service area shown on the digital data must match the official CCN service area that was previously certificated to the utility. If it does not, then only the proposed portion of the digital data will be used.

If you have any questions about sending the data or our GIS CCN coverage, please contact the Cartographer of the Utilities & Districts Section, Water Supply Division at (512) 239-4691.

**4. NEW SYSTEM INFORMATION OR UTILITIES REQUESTING A CCN FOR THE FIRST TIME**

- A. Please provide the following information:

- i. A list of all public drinking water supply systems or sewer systems within a 2 mile radius of the proposed system.
- ii. Copies of written requests seeking to obtain service from each of the public drinking water supply systems or sewer systems listed in #4.a.i above or documentation that it is not economically feasible to obtain service from them.
- iii. Copies of written responses from each system or evidence that they did not reply.

- B. Were your requests for service denied?
- If yes, continue.
  - If no, please provide a detailed analysis which justifies your reasons for not accepting service. A separate analysis must be prepared and submitted for each system that granted your request for service.

C. Please summarize how the proposed utility system will be constructed and describe each projected construction phase, if any: \_\_\_\_\_

D. Date of plat approval, if required: \_\_\_\_\_  
 Approved by: \_\_\_\_\_

E. Date Plans & Specifications submitted for approval \_\_\_\_\_ Log No. \_\_\_\_\_  
 Attach copy of approval letter if available.

F. Date construction is scheduled to commence \_\_\_\_\_

G. Date service is scheduled to commence \_\_\_\_\_

5. **EXISTING SYSTEM INFORMATION**

A. Please provide the following information for **each** water and/or sewer system:

i. Water system's TCEQ Public Water System identification number:  

1	3	0	0	0	2	5
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; 

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ii. Sewer system's TCEQ Discharge Permit number: (for each system)  

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; 

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; 

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iii. Date of last inspection May 30, 2003 (W), September 16, 2003 (WW)  
 iv. Attach a copy of the most recent inspection report letter. **See Attachment D**  
 v. For each system deficiency listed in the inspection report letter, attach a brief explanation listing the actions taken or being taken by the utility to correct the listed deficiencies, including the proposed completion dates. **See Attachment E**

B. Using the current number of customers, is any facility component in systems named in #5A above operating at 85% or greater of minimum standard capacity?  
 Yes \_\_\_\_\_ No X \_\_\_\_\_  
 Attach an explanation listing the actions to be taken to make system improvements including proposed completion dates (See 291.93(3)(A) of TCEQ Rules).



- C. List in table below, the number of existing and/or proposed metered and non-metered connections (by size). The proposed number should reflect the information presented in the business plan and reflect the number of service requests identified in Question 2.b above.

Water System			Sewer System		
Connection	Existing	Proposed	Connection	Existing	Proposed
5/8" or 3/4" meter	129	1700	Residential	165	1700
1" meter or larger	64		Commercial	8	
New Construction	12		Industrial		
Other: Wholesale	2		Other:		
Total Water	207	1700	Total Sewer	173	1700

- D. If this application is for a water CCN only, please explain how sewer service is provided:  
**This application includes both water and sewer service.**
- E. If this application is for a sewer CCN only, please explain how water service is provided:  
**This application includes both water and sewer service.**
- F. What is the effect of the granting or amending a certificate on a recipient of the certificate and on any retail public utility of the same kind already serving the proximate area: **The applicant and its affiliate (Kendall County Utility Company, CCN No. 11904) are the only two entities providing utility service to the proximate area. Furthermore, the applicant and its affiliate are interconnected and have a contract with Guadalupe Blanco River Authority to purchase treated surface water. The additional customers will provide a greater economies of scale and the provision of surface water will help protect the groundwater resources.**
- G. Do you currently purchase or plan to purchase water or sewer treatment capacity from another source?
- i. No \_\_\_\_\_ (skip the rest of this question and go to #6)
- ii. Water  
 Yes **X**  
 Purchased on a (X) regular - ( ) seasonal - ( X ) emergency basis?

Source	% of total supply
Kendall County Utility Company, Inc.	As needed in emergencies
Guadalupe Blanco River Authority	Surface water on a regular basis. See Attachment F.

- iii. Sewer treatment capacity  
 Yes \_\_\_\_\_

Purchased on a ( ) regular - ( ) seasonal - ( ) emergency basis

Source	% of total treatment

- iv. Provide a **certified** copy of the most current water or sewer treatment capacity purchase agreement or contract. **See Attachment F.**

6. **FINANCIAL INFORMATION**

- A. For new systems and for applicants with existing CCNs who are constructing a new stand alone system:
- i. the applicant must provide an analysis of all necessary costs for constructing, operating, and maintaining the system for which the CCN is requested for at least the first five years. In addition, if service has been offered by an existing water service provider as stated in #4.A., but the applicant has determined that the cost of service as finally offered renders the project not economically feasible, the applicant must provide a comparison analysis of all necessary costs for acquiring and continuing to receive service from the existing system for the same period.
  - ii. Attach projected profit and loss statements, cash flow worksheets, and balance sheets (projected five year financial plan worksheet is attached) for each of the first five years of operation. Income from rates should correlate to the growth projections in #6.A above.
  - iii. Attach a proposed rate schedule or tariff. Describe the procedure for determining the rates and fees and indicate date of last change, if applicable. Attach copies of any cost of service studies or rate analysis worksheets.
- B. For existing systems: **See Attachment G**
- i. Attach a profit and loss statement and current balance sheet for existing businesses (end of last fiscal year is acceptable). Describe sources and terms for borrowed capital such as loans, bonds, or notes (profit and loss and balance sheet worksheets are attached, if needed).
  - ii. Attach a proposed rate schedule or tariff.
- ★ NOTE: An existing system may be required to provide the information in 6.A.i. above during the technical review phase if necessary for staff to completely evaluate the application.
- C. Identify any funds you are required to accumulate and restrict by lenders or capital providers.  
**No funds are restricted.**
- D. In lieu of the information in #6.A. thru #6.C., you may provide information concerning loan approvals within the last three (3) years from lending institutions or agencies including the most recent financial audit of the applicant.

7. **NOTICE REQUIREMENTS**

- A. All proposed notice forms must be completed and submitted with the application. However, do not mail or publish them until you receive written approval from the Commission to do so.
- B. The Commission cannot grant a CCN until proper notice of the application has been given. Commission rules do not allow a waiver of these notice requirements.
- C. It is the applicant's responsibility to ensure that proper notice is given to all entities that are required to receive notice.
- D. Recommended notice forms for publication, neighboring cities and systems, and customers are included with this application to use in preparing your proposed notices. (These notice forms are also available in Spanish upon request.)
- E. After reviewing and, if necessary, modifying the proposed notice, the Commission will send the notice to the applicant after the application is accepted for filing along with instructions for publication and/or mailing. Please review the notice carefully and note any additional neighboring utilities which may be included in the acceptance letter.
- F. Notice For Publication:  
The applicant shall publish the notice in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, once each week for two consecutive weeks beginning with the week after the notice is received from the Commission. Proof

of publication in the form of a publisher's affidavit shall be submitted to the Commission within 30 days of the last publication date. The affidavit shall state with specificity each county in which the newspaper is of general circulation.

