



Control Number: 43990



Item Number: 75

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

43990

SOAH DOCKET NO. 582-06-0425  
TCEQ DOCKET NO. 2005-1516-UCR

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2014 DEC 19 AM 8:34

BEFORE THE STATE OFFICE - 0 11 0:53  
PUBLIC UTILITY COMMISSION  
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APPLICATION OF TAPATIO SPRINGS §  
SERVICE COMPANY, INC., §  
TO AMEND CERTIFICATES §  
OF CONVENIENCE AND NECESSITY §  
NOS. 12122 AND 20698 IN KENDALL §  
COUNTY, TEXAS §

OF  
ADMINISTRATIVE HEARINGS

RATEPAYERS', REPRESENTED BY MS. MARTIN,  
REQUEST FOR ADMISSIONS  
TO APPLICANT TAPATIO SPRINGS SERVICE COMPANY, INC.

TO: TAPATIO SPRINGS SERVICE COMPANY, INC., Applicant, by and through  
Applicant's attorney of record, PATRICK LINDNER.

NOW COMES RATEPAYERS, in the above styled and numbered cause, and pursuant to  
Rule 198 of the Texas Rules of Civil Procedure, makes the following Requests for Admissions of  
Fact.

You are notified that RATEPAYERS demand, in accord with the Court's Order, that within  
30 days after the service of these requests, Applicant, Tapatio Springs Service Company, Inc.,  
specifically admit or deny the facts requested as set forth on Exhibit "A." A failure to specifically  
answer any request, or an evasive answer to any request, will be taken as an admission of truth of  
such request.

Respectfully submitted,

By: 

ELIZABETH R. MARTIN  
Texas Bar No. 24027482  
P.O. BOX 1764  
106 W. BLANCO, STE. 206  
BOERNE, TEXAS 78006  
Tel. (830)816-8686  
Fax. (830)816-8282  
Attorney for RATEPAYERS

**CERTIFICATE OF SERVICE**

I certify that on February 15, 2006, a true and correct copy of Plaintiff's Request for Admissions to Tapatio Springs Service Company, Inc. was served via CERTIFIED MAIL on the following counsel.

  
ELIZABETH R. MARTIN

**PARTIES**

Cert. Mail. No. 7005 1820 0002 5752 3120  
RATE PAYERS

**REPRESENTATIVE / ADDRESS**

AL HAMILTON  
Attorney at Law  
301 Eagle Drive  
Boerne, Tx 78006  
(830) 537.6001 (Ph)  
(830) 537.6041 (Fax)

Cert. Mail. No. 7005 1820 0002 5752 3106  
RANGER CREEK HOA

ERIC SHERER  
Attorney at Law  
1124 Wurzbach Rd. Ste. 100  
San Antonio, Tx 78130  
(210) 696.9730 (Ph)  
(210) 696.9675 (Fax)

Cert. Mail. No. 7005 1820 0002 5752 3113  
TCEQ PUBLIC INTEREST COUNCIL

MARY ALICE BOEHM-MCKAUGHAN  
Staff Attorney  
Texas Commission on Environmental Quality  
Office of Public Interest Counsel  
PO Box 13087 MC-175  
Austin, Tx 78711-3087  
(512) 239.6361 (PH)  
(512) 239.6377 (FAX)

Cert. Mail. No. 7005 1820 0002 5752 3137  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

KATHY H. BROWN  
Staff Attorney  
Texas Comm. on Environmental Quality  
Law Division  
PO Box 13087 MC1-173  
Austin, Tx 78711-3087  
(512) 239.3417 (Ph)  
(512) 239.0606 (Fax)

Cert. Mail. No. 7005 1820 0002 5752 3144  
TAPATIO SPRINGS SERVICE CO.

PATRICK LINDNER  
Attorney at Law  
7550 IH-10 West, Northwest Center  
Suite 800  
San Antonio, Tx 78229  
(210) 349-6484 (Ph)  
(210) 349-0041 (Fax)

## DEFINITIONS AND INSTRUCTIONS

1. As used herein, the terms "you" and "your" shall mean **TAPATIO SPRINGS SERVICE COMPANY, INC.**, and all attorneys, agents, and other natural persons or business or legal entities acting or purporting to **ACT FOR OR ON BEHALF** of **TAPATIO SPRINGS SERVICE COMPANY, INC.**, whether authorized to do so or not.
2. "Person": The term "person" shall include individuals, associations, partnerships, corporations, and any other type of entity or institution whether formed for business purposes or any other purposes.
3. "Settlement," as used herein, means:
  - (a) an oral or written, disclosed or undisclosed agreement, bargain, contract, settlement, partial settlement, limited settlement, arrangement, deal, understanding, loan arrangement, credit arrangement, contingent settlement, limitation on the amount of liability or judgment, or a promise by or between plaintiff and any defendants or between any defendants herein whereby plaintiff or defendants have in any way released or compromised, in whole or in part, directly or indirectly, or agreed to do so in the future, any of the matters in controversy in this lawsuit whether before, after or during trial or before or after any jury verdict is returned herein or a judgment is entered or rendered herein;
  - (b) any resolution of the differences between the plaintiff and defendants by loan to the plaintiff or any other device which is repayable in whole or in part out of any judgement the plaintiff may recover against defendants;
  - (c) "Mary Carter Agreements" as that term is used under Texas Law.
4. Unless a specific date or dates is set forth in any specific question herein, you are directed that each question shall be answered for the period of time from January 1, 2001, up to and including the present date.
5. "CCN," as used herein, means the Certificate of Convenience and Necessity as defined by the Texas Commission of Environmental Quality.
6. "TCEQ," is the abbreviation for the Texas Commission of Environmental Quality.

**EXHIBIT "A"**

**REQUESTS FOR ADMISSION**

1. Tapatio Springs Service Company, Inc. will not be financially responsible, or pay for or invest any money in the development of water or sewer service physically located on the 5,000 acres covered by the proposed expansion area.

ANSWER:

2. Tapatio Springs Service Company, Inc., the Applicant, has no construction cost estimate for the water service expansion as requested by the application in this matter.

ANSWER:

3. Tapatio Springs Service Company, Inc., the Applicant, has no construction cost estimate for the sewer service expansion as requested by the application in this matter.

