

Comments on Attachment F – Certified Copy of Most Recent Capacity

This contract was signed over three years ago with the GBRA. It is highly questionable that bringing Canyon Lake water to Tapatio is for the benefit of the ratepayers. Clearly it benefits Tapatio Development Company and their developer affiliates (CDS in particular).

### Comments on Financial Statements (Attachment G)

#### General Comments:

1. The financial statements indicate the business is very close to insolvency. Financial ratios (see below) clearly show problem areas.
2. The financial statements do not meet generally accepted accounting procedures.
3. The accumulated depreciation is 90+ percent of the fixed assets. Since a large number of the fixed assets are less than 5 years old, this indicates the assets have been improperly depreciated. Depreciation is used to reduce federal income taxes and an added factor in the rates charged to ratepayers. It is highly probable the utility has filed a fraudulent income tax return, and improperly charged the ratepayers for excessive depreciation.
4. "Inter-company transfers" are obvious conflicts of interest, and a direct violation of the fiduciary relationship with the ratepayers. Transfers, borrowings and loans to Tapatio Springs Development Company, Tapatio Springs Resort, and Kendall County Utilities are improper and possibly illegal.
5. It is questionable that the long-term loan to Clyde Smith had anything to do with the Utility. If this is true, the utility has been improperly encumbered with debt.
6. The interest expense is over 25% of all expenses. The interest rate amounts to over 20% on all debt currently incurred. The ratepayers are having to pay this usurious interest rate on debt that most likely is not for the benefit of the utility.
7. General Administration Costs for payroll, salaries, draws, and bonuses, etc., are not indicated in the expense statement. The only reason to hide this important information is because it was excessive.

#### Key Financial Ratios:

1. Current Ratio (Acid Test) - .085 - Indicates inability to satisfy short-term debt.
2. Debt to Equity Ratio - 2.8 - Indicates heavy reliance upon debt - particularly long-term. Enron at its worst period had a 2.7!
3. Debt to Total Assets - 3.6 - a .65 ratio indicates excessive debt on assets; this is over 5 times that threshold.

MEMORANDUM  
September 29, 2005

In July of this year, you signed a document appointing me to represent you in connection with an application made to the Texas Commission on Environmental Quality Water Supply Division by our supplier of water and sewer services, Tapatio Springs Service Company, Inc. The application was to amend the CCN to permit it to furnish water and sewer services to a new proposed 5,000 acre subdivision adjoining Tapatio Springs, and no rate increase was covered.

A request for a hearing was made in your behalf on July 12, 2005.

An informal committee composed of Bill Weidler, Andy Calvert, Fred Clark, Dick Haas, Dennis Juren, Walter Trapp, and Travis Cannon was formed in order to assist me in evaluating the positions we felt were most advantageous to the well being of our community.

Working with the officers and directors of the utility company, we requested and were furnished substantial information about the operations and financial affairs of the company.

The results of these discussions are as follows:

1. Tapatio Springs Service Company, Inc. will be merged into Kendall County Utility Co. to form a larger and more financially sound company.
2. The agreement to furnish water and sewer services to the new 5,000 acre development next door was amended to clear some ambiguities and protect us as rate payers.
3. Approximately \$2,000,000 has been paid into the two companies, and Clyde Smith's notes have been fully paid.

As a result of our efforts, we believe we have successfully accomplished a stronger utility which has under contract adequate water supplies for many years in the future. Therefore, the hearing request will be withdrawn; however, this will not prevent us from filing a rate protest in the future, if appropriate.

We appreciate your confidence in our small group and the cooperation of the officers and directors of Tapatio Springs Services Co. and Kendall County Utility Co.

If anyone has any questions, please contact me or any of the persons listed above.

Al Hamilton

M092905

## TCEQ PRESENTATION

January 22, 2006

1. Introduction: Richard E. Haas living at 436 Paradise Point, Boerne, Texas 78006. Moved to Tapatio Springs on August 1, 2002 and built present home, moving in on March 1, 2003.
2. Initially involved with the move by Tapatio Springs Service Company (TSSC) to obtain a pass-through cost increase application for water and sewer assessments – that application was rejected by TCEQ as not qualifying as a pass-through but in fact a rate increase. The basis for this request was the obtaining of Guadalupe-Blanco River Authority (GBRA) supplied Canyon Lake
3. With the application by TSSC to Amend their Water and Sewer Certificate of Convenience and Necessity (CCN) to provide water and sewer services for a 5000-acre area that had been recently purchased by CDS International, got involved reviewing the application including the contracts between TSSC and CDS as well as TSSC and GBRA. The contract with CDS signed in September 2004 contained many clauses that permitted CDS to withdraw from the contract with the liability for payment falling on TSSC and subsequently the ratepayers. At this point, TSSC was maintaining that the GBRA water was necessary for the welfare of the present ratepayers and therefore it was in their best interests not to protest the Application. After considering the possible ramifications, I filed a protest with the TCEQ on July 14, 2005 opposing the proposed Amendment to the TSSC CCN.
4. While examining the financial statements that we submitted to the TCEQ as part of the Application, many irregularities became apparent. Even though, the documents were labeled “Unaudited – For Management Purposes Only”, they seem to be contrary to appropriate accounting principles and after further investigation in violation of the Texas Water Code Sec. 13.303. “LOANS TO STOCKHOLDERS: REPORT. A utility may not loan money, stocks, bonds, notes, or other evidences of indebtedness to any corporation or person owning or holding directly or indirectly any stock of the utility unless the utility reports the transaction to the commission within 60 days after the date of the transaction.” The Balance Sheet of December 31, 2004 shows Accounts Payable to other Tapatio Springs corporations and Intercompany transfers within the TS family of companies including an apparent loan of \$357,153 to the Tapatio Springs Development Corporation, none of the entries have shown to be paying interest of the monies. In the Long-Term Liabilities, there is shown an outstanding balance of \$905,194 to Clyde B. Smith which was incurring interest costs at a rate of 6% per year which were being paid by TSSC as shown in the Income Statement. At this point several documents were requested of TSSC regarding the financial status of the company as well as the background reflecting the A/P and I/C entries, while obtaining more current financial statements for the months of June,

July and August, the same equivocation of "Unaudited – For management purposes only" appeared on each of the statements and no supporting documents were provided for the questioned entries.

5. After obtaining the required annual reports made to the TCEQ , it was noted that the Loss Factor for TSSC was between 15 and 20% each year which means that for every 5-6 gallons produced, one gallon is lost and not billed. With about 32 million gallons of water being produced for TSSC, between 4,000,000 and 6,500,000 gallons are being lost annually. A comparable Loss rate for KCUC was approximately 8%.
6. Although a merger between TSSC and KCUC was originated as per the request of the concerned TSSC ratepayers, no audited financial statements have ever been provided and although an amended Contract for the TSSC/CDS relationship has been drafted, when asked, we have been told that it has not been signed by both parties.
7. In August TSSC commissioned an engineering firm to conduct a Water Supply Analysis which was submitted to the TCEQ in October. This analysis clearly shows that the current production from TSSC/KCUC wells have the capacity to provide the required peak load of 0.6 gpm for 1405 connections and yet the total number of connections serviced is less than 800 between the two service areas. Even if the reduction of 25% in 10 years assumed in the study is correct, the total number of connections capable of being serviced is 1050. In March and July, TSSC told the ratepayers that they were running out of water and would need to fund the pipeline to provide GBRA water to the company.
8. The TSSC/GBRA contract has financial obligations that have already been accumulating for bond service and water reservation fees on 500 Ac-Ft/yr and as of January 1<sup>st</sup> this year, a charge for 150 Ac-Ft/ year delivery that cannot be delivered as there is no pipeline. Although an additional 250 Ac-Ft/yr reservation was signed in July 2005, the construction of a pipeline has failed to be started and it is not known whether the right-of-ways necessary for the construction have even been obtained.
9. When the pipeline and ten additional wells that are supposed to service only peak loads are completed, the amount of water available for each connection will have been reduced from 1.7 Ac-Ft/yr that is situation for the present ratepayer to 0.89 Ac-Ft/yr when the projected service area of 3350 connections is completed.
10. In light of the obligations incurred by TSSC, the gross loss rate of the important natural resource, water, and the apparent money-shifting being conducted in violation of the Texas Water Code, it is requested that the State of Texas conduct both a managerial and a financial audit of the operations of this retail public utility before it has to become the supervisor of what may well be a bankruptcy proceeding.