- G. Notice To Neighboring Utilities:
- i. List all neighboring retail public utilities and cities providing the same utility service within the following vicinities of the applicant's proposed certificate area; and
  - ii. any city whose extra-territorial jurisdiction (ETJ) overlaps the proposed service area.
  - iii. For applications for the issuance of a **NEW** certificate of public convenience and necessity, the applicant must mail the notice with a copy of the location map (CCN map) to all cities and neighboring retail public utilities providing the same utility service within **five (5) miles** of the requested service area, and any city with an ETJ which overlaps the proposed service area.
  - iv. For applications for the **AMENDMENT** of certificate of public convenience and necessity, the applicant must mail the notice with a copy of the location map (CCN map) to all cities and neighboring retail public utilities providing the same utility service within **two (2) miles** of the requested service area, and any city with an extra-territorial jurisdiction which overlaps the proposed service area.

- H. Notice to Customers
- Investor Owned Utilities (IOUs) that are currently providing service without a certificate must provide individual mailed notice to all current customers. The notice must contain the current rates, the date those rates were instituted, and any other information required in the application.

**No current customers in the proposed area**

- I. The Commission may require the applicant to deliver notice to other affected persons or agencies.

**Do not publish or send copies of the proposed notices to anyone at the time you submit the application to the Commission. Wait until you receive written authorization to do so. This will occur after the Commission has reviewed the notices for completeness, and your application has been accepted for filing.**

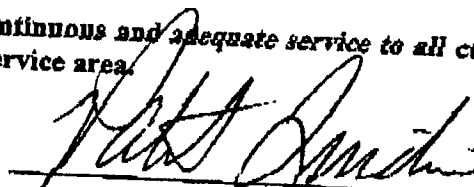
## OATH

State of Texas

I, Patrick Lindner, being duly sworn, file this application as legal counsel; that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the maps filed with this application, and have complied with all the requirements contained in this application; and, that all such statements made and matters set forth therein are true and correct. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Texas Commission on Environmental Quality.

I further represent that the application form has not been changed, altered or amended from its original form available only from the Commission.

I further represent that the Applicant will provide continuous and adequate service to all customers and qualified applicants for service within its certificated service area.



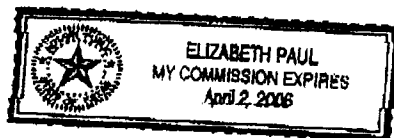
AFFIANT

(Applicant's Authorized Representative)

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

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of Texas, this 25<sup>th</sup> day of April, 2005.

SEAL



NOTARY PUBLIC

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

Tapatio Springs Services Company, Inc. has filed an application to amend CCN Nos. 12122 and 20698 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Kendall County.

The proposed utility service area is located approximately 2 miles west of downtown Boerne, Texas, and is generally bounded on the north by Ranger Creek Road; on the east by Johns Road; on the south by Tapatio Springs; and on the west by Bear Creek. The total area being requested includes approximately 5000 acres and no current customers.

A copy of the proposed service area map is available at 7550 West IH 10, Suite 800, San Antonio, Texas, 78229.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P. O. Box 13087  
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

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

To: City of Boerne (CCN Nos. 10676 and 20273)  
402 East Blanco Road  
Boerne, Texas 78006

Date Notice Mailed: April , 2005

Tapatio Springs Services Company, Inc. has filed an application to amend CCN Nos. 12122 and 20698 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Kendall County.

The proposed utility service area is located approximately 2 miles west of downtown Boerne, Texas, and is generally bounded on the north by Ranger Creek Road; on the east by Johns Road; on the south by Tapatio Springs; and on the west by Bear Creek. The total area being requested includes approximately 5000 acres and no current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

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If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

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

To: AquaSource Utility, Inc. (CCN No. 11157)  
1421 Wells Branch Parkway, Suite 105  
Pflugerville, Texas 78660

Date Notice Mailed: April , 2005

Tapatio Springs Services Company, Inc. has filed an application to amend CCN Nos. 12122 and 20698 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Kendall County.

The proposed utility service area is located approximately 2 miles west of downtown Boerne, Texas, and is generally bounded on the north by Ranger Creek Road; on the east by Johns Road; on the south by Tapatio Springs; and on the west by Bear Creek. The total area being requested includes approximately 5000 acres and no current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P. O. Box 13087  
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

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

To: Foothills Mobile Home Ranch, Inc. (CCN No. 12606)  
99 September Lane  
Boerne, Texas 78006

Date Notice Mailed: April , 2005

Tapatio Springs Services Company, Inc. has filed an application to amend CCN Nos. 12122 and 20698 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Kendall County.

The proposed utility service area is located approximately 2 miles west of downtown Boerne, Texas, and is generally bounded on the north by Ranger Creek Road; on the east by Johns Road; on the south by Tapatio Springs; and on the west by Bear Creek. The total area being requested includes approximately 5000 acres and no current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
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Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.



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

To: Kendall County Utility Company, Inc (CCN No. 11904) Date Notice Mailed: April , 2005  
P.O. Box 1335  
Boerne, Texas 78006

Tapatio Springs Services Company, Inc. has filed an application to amend CCN Nos. 12122 and 20698 with the Texas Commission on Environmental Quality to provide water & sewer utility service in Kendall County.

The proposed utility service area is located approximately 2 miles west of downtown Boerne, Texas, and is generally bounded on the north by Ranger Creek Road; on the east by Johns Road; on the south by Tapatio Springs; and on the west by Bear Creek. The total area being requested includes approximately 5000 acres and no current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P. O. Box 13087  
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

# **ATTACHMENT A**



**TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**  
CAROLE KEETON STRAYHORN • COMPTROLLER • AUSTIN, TEXAS 78774

March 25, 2005

**CERTIFICATE OF ACCOUNT STATUS**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I, Carole Keeton Strayhorn, Comptroller of Public Accounts of the State of Texas, DO HEREBY CERTIFY that according to the records of this office

**TAPATIO SPRINGS SERVICES COMPANY**

is, as of this date, in good standing with this office having no franchise tax reports or payments due at this time. This certificate is valid through the date that the next franchise tax report will be due May 16, 2005.