ANSWER:

4. Tapatio Springs Service Company, Inc., the Applicant, has not applied for permits to drill the wells identified in the Water Supply Analysis submitted to the Texas Commission on Environmental Quality with the application in this matter.

ANSWER:

5. Tapatio Springs Service Company, Inc., is financially unable to develop the 5,000 acres covered by the proposed expansion area without the financial backing of CDS International Holdings, Inc., the developer, or some other third party.

ANSWER:

6. CDS International Holdings, Inc., the developer, is the entity responsible for all aspects, physical and financial, in providing the infrastructure necessary to serve the expanded CCN area including storage, water distribution, pressure maintenance, wastewater collection, and wastewater treatment facilities.

ANSWER:

7. The expanded service area, approximately 5,000 acres, will be on a stand alone system.

ANSWER:

8. According to the Non-Standard Service Agreement between CDS International Holdings, Inc., the Developer, and Tapatio Springs Service Company, Inc., 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 \$1.5 million dollars and Tapatio Springs Service Company, Inc. is responsible for all costs above this amount for the Extension not located on the Developer's property.

ANSWER:

9. Kendall County has not approved CDS International Holdings, Inc., the Developer, subdivision plat.

ANSWER:

10. According to the Non-Standard Service Agreement between CDS International Holdings, Inc., the Developer, and Tapatio Springs Service Company, Inc., the Utility may be required to pay for the development of a service road within the 5,000 acres.

ANSWER:

11. According to the Non-Standard Service Agreement between CDS International Holdings, Inc., the Developer, and Tapatio Springs Service Company, Inc., the Utility may provide service to the expansion area utilizing current groundwater supply facilities and wastewater treatment facilities.

ANSWER:

12. Tapatio Springs Development Company and/or Tapatio Springs Builders, Inc. and/or Kendall County Development Company plan to construct homes on the 5,000 acre tract for which the expanded CCN will serve.

**SOAH DOCKET NO. 582-06-0425  
TCEQ DOCKET NO. 2005-1516-UCR**

<b>APPLICATION OF TAPATIO SPRINGS</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>SERVICE COMPANY, INC.,</b>	<b>§</b>	
<b>TO AMEND CERTIFICATES</b>	<b>§</b>	<b>OF</b>
<b>OF CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>NOS. 12122 AND 20698 IN KENDALL</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>COUNTY, TEXAS</b>	<b>§</b>	

**ORDER NO. 3  
ACCEPTING MOTION TO WITHDRAW**

Under Order No. 1 in the captioned matter, Ranger Creek Homeowners' Association was provisionally denied status as a party, but was allowed to submit additional showing in support of its request for such status. However, on February 24, 2006, the Association submitted to the State Office of Administrative Hearings ("SOAH") a "Motion to Withdraw Request for Party Status," although the group requested to remain on the mailing list for this proceeding.

Based upon the pleadings, the Administrative Law Judge ("ALJ") concludes that the motion should be accepted and the denial of the movant's party status in this proceeding should be confirmed. However, given the ongoing transactions that involve both the Applicant and the Association (at least tangentially), the ALJ will maintain the Association on the mailing list as a courtesy-copy recipient for the time being.

**PROCEDURAL QUESTIONS**

Routine procedural and logistical questions may be directed to Rita McBride at (512) 475-3419, however, please note that SOAH support personnel are not authorized to provide general advice or the interpretation of regulations or policy.

**SIGNED February 24, 2006.**

*Mike Rogan*  
\_\_\_\_\_  
**MIKE ROGAN**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**



**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**WILLIAM P. CLEMENTS BUILDING, Jr.**

**300 West Fifteenth Street**

**Austin, Texas 78701**

**Phone (512) 475-4993**

**Facsimile (512) 475-4994**

**SERVICE LIST**

**AGENCY: TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)**

**STYLE/CASE: TAPATIO SPRINGS SERVICE CO, INC**

**SOAH DOCKET NUMBER: 582-06-0425**

**REFERRING AGENCY CASE: 2005-1516-UCR**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**ADMINISTRATIVE LAW JUDGE**

**ALJ MIKE ROGAN**

**PARTIES**

**REPRESENTATIVE / ADDRESS**

**RANGER CREEK HOA**

**ERIC SHERER  
ATTORNEY AT LAW  
11124 WURZBACH RD.  
SAN ANTONIO, TX 78230  
(210) 696-9730 (PH)  
(210) 696-9675 (FAX)**

**RATEPAYERS**

**ELIZABETH R. MARTIN  
ATTORNEY AT LAW  
P. O. BOX 1764  
BOERNE, TX 78006  
(830) 816-8686 (PH)  
(830) 816-8282 (FAX)**

**TCEQ PUBLIC INTEREST COUNCIL**

**MARY ALICE BOEHM-MCKAUGHAN  
STAFF ATTORNEY  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICE OF PUBLIC INTEREST COUNSEL  
P.O. BOX 13087 MC-175  
AUSTIN, TX 78711-3087  
(512) 239-6361 (PH)  
(512) 239-6377 (FAX)**

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

KATHY H. BROWN  
STAFF ATTORNEY  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ENVIRONMENTAL LAW DIVISION  
P.O. BOX 13087 MC-173  
AUSTIN, TX 78711-3087  
(512) 239-3417 (PH)  
(512) 239-0606 (FAX)

TAPATIO SPRINGS SERVICE CO

PATRICK LINDNER  
ATTORNEY  
7550 IH-10 WEST, NORTHWEST CENTER SUITE 800  
SAN ANTONIO, TX 78229  
(210) 349-6484 (PH)  
(210) 349-0041 (FAX)

---

xc: Docket Clerk, State Office of Administrative Hearings

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**WILLIAM P. CLEMENTS BUILDING, Jr.**

**300 West Fifteenth Street**

**Austin, Texas 78701**

**Phone (512) 475-4993**

**Facsimile (512) 475-4994**

DATE: 02/24/2006

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 3

REGARDING: ORDER NO. 3 - ACCEPTING MOTION TO WITHDRAW

DOCKET NUMBER: 582-06-0425

FROM: JUDGE MIKE ROGAN

**FAX TO:** FAX TO:

ELIZABETH R. MARTIN (830) 816-8282

ERIC SHERER (210) 696-9675

KATHY H. BROWN (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY) (512) 239-0606

MARY ALICE BOEHM-MCKAUGHAN (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY) (512) 239-6377

PATRICK LINDNER (210) 349-0041

**TCEQ Docket Clerk, Fax Number 512/239-3311**

**NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT RITA MCBRIDE(rmc) AT 512-475-**

The information contained in this facsimile message is privileged and confidential information intended only for the use of the above-named recipient(s) or the individual or agent responsible to deliver it 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 immediately notify us by telephone, and return the original message to us at the address via the U.S. Postal Service. Thank you.