1/24/06

N012406

## Presentation Notes

### STANDING

1. Introduction – Establish Standing

### PROBLEM

2. Conflict of Interest resulting in Exploitation of Ratepayers  
(Utility owners also own resort, Development Company and real estate Company)
  - Inequitable Rates slanted to benefit the resort  
**Violation of TAC 13.189:** “utility may not make ... any unreasonable preference or advantage ..... to any unreasonable prejudice or disadvantage.”
  - Used financial resources of utility for Development Company and resort. Loans to resort and to development company not reported to TCEQ –  
**Violation of TAC 13.303** “a utility may not loan money, stocks, bonds ..... unless the utility reports the transaction to the commission withing 60 days after the date of the transaction”
  - Dishonesty: Using scare tactics placing ratepayers under duress (running out of water, customer will drill 800 wells draining the aquifer)

### RESULTS

3. Poorly Managed
  - Water Loss steadily over 15% -TCEQ publication states anything over 15% “requires immediate attention and corrective action.”
  - Financial statements indicate insolvency. (Debt to equity 2.7%)
4. Contract with CDS places utility at financial risk and water resources at risk.
5. Leading to poor service

N012406

START PATRIC AC TAMIS BILL BICKER MURK  
SCOTT, LINDNER, HAMILTON, CARSON, WEIDLER, NICHOLS, SAMUELZ

1/20/02

MURKIN, HAAS, CALVERT, CASE, SHERCK

ACT

M. ROGAN

ICE  
ADAM  
ADAM

MARCO ALICE  
MPC COLON

ESSE  
HENDRICKSON  
SOUTHER

STANLEY  
LAWRENCE

Kathy Brown

PUBLIC INTERESTS  
COUNCIL

Jurisdiction - approved notice

Something - argues that CDS are the only affected parties  
discovered by Judge Missing P. 1. 2 - 291.3 (defunct not affected version)

Hamilton - wants to be a party - wants to withdraw his withdrawal

London - threatened lawsuit against Hamilton & defendants

Provisional status granted to Hamilton

Shaw - Kluon was to be represented. Their witnesses are affected.  
Entered 10/1/02 from Derrick Nichols.

Provisionally denied party status, Brief required in one month  
7/6-7/7 - heavy on the merits

8/23 - copy of exhibits

1/16 - all discovery \* depositions done

For 6/2 ED pre-trial

5/19 - 11

4/25 -

3/25 - with discovery ends 30 day response to discovery

3 - Discovery Begins

6

N012406

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N 012306



Questions for Interested Parties

- TSSC administration
  - Management - Who are the owners of TSSC (Share holders + %)
  - Organization structure
- Describe Tapatio Springs Service Company, Inc affiliations with:
  - Kendall County Utility Company, Inc.
  - Tapatio Springs Development Company, Inc.
  - Tapatio Springs Golf Resort, Inc.
  - Tapatio Springs Real Estate Holdings, L.P.
  - Tapatio Springs Builders, Inc.
  - Kendall County Development Company, L.P.
  - Country Club Management Group, Inc.
  - CDS International Holdings, Inc.
  - CDS Bandera Realty
  - CDS Texas Realty
  - Mountain View at Tapatio, L.P.
  - Lynzara-Austin Real Estate Management South, LLC
  - Lynzara-Austin Real Estate Management, LLC
- Specific questions regarding financial condition:
  - Loans to and from affiliates (supporting documents)
    - Loans from CDS (supporting documents) - After not receiving sewer
    - Loans from others
  - Loans to Owners/Management including Draws - A/d not b, ting for sprinklers
  - Basis behind 10,000 shares collateral for KCUC - Substantly A/d not b, ting for sprinklers
  - Budget and all financial statements produced for the past five years
  - Automated financial records for past five years (Peach Tree) - what
- Specific questions regarding Operations (both water and sewer):
  - Stan Smith to explain cause of water loss for past 5 years and why there hasn't been corrective action taken.
  - Provide all Preventive maintenance records
  - Provide Repair records
  - Provide Complaint reports
  - Provide Capital improvement records
  - Provide Master plan if any
- Specific questions of Consultant (Darrell Nichols)
  - Requirement of GBRA water (basis) 500 acre-feet.
  - Explain why is GBRA water a more reliable source that the Trinity Aquifer.

9012706

- Specific questions for engineer
  - August Report (detailed explanation)
  - Engineering alternatives for pipeline
  - Cost Estimates
  - Time estimates
  - Will final build out make less water available to existing customers?

✓ □ Communication

- All memorandums, letters, email and contracts between:
  - CDS management and employees,
  - TSSC/KCUC management and employees,
  - City of Boerne
  - Al Hamilton,
  - George Mendez (EPA),
  - Any other party consulted with regarding any aspect of the expansion.

□ Questions of lender

- Why hasn't he... ..
- 

□ Questions of EPA

- Was was the... ..
- Is proper... ..
- Status of... ..

**DATE:** February 1, 2006

**SUBJECT:** Conversation with Councilman John B. Moring Jr.

I spoke with Councilman Moring regarding the TSSC/KCUC request to wheel GBRA water through the City of Boerne.

Councilman Moring said that he doubted very seriously that an agreement would be reached. He said the City of Boerne has historically been very protective of their water and infrastructure.

Councilman Moring ran the City of Boerne's Utilities for nearly 20 years and is intimately familiar with the groundwater in Kendall County. It was his opinion that the wells in Ranger Creek were very solid source as were the wells in Tapatio, because there are several Corp. of Engineer Dams surrounding these wells, which recharge the aquifer.

Councilman Moring said Ken Muller was the person who drilled the wells in the first place and he would be a very good resource for expert advice. He felt the best expert on groundwater in the County is John Schwope. He and his sons have probably drilled 60% of all the wells in the County.

Councilman Moring said that he doubted that the Parkers could get approval for the CCN expansion because of their financial condition. He is familiar with the TCEQ requirements and the Parker's lack of money.

NO 20106

N070105

7/17/2005

Comments on Application -

p. 6 - Date of last inspection 5/30/03 (W) 9/16/03 (WW)

p. 6 - Water & Wastewater is operating at less than 85% capacity.

p. 7 (F). - states ① additional customers will provide greater economies of scale. (Not Proven)

② provision of surface water will help protect ground water resources (How is this the case - Do you have authorization to obtain surface water for 1700 customers?)

N070105

Attachment G:

\* Debt to Equity - 1.3 BAP  
\* Quick Ratio 1.075 (insolvency)  
\* Current Level

Comments on Financial Statements

① Accumulated Depreciation is excessive! 91% of Assets!  
Depreciation is a factor in the rates

Balance Sheet

② Intercompany A/P

- Golf Resort 201,406.81 - why

- TS Dev (357,153.05) - Neg Liability >??

= KCLVC 42,500 - is this a loan to the developer? long term or what?

Needs audit there should be no mixing or movement between these companies. There is no such thing as an "inter-company".

③ Notes Payable:

KCLVC - 23,500

KLED - 42,000

> What are these? Inappropriate to mix funds.

④ Long Term Note

Clyde Smith 905,146 - what was the basis for this note - how is it related to the resort?

Expense Sheet

① Interest expense is 25% of all expenses? (24.46 current) no  
This amounts to 20% interest being charged on all liabilities!

② Where are the profit expenses? they need to be specifically identified.