This certificate does not make a representation as to the status of the corporation's Certificate of Authority, if any, with the Texas Secretary of State.

This certificate is valid for the purpose of conversion when the converted entity is subject to franchise tax as required by law. This certificate is not valid for the purpose of dissolution, merger, or withdrawal.

GIVEN UNDER MY HAND AND  
SEAL OF OFFICE in the City of  
Austin, this 25th day of  
March, 2005 A.D.

A handwritten signature in cursive script that reads "Carole Keeton Strayhorn".

Carole Keeton Strayhorn  
Texas Comptroller

Taxpayer number: 17422423867  
File number: 0062108500

# **ATTACHMENT B**

## NON-STANDARD SERVICE AGREEMENT

THE STATE OF TEXAS

COUNTY OF KENDALL

THIS AGREEMENT is made and entered into by and between CDS International Holdings, Inc., hereinafter referred to as the "Developer" and Tapatio Springs Service Company, Inc., hereinafter referred to as the "Utility Company".

WHEREAS, the Developer is engaged in developing that certain 5,000 acres of land (more or less) in Kendall County, Texas, a legal description of the land being attached as Exhibit 1 and a location map being attached as Exhibit 2, said land being hereinafter referred to as "Property"; and

WHEREAS, the Utility Company owns and operates a water system which supplies potable water for human consumption and other domestic uses to customers within its service area and owns and operates a wastewater collection and treatment system that serves customers located within its service area; and,

WHEREAS, the Developer has requested the Utility Company to provide water and wastewater service to no more than 1,700 future customers within the Property through an extension of the Utility Company's water system and wastewater system, such extension hereinafter referred to as "the Extension."

NOW THEREFORE KNOW ALL MEN BY THESE PRESENT:

THAT for and in consideration for the mutual promises hereinafter expressed, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, the Developer and the Utility Company agree as follows:

1. Engineering and Design of the Extension.
  - a. Prior to preparing any detail design of any portion of the Extension, Developer shall cause a Texas Registered Professional Engineer to prepare an engineering report showing the proposed Extensions, considering both the cost of construction and operation of the various components, and such report shall be submitted to Utility Company for approval. Within thirty days after receipt of the report Utility Company shall either approve the report or describe in detail the changes that must be made to obtain the approval by the Utility Company. Absent objections, within the time allowed, the report will be deemed approved by the Utility Company.
  - b. The Extension shall be engineered and designed by a Texas Registered Professional Engineer in accordance with the applicable specifications of the

Utility Company and all governmental agencies having jurisdiction. Developer will retain the Utility Company's Consulting Engineer to perform all required work on the Extension. After completion of the plans and specifications by the Consulting Engineer, the plans, and specifications shall become part of this Agreement by reference and shall more particularly define the "Extension". Developer and Utility Company each consent to the employment of the Consulting Engineer and waive any conflict of interest inherent to the relationship.

- c. The Extension must be sized to provide continuous and adequate water service to the Property based on plans for the development of the Property provided to the Utility Company by the Developer. The Utility Company may require the Extension to be oversized in anticipation of the needs of other customers of the Utility Company, subject to the obligation to reimburse the Developer for any such over sizing as provided below.
    - d. For a period of sixty (60) days following the date of completion of the plans and specifications of the Extension, the Developer may give notice of termination of this Agreement to the Utility Company. All costs of the preparation of those plans and specifications are to be borne by the Developer.
  2. Required Sites, Easements or Right-of-Ways.
    - a. Developer shall be responsible for dedicating or acquiring any sites on and easements across the Property, which are necessary for the construction of the Extension. Utility Company will be responsible for acquiring any easements or rights of way necessary for the Extension outside the Property and for obtaining any governmental approvals necessary to construct the Extension in public right-of-ways. Since acquisition of right-of-way, easements, and crossing permits is not subject to control by the Utility Company, the Utility Company's obligation to serve the Property, or any portion of the Property, is subject to Utility Company acquiring the right-of-way, easements, and permits required for the Extension.
    - b. Any sites, easements, and rights of way acquired by the Developer shall be assigned to the Utility Company upon proper completion of the construction of the Extension. The validity of the legal instruments by which the Developer acquires any such easements and by which Developer assigns such easements to the Utility Company must be approved by the Utility Company's attorney.
  3. Construction of the Extension.
    - a. The Developer shall cause the Extension to be constructed by a contractor acceptable to the Utility Company in accordance with the approved plans and specifications. The Consulting Engineer shall also be responsible for

the inspection of all phases of the construction of the Extension. The Developer will be responsible for the payment of all costs related to the inspections. The Contractor shall warranty the work and material for a term of twelve months after substantial completion of the Extension.

- b. The contractor(s) constructing or installing the Extension shall execute performance and payment bonds for the total projected cost of the contractor(s)' portion of the work and the performance bond shall include the twelve month warranty on the work and material, and shall provide insurance for the typical coverage for the work being performed, such insurance naming the Developer and Utility Company as additional insured for the work performed by the contractor on the Extension.

4. Dedication of Extension to the Utility Company.

Upon proper completion of construction of the Extension and final inspection and testing thereof by the Utility Company, the Extension shall be dedicated to the Utility Company by an appropriate legal instrument approved by the Utility Company's attorney. The Extension shall thereafter be owned and maintained by the Utility Company, subject to the Contractor's warranty obligations.

5. Cost of the Extension.

- a. Developer shall pay all costs associated with the Extension as a contribution in aid of construction, including without limitation the cost of the following:
  - 1. engineering and design;
  - 2. easements or right-of-ways acquisition;
  - 3. construction;
  - 4. inspection;
  - 5. engineering and attorney's fees and expenses;
  - 6. governmental or regulatory approvals required to lawfully provide service;
  - 7. procurement of water allotments(increased reservation of GBRA water).
- b. Developer shall indemnify the Utility Company and hold the Utility Company harmless from all of the foregoing costs.

- c. Provided, however, nothing herein shall be construed as obligating the Developer to maintain the Extension subsequent to its dedication and acceptance for maintenance by the Utility Company.
- d. If the Utility Company has required the Extension to be oversized in anticipation of the needs of the other customers of the Utility Company, the Utility Company shall reimburse Developer for the additional costs of construction attributable to the over sizing, as determined by the Utility Company's Consulting Engineer.
- e. The Developer's cost including the total of its contributions in aid of construction and its direct expenditures for the portion of the Extension which is not located on the Developer's Property shall not exceed a total of \$1,500,000.00. All other costs of the Extension as approved by the Utility Company shall be borne by the Utility Company. The Consulting Engineer shall divide the estimated cost of the Extension between the portion on the Property and off the Property in all proposals, plans and specifications prepared for the Extension. If the costs of the Extension not located on Developer's Property exceed \$1,500,000 and Developer chooses not to fund the excess, the Utility Company is under no obligation to fund any portion of the Developer's share of the costs of the Extension and Utility Company is under no obligation to furnish water service to the Property or any portion of the Property.