SOAH DOCKET NO. 582-06-0425  
TCEQ DOCKET NO. 2005-1516-UCR

APPLICATION OF TAPATIO § BEFORE THE STATE OFFICE  
SPRINGS SERVICE COMPANY, §  
INC., TO AMEND CERTIFICATES OF § OF  
CONVENIENCE AND NECESSITY §  
NOS. 12122 AND 20698 IN § ADMINISTRATIVE HEARINGS  
KENDALL COUNTY, TEXAS §

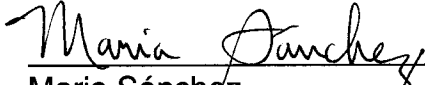
**TAPATIO SPRINGS SERVICE COMPANY, INC.'S  
REQUEST FOR DISCLOSURE TO THE EXECUTIVE DIRECTOR OF THE TEXAS  
COMMISSION ON ENVIRONMENTAL QUALITY**

To: The Executive Director of the Texas Commission on Environmental Quality, by and through his attorney, Kathy Brown, TCEQ, Environmental Law Division MC-173, P.O. Box 13087, Austin, Texas 78711-3087.

Pursuant to §2001 *et seq.* of the Administrative Procedure Act ("APA"), Texas Government Code, Rules 190-197 of the Texas Rules of Civil Procedure, 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, requests for production and requests for admissions, as the case may be. You are required to sign your answers to the interrogatories and to swear to the truth of your answers before a Notary Public or other judicial officer, and to deliver a complete, signed, and notarized copy of your answers and responses to Mr. Pat Lindner, Davidson & Troilo, P.C., 7550 IH-10 West, Northwest Center, Suite 800, San Antonio, Texas 78229 not later than 30 days after service of this request in accordance with 1 TAC § 155.31 and the Scheduling Order entered in this Docket.

Respectfully submitted,

DAVIDSON & TROILO, P.C.  
7550 IH-10 West, Suite 800  
San Antonio, Texas 78229  
Telephone: (210) 349-6484  
Facsimile: (210) 349-0041By:

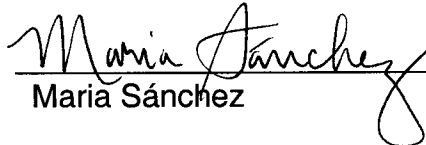
  
\_\_\_\_\_  
Maria Sánchez  
State Bar No. 17570810

STATE OFFICE  
1501

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22<sup>nd</sup> day of February 2006, a true and correct copy of the foregoing document and all attachments were forwarded to each of the parties listed below via first-class mail.

Elizabeth R. Martin Attorney at Law P. O. Box 1764 Boerne, TX 78006 830/816-8282 (fax) Representing Ratepayers	Al Hamilton Attorney at Law 301 Eagle Drive Boerne, TX 78006 830/537-6043 (fax) Representing Ratepayers
Eric Sherer Attorney at Law 1124 Wurzbach Rd. San Antonio, TX 78230 210/696-9675 - facsimile Representing Creek HOA	Mary Alice Boehm-McKaughan Staff Attorney TCEQ Office of Public Interest Counsel PO Box 13087 MC-175 Austin, Texas 78711-3087 512/239-6377 – facsimile Representing TCEQ Public Interest Council
Kathy H. Brown Staff Attorney TCEQ Environmental Law Division PO Box 13087 MC-173 Austin, TX 78711-3087 512/239-0606 – facsimile Representing Texas Commission on Environmental Quality	Ms. La Donna Castañuela, Chief Clerk Office of the Chief Clerk MC-105 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087 (512) 239-3300 Fax: (512) 239-3311

  
\_\_\_\_\_  
Maria Sánchez

## DEFINITIONS

The following definitions apply herein unless otherwise indicated by the content or expressly stated:

1. "Application" refers to Tapatio Springs Service Company Inc.'s application that is the subject of this Docket.
2. "Application Area" refers to the area made the subject of the Application.
3. "CCN" means a certificate of public convenience and necessity as set forth in Chapter 13 of Texas Water Code.
4. "Communication" refers to any oral or written utterance, notation, enumeration, or statement of any kind whatsoever, including but not limited to correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, negotiations, facsimile transmissions, e-mail transmissions, between or among two or more persons, whether direct or indirect, whether intended or unintended.
5. "Docket" or "Proceeding" refers to this docket.
6. "Document" means any documents or tangible items made discoverable by Rule 192.3 of the Texas Rules of Civil Procedure, and includes all originals and non-identical copies of any and all documents, papers, books, accounts, writings, drawings, graphs, charts, maps, surveys, photographs, electronic or videotape recordings, electronic mail (e-mail), phone records, recordings, other data compilations from which information can be obtained and translated, if necessary, by you into reasonably useable form and tangible things.
7. "Identify" means, with respect to a person, to state the person's name, last known residence address, last known business address and last known business and residential telephone numbers of the person. With respect to a document, "identify" means to set forth a title, if any, the date, the originator or author, the sender(s), recipient(s) and a general description so that the party seeking discovery can locate and identify the object as readily as the party from whom it is being sought.
8. "Person" or "Persons" mean natural persons, firms, partnerships, associations, joint ventures and corporations.
9. "Relate" or "relating to" means making or including a statement about, discussing, describing, reflecting, consisting of, constituting, comprising or in any way concerning in whole or in part the subject or thing.
10. "TCEQ" or "Commission" refers to the Texas Commission on Environmental Quality and all predecessor agencies with similar responsibilities, including the Texas Natural Resource Conservation Commission, Texas Water Commission and Texas Department of Health.