Rate Schedule

Section 110 Pass thru Adjustments - has not been approved

Attachment B - Justification for Neco

This extension triples the existing service area.  
It is a highly risky venture that places current rate payers at risk - (unnecessary risk to ratepayers)

p2 (d) Developer can terminate agreement ~~400~~ days after "completion of plans"

p4 (c) Utility company shall reimburse Developer for additional costs attributable to oversizing

p4 (e) Is the 1.5 million sufficient for direct expenses of extension not located on Developer's property?

p4 (a) Has the BPA approved contract to supply 250 acre-foot per year. (250 acft is not sufficient for 1700 additional customers)

p7 (1st p3) If the facilities are oversized... Developer & Utility company will pay to BPA connection costs based upon capacity.

p7 (L) Extension must accommodate 1100 customers - but this may be oversized.

p7 (d) Utility Co agrees to cooperate in acquisition of water rights & public right of way.

p8 (g) Utility may pay cost of construction of road way

p8 (i) Utility must reimburse Developer -

p9 (1) 6" over Utility to use excess capacity for developer

### Attachment D

11/14/03 Violations were identified and a letter requested indicating corrective action to be taken. There was no letter provided following up on this. ~~Is utility~~ still in violation?

### Attachment E

12/17/03 Letter from Sta. Scott says they fixed two problems - I believe it needs to be re-inspected this was ~~two~~ 2 year ago & a follow up inspection was never conducted then.

### Attachment F

3/25/02 - The water company was encumbered/obligated by J5 Parker. There was no basis at that time or now to make the obligation.

## Liquidity Ratios

ACID TEST

$$\frac{23,474}{313,268} = .085$$

ability to satisfy  
short term debt.

CURRENT RATIO

Same

very bad!

## ASSET Management

Sales / Total Assets

$$\frac{228}{2590} = .088$$

low ratio indicates total assets  
are not providing adequate revenue

## Financial Leverage

LTD / Total Assets  
~~Debt~~ / Equity

$$\frac{905}{248} = 3.6$$

3.6 indicates  
assets ~~depressing~~ debt

$$\frac{1766}{617} = 2.8$$

2.8 extent to which  
business relies upon  
debt  
may SB 2.1 w/ 1/3 on LTD

## Profitability

GROSS PROFIT / Sales

$$\frac{228}{228} = 1$$

RETURN on Sales  $NI / \text{Total Assets}$

$$\frac{42}{245} = .17$$

RETURN on Equity  $NI / \text{Equity}$

$$\frac{42}{617} = .068$$

TX Administrative Code

Title 30, Part 1, Chapter 291, Sub Chapter D Rules §291.72

Every public utility



## Tapatio Springs Water Rates Compared with Surrounding Communities

Note: Tapatio currently has 128 5/8" Meters and 68 1" Meters

Community	Base Rate per Month	Gallons in Base	Monthly fee for Gallons Consumed					
			5,000	15,000	25,000	50,000	75,000	100,000
Tapatio-Current (5/8" Meter)	24.50	-	35.75	58.25	80.75	143.25	212.00	280.75
Tapatio-Proposed (5/8" Meter)	34.28	-	47.53	68.03	90.53	153.06	221.80	290.53
Tapatio-Current (1" Meter)	40.92	-	52.17	58.25	74.67	159.67	225.42	297.17
Tapatio-Proposed (1" Meter)	65.37	-	71.98	92.48	114.98	177.51	246.25	314.98
Fair Oaks-Current	22.00	6,000.00	22.00	39.10	58.10	133.10	295.60	520.60
Fair Oaks Proposed	32.00	6,000.00	32.00	57.65	86.15	198.65	423.65	723.65
Boerne	10.37	-	22.89	62.46	111.00	235.53	359.15	462.78
Bulverde	24.00	-	33.00	53.25	85.75	192.00	298.25	404.50
Ranger Creek	30.00	3,000.00	36.50	69.00	102.75	190.25	290.25	390.25

49%  
108%  
44%  
30%

Based upon normal usage of 5,000 gallons per month, Tapatio's rates are much higher than surrounding communities

Fair Oaks - 49% if you have a 5/8" Meter and 63% higher if you have a 1" Meter

Boerne - 108% higher if you have a 5/8" Meter and 128% higher if you have a 1" Meter

Bulverde - 44% higher for a 5/8" Meter and 58% higher if you have a 1"

Ranger Creek - 30% higher for a 5/8" Meter and 43% higher if you have a 1" Meter

N 040108

N070105-2

## COMMENTS/ QUESTIONS ON TSSC APPLICATION

P3 of 15-Cii- Copy of Corporation Charter to see what service area is covered by the initial application and any subsequent amendments.

P5 of 15 A – Is this not really a new System?

P6 of 15 – Existing System Information

B – No facility component is operating at 85% or greater? What are the various components operating at presently?

P7 of 15 – F – Applicant and its affiliate (KCUC)... - Details of affiliation requested.  
Is there some pass-through charge involved KCUC to TSSC? What is the relationship?

P7 of 15 – C Who are the 2 wholesale customers for the water system? Who are the 8 commercial customers for the sewer service?

P8 of 15 – FINANCIAL INFORMATION – A Why shouldn't this be the applicable section for the presentation of financial information? It is hard to understand how a jump from 173/207 to 1873/1907 users can be realistically expected on the same system. It would appear that the present users would be asked to foot the initial costs of preparing the delivery of water to a group 8 times larger than present now.

P8 of 15 – FIN INFO – B i. The P&L Statement and Balance Sheet are neither complete nor audited and make a mockery of this submission.

Bii The Rate Schedule for Water does not address the wholesale customer who at this point are nameless. Why should they not be involved in paying for the delivery of Canyon Lake treated water?

The Sewer Rate Schedule does not address the 8 commercial customers and their applicable rates.

\*NOTE – It would seem that this is a case where the imposition of the requirements contained in 6.A.i should be required in order that the staff can evaluate completely. ✓

P8 of 15 NOTICE REQUIREMENTS

A. Was the proposed notice form completed, submitted and written approval to publish granted? o/k

F. Did not find the second Notice in this week's Boerne Star. Has to be two consecutive weeks.

P9 of 15 Was the requirement for Commission written permission for publication issued indicating that the notice was complete and the application was accepted for filing.

N070105-2

## ATTACHMENT B- NON-STANDARD SERVICE AGREEMENT

P2 - 2.a. – Utility company responsible for acquiring any easements, rights-of-way and government approvals. Apparently this is from the Point of Delivery to the Property, however, this is one of the cases where the approximately 200 present customers are going to be required to provide the finances for the infrastructure for 1700 additional customers.

P3 – Top paragraph What is the definition of “after substantial completion”?

P4 – 5.d. – What “oversizing” is being envisioned? Again a chance to get the 200 to pay for additional servicing without even notifying them.

P4 – 5.e – Contradictory! Says max \$1.5M but then “all other costs borne by Utility Company”. Follows that if Developer chooses not to fund, the Utility company is under no obligation to fund any portion of the Developer’s share. What gives? The 1.5M should be bonded to protect the present customers and if the cost is to exceed that amount, the Developer should have to put the money up front.

P4 – 6.a.2 – Additional 250 acre-feet of water? This amounts to 81,462,750 gallons. Given about 80,000 gallons per household per year, this would supply 1018 households. What is TSSC’s figure for annual usage per residence?

P6 – 8.c. – What about the costs involved with the change of Point of Delivery? Is this part of the 1.5M max?

P7 – Top Paragraph – The “oversizing” again arises and no notice regarding these additional costs is mentioned in the published legal notice.

P7 – d. – Who pays for the wells? Who owns the wells and related facilities? Who would pay for any “additional easements or rights of way outside the property?”

P7 – e. – This paragraph would allow the Developer to walk away after less than one third of the so called planned 1700 homes are in place and occupied. Then the onus is on the Utility to find another way out either by lowering by GBRA or another person who needs the water. Plus there are two wells supplying the Developer as well. Again, what is the annual usage for each home? How much production envisioned from each well?

P8 – f – When can the developer decide to decrease the required number of connections and terminate his costs not required to serve his property. The Utility had to make binding decisions, so should the developer.

P8 – g – Why would the utility have to pay for a roadway within the property to serve the property? This should be on the developer with a firm requirement for number of homes to be served.