6. Service From the Extension

- a. After proper completion and dedication of the Extension to the Utility Company and payment by the Developer of all costs in accordance with this Agreement, the Utility Company shall provide continuous and adequate water service to the Property, subject to all duly adopted rules and regulations of the Utility Company and the payment of all standard rates, fees, and charges as reflected in the Utility Company's approved tariff
- a. It is understood and agreed by the parties that the obligation of the Utility Company to provide water service in the manner contemplated by this Agreement is subject to:
  - 1. The issuance by the Texas Commission on Environmental Quality and all other governmental agencies having jurisdiction of all permits, certificates, or approvals required to lawfully provide such service.
  - 2. The approval by the GBRA of a contract to supply an additional 250 acre-feet of water per year to the Utility Company and approval by GBRA to Utility Company supplying water to the Property.



- c. Unless the prior approval of the Utility Company is obtained, the Developer shall not:
  - 1. Construct or install additional water lines or facilities to service areas outside the Property;
  - 2. Add any additional water lines or facilities to service areas outside the Property.
  - 3. Connect or serve any person or entity who, in turn, sells water service directly or indirectly to another person or entity.
- d. Nothing in this Agreement is intended to grant, nor shall any provision be interpreted to grant, Developer or any Utility Company customer located within the Property any preferential right to service or preferential fees in relation to other similarly situated customers of the Utility Company. The Utility Company's tariff and policies for service shall apply to all service offered or provided by Utility Company within the Property.

7. Service Area Issues.

Developer and Utility Company acknowledge and agree that the Property is not located within Utility Company's service area under the certificates of convenience and necessity issued to the Utility Company. Developer shall pay all costs associated with Utility Company obtaining regulatory authority to provide service to all or any part of the Property if Utility Company is required by law or the rules of the applicable regulatory authorities to obtain such approval prior to providing retail service within the Property.

8. GBRA issues:

- a. Developer and Utility Company acknowledge and agree that Utility Company may not supply water under its contract with the Guadalupe Blanco River Authority ("GBRA") to the Property without the prior consent of the GBRA. Developer shall pay all costs associated with Utility Company obtaining GBRA consent to supply water to all or any part of the Property.
- b. Section 5.4 of the contract between Utility Company and GBRA states as follows:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with all federal, state and local

laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

Developer will not take any action that will cause Utility Company to violate this provision and will fully cooperate with Utility Company in performing its obligations under this section.

- c. Developer and Utility Company will fully cooperate with each other in the efforts by Utility Company to amend the GBRA contract to increase the amount of the raw water reservation by an additional 250 acre-feet of water and to relocate the point of delivery. If GBRA refuses to increase the amount of the raw water reservation by 250 acre-feet or lesser amount acceptable to Utility Company, Utility Company may cancel this Agreement upon thirty days notice to Developer. Based upon the information currently known to Utility Company, GBRA is willing to increase the amount of the reservation by 250 acre-feet and has submitted a contract to that effect to Utility Company.

9. Special Conditions.

Utility Company and Developer agree that the following special conditions shall apply and in the event of any inconsistency between these special conditions and the other parts of this Agreement, these special conditions shall apply:

- a. The Extension must include a means to receive water delivered by GBRA to Utility Company under the contract with GBRA, such delivery point being at

the City of Boerne's facilities on Cascade Caverns Road, and the means of storing and pumping the water from such point of delivery to existing Utility Company facilities, such as the ground storage tank on Johns Road, and/or new facilities constructed as part of the Extension. Developer and Utility Customer will cooperate with each other and GBRA to change the point of delivery and to install the necessary facilities at the point of delivery to receive and pump the water. Developer will pay all costs of connecting the Utility Company system to the GBRA system in accordance with section 3.2 of the GBRA contract, provided, however, if the facilities are oversized to allow Utility Company to serve territory located outside of the Property, Developer and Utility Company will pay the GBRA connection costs proportionately based upon the capacity of such connection facilities.

- b. The Extension will include all facilities and improvements required to serve customers within the Property.
- c. The Extension must be sized to accommodate Developer's projected maximum demand equivalent to 1700 residential connections within the Property, but the actual demand will be determined later.
- d. The Extension will include two water wells and related facilities (including storage tank(s), pressure tank(s), and disinfection equipment on two different tracts of land located within the Property, together with the drilling, production, and sanitary control easements required by state and local regulatory authorities, and all easements and utilities to drill and operate the wells and unrestricted access easements. In the event that additional easements or rights of way are required outside of property, Utility Company agrees to cooperate in the acquisition of such rights, including facilitating the use of public rights of way outside the Property.
- e. Upon acknowledgment by GBRA of the reservation of the additional 250 acre feet of water, Developer will pay Utility Company on a monthly basis the raw water component of the monthly charges paid by Utility Company to GBRA for the 250 acre-feet of water, such monthly charge being determined in accordance with section 6.5 of the GBRA contract (such amount being estimated at approximately \$1,800 per month) (the "Reservation Payment") for so long as the Developer's planned project requires the acquisition of this additional water capacity. If Developer's planned project requires less than 250 acre-feet of water, then Utility Company may ask GBRA to amend the contract to reduce the reservation, but absent agreement by GBRA, Developer shall continue to pay such charge until Utility Company obtains GBRA's consent, or another person needs the water and is willing to take over Developer's obligation under this section of the agreement. Payment by Developer of the Reservation Payment will continue until there are at least 500 active connections (homes occupied by the end-user) within the

Property.

- f. In the event Developers plans are revised to decrease the required number of connections all contributions in aid of construction which are variable or no longer required will be proportionately reduced or terminated if such costs are not required to serve the Developer's property.
- g. In order for Utility Company to have required access to and for facilities, Developer will grant a right of way for a service road within the Property for Utility Company's use to all its service facilities and as an easement for installation of water and wastewater facilities, such service road right of way being at the general location shown on the map attached as Exhibit 3 and being at least 30 feet with a temporary easement during the original construction of an additional 30 feet in width. Developer and Utility Company will determine who will pay the cost of constructing the roadway.
- h. Developer desires to install a wastewater collection and treatment system, Utility Company will apply for the necessary permits and Developer will pay the costs of obtaining such permits. The treatment plant will be owned and operated by Utility Company once construction of the treatment plant is completed. The Extensions may include a lift station and force main to the Utility Company's existing plant if necessary to provide limited, temporary service while such permit is being obtained and the treatment plant is being constructed. Nothing in this Agreement prevents Developer, or the ultimate customer, from installing a septic tank on certain lots within the Property, subject to local laws that may require abandonment of septic tanks if a wastewater collection system is within a certain distance. Developer will be responsible for obtaining permits for the wastewater treatment facility and paying the costs of obtaining the permits. Once the permits are final and non-appealable, Developer will assign, transfer, or amend the permits so that Utility Company will be the permittee.
- i. No funds paid by the Developer to the Utility Company will be used to defray any costs other than those directly related to providing services to the Property or the acquisition of water necessary to provide service to the Property or obtaining the consents and approvals required to serve the area. Any funds paid to the Utility Company in anticipation of service to a greater number or capacity of connections than finally constructed will be reimbursed to the Developer; provided, however, if Utility Company does not have a means to recover the costs of such excess capacity from other users (not including its retail customers) Developer will continue to pay the costs until another such user agrees to assume the costs.
- j. If a portion of the Extension is oversized, Utility Company and Developer will cooperate with each other regarding the time of construction and funding of same, but if either needs the portion of the Extension before the other party