11. "You" and/or "your" refers to and includes the Executive Director of the Texas Commission on Environmental Quality and any of his employees, attorneys, agents, servants or other representatives and all other persons acting or purporting to act on behalf of said individuals, including all past or present employees exercising discretion, making policy or making decisions who have knowledge of, any relationship to, or involvement with, any matter in issue in this Docket.

### INSTRUCTIONS

1. These discovery requests must be answered and responded to in strict compliance with the orders of the Administrative Law Judge hearing this Docket, the Texas Rules of Civil Procedure and the rules of the TCEQ.

2. An evasive or incomplete answer to any of these discovery requests will be considered and treated as a failure to answer.

3. Your answers to the interrogatories must be answered separately and fully in writing, and the answers must be signed and verified under oath by the person making the answers.

4. If a request for production would require you to provide information which you consider protected from discovery under some good faith claim or exemption or privilege, you are entitled to object to the request on this basis in accordance with the Texas Rules of Civil Procedure and the rules of the TCEQ. You must, however, specifically identify the grounds on which you object, and your objections must be timely filed or they are waived. If you withhold any documents from discovery, for each such document state the privilege or exemption claimed and identify the document to the fullest extent possible consistent with your claim of privilege or exemption. A timely objection to a discovery request relieves you of the duty to answer or produce only to the extent that the request is objectionable. Thus, you must answer or respond to each discovery request as fully as possible consistent with any good faith privileges or exemptions you may assert.

5. The documents and tangible things shall be produced in the offices of Davidson & Troilo, P.C. 7550 West IH-10, 800, San Antonio, Texas, 78229-5815, c/o Patrick Lindner.

6. In those instances when the responding party chooses to answer an interrogatory by referring to a specific document or record, the specification must be in sufficient detail to permit the requesting party to locate and identify the records and/or documents from which the answer is to be ascertained as readily as the party served with the request.

7. In those instances when requested information is stored only on software or other data compilations, the responding party should either produce the raw data, along with all codes and programs for translating it into useable form, or produce the

information in a finished useable form that includes all necessary glossaries, keys and indices for interpretation of the material.

8. 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.

9. All documents and/or other data compilations that might impact on the subject matter of this Docket must be preserved and any ongoing process of document destruction involving such documents should cease.

### **DUTY TO SUPPLEMENT**

You are under a duty to supplement any responses that are incomplete or incorrect when made. Furthermore, you are under a duty to amend your responses within a reasonable time after you obtain information on the basis of which you know that a response either (1) was incorrect or incomplete when made or (2) although correct and complete when made, is no longer correct and complete, and the circumstances are such that failure to amend the response is in substance misleading.

### **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(c), (e), (f), (h), and (i), as follows:

- (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 your control, documents reflecting such information;
  - (4) if the expert is retained by, employed by, or otherwise subject to your control:



(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 settlement agreements described in Rule 192.3(g); and

(i) any witness statements described in Rule 192.3(h).

SOAH DOCKET NO. 582-06-0425  
TCEQ DOCKET NO. 2005-1516-UCR

OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF TEXAS

APPLICATION OF TAPATIO § BEFORE THE STATE OFFICE  
SPRINGS SERVICE COMPANY, INC. §  
TO AMEND CERTIFICATES OF § OF  
CONVENIENCE AND NECESSITY §  
NOS. 12122 AND 20698 IN KENDALL § ADMINISTRATIVE HEARINGS  
COUNTY, TEXAS §

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**EXECUTIVE DIRECTOR'S FIRST INTERROGATORIES  
AND REQUEST FOR PRODUCTION  
TO TAPATIO SPRINGS SERVICE COMPANY, INC.**

---

TO: Tapatio Springs Service Company, Inc., by and through its attorney of record, Patrick Lindner, 7550 IH-10 West, Northwest Center, Suite 800, San Antonio, Texas 78229

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 and interrogatories and to produce documents, as the case may be, responsive to the requests. 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 Kathy Brown, Staff Attorney, Environmental Law Division, MC 173, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, by 30 days after service of this request.

**I. DEFINITIONS**

As used herein, the terms "you," "your," or "yourself," refer to Tapatio Springs Service Company, Inc., 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, and each person acting or purporting to act 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, or which has been, but is no longer, 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 residential 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.

TCEQ

“TCEQ” means the Texas Commission on Environmental Quality.

**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 166(b) 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 (c),(e), & (f).

## IV. INTERROGATORIES

### Interrogatory No. 1

For each person the Tapatio Springs 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 Tapatio Springs expects that person to provide.

### Interrogatory No. 2

For each expert not listed in the response to the Request for Disclosure whom Tapatio Springs has consulted and whose mental impressions and opinions have been reviewed by an expert Tapatio Springs 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 explain in detail your position that Tapatio Springs can provide water and sewer services faster and cheaper to the entire proposed area than existing utilities in the proximate area.

### Interrogatory No. 4

Please explain in detail the estimated amount of time it would take Tapatio Springs to provide water and sewer services to people in the farthest regions of the proposed area. Please distinguish your answer for water and sewer.

### Interrogatory No. 5

Please state, to the best of your knowledge, if people are already living in the area Tapatio Springs has requested to add to its certificate of convenience and necessity ("CCN"). If so, please state whether those people are currently receiving water and sewer utility services and identify the service provider(s). Please distinguish your answer for water and sewer.

### Interrogatory No. 6

Please describe in detail the ability of Tapatio Springs to provide continuous adequate water and sewer utility services to its existing customers in its existing CCN area. Please distinguish your answer for water and sewer.

### Interrogatory No. 7

Please describe in detail the ability of Tapatio Springs to provide continuous adequate water and sewer utility services to the proposed area.

### Interrogatory No. 8

Please describe in detail the financial, managerial and technical ability of Tapatio Springs to provide continuous and adequate water and sewer utility services to the proposed area. Please distinguish your answer for water and sewer.

Interrogatory No. 9

Please describe the amount and type of all initial and long-term facility costs that will be passed on to customers in the proposed area if Tapatio Springs becomes the service provider for the proposed area. Please distinguish your answer for water and sewer.