P8 – h – Who is applying for the necessary permits? One part states the utility and another states the developer. Who pays for the wastewater collection and treatment plant? This is to service the extension only, developer should pay even though it will be owned by the utility.

P8 – I – This provides the developer a way out in case he changes his mind and puts the utility company back into the looking for more user mode. Either the developer should commit or not.

P8 – j – What sort of oversizing of the Extension is envisioned? Previously all the oversize was on the part of the utility and now the Developer wants to oversize later. Not consistent.

P9 – k – Where is TSSC planning to use the 500 acre-feet of water it already has reserved and has been paying on up until now. When did TSSC start paying GBRA and how much per month up to now? When do they plan on accepting some of the GBRA treated water? Have the payments up to now been only Raw Water Reservation fees or are there other components already? Again, where is this water for TSSC going to be utilized?

P9 – l – If the utility has this excess capacity in their water and wastewater systems, why have they already reserved 500 acre-feet of additional water? This has been an ongoing cash outflow with no apparent requirement.

P9 - Last paragraph – This allows the utility company to charge less to the Developer than to the present customers in the form of variances and exceptions to the tariff in effect on the date of the signing of the agreement (which was prior to the recent request for a rate hike). Great for the developer and very poor for the present residents.

P11 – v – Any amendments should have to be submitted to the TXCEQ for approval with legal notices published for comment prior to adoption.

ATTACH. F – AGREEMENT KCUC, TSSC AND GBRA

P3 – Although jointly referred to as Customer, what is the relationship between KCUC and TSSC? Is one a subsidiary of the other?

P3- para 4 – Certificates of Convenience and Necessity No. 11904 (KCUC) and No. 12122 (TSSC), how about copies to see the coverages?

P3 – para 4 – Copy of Exhibit 2?

P11 – Sec 3.1 – “a connection fee of \$25,000” and the connection fee is based on the Raw Water Reservation, as set forth in Exhibit 3. Copy of Exhibit 3?

P12 – Sec 3.3(a) – Must be connected by “connection deadline” of December 31, 2005.

P13 – Sec 4.3. - Raw Water Reservation is 500 acre-feet/ year. For what?

P13 – Sec 4.4 – Annual Commitment is 48.88 gall (150 acre-feet) initially subject to increases up to 500 acre-feet. For what? Does TSSC have a business plan, if so show it.

P14 – Sec 4.8 – Does Customer have GBRA permission to expand service area at this time?

P14 – Sec 4.7 – Municipal and domestic purposes only – golf course?

P16 – Sec 4.11(c) – Treatment and disinfection processes required. Any idea of cost?

P20 - Sec 6.1(b) – Take or pay. Where is the 150 acre-feet initially to be used?

P21 – Sec 6.5 – This is the 500 acre-feet reservation already in place with an on going charge. When did these charges actually begin?

P22 – 6.7 – This is the basis for the previous rate hike request as a pass through charge.

P23 – 6.8 – How justified the 500 reservation and business plan to “maintain business income.”

## ATTACHMENT G

Why no audited documents?

### ASSETS

A/R – Trade – What comprises trade?

A/R – TSGR – What is TSGR?

### PROPERTY & EQUIPMENT

Cable System?

GBRA – Conn/Reservation Fees – An asset?

Where does all this Accumulated Depreciation come from? None shown on income statement.

### LIABILITIES AND CAPITAL

A/P – KCUC – NOTE 8 What does Note 8 say and what is the relationship with KCUC?

I/C – Golf Resort – Why does the water company owe the Golf Resort?

I/C – TS Dev – How does the Development company end up owing the water company such a large sum?

I/C KCDC NOTE 9 – What is KCDC and why does TSSC owe them? What is Note 9?

I/C KCUC – What is the difference between A/P and I/C?

Source of Additional Paid-In Capital?

Beginning Retained Earnings? Why not Ending Retained Earnings?

## INCOME STATEMENT

### REVENUES

Sewer – How do you get a negative revenue for the month? How can the sewer revenue for the year be so low? The negative magnitude is twice the magnitude for the year.

Water – The December total is about 1/5 of the year total. Why?

Where are the Regulatory Assessment Fees accounted for?

## INCOME STATEMENT (CONT)

### EXPENSES

Why the big jump in auto expenses in December?

Who receives this large interest expense?

Where are the personnel salaries?

#### Water Tariff

Rate Schedule only provided for residential customers. How about other customers, including the 2 wholesale entities shown on page 7 of 15 of the application?

#### Sewer Tariff

Again only for residents and not showing rates for the 8 commercial users.

#### Water Rate Page 2b

Have current customers been paying for the cost incurred with GBRA as a pass-through and there is no shown need for the Canyon Lake water for the present customers.

N083105

8/31/05

**Specific Contract Issues**  
**TSSC and CDS International Holdings, Inc**  
**Signed 8-31-2004**

1. The design details of the proposed Extension including the costs have not been properly shown and supported.
2. The developer does not share the cost of right-of-way and lines necessary to tie in the Extension. The cost will fall entirely on the current Rate Payers.
3. The maintenance and upkeep of the Extension rest entirely upon TSSC even if the Developer decides to build no houses on the property. The current Rate Payers would be burdened with the costs.
- ✓ 4. If TSSC decides to oversize the Extension, the present Rate Payers could be burdened with this added cost.
5. The maximum contribution to the construction by the Developer is limited to \$1,500,000, which has not been shown as adequate.
- ~~6. A copy of the alleged GBRA contract for an additional 250 acre feet of water has been filed as part of the Application.~~
7. TSSC may have the expense of constructing certain roadways within the Developers property (paragraph 9e). If so, the Rate Payers will ultimately be burdened by this expense.
8. TSSC's wastewater and collection system will be directly impacted by increase usage. Ultimately this system will have to be expanded to meet the increased usage. The issue of who pays for the Wastewater treatment and system expansion is not addressed. This could severely impact the existing Rate Payers.
9. Item 9i of the contract states that the Developer may be reimbursed if the number of actual connections is less than the capacity constructed. This could prove to be very costly to the Rate Payers.
10. Section 9(l) Places the Rate Payers of the Utility at a financial risk, water shortage risk and wastewater treatment capacity risk, by exposing the existing capacity. Existing capacity should not be available to the developer
11. There is no proof or evidence that shows the Developer's ability to carry out its obligations stated in the Agreement. The Developer (CDS International Holdings, Inc.) is "not in good standing" with Texas Comptroller of Accounts.
12. Based upon the financial information provided in the CCN application, it is clear that TSSC does not have adequate management or financial capability to carry out its responsibilities in the contract. Ultimately, this will affect the Rate Payers.

N083105



QUESTIONS FOR TAPATIO SPRINGS SERVICE COMPANY

1. WHAT IS THE OWNERSHIP OF TAPATIO SPRINGS SERVICE COMPANY?
2. WHAT IS THE OWNERSHIP OF KENDALL COUNTY SERVICE COMPANY?
3. DOES TAPATIO PURCHASE WATER FROM KENDALL EACH YEAR? IF SO, HOW MUCH IN THE LAST YEAR, 2004?
4. HOW MANY PRODUCING WATER WELLS ARE OWNED AND OPERATED BY EACH COMPANY? WHAT IS THE ANNUAL RATE OF WATER PRODUCTION FOR THE YEAR 2004 FROM THE WELLS FOR EACH COMPANY?
5. WHAT IS THE ESTIMATED REMAINING LIFE OF ALL PRESENT WATER WELLS?
6. WHAT IS THE ANNUAL (2004) WATER CONSUMPTION FOR EACH COMPANY, BROKEN DOWN BY CLASSIFICATION OF USER?
7. WHAT ARE THE CURRENT RATE SCHEDULES FOR BOTH COMPANIES BY CLASSES OF USERS?
8. HOW MANY CUSTOMERS (BROKEN DOWN BY CLASSIFICATION) DOES EACH COMPANY PRESENTLY SERVICE FOR WATER AND WHAT ARE YOUR PROJECTIONS OF YOUR CUSTOMER BASE FOR THE NEXT 5 AND 10 YEARS?
9. WHAT WAS THE BASIS FOR THE DECISION TO RESERVE 500 ACRE FEET OF WATER FROM GBRA?
10. HOW IS THE 500 ACRE FEET OF CANYON LAKE WATER ALLOCATED AS BETWEEN THE TWO UTILITIES?
11. WHAT IS THE AVERAGE HOUSEHOLD MONTHLY WATER USAGE IN TAPATIO AND IN KENDALL.
12. BASED UPON THE ANSWER TO #11 ABOVE, HOW MANY HOUSEHOLDS WILL 500 ACRE FEET OF WATER SERVICE?
13. WHAT IS THE ANNUAL COST OF THE 500 ACRE FEET OF WATER EACH YEAR? THIS COST CONTINUES WHETHER WE TAKE THE WATER OR NOT, I.E. "TAKE OR PAY" PROVISION IN YOUR CONTRACT.
14. WHAT WILL THIS 500 ACRE FEET OF WATER OR 250 ACRE FEET FOR TAPATIO END UP COSTING EACH RESIDENTIAL CUSTOMER PER MONTH BASED UPON AN ASSUMPTION OF 10,000 GALLONS A MONTH CONSUMPTION (120,000 GALLONS/PER YEAR)?