desires to fund same, the oversized portion of the Extension will be funded within sixty days after either party gives written notice to the other stating that the party desires to proceed with the construction of the oversized portion of the Extension.

- k. Beginning the first month following GBRA approval of the reservation of 250 acre-feet of water, or a lesser or greater amount acceptable to Utility Company, Developer will pay Utility Company on a monthly basis an amount equal to the Utility Company's monthly payment to GBRA, less the customer's raw water component, such payment being calculated in accordance with article VI of the GBRA contract. The amount of the monthly payment paid by Developer will be calculated as follows:

Monthly GBRA charge (minus Raw water component for 250 acre-feet) multiplied by a factor equal to 0.333 (250/750), unless GBRA contract is amended to reserve more or less than the 250 acre-feet currently anticipated to be reserved).

The payment by Developer will continue until there are at least 500 active connections within the Property (an active connection meaning a home occupied by the end-user.)

- l. Under no circumstances is Utility Company obligated to use any portion of the 500 acre-feet currently reserved under the GBRA contract to provide water service to the Property or any portion of the Property. Under no circumstances is Utility Company obligated to use the groundwater supply facilities that it owns and operates on the effective date of this Agreement to supply water to the Property or any portion of the Property, or to use capacity in its wastewater treatment facilities that it owns on the effective date of this Agreement to supply the Property or any portion of the Property. If Utility Company determines that it may have capacity in either its groundwater supply facilities or wastewater treatment facilities in excess of the requirements for Utility Company's then-existing actual and projected demand within its service area as of the date of this Agreement and Utility Company chooses to use such excess capacity to provide service within the Property for the temporary period of time required to construct the Extension described in this Agreement, then Utility Company will notify Developer of that determination and the two parties will cooperate on developing a plan for the temporary use of such capacity.

However, to the extent of any conflict between the terms of this Agreement (including the special conditions) and the Utility Company's tariff in effect on the date this agreement is approved by the Utility Company, the Utility Company's tariff shall apply, but Utility Company will grant exceptions or variances to the tariff, to conform to this agreement and, if necessary, obtain regulatory

approval or any required changes to the tariff.

10. General Provisions.

- i. Effect of Force Majeure. In the event either party is rendered unable by force majeure to carry out any of its obligations under this Agreement (other than Developer's obligations to pay costs as described in this Agreement), in whole or in part, then the obligations of that party, to the extent affected by the force majeure shall be suspended during the continuance of the inability, provided however that due diligence is exercised to resume performance at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other party. The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbance, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority. Insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbance, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failures of water supply, and any other incapacities of either party, whether similar to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty.
- ii. Notices. Any notice to be given hereunder by either party to the other party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed. Any notice mailed to the Utility Company shall be addressed:

Any notice mailed to the Utility Company shall be addressed:

Tapatio Springs Service Company, Inc.  
P.O. Box 550  
Boerne, Texas 78006

Any notice mailed to the Developer shall be addressed:

CDS International Holdings, Inc.  
95 Northeast 4<sup>th</sup> Ave.  
Delray Beach, Florida 33483

with copy to:

Grady B. Jolley  
Nunley, Davis, Jolley & Hill, L.L.P.  
1580 S. Main Street, Suite 200  
Boerne, Texas 78006

- Either party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.
- iii. Severability. The provisions of this agreement are severable, and if any work, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstance shall not be affected thereby and this Agreement shall be construed as if such invalid or unconstitutional portion had never been contained therein.
  - iv. Entire Agreement. This Agreement, including any exhibits attached hereto and made a part hereof, constitutes the entire agreement between the parties relative to the subject matter of this Agreement. All prior agreements, covenants, representations, or warranties, whether oral or in writing, between the parties are merged herein; provided, however, Developer's request for service and the Utility Company's tariff in effect on the date this Agreement is approved are incorporated by reference into this agreement for all intents and purposes.
  - v. Amendments. No amendments of this Agreement shall be effective unless and until it is duly approved by each party and reduced to a writing signed by the authorized representatives of the Utility Company and the Developer, respectively, which amendment shall incorporate this Agreement in every particular not otherwise changed by the amendment.
  - vi. Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties are expressly deemed performable in Kendall County, Texas.

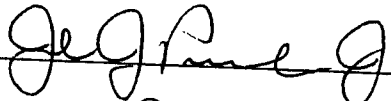
- vii. Venue. Venue for any suit arising hereunder shall be in Kendall County, Texas.
  - viii. Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the heirs, successors and assigns of the parties.
  - ix. Assignability. The rights and obligations of the Developer hereunder may be assigned without the prior written consent of the Utility Company, however, no such assignment shall relieve the Developer, its successors or assigns of any obligation under this Agreement.
11. Effective Date and term.



This Agreement shall be effective from and after the date of the execution by all parties. This agreement shall expire and be null and void if work on the Extension does not begin within twenty-four months after approval of this Agreement and shall be in effect for a term ending four years and one day after Developer fully performs the obligations under this Agreement; provided, however, if any claim or suit is filed relating to this Agreement or the Extension prior to the termination of this Agreement, this Agreement shall continue in effect until such claim or suit is finally resolved.

IN WITNESS WHEREOF each of the parties has caused this Agreement to be executed by its duly authorized representative in multiple copies, each of equal dignity, on the date or dates indicated below.