Interrogatory No.10

Please describe the probable improvement in service or lowering of costs to consumers in the area proposed by Tapatio Springs if Tapatio Springs becomes the service provider for the proposed area. Include historical data concerning sewer service reliability, historical water quality, and current and projected costs to consumers in the proposed area. Please distinguish your answer for water and sewer.

Interrogatory No. 11

Please describe the water system and wastewater treatment plant which you believe are in place and adequate to provide service to the Tapatio Springs's requested service area. Provide a listing of the capacities of each component of the system, i.e., well(including capacity in gallons per day), storage tanks, pressure tanks, pumps, distribution system with the size and quantity of waterline, treatment plant (including capacity in gallons per day ), feet of lines of a given diameter, lift stations pumps and their rated capacities, treatment plants and their capacities not already used to meet peak demands of your existing customers and/or customers you are already committed to serve. Provide a map or diagram showing the location of each component of this water and wastewater system and its relation ship to the requested service area. Please distinguish your answer for water and sewer.

Interrogatory No. 12

Please describe the proximity of the area covered by Tapatio Springs's application to any existing facilities currently operated by Tapatio Springs or to any facilities Tapatio Springs proposes to construct. Please distinguish your answer for water and sewer.

Interrogatory No. 13

If there are no requests for service in portions of the Tapatio Springs's proposed areas and no current customers, please describe in detail the need for service in the proposed area. Please distinguish your answer for water and sewer.

Interrogatory No. 14

Please describe in detail any effects on the land to be included in the certificated area if the Commission approves the Tapatio Springs's water and sewer CCN applications. Please distinguish your answer for water and sewer.

Interrogatory No. 15

Please describe in detail any effects on environmental integrity if the Commission approves the Tapatio Springs's water and sewer CCN applications. Please distinguish your answer for water and sewer.

Interrogatory No. 16

Please describe in detail how Tapatio Springs will be able to provide the sewer utility service in the case if your Discharge Permit application will not go through or permit will not issued to Tapatio Springs by the TCEQ.

Interrogatory No. 17

Please describe in detail any service agreement that Tapatio Springs have with any other utilities to provide water and sewer services in the proposed area. Please distinguish your answer for water and sewer.

**V. REQUESTS FOR PRODUCTION**

Production Request No. 1

Please provide documents to identify that there is a need for service in the proposed area, including but not limited to request for service letters from any customer, entity, developer etc. Also, identify the people or entity requesting service from Tapatio Springs including, name, address, contact phone number etc.

Production Request No. 2

Please provide map(s) of all water and wastewater facilities currently in place in or within two miles of the requested service area for Tapatio Springs.

Production Request No. 3

Please provide a copy of the map of proposed area showing location of people requesting service in the proposed area.

Production Request No. 4

Please provide a copy of the customer complaint record showing all the water or sewer utility services complaints that Tapatio Springs has received from its customers in the past year.

Production Request No. 5

Please provide Engineering Report indicating Tapatio Springs's existing water capacity, how much capacity is needed to serve entire proposed area, how much capacity you have in reserve and how you plan to obtain the remaining capacity to provide continuous and adequate water service in the proposed area.

Production Request No. 6

Please provide Engineering Report indicating Tapatio Springs's existing sewer capacity, how much capacity is need to serve entire proposed area, how much capacity you have in reserve and how you get the remaining capacity to provide continuous and adequate sewer service in the proposed area.

Production Request No. 7

Please provide the copy of service contract between Tapatio Springs and any other utilities, if any.

Production Request No. 8

Please provide all the documents related in answering Interrogatories 1-17.

Production Request No. 9

Please provide copies of sealed engineer's plans and specifications, or engineer's report, including an estimate of the cost of facilities necessary to provide service, whether those facilities will be "phased," and a timeline of capital investment.

Production Request No. 10

Please provide projections of the expected pace of connections, related revenues and expenses, to determine how far negative cash flow is expected to go, before turning positive.

Production Request No. 11

A letter dated January 20, 2006 from B & D Environmental, Inc., stated that an "affiliated company" would provide a letter indicating its understanding of deferred repayment on notes until cash flow for the utility is positive. Please provide the letter, and demonstrate that the affiliated company has acknowledged financial obligation for construction of the additional utility facility.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Glenn Shankle, Executive Director

Robert Martinez, Acting Director  
Environmental Law Division

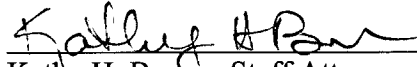
By: Kathy H. Brown  
Kathy H. Brown Staff Attorney  
State Bar No. 24037667  
P.O. Box 13087, MC-173  
Austin, Texas 78711-3087  
(512) 239-3417  
(512) 239-0606 (Fax)

ATTORNEY FOR  
THE EXECUTIVE DIRECTOR



**CERTIFICATE OF SERVICE**

I certify that on February 24, 2006, the “**Executive Director’s First Request For Disclosure, Interrogatories & Production to Tapatio Springs Service Company, Inc.**” was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk and was sent via U.S. Postal Service (first-class) to everyone on the attached mailing list.



---

Kathy H. Brown, Staff Attorney  
Environmental Law Division  
State Bar No. 24006911

**MAILING LIST**  
**TAPATIO SPRINGS SERVICE COMPANY, INC.**  
**SOAH DOCKET NO. 582-06-0425**  
**TCEQ DOCKET NO. 2005-1516-UCR**

FOR THE APPLICANT

Patrick Lindner  
Attorney at Law  
7550 IH-10 West, Northwest Center  
Suite 800  
San Antonio, TX 78229  
210-349-6484  
210-349-0041 FAX

FOR THE EXECUTIVE DIRECTOR:

Kathy H. Brown  
Staff Attorney  
Environmental Law Division, MC-173  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, TX 78711-3087  
512-239-3417  
512-239-0606 FAX

FOR THE CHIEF CLERK:

LaDonna Castañuela  
Office of the Chief Clerk, MC-105  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, TX 78711-3087  
512-239-3300  
512-239-3311 FAX

FOR THE PUBLIC INTEREST  
COUNSEL:

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Assistant Public Interest Counsel, MC-103  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, TX 78711-3087  
512-239-6361  
512-239-6377 FAX