NO 71205

15. DESCRIBE THE CIRCUMSTANCES UNDER WHICH THE CONTRACT WITH CDS INTERNATIONAL (CARL D'SANTIS) WAS NEGOTIATED.
16. WHAT IS THE SPECIFIC ROUTE OF THE PIPELINE:
  1. FROM CASCADE CAVERNS ROAD FACILITY TO KCWC FACILITY ON JOHN'S ROAD?
  2. FROM JOHN'S ROAD FACILITY TO THE DEVELOPMENT SITE?
17. WHAT COSTS OF CONSTRUCTION OF THE PIPELINE WILL BE BORNE BY THE CURRENT AND FUTURE RATE PAYERS IN THE TAPATIO AND KENDALL SYSTEMS?
18. IS TAPATIO SERVING AS A CONDUIT BETWEEN CDS INTERNATIONAL AND GBRA TO FACILITATE THE ACQUISITION OF 250 ACRE FEET OF WATER FOR THE DEVELOPMENT?
19. IN EXCHANGE FOR THE FACILITATING OF THE ACQUISITION OF THE WATER RIGHTS, IS CDS PROVIDING THE FUNDS (MONEY) TO TAPATIO FOR THE CONSTRUCTION OF THE PIPELINE?
20. WHAT WAS THE CRITERIA FOR ESTABLISHING THE COST OF CONSTRUCTION OF THE PIPELINE? IS THERE A SET OF CONSTRUCTION DRAWINGS AVAILABLE FOR REVIEW? IS THERE AN ENGINEER'S ESTIMATE AS TO THE COST OF CONSTRUCTION OF THE PIPELINE? WHAT IS THE STATUS OF THE RIGHT-OF-WAY ACQUISITION? ARE THERE FUNDS AVAILABLE FOR THE COST OF EASEMENTS AND RIGHT-OF-WAY? ARE FUNDS AVAILABLE FOR THE ENGINEERING COST INVOLVED IN PREPARING DRAWINGS, SPECIFICATIONS, AND INSPECTION OF THE CONSTRUCTION?

16. The route of the pipeline will be from Cascade Caverns Road to the Kendall facility on Johns Road over private land and not in the public right-of-way down Interstate 10. There will be a 12" line from Johns Road to Tapatio and Developer's property.

17. - 20. Jay intervened. He launched into a tirade about the advantage of the new 1700 house addition but admitted that a number of ambiguities existed in the present contract which is currently being amended to clear up these matters. He said, for example, that the Developer would pay \$1,500,000 towards certain line costs which in his own words, "would take care of the cost of about 3 miles". He was interrupted by Stan who reminded him that the line was about 9 to 10 miles long!

I asked when we could expect an amended contract with the Developer, and he was inexact, to say the least, about a specific date.

Al Hamilton

## WATER SUPPLY ANALYSIS CORRECTED

### Existing Water Demand and Future Demand

There is an existing customer base of 771 customers in the KCUC (566)/ TSSC (205) system. The 5000 acres that is currently being added to the CCN will result in an additional 1700 connections and future lots in Tapatio will yield 850 more. The total ultimate connections for Tapatio Springs Service Company at this time would be 3321. A total of 3215 Ac-ft/yr of water would be required as per 30 TAC 290.45(b)(1)(D)(i) specifying 0.6 gpm for peak demand. Including the GBRA supply of water, the total production at this time (10 years from now) will be 1770 Ac-ft/yr (1020 from present wells and 750 GBRA). This would result in a deficit of 1445 Ac-ft/yr.

- The figures presented in the Water Supply Analysis are calculated using 0.5 Ac-ft/yr/connection instead of the 0.97 Ac-ft/yr/connection which is the result of 0.6 gpm per connection requirement.

### Peak Demand

TCEQ requires 0.6 gpm/connection for peak demand. The total connections of 3321 results in a requirement of 3215 Ac-ft/yr or 1997 gpm. The existing Peak Production is 2108 Ac-ft/yr with a maximum output of 1309 gpm combining the 843 gpm from the present wells with 466 gpm from GBRA. This would give a deficit of 688 gpm to be covered by the 10 proposed 75-gpm wells.

- The flaw to this paragraph is that the 843 gpm present production should be discounted by 25% to 633 gpm according to the second paragraph entitled "Existing Water Production". The resultant would then be a deficit of 899 gpm to be covered by the 750 gpm from the to-be-drilled 10 wells.

Today the present customer has available (843 gpm/ 771 customers) 1.09 gpm/customer and when all is completed, including the 10 new wells and GBRA water, each customer would have (2059/3321) 0.62 gpm customer, a drop of 43% in availability. If we factor in the 25% reduction in the present wells, the present customer would still have 633/771 or 0.82 gpm/customer whereas the planned developments would have only 1849/3321 or 0.56 gpm/customer. The TCEQ minimum for peak load is 0.6 gpm/customer.

N 10 0705-2

**Analysis of Annual Reports**

	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>
Revenues	132,602	148,156	145,399	114,977
Tap Fees	3,787	7,655	3,358	3,487
Contract Labor	466	215	-	-
Purchased Water	-	4,868	23,137	16,059
Chemicals for Treatment	259	1,923	1,273	1,007
Utilities(electricity)	26,428	20,975	20,543	26,552
Repairs/Maintenance/Supplies	20,939	28,346	52,075	37,447
Office Expenses	5,003	2,297	5,445	1,391
Professional Fees	-	770	2,486	5,473
Depreciation/Amortization	-	-	-	28,867
Miscellaneous	-	-	24,428	-
Property and Other Taxes	3,457	-	3,482	2,260
Regulatory Exp(Rate Case)	-	1,870	1,244	-
Interest Expense on Debt	55,314	57,095	7,164	-
Principal Payment On Debt	30,654	28,873	79,365	-
 Profit/Loss	 (6,131)	 8,579	 (71,885)	 (592)
 Princpal Balance on Debt	 905,146	 935,800	 964,673	 -
Total Water Produced(MG)	40,157,000	36,351,000	41,007,000	36,000,000
Total Water Billed(MG)	32,022,000	30,902,000	34,440,000	29,000,000
Total Water Lost	8,135,000	5,449,000	6,567,000	700,000
Water Lost Percent	20	15	16	19

Note: New Rates went into effect 1/1/2002

N 123104

<<Prev Rule

# Texas Administrative Code

Next Rule>>

**TITLE 30**

ENVIRONMENTAL QUALITY

**PART 1**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**CHAPTER 290**

PUBLIC DRINKING WATER

**SUBCHAPTER D**

RULES AND REGULATIONS FOR PUBLIC WATER SYSTEMS

**RULE §290.45**

## Minimum Water System Capacity Requirements

(a) General provisions.

(1) The requirements contained in this section are to be used in evaluating both the total capacities for public water systems and the capacities at individual pump stations and pressure planes which serve portions of the system that are hydraulically separated from, or incapable of being served by, other pump stations or pressure planes. The capacities specified in this section are minimum requirements only.