UTILITY COMPANY

By: 

Title: Vice President

Date: 8-31-04

DEVELOPER

BY:

*[Signature]*

Name:

W. H. Milne

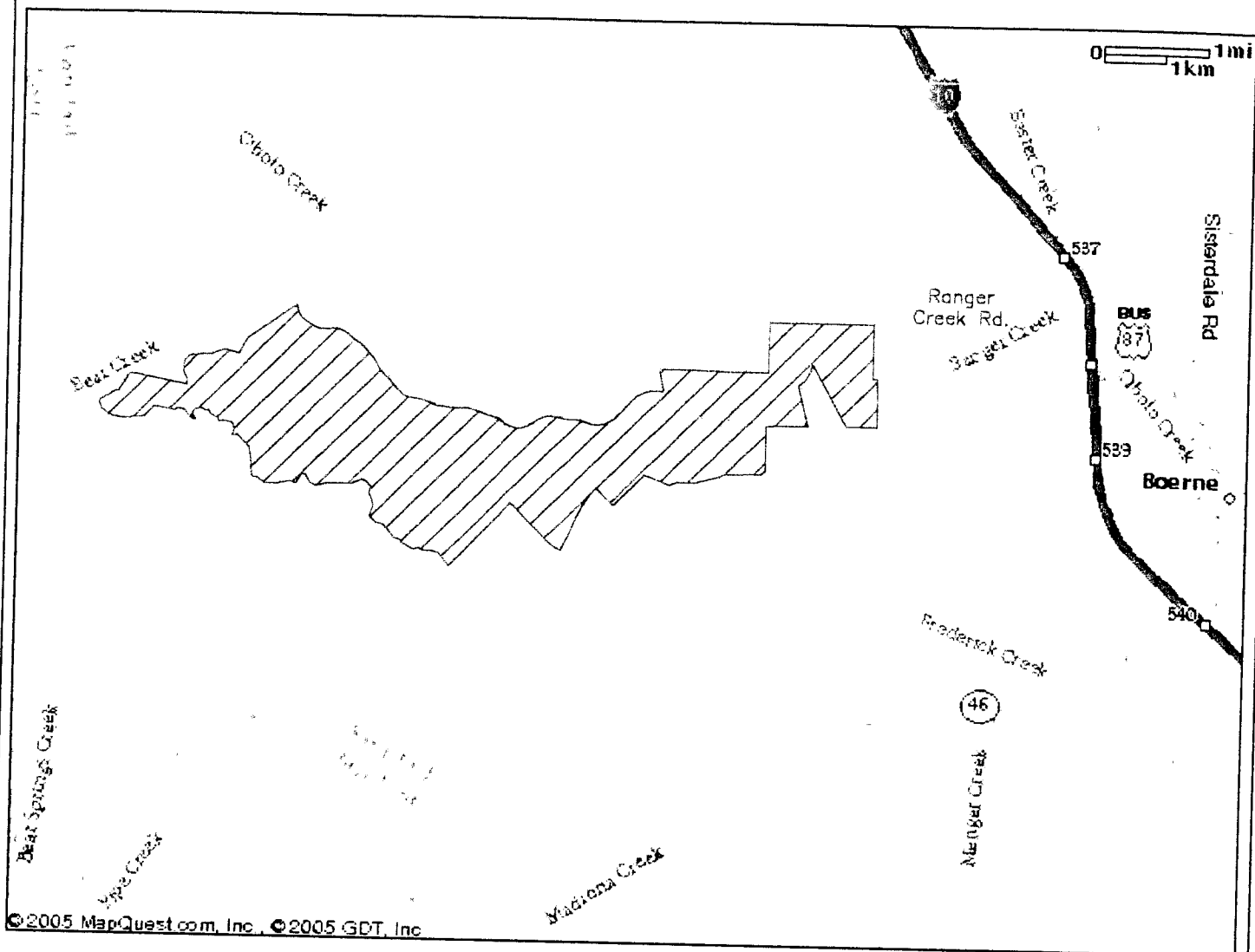
Title:

Treasurer

Date:

9/9/01

# **ATTACHMENT C**



**Tapatio Springs Services Company Inc.**

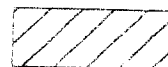
**Amendment of existing CCN No. 12122 and CCN No. 20698**

**April 18, 2005**



# **KENDALL COUNTY**

## **LEGEND**



**Proposed  
Service Area**

**B**

**&  
D**

**ENVIRONMENTAL, INC.**

# **ATTACHMENT D**

Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 12, 2004

Mr. Stan Scott, Systems Operations Manager  
Tapatio Springs Services Company  
P.O. Box 1335  
Boerne, TX 78006-1335

Re: Notice of Violation for the Comprehensive Compliance Investigation at:  
Tapatio Springs Wastewater Treatment Facilities located approximately 3.5 miles west-southwest  
of the intersection of Interstate Highway 10 and Johns Road in Kendall County, Texas; TCEQ  
Permit No. 12404-001.

Dear Mr. Scott:

The Texas Commission on Environmental Quality (TCEQ) San Antonio Region Office has received the compliance documentation that you submitted December 22, 2003 for the alleged violation noted during the investigation of the above-referenced facility conducted on September 16, 2003. The compliance documentation contained in your response appears to indicate that corrective action has been taken for the alleged violations. No further submittal from you is required concerning this investigation.

The Texas Commission on Environmental Quality appreciates your assistance in this matter and your compliance efforts to ensure protection of the State's environment. If you or members of your staff have any questions regarding these matters, please feel free to contact Mr. Chris Dziuk in the San Antonio Region Office at (210) 403-4027.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas G. Haberle".

Thomas G. Haberle  
Water Section Team Leader  
San Antonio Region Office

TGH/CD/eg

DEC 22 PM 2:22

12-17-03

T.C.E.Q.

MANAGEMENT TEAM (MC 148)

AUSTIN, TX

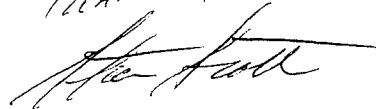
DEAR MANAGEMENT TEAM,

TAPATIO SPRINGS SERVICE COMPANY Hired ROLL'S MANAGEMENT  
/ MR. JESS MAYFIELD TO OPERATE THE WATER AND WASTE WATER  
TREATMENT PLANT FOR THEM.

THEY WERE NOT HAPPY WITH HIS SERVICE AND IN NOVEMBER  
OF 1999, THEY hired DOUGLAS MOREAU TO TAKE OVER WITH  
THE UNDERSTANDING THAT OVER A TIME HE WOULD  
SHOW MR. MOREAU HOW EVERYTHING OPERATED. BUT  
HE WOULD CONTINUE DOING THE REPORTS.

NOW THAT WE SEE THE REPORTS WERE NOT TAKEN  
CARE OF, I HAVE TRIED TO PUT THE PAST REPORTS  
TOGETHER AND NOW WE KNOW WHAT IS NEEDED, WE  
WILL HAVE THEM IN THE FUTURE.

THANK YOU,



OPERATIONS MANAGER.