FOR THE RATEPAYERS:

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830-537-6041 FAX

Elizabeth R. Martin  
Attorney at Law  
P. O. Box 1764  
106 W. Blanco, Suite 206  
Boerne, TX 78006  
830-816-8686  
830-816-8282 FAX

FOR RANGER CREEK HOA

Eric Sherer  
Attorney at Law  
1124 Wurzbach Road, Suite 100  
San Antonio, TX 78130  
210-696-9730  
210-696-9675 FAX

SOAH DOCKET NO. 582-06-0425  
TCEQ DOCKET NO. 2005-1516-UCR

APPLICATION OF TAPATIO § BEFORE THE STATE OFFICE  
SPRINGS SERVICE COMPANY, INC. §  
TO AMEND CERTIFICATES OF § OF  
CONVENIENCE AND NECESSITY §  
NOS. 12122 AND 20698 IN KENDALL § ADMINISTRATIVE HEARINGS  
COUNTY, TEXAS §

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EXECUTIVE DIRECTOR'S FIRST INTERROGATORIES  
AND REQUEST FOR PRODUCTION  
TO RATEPAYERS

---

TO: Ratepayers, by and through their attorney of record, Elizabeth R. Martin, P. O. Box 1764,  
106 W. Blanco, Suite 206, Boerne, Texas 78006

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 and interrogatories and to produce documents, as the case may be, responsive to the requests. 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 Kathy Brown, Staff Attorney, Environmental Law Division, MC 173, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, by 30 days after service of this request.

**I. DEFINITIONS**

As used herein, the terms "you," "your," or "yourself," refer to Ratepayers, 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, and each person acting or purporting to act 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, or which has been, but is no longer, 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 residential 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.

TCEQ

“TCEQ” means the Texas Commission on Environmental Quality.

**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 166(b) 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 (c),(e), & (f).

#### **IV. INTERROGATORIES**

**Interrogatory No. 1**

Please explain why you believe that Tapatio Springs cannot provide water and sewer services faster and cheaper to the entire proposed area than existing utilities in the proximate area.

**Interrogatory No. 2**

Please describe in detail why you believe that Tapatio Springs is not providing continuous adequate water and or sewer utility services to its existing customers in its existing CCN area.

**Interrogatory No. 3**

Please describe in detail why you believe that Tapatio Springs cannot providing continuous adequate water and or sewer utility services to its existing customers in its proposed CCN area.

**Interrogatory No. 4**

Please describe in detail why you believe that Tapatio Springs does not have the financial, managerial and technical ability to provide continuous and adequate water and sewer utility services to the proposed area.

**Interrogatory No. 5**

Please describe in detail the need for water and sewer utility services in the proposed area.

**Interrogatory No. 6**

Please describe in detail any adverse effects on you if the Commission approves the Tapatio Springs's water and sewer CCN applications.

#### **V. REQUESTS FOR PRODUCTION**

**Production Request No. 1**

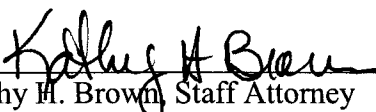
Please provide all the documents related in answering Interrogatories 1-6.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Glenn Shankle, Executive Director

Robert Martinez, Acting Director  
Environmental Law Division

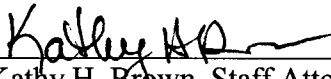
By:   
Kathy M. Brown, Staff Attorney  
State Bar No. 24037667  
P.O. Box 13087, MC-173  
Austin, Texas 78711-3087  
(512) 239-3417  
(512) 239-0606 (Fax)

ATTORNEY FOR  
THE EXECUTIVE DIRECTOR



**CERTIFICATE OF SERVICE**

I certify that on February 24, 2006, the “**Executive Director’s First Request For Disclosure, Interrogatories & Production to Ratepayers**” was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk and was sent via U.S. Postal Service (first-class) to everyone on the attached mailing list.

  
\_\_\_\_\_  
Kathy H. Brown, Staff Attorney  
Environmental Law Division  
State Bar No. 24006911

**MAILING LIST**  
**TAPATIO SPRINGS SERVICE COMPANY, INC.**  
**SOAH DOCKET NO. 582-06-0425**  
**TCEQ DOCKET NO. 2005-1516-UCR**

FOR THE APPLICANT

Patrick Lindner  
Attorney at Law  
7550 IH-10 West, Northwest Center  
Suite 800  
San Antonio, TX 78229  
210-349-6484  
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FOR THE EXECUTIVE DIRECTOR:

Kathy H. Brown  
Staff Attorney  
Environmental Law Division, MC-173  
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FOR THE CHIEF CLERK:

LaDonna Castañuela  
Office of the Chief Clerk, MC-105  
Texas Commission on Environmental Quality  
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FOR THE PUBLIC INTEREST  
COUNSEL:

Mary Alice Boehm-McKaughan  
Assistant Public Interest Counsel, MC-103  
Texas Commission on Environmental Quality  
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Austin, TX 78711-3087  
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FOR THE RATEPAYERS:

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Attorney at Law  
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**SOAH DOCKET NO. 582-06-0425  
TCEQ DOCKET NO. 2005-1516-UCR**

**APPLICATION OF TAPATIO SPRINGS § BEFORE THE STATE OFFICE  
SERVICE COMPANY, INC., §  
TO AMEND CERTIFICATES § OF  
OF CONVENIENCE AND NECESSITY §  
NOS. 12122 AND 20698 IN KENDALL § ADMINISTRATIVE HEARINGS  
COUNTY, TEXAS §**

**ORDER NO. 2  
ACCEPTING MOTION TO WITHDRAW**

Under Order No. 1 in the captioned matter, ratepayers represented by Al Hamilton, Attorney, (and including Mr. Hamilton himself) were accorded provisional status as parties, subject to Mr. Hamilton's providing the ALJ a final, comprehensive list of such persons. However, on February 17, 2006, Mr. Hamilton submitted to the State Office of Administrative Hearings ("SOAH") a "Motion to Withdraw," stating that he and the ratepayers he represents now seek to withdraw from the proceedings and declare their support for the pending application.

Based upon the pleadings, the Administrative Law Judge ("ALJ") concludes that the motion should be accepted and the movants removed as parties or provisional parties to this proceeding. The ALJ will also remove Mr. Hamilton from the mailing list.