(2) The executive director will require additional supply, storage, service pumping, and pressure maintenance facilities if a normal operating pressure of 35 pounds per square inch (psi) cannot be maintained throughout the system, or if the system's maximum daily demand exceeds its total production and treatment capacity. The executive director will also require additional capacities if the system is unable to maintain a minimum pressure of 20 psi during fire fighting, line flushing, and other unusual conditions.

(3) The executive director may establish additional capacity requirements for a public water system using the method of calculation described in subsection (g)(2) of this section if there are repeated customer complaints regarding inadequate pressure or if the executive director receives a request for a capacity evaluation from customers of the system.

(4) Throughout this section, total storage capacity does not include pressure tank capacity.

(5) The executive director may exclude the capacity of facilities that have been inoperative for the past 120 days and will not be returned to an operative condition within the next 30 days when determining compliance with the requirements of this section.

(6) The capacity of the treatment facilities shall not be less than the required raw water or groundwater production rate or the anticipated maximum daily demand of the system.

(b) Community water systems.

(1) Groundwater supplies must meet the following requirements.

(A) If fewer than 50 connections without ground storage, the system must meet the following requirements:

(i) a well capacity of 1.5 gallons per minute (gpm) per connection; and

(ii) a pressure tank capacity of 50 gallons per connection.

K010104

(B) If fewer than 50 connections with ground storage, the system must meet the following requirements:

- (i) a well capacity of 0.6 gpm per connection;
- (ii) a total storage capacity of 200 gallons per connection;
- (iii) two or more service pumps having a total capacity of 2.0 gpm per connection; and
- (iv) a pressure tank capacity of 20 gallons per connection.

(C) For 50 to 250 connections, the system must meet the following requirements:

- (i) a well capacity of 0.6 gpm per connection;
- (ii) a total storage capacity of 200 gallons per connection;

(iii) two or more pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required; and

(iv) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection.

2004

(D) For more than 250 connections, the system must meet the following requirements:

(i) two or more wells having a total capacity of 0.6 gpm per connection. Where an interconnection is provided with another acceptable water system capable of supplying at least 0.35 gpm for each connection in the combined system under emergency conditions, an additional well will not be required as long as the 0.6 gpm per connection requirement is met for each system on an individual basis. Each water system must still meet the storage and pressure maintenance requirements on an individual basis unless the interconnection is permanently open. In this case, the systems' capacities will be rated as though a single system existed;

(ii) a total storage capacity of 200 gallons per connection;

(iii) two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required;

843'1" = 1405'

\* EXISTING SUPPLIES ARE (6,000) GAL AND IN 642 CONNECTIONS

(iv) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is sufficient for up to 2,500 connections. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Alternate methods of pressure maintenance may be proposed and will be approved if the criteria contained in subsection (g)(5) of this section are met; and

(v) emergency power for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient emergency power must be provided to deliver a minimum of 0.35 gpm per connection to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has emergency power and is able to supply at least 0.35 gpm for each connection in the combined system. Emergency power facilities in systems serving 1,000 connections or greater must be serviced and maintained in accordance with level 2 maintenance requirements contained in the current National Fire Protection Association (NFPA) 110 standards. Although not required, compliance with NFPA 110 standards is highly recommended for systems serving less than 1,000 connections. Logs of all emergency power use and maintenance must be maintained and kept on file for a period of not less than three years. These records must be made available, upon request, for executive director review.

(E) Mobile home parks with a density of eight or more units per acre and apartment complexes which supply fewer than 100 connections without ground storage must meet the following requirements:

(i) a well capacity of 1.0 gpm per connection; and

(ii) a pressure tank capacity of 50 gallons per connection with a maximum of 2,500 gallons required.

(F) Mobile home parks and apartment complexes which supply 100 connections or greater, or fewer than 100 connections and utilize ground storage must meet the following requirements:

(i) a well capacity of 0.6 gpm per connection. Systems with 250 or more connections must have either two wells or an approved interconnection which is capable of supplying at least 0.35 gpm for each connection in the combined system;

(ii) a total storage of 200 gallons per connection;

(iii) at least two service pumps with a total capacity of 2.0 gpm per connection; and

(iv) a pressure tank capacity of 20 gallons per connection.

(2) Surface water supplies must meet the following requirements:

(A) a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service;

(B) a treatment plant capacity of 0.6 gpm per connection under normal rated design flow;

(C) transfer pumps (where applicable) with a capacity of 0.6 gpm per connection with the largest pump out of service;

(D) a covered clearwell storage capacity at the treatment plant of 50 gallons per connection or, for systems serving more than 250 connections, 5.0% of daily plant capacity;

(E) a total storage capacity of 200 gallons per connection;

(F) a service pump capacity that provides each pump station or pressure plane with two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000



gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane;

(G) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is sufficient for systems of up to 2,500 connections. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Alternate methods of pressure maintenance may be proposed and will be approved if the criteria contained in subsection (g)(5) of this section are met; and

(H) emergency power for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient emergency power must be provided to deliver a minimum of 0.35 gpm per connection to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has emergency power and is able to supply at least 0.35 gpm for each connection in the combined system. Emergency power facilities in systems serving 1,000 connections or greater must be serviced and maintained in accordance with level 2 maintenance requirements contained in the current NFPA 110 standards. Although not required, compliance with NFPA 110 standards is highly recommended for systems serving less than 1,000 connections. Logs of all emergency power use and maintenance must be maintained and kept on file for a period of not less than three years. These records must be made available, upon request, for executive director review.

(c) Noncommunity water systems serving transient accommodation units. The following water capacity requirements apply to noncommunity water systems serving accommodation units such as hotel rooms, motel rooms, travel trailer spaces, campsites, and similar accommodations.

(1) Groundwater supplies must meet the following requirements.

(A) If fewer than 100 accommodation units without ground storage, the system must meet the following requirements:

(i) a well capacity of 1.0 gpm per unit; and

(ii) a pressure tank capacity of ten gallons per unit with a minimum of 220 gallons.

(B) For systems serving fewer than 100 accommodation units with ground storage or serving 100 or more accommodation units, the system must meet the following requirements:

(i) a well capacity of 0.6 gpm per unit;

(ii) a ground storage capacity of 35 gpm;

(iii) two or more service pumps which have a total capacity of 1.0 gpm per unit; and

(iv) a pressure tank capacity of ten gallons per unit.

(2) Surface water supplies, regardless of size, must meet the following requirements:

- (A) a raw water pump capacity of 0.6 gpm per unit with the largest pump out of service;
  - (B) a treatment plant capacity of 0.6 gpm per unit;
  - (C) a transfer pump capacity (where applicable) of 0.6 gpm per unit with the largest pump out of service;
  - (D) a ground storage capacity of 35 gallons per unit with a minimum of 1,000 gallons as clearwell capacity;
  - (E) two or more service pumps with a total capacity of 1.0 gpm per unit; and
  - (F) a pressure tank capacity of ten gallons per unit with a minimum requirement of 220 gallons.
- (d) Noncommunity water systems serving other than transient accommodation units.

(1) The following table is applicable to paragraphs (2) and (3) of this subsection and shall be used to determine the maximum daily demand for the various types of facilities listed.

Attached Graphic ✖ / see attached table A

(2) Groundwater supplies must meet the following requirements.

(A) Subject to the requirements of subparagraph (B) of this paragraph, if fewer than 300 persons per day are served, the system must meet the following requirements:

(i) a well capacity which meets or exceeds the maximum daily demand of the system during the hours of operation; and

(ii) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the executive director.

(B) Systems which serve 300 or more persons per day or serve fewer than 300 persons per day and provide ground storage must meet the following requirements:

(i) a well capacity which meets or exceeds the maximum daily demand;

(ii) a ground storage capacity which is equal to 50% of the maximum daily demand;

(iii) if the maximum daily demand is less than 15 gpm, at least one service pump with a capacity of three times the maximum daily demand;

(iv) if the maximum daily demand is 15 gpm or more, at least two service pumps with a total capacity of three times the maximum daily demand; and

Cont'd...