"RECEIVED TOEQ"  
SAN ANTONIO,  
REGION



# QUALITY FENCE & WELDING

13115 Wetmore • San Antonio, Texas 78247  
(210) 545-8767 • Fax (210) 490-9353  
www.saqualityfence.com

NOV 19 PM 2:15

November 18, 2003

Tapatio Springs Services Co.  
P O Box 1335  
Boerne, TX 78006  
(830) 537-5755  
(830) 537-5756 Fax

REC'D NOV 18 2003

Attn: Stan Scott  
Re: Tank storage locations  
Jobsite: Tapatio Springs Resort

We propose the following scope of work:

Install approximately 249 linear feet of 6' tall chain link with 10 each 3" corner posts, 4 each 3" gate posts and 2 each 4' walk gates.

Ridge: A - Pump Station  
B - Water Tank

- Fabric: 6' x 9 gauge
- Line posts: 2" full weight
- Corner Post: 3" full weight
- Top rail: 1 5/8" full weight
- Fittings: Galvanized
- Tension Wire: 7 gauge coil
- Gate Frames: 1 5/8" Full weight

Total.....\$3,197.00

Install approximately 106 linear feet of 1" x 4" x 8' cedar fence with 1 each 12' double drive gate

Hotel Left Station

- Rails: 3 each 2" x 4" wolmanized
- Posts: 4" x 4" x 10' wolmanized, 8' on center
- Footings: 8" x 24" concrete
- Nails: Ring shank

Total.....\$2,305.00

Approval Signature

11-17-03  
Date

Thank you,

*JH Wilkerson*

Wes Wilkerson  
Project Superintendent

WW/AR  
Tapatio Springs Resort CL, WW

## CONTRACT CONDITIONS:

- ESTIMATE VALID FOR ONLY 30 DAYS FROM ABOVE DATE.
- PURCHASER IS SOLELY RESPONSIBLE FOR LOCATING, STAKING AND CLEARING FENCE LINES.
- ANY ADDITIONS OR DEVIATIONS FROM THE ABOVE SCOPE OF WORK MAY RESULT IN ADDITIONAL CHARGES OVER AND ABOVE THE QUOTED PRICE.
- S.A. QUALITY FENCE CO., LTD. DOES NOT ACCEPT ANY RESPONSIBILITIES FOR DAMAGE TO UNDERGROUND UTILITIES (I.E.: PLUMBING, ELECTRICAL, MECHANICAL, CABLE, AUTOMATIC SPRINKLERS, ETC.) ON SITE.
- ALL MATERIALS WILL REMAIN THE PROPERTY OF SA QUALITY FENCE LTD., DBA QUALITY FENCE & WELDING. QUALITY FENCE & WELDING HAS THE RIGHT TO REMOVE ANY AND ALL MATERIALS FROM WORK PERFORMED IF NOT PAID IN FULL.

Commercial • Residential • Chain Link • Privacy Wood • Decks • Welding • Free Estimates



Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 14, 2003

**CERTIFIED MAIL N° 7002 2030 0006 9759 3764**  
**RETURN RECEIPT REQUESTED**

Mr. Stan Scott, Systems Operations Manager  
Tapatio Springs Services Company  
P.O. Box 1335  
Boerne, TX 78006-1335

Re: Notice of Violation for the Comprehensive Compliance Investigation at:  
Tapatio Springs Wastewater Treatment Facilities located approximately 3.5 miles west-southwest of the intersection of Interstate Highway 10 and Johns Road in Kendall County, Texas; TCEQ Permit No. 12404-001.

Dear Mr. Scott:

On September 16, 2003, Mr. Chris Dziuk of the Texas Commission on Environmental Quality (TCEQ) San Antonio Region Office conducted an investigation of the above-referenced facility to evaluate compliance with applicable requirements for wastewater treatment. Enclosed is a summary which lists the investigation findings. During the investigation, some concerns were noted which were alleged noncompliances that have been resolved through verbal notification and subsequent corrective action. In addition, certain outstanding alleged violations were identified for which compliance documentation is required. Please submit to this office by December 14, 2003 a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for the outstanding alleged violation.

In the listing of alleged violations, we have cited applicable requirements, including TCEQ rules. If you would like to obtain a copy of the applicable TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled "Obtaining TCEQ Rules."

The Texas Commission on Environmental Quality appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. Self-reported violations may be subject to enforcement, including penalties, upon review by the Enforcement Division. We anticipate that you will resolve the alleged violations as required in order to protect the State's environment. If you have additional information that we are unaware of, you have the opportunity to contest the

REPLY TO: REGION 13 • 14250 JUDSON RD. • SAN ANTONIO, TEXAS 78233-4480 • 210/490-3096 • FAX 210/545-4329

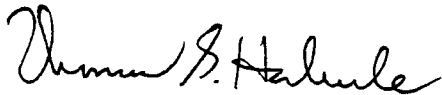
P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: [www.tceq.state.tx.us](http://www.tceq.state.tx.us)

Mr. Stan Scott  
November 14, 2003  
Page 2

violation(s) documented in this notice. Should you choose to do so, you must notify the San Antonio Region Office within 10 days from the date of this letter. At that time, Mr. Bobby Caldwell will schedule a violation review meeting to be conducted (*within 21 days from the date of this letter OR specified date at specific time*). However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the attached Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.

If you or members of your staff have any questions, please feel free to contact Mr. Chris Dziuk in the San Antonio Region Office at (210) 403-4027.

Sincerely,



Thomas G. Haberle  
Water Section Team Leader  
San Antonio Region Office  
Texas Commission on Environmental Quality

TGH/CD/eg

Enclosures:    Summary of Investigation Findings  
                    *Obtaining TCEQ Rules*

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

WS ID# 1300025/CO

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 28, 2003

**CERTIFIED MAIL N° 7002 2030 0003 5666 2138**  
**RETURN RECEIPT REQUESTED**

Mr. Stan Scott, Manager  
Tapatio Springs Services Company  
P.O. Box 1335  
Boerne, Texas 78006

Re: Notice of Violation for the Comprehensive Compliance Investigation at:  
Tapatio Springs Resort, Boerne County, Texas  
TCEQ ID No.: 1300025

Dear Mr. Scott:

On May 28 and May 30, 2003, Mr. Don White of the Texas Commission On Environmental Quality (TCEQ) San Antonio Region Office conducted an investigation of the above-referenced operation to evaluate compliance with applicable requirements for public water supply systems. Enclosed is a summary which lists the investigation findings. During the investigation, outstanding alleged violations were identified for which compliance documentation is required. Please submit to this office by **November 30, 2003**, a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for the outstanding alleged violations.

In the listing of alleged violations, we have cited applicable requirements, including TCEQ rules. If you would like to obtain a copy of the applicable TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled "Obtaining TCEQ Rules."