**PROCEDURAL QUESTIONS**

Routine procedural and logistical questions may be directed to Rita McBride at (512) 475-3419; however, please note that SOAH support personnel are not authorized to provide general advice or the interpretation of regulations or policy.

**SIGNED February 17, 2006.**

*Mike Rogan*  
\_\_\_\_\_  
**MIKE ROGAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**WILLIAM P. CLEMENTS BUILDING, Jr.**

**300 West Fifteenth Street**

**Austin, Texas 78701**

**Phone (512) 475-4993**

**Facsimile (512) 475-4994**

**SERVICE LIST**

**AGENCY: TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)**

**STYLE/CASE: TAPATIO SPRINGS SERVICE CO, INC**

**SOAH DOCKET NUMBER: 582-06-0425**

**REFERRING AGENCY CASE: 2005-1516-UCR**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**ADMINISTRATIVE LAW JUDGE**

**ALJ MIKE ROGAN**

**PARTIES**

**REPRESENTATIVE / ADDRESS**

**RATEPAYERS**

**ELIZABETH R. MARTIN  
ATTORNEY AT LAW  
P. O. BOX 1764  
BOERNE, TX 78006  
(830) 816-8686 (PH)  
(830) 816-8282 (FAX)**

**RATEPAYERS**

**AL HAMILTON  
ATTORNEY AT LAW  
301 EAGLE DRIVE  
BOERNE, TX 78006  
(830) 537-6001 (PH)  
(830) 537-6041 (FAX)**

**RANGER CREEK HOA**

**ERIC SHERER  
ATTORNEY AT LAW  
11124 WURZBACH RD  
SAN ANTONIO, TX 78230  
(210) 696-9730 (PH)  
(210) 696-9675 (FAX)**

TCEQ PUBLIC INTEREST COUNCIL

MARY ALICE BOEHM-MCKAUGHIAN  
STAFF ATTORNEY  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICE OF PUBLIC INTEREST COUNSEL  
P.O. BOX 13087 MC-175  
AUSTIN, TX 78711-3087  
(512) 239-6361 (PH)  
(512) 239-6377 (FAX)

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

KATHY H BROWN  
STAFF ATTORNEY  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ENVIRONMENTAL LAW DIVISION  
P.O. BOX 13087 MC-173  
AUSTIN, TX 78711-3087  
(512) 239-3417 (PH)  
(512) 239-0606 (FAX)

TAPATIO SPRINGS SERVICE CO.

PATRICK LINDNER  
ATTORNEY  
7550 IH-10 WEST, NORTHWEST CENTER SUITE 800  
SAN ANTONIO, TX 78229  
(210) 349-6484 (PH)  
(210) 349-0041 (FAX)

---

cc: Docket Clerk State Office of Administrative Hearings

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**WILLIAM P. CLEMENTS BUILDING, Jr.**

**300 West Fifteenth Street**

**Austin, Texas 78701**

**Phone (512) 475-4993**

**Facsimile (512) 475-4994**

DATE 02/17/2006

NUMBER OF PAGES INCLUDING THIS COVER SHEET 4

REGARDING ORDER NO. 2 ACCEPTING MOTION TO WITHDRAW

DOCKET NUMBER 582 06-0425

FROM JUDGE MIKE ROGAN

FAX TO:

FAX TO:

AL HAMILTON

(830) 537-6041

ELIZABETH R. MARTIN

(830) 816-8282

ERIC SHERER

(210) 696-9675

KATHY H. BROWN (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)

(512) 239-0606

MARY ALICE BOEHM-MCKAUGHAN (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)

(512) 239-6377

PATRICK LINDNER

(210) 349-0041

**TCEQ Docket Clerk, Fax Number 512/239-3311**

**NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT SUSAN BRYSON(sbr) AT 512 475-4993**

The information contained in this facsimile message is privileged and confidential information intended only for the use of the above-named recipient(s) or the individual or agent responsible to deliver it 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 immediately notify us by telephone, and return the original message to us at the address via the U.S. Postal Service. Thank you.

02/17/2006

**KENDALL COUNTY DEVELOPMENT COMPANY**

P. O. Box 550, Boerne, Texas 78006

Office: (830) 537-5542

Fax: (830) 537-5756

**January 25, 2006**

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

**Dear Sir or Madam:**

**Please accept this letter as confirmation that we agree to accept payments out of cash flow from Kendall County Utility Co, Inc. on the loan made on February 1, 2000 in the amount of \$1.2 million dollars with interest at 9%.**

**It is further understood that any monthly unpaid balance will be added to the principle of the loan. The entire loan becomes due and payable in June 30, 2036.**

**Sincerely,**



**John J. Parker, Jr.  
Partner**



Bank of America



August 12, 2005

B& D Environmental  
P.O. Box 90544  
Austin, Texas 78709-0544  
Attn: Mr. Nichols

Bank of America  
Private Bank  
115-4116 Blvd  
1001 East Atlantic Avenue  
Orlando Beach, FL 32828

Tel: 561-279-2670  
561-279-6775  
Fax: 561-279-1225

Re: Application to amend Certificate of Convenience and Necessity  
Nos. 12122 and 20698 filed with the Texas Commission on  
Environmental Quality to provide water and sewer utility service  
to approximately 5,000 acres in Kendall County, Texas.

Dear Mr. Nichols:

Please be advised that CDS International Holdings, Inc. ("CDS") and CDS  
Texas Realty LTD (an affiliate of CDS) are long standing customers of Bank  
of America with all accounts handled in a satisfactory manner.

CDS currently has unrestricted funds available in the low seven figure  
amount which can be provided for construction and infrastructure  
improvements pursuant to the certain Non-Standard Service Agreement by  
and between CDS and Tapatio Springs Service Company, Inc.

Should a letter of credit or a specific loan be required to accomplish these  
improvements, the Bank would most likely consider such a request.

Please contact me at (561) 279-7638 if you require any additional  
information.