Figure: 30 TAC §290.45(d)(1)

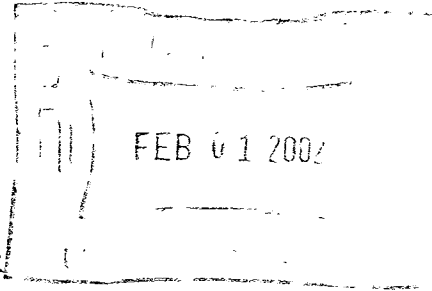
Table A

Type of Establishment	Gallons/Person
Restaurants.....	18
Schools without cafeterias, gymnasiums, or showers.....	18
..	24
Schools with cafeterias, but no gymnasiums or showers.....	30
...	6
Schools with cafeterias, gymnasiums, and showers.....	24
..	42
Youth camps without flush toilets, showers, or dining halls.....	18
...	720
Youth camps with flush toilets, but no showers or dining halls.....	240
...	24
Youth camps with flush toilets, showers, and dining halls.....	6
...	12
Office buildings.....	120
..	6
Hospitals (based on number of beds).....	60
.	12
Institutions, other than hospitals.....	
..	
Factories (exclusive of industrial processes).....	
..	
Parks.....	
Swimming pools.....	
.	
Country clubs.....	100
Airports (per passenger).....	
.	
Self-service laundries.....	
..	
Service stations/stores.....	

It should be noted that this table is used to determine minimum capacities only and that the overriding criteria will be the ability of the system to maintain a minimum pressure of 35 psi under normal operating conditions. Minimum distribution pressure shall not be less than 20 psi at any time.

239-2900

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



SOAH DOCKET NO. 582-01-3635  
TNRCC DOCKET NO. 2001-0627-UCR  
APPLICATION NO. 33353-R

11/04/01

IN THE MATTER OF THE  
APPLICATION OF KENDALL COUNTY  
UTILITY COMPANY, INC. TO CHANGE  
ITS WATER RATES AND TARIFF FOR  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY NO. 11904 IN  
KENDALL COUNTY, TEXAS

§  
§  
§  
§  
§  
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§

BEFORE THE  
  
TEXAS NATURAL RESOURCE  
  
CONSERVATION COMMISSION

ORDER

An application by Kendall County Utility Company, Inc. for an increase in retail water rates in Kendall County, Texas was presented to the Executive Director of the Texas Natural Resource Conservation Commission ("Commission") for approval pursuant to Section 5.122 of the Texas Water Code ("Code")

Kendall County Utility Company, Inc. provides water service in Kendall County, Texas and is a retail public utility as defined in Section 13.002(19) of the Code.

On February 12, 2001, Kendall County Utility Company, Inc. ("Applicant") filed an application with the Commission for an increase in retail water rates charged to its customers in Kendall County, Texas. The application was accepted for filing under Application No. 33353-R on February 21, 2001. Notice of the rate change with a proposed effective date of March 14, 2001, was provided to the customers on February 12, 2001, by the Applicant. The notice of the rate increase

R020102

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonage Charge</u>
5/8" or 3/4"	<u>\$30.00</u> (Includes <u>3,000</u> gallons)	<u>\$3.25</u> per 1000 gallons, 1 <sup>st</sup> <u>3,001-20,000</u> gallons
1"	<u>\$41.99</u>	<u>\$3.50</u> per 1000 gallons, next <u>20,001-50,000</u> gallons
1 1/2"	<u>\$54.00</u>	<u>\$4.00</u> per 1000 gallons thereafter
2"	<u>\$86.99</u>	
3"	<u>\$330.00</u>	
4"	<u>\$419.93</u>	

FORM OF PAYMENT: The utility will accept the following form(s) of payment:

Cash X, Check X, Money Order X, Credit Card \_\_\_\_\_, Other (specify) \_\_\_\_\_

THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS

REGULATORY ASSESSMENT ..... 1.0%  
TNRCC RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL.

Section 1.02 - Miscellaneous Fees

TAP FEE ..... \$400.00  
TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL 5/8" or 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Unique costs) ..... Actual Cost  
FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

TAP FEE (Large meter) ..... Actual Cost  
TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

METER RELOCATION FEE ..... Actual Relocation Cost, Not to Exceed Tap Fee  
THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.

RATES LISTED ARE EFFECTIVE ONLY  
IF THIS PAGE HAS TNRCC APPROVAL STAMP

2023 R CO# 11904221401  
APPROVED TARIFF of Lu/JS4

**WATER UTILITY TARIFF  
FOR**

Kendall County Utility Co., Inc.  
(Utility Name)

P.O. Box 1335  
(Business Address)

Boerne, Texas 78006-1335  
(City, State, Zip Code)

(830) 537-5755  
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

11904

This tariff is effective in the following county:

Kendall

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions and/or public water systems:

Ranger Creek, Townsend, Cibolo Oaks, Cobolo Oaks Landing and Green Acres: PWS #1300033

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

SECTION 1.0 -- RATE SCHEDULE .....	3
SECTION 2.0 -- SERVICE RULES AND POLICIES .....	4
SECTION 3.0 -- EXTENSION POLICY .....	9
APPENDIX A -- SERVICE AGREEMENTS	
APPENDIX B -- DROUGHT CONTINGENCY PLAN	

WATER UTILITY TARIFF CONSENTATION COMMISSION

3 3 5 3 R CCN 11 90 4 MAR 14 '01

APPROVED TARIFF BY Sm/DSH

REPORT  
February 18, 2006

On Friday, February 17, 2006, we filed a Motion to Withdraw (which the Judge immediately granted) in connection with the Application of our utility, Tapatio Springs Service Co., to extend its Certificate of Convenience and Necessity.

This action was taken after several of us visited with Michael Shalit and came away feeling that the course of action planned will be to the advantage of all ratepayers and will act to preserve our property values. Obviously, in his position, Michael, has more at stake here than any one of us individually.

We believe that a continuation of this fight could result in some serious and substantial costs to our present ratepayers for two significant reasons, i.e. (1) the utility may lose the \$1,500,000 to \$2,000,000 contribution to build the necessary pipeline, in which case, we the ratepayers will have to bear the cost, and (2) the GBRA water contract requires the utility to pay for certain amounts of water even if it cannot take the water (because it has no pipeline). Guess who will ultimately pay for this cost?

Finally, if anyone is doubtful about our needing the GBRA (Canyon Lake) water, you should obtain and read the 2006 Regional Water Plan prepared by the South Central Texas Regional Water Planning Group with administration by San Antonio River Authority dated January 2006.

In Paragraph 4B.2.14 entitled "Kendall County Water Supply Plan" and Table 4B2.14-1 under the heading "Rural Area Residential and Commercial" (which includes Tapatio Springs), it shows that by the year 2010 (4 years from today), such area will have a projected shortage of 221 acre feet of water.

The recommendation of the above report--"contract to purchase GBRA (Canyon Lake) water".

This is part of what this entire Tapatio springs Service Company matter is all about!

Hopefully, each of you as a ratepayer in our utility will be pleased with the final steps we have taken on your behalf.

A special thanks is owed to your ad hoc committee of advisors who have been invaluable in reviewing and commenting on the situation as it has developed. These members are Travis Cannon, Fred Clark, Dennis Juren, Walt Trapp, and Bill Weidler.

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SUBCHAPTER K. VIOLATIONS AND ENFORCEMENT

§ 13.411. Action to Enjoin or Require Compliance

(a) If the commission has reason to believe that any retail public utility or any other person or corporation is engaged in or is about to engage in any act in violation of this chapter or of any order or rule of the commission entered or adopted under this chapter or that any retail public utility or any other person or corporation is failing to comply with this chapter or with any rule or order, the attorney general on request of the commission, in addition to any other remedies provided in this chapter, shall bring an action in a court of competent jurisdiction in the name of and on behalf of the commission against the retail public utility or other person or corporation to enjoin the commencement or continuation of any act or to require compliance with this chapter or the rule or order.