The Texas Commission On Environmental Quality appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. We anticipate that you will resolve the alleged violations as required in order to protect the State's environment and the Public's health. If you have additional information that we are unaware of, you have the opportunity to contest the violation(s) documented in this notice. Should you choose to do so, you must notify the Region Office within 10 days from the date of this letter. At that time, Mr. Bobby Caldwell, Water Program Manager will schedule a violation review meeting to be conducted within 21 days of the date of this

Mr. Stan Scott

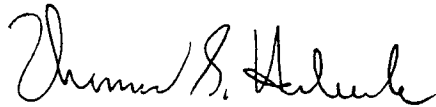
July 28, 2003

Page 2

letter. However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the attached Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.

If you or members of your staff have any questions, please feel free to contact Mr. Don White in the San Antonio Region Office at (210) 403-4054.

Sincerely,



Thomas G. Haberle  
Water Section Team Leader  
San Antonio Region Office

TH/DCW/eg

Enclosures: Summary of Investigation Findings  
Obtaining TCEQ Rules

Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 10, 2004

Mr. Stan Scott, Systems Operations Manager  
Tapatio Springs Service Company  
P.O. Box 550  
Boerne, Texas 78006

Re: Comprehensive Compliance Investigation at:  
Tapatio Springs Ranch, Kendall County, Texas  
TCEQ ID No.: 1300025

Dear Mr. Scott:

The Texas Commission On Environmental Quality (TCEQ) San Antonio Region Office has received compliance documentation that you submitted November 19, 2003 for the alleged violations noted during the investigation of the above-referenced operation conducted on May 30, 2003. The compliance documentation contained in your response appears to indicate that corrective action has been taken for the alleged violations. No further submittal from you is required concerning this investigation.

The Texas Commission On Environmental Quality appreciates your assistance in this matter and your compliance efforts to ensure protection of the State's environment and the Public's health. If you or members of your staff have any questions regarding these matters, please feel free to contact Mr. Don White in the San Antonio Region Office at (210) 403-4054.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas G. Haberle".

Thomas G. Haberle  
Water Section Team Leader  
San Antonio Region Office

TH/DCW/eg

# **ATTACHMENT E**

# **ATTACHMENT F**

\* Signed Copy \*  
ORIGINAL



GUADALUPE-BLANCO RIVER AUTHORITY

RECEIVED  
APR 03 2002

GENERAL OFFICE  
933 East Court Street  
Seguin, Texas 78155  
Phone: 830-379-5822  
Fax: 830-379-9718

March 25, 2002

20-041-04-0811--041811

COLETO CREEK PARK  
AND RESERVOIR  
P.O. Box 68  
Fannin, Texas 77960  
Phone: 361-575-6366  
Fax: 361-575-2267

Mr. Ted Ground

Water Rights Permitting - Contracts, MC-160  
Texas Natural Resources Conservation Commission  
P. O. Box 13087  
Austin, Texas 78711

LAKE WOOD  
RECREATION AREA  
Route 2, Box 158-A  
Gonzales, Texas 78629  
Phone: 830-672-2779

Re: Agreement Between Kendall County Utility Company and Tapatio Springs Service Company, Inc. and Guadalupe-Blanco River Authority

LOCKHART  
WASTEWATER  
RECLAMATION  
SYSTEM

Dear Mr. Ground:

35 FM 20 East  
Lockhart, Texas 78644  
Phone: 512-398-6391  
Fax: 512-398-6526

In accordance with Rule 31 Texas Administrative Code, Sections 295.101 and 295.111, and Subchapter J of TAC Chapter 297, we hereby submit for your records the attached Agreement Between Kendall County Utility Company and Tapatio Springs Service Company, Inc. and Guadalupe-Blanco River Authority. This Agreement is for 500 acre-foot commitment from Canyon and expires on December 31, 2037.

LULING WATER  
TREATMENT PLANT  
350 Memorial Drive  
Luling, Texas 78648  
Phone: 830-875-2132  
Fax: 830-875-3670

Thank you for your attention to this matter. Please do not hesitate to contact me, if you have any questions.

PORT LAVACA  
OPERATIONS  
P.O. Box 146

Sincerely,

Port Lavaca, Texas 77979  
Phone: 361-552-9751  
Fax: 361-552-6529

SAN MARCOS WATER  
TREATMENT PLANT  
91 Old Bastrop Road  
San Marcos, Texas 78666  
Phone: 512-353-3888  
Fax: 512-353-3127

Fred M. Blumberg  
Deputy General Manager

FMB:sb

VICTORIA REGIONAL  
WASTEWATER  
RECLAMATION  
SYSTEM  
P.O. Box 2085  
Victoria, Texas 77902-2085  
Phone: 361-578-2878  
Fax: 361-578-9039

Cc: Mr. John J. Parker  
Al Segovia, South Texas Watermaster  
Roger Nevola, Attorney at Law

GBRA WEBSITE  
<http://www.gbra.org>



Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Jeffrey A. Saitas, *Executive Director*



RECEIVED  
JUL 05 2002

## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

June 28, 2002

Guadalupe-Blanco River Authority  
Attn: Fred M. Blumberg  
933 East Court Street  
Sequin, TX 78155

Subject: Filing of Water Sales Contract, TNRCC No. 2390  
Kendall County Utility Co and Tapatio Springs Service Company, Inc.

Dear Mr. Blumberg:

The Water Supply Contract between the Guadalupe-Blanco River Authority and Kendall County Utility Co and Tapatio Springs Service Company, Inc has been accepted for filing. The Agreement meets the filing requirements of 30 Texas Administrative Code Chapters §295.101 and §297 Sub-Chapter J.

Please note that for correspondence and reporting purposes this contract is being identified as Water Supply Contract TNRCC No. 2390.

Term: 35 years, beginning March 18, 2002 and ending December 31, 2037  
Use: Municipal & Domestic; 500 acre-feet per year  
Source: Guadalupe River from storage in Canyon Reservoir  
Supplier's Water Right: Certificate No. 18-2074

If you have any questions or comments, please call me at (512) 239-0047.

Sincerely,

*David N. Koinm*

David N. Koinm - MC 160  
Water Rights Permitting  
Water Quantity Division

cc: Kendall County Utility Co  
Tapatio Springs Service Company, Inc

**REGIONAL WATER SUPPLY PROJECT  
FOR PORTIONS OF  
COMAL, KENDALL AND BEXAR COUNTIES**

**AGREEMENT BETWEEN  
KENDALL COUNTY UTILITY COMPANY AND TAPATIO SPRINGS SERVICE  
COMPANY, INC.  
AND  
GUADALUPE-BLANCO RIVER AUTHORITY**