Sincerely,

Joseph Silk  
Senior Vice President

EXHIBIT

4

**TEXAS COMMISSION  
ON ENVIRONMENTAL QUALITY**

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**TRANSMITTAL OF ADMINISTRATIVE RECORD**

**DATE:** December 28, 2005

**TO:** SOAH Natural Resources Docket Clerk

**FROM:** ~~S~~Steve Brachel, Final Documents Team

**RE:** Tapatio Springs Services Company, Inc.; Application Nos. 34932-C and 34933-C  
SOAH Docket No. 582-06-0425; TCEQ Docket No. 2005-1516-UCR

Pursuant to 30 TAC § 80.6(b)(4) regarding referrals to SOAH, a copy of the Chief Clerk's case file is attached. Please find **certified** copies of the following documents:

- 1. the application;
- 2. public hearing notice and Chief Clerk's affidavit

If any of these documents are not included as enclosures with this memo, please notify Steve Brachel at (512) 239-2207 or Deanna Avalos, Final Documents Team Leader at (512) 239-3327.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

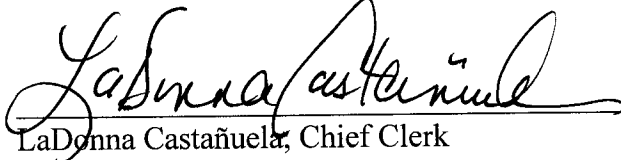


STATE OF TEXAS §

COUNTY OF TRAVIS §

I, LaDonna Castañuela, Chief Clerk of the Texas Commission on Environmental Quality, do hereby certify that the attached mailing list provides the persons to whom the notice of the public hearing for Tapatio Springs Services Company, Inc., SOAH Docket No.582-06-0425, TCEQ Docket No. 2005-1516-UCR, was mailed on December 27, 2005.

Given under my hand and the seal of the Texas Commission on Environmental Quality, this the 27<sup>th</sup> day of December, 2005.

  
\_\_\_\_\_  
LaDonna Castañuela, Chief Clerk  
Texas Commission on Environmental Quality

(SEAL)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**NOTICE OF HEARING**  
**TAPATIO SPRINGS SERVICES COMPANY, INC.**  
**SOAH Docket No. 582-06-0425**  
**TCEQ Docket No. 2005-1516-UCR**

**APPLICATION.** Tapatio Springs Services Company, Inc., P.O. Box 1335, Boerne, Texas 78006, has applied with the Texas Commission on Environmental Quality (TCEQ) to amend Water Certificate of Convenience and Necessity (CCN) No. 12122 and Sewer CCN No. 20698 in Kendall County, Texas (Application Nos. 34932-C and 34933-C).

**CONTESTED CASE HEARING.** The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing on this application at:

**10:00 a.m. - January 24, 2006**  
**William P. Clements Building**  
**300 West 15<sup>th</sup> Street, 4<sup>th</sup> Floor**  
**Austin, Texas 78701**

The hearing will be a legal proceeding similar to a civil trial in state district court. The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 13, Texas Water Code; TCEQ rules, including 30 Texas Administrative Code (TAC) Chapter 291; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. To participate in the hearing as a party, you must attend the hearing and show you would be affected by the petition in a way not common to members of the general public.

**INFORMATION.** For information concerning the hearing process, please contact the TCEQ Office of the Public Interest Counsel (MC 103), P.O. Box 13087, Austin, TX 78711-3087. For additional information, contact the TCEQ Water Supply Division, Utilities & Districts Section (MC 153), P.O. Box 13087, Austin, TX 78711-3087, telephone 512-239-4691. General information regarding the TCEQ can be found at our web site at [www.TCEQ.state.tx.us](http://www.TCEQ.state.tx.us).

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the SOAH Docketing Department at 512-475-3445, at least one week prior to the hearing.

Issued: December 27, 2005

A handwritten signature in black ink, reading "LaDonna Castañuela".

LaDonna Castañuela, Chief Clerk  
Texas Commission on Environmental Quality

**MAILING LIST**  
**Tapatio Springs Services Company, Inc.**  
**SOAH Docket No. 582-06-0425**  
**TCEQ Docket No. 2005-1516-UCR**

Darrell Nichols  
B & D Environmental, Inc.  
P.O. Box 90544  
Austin, Texas 78709

Michael G. Mann, Director of Public Works  
City of Boerne  
P.O. Box 1677  
Boerne, Texas 78006

Richard E. Haas  
436 Paradise Point  
Boerne, Texas 78006-9402

Andrew J. Calvert  
108 Jack Rabbit Circle  
Boerne, Texas 78006

Al Hamilton  
301 Eagle Drive  
Boerne, Texas 78006

Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

Christie Walters, Staff Attorney, Environmental Law Division (MC 173)  
Kamal Adhikari, Technical Staff, Water Supply Division, Utilities & Districts Section  
(MC 153)  
Blas Coy, Office of Public Interest Counsel (MC 103)

**STATE OFFICE OF ADMINISTRATIVE HEARINGS  
300 WEST 15TH STREET, STE. 502  
AUSTIN, TEXAS 78701  
(512) 475-4993  
FAX (512) 475-4994  
DOCKET (512) 475-3445**

**CONFIRMATION OF REQUEST TO DOCKET CASE**

TO: IRMA SALAZAR  
TX COMM ON ENVIRONMENTAL QUALITY  
VIA FACSIMILE 239-3311

FROM: NATALIE HOWARD  
DEPUTY CLERK

DATE: October 31, 2005

RE: SETTINGS OF HEARING(S)

CLERK'S OFFICE  
OCT 31 2005 11:10

At your request, the following hearing(s) have been set:

<u>Docket Number</u>	<u>Case</u>	<u>Date</u>	<u>Time</u>	<u>Hearing Location</u>
582-06-0424 2005-1592-UCR	Old Tamina Water	01/24/06	10:00 am	<u>William P. Clements Bldg 300 West 15<sup>th</sup> Street 4<sup>th</sup> Floor Austin, Texas 78701</u>
582-06-0425 2005-1516-UCR	Tapatio Springs	01/24/06	10:00 am	<u>same as above</u>

Administrative law judge(s) will be assigned at a later date.

All parties will be notified in the event of a change of location of the hearing.

Please remember that you are responsible for providing the court reporter as required by your agency.

If you have any questions regarding any of the information herein, please call.