(b) If the executive director has reason to believe that the failure of the owner or operator of a water utility to properly operate, maintain, or provide adequate facilities presents an imminent threat to human health or safety, the executive director shall immediately:

- (1) notify the utility's representative; and
- (2) initiate enforcement action consistent with:
  - (A) this subchapter; and
  - (B) procedural rules adopted by the commission.

Added by Acts 1985, 69th Leg., ch. 795, § 3.005, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 567, § 37, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1010, § 6.30, eff. Sept. 1, 1997.

\* } 13.189. UNREASONABLE PREFERENCE OR PREJUDICE AS TO RATES OR SERVICES. (a) A water and sewer utility as to rates or services may not make or grant any unreasonable preference or advantage to any corporation or person within any classification or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage.

\* } (b) A utility may not establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service.

\* } § 13.131. RECORDS OF UTILITY; RATES, METHODS, AND ACCOUNTS. (a) Every water and sewer utility shall keep and render to the regulatory authority in the manner and form prescribed by the commission uniform accounts of all business transacted. The commission may also prescribe forms of books, accounts, records, and memoranda to be kept by those utilities, including the books, accounts, records, and memoranda of the rendition of and capacity for service as well as the receipts and expenditures of money, and any other forms, records, and memoranda that in the judgment of the commission may be necessary to carry out this chapter.

\* } § 13.241. GRANTING CERTIFICATES. (a) In determining whether to grant a certificate of public convenience and necessity, the commission shall ensure that the applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service.

(b) For water utility service, the commission shall ensure that the applicant:

- (1) is capable of providing drinking water that meets the requirements of Chapter 341, Health and Safety Code, and requirements of this code; and
- (2) has access to an adequate supply of water.

(c) For sewer utility service, the commission shall ensure

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that the applicant is capable of meeting the commission's design criteria for sewer treatment plants and the requirements of this code.

(d) Before the commission grants a new certificate of convenience and necessity for an area which would require construction of a physically separate water or sewer system, the applicant must demonstrate that regionalization or consolidation with another retail public utility is not economically feasible.

(e) The commission by rule shall develop a standardized method for determining under Section 13.246(f) which of two or more retail public utilities or water supply or sewer service corporations that apply for a certificate of public convenience and necessity to provide water or sewer utility service to an uncertificated area located in an economically distressed area is more capable financially, managerially, and technically of providing continuous and adequate service. In this subsection, "economically distressed area" has the meaning assigned by Section 15.001.

§ 13.415. PERSONAL PENALTY. Any person who wilfully and knowingly violates this chapter is guilty of a third degree felony.

Added by Acts 1985, 69th Leg., ch. 795, § 3.005, eff. Sept. 1, 1985.

Extension Policy --- ch291 required. Developer costs defined.

\* § 13.303. LOANS TO STOCKHOLDERS: REPORT. A utility may not loan money, stocks, bonds, notes, or other evidences of indebtedness to any corporation or person owning or holding directly or indirectly any stock of the utility unless the utility reports the transaction to the commission within 60 days after the date of the transaction.

Added by Acts 1985, 69th Leg., ch. 795, § 3.005, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 567, § 35, eff. Sept. 1, 1989.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER** Approving the Application of the City of Bulverde for a CCN in Comal County; TCEQ Docket No. 2001-0951-UCR; SOAH Docket No. 582-01-3633

Denying the Application of Bexar Metropolitan Water District to Amend its CCN No. 10675 in Comal County; TNRCC Docket No. 2001-0697-UCR; SOAH Docket No. 582-02-0432

On February 5, 2003, the Texas Commission on Environmental Quality (Commission) considered an application of the City of Bulverde to obtain a certificate of convenience and necessity in Comal County, Texas, for authorization to provide water utility service and an application by Bexar Metropolitan Water District to amend its Certificate of Convenience and Necessity No. 10675 in Comal County to provide water utility service. The applications were consolidated for hearing. The applications were presented to the Commission with a Proposal for Decision by James W. Norman, an Administrative Law Judge with the State Office of Administrative Hearings, who conducted a contested case hearing concerning the applications.

### *Explanation of Changes to ALJ's Proposed Order*

After considering the Administrative Law Judge's Proposal for Decision and the evidence and arguments presented, the Texas Commission on Environmental Quality decided not to accept the recommendation of the ALJ that the BexarMet application should be approved in part and the Bulverde application should be denied. The Commission explained that the ALJ's initial,

206/603

3. Additionally, that same notice was published in the BULVERDE COMMUNITY NEWS, a newspaper regularly published and generally circulated in Comal County, on October 19, 2000.
4. After requests for hearing were filed, the Chief Clerk referred Bulverde's application to the State Office of Administrative Hearings (SOAH) on July 12, 2001, for a hearing.
5. Administrative Law Judge (ALJ) James W. Norman held a preliminary hearing on the application on September 10, 2001. Notice of that preliminary hearing was mailed, on August 16, 2001, to all parties who had requested a hearing on the application.
6. At or soon after the preliminary hearing, the following were admitted as parties in the Bulverde case:
  - Bulverde (represented by attorney Mayo J. Galindo, subsequently also represented by attorneys Bruce Wasinger and Emily Rogers);
  - Executive Director (represented by attorney Fread Houston, subsequently represented by attorneys Todd Galiga and John Deering);
  - Bexar Metropolitan Water District (BexarMet) (represented by attorney Mark H. Zeppa);
  - The Public Interest Counsel of the Commission (did not participate);
  - Comal Water Company (Comal) (represented by Kathleen B. Cileske, subsequently represented by Mr. Zeppa);
  - Water Services, Inc. (WSI) (represented by David L. Wallace, subsequently represented by Mr. Zeppa);

13. Guadalupe Blanco River Authority (GBRA) (represented by Bruce Wasinger and Emily Rogers) was admitted as an additional party at the December 4, 2001, preliminary conference.
14. The two applications were consolidated for hearing at the December 4, 2001, preliminary conference.
15. On December 11, 2001, BSR Water Company requested party status. In an order dated December 20, 2001, the request was denied.
16. Comal initially opposed both applications, but withdrew its opposition to BexarMet after reaching a settlement before the hearing. It continued to oppose Bulverde's application.
17. Canyon Lake WSC withdrew its opposition to both applications during the hearing on the merits after reaching settlement agreements.
18. The hearing on the merits began on June 11, 2002, and concluded on June 13, 2002. The parties filed written closing arguments by August 9, 2002, and replies by September 11, 2002.
19. Both Bulverde and BexarMet requested that the record be reopened to receive additional documentation. The record was reopened on October 16, 2002, and on October 18, 2002, for the receipt of additional documents and arguments. The record closed on October 18, 2002.

## BACKGROUND FACTS

### ● Bulverde Application

27. The Operating Agreement obligates GBRA to design, construct, finance, operate, and maintain the water distribution system to provide treated water on behalf of Bulverde. It provides that GBRA will own the water distribution system and that Bulverde will have an exclusive option to purchase the portion of the system within the Bulverde service area on the later of 20 years after the effective date of the Operating Agreement or full payment of all debts issued to finance the Western Canyon Project.

● BexarMet Application

28. BexarMet's requested service area is in western Comal County roughly bounded by FM 3009 and Highway 281 to the east, Cabal Creek to the south, the Kendall County line on the west, and the Guadalupe River on the north. The area is bifurcated from east to west by Highway 46. BexarMet began providing water service to parts of the requested area in April 1998, when it purchased the assets of Bulverde Water Company, including the Bulverde Hills water system, the Oakland Estates water system, and the Spring Branch water system. BexarMet operates a fourth system serving the HEB Grocery chain, under a water CCN amendment, just south of Highway 46 immediately west of Highway 281. Presently, portions of BexarMet's requested service area receive water on an *ad hoc* basis, through small CCNs serving some subdivisions or businesses under CCNs, and small on-site wells.

29. BexarMet has contracted with Canyon Lake WSC to jointly construct a storage tank and transmission line to serve its existing service areas. The water is for emergency use. The construction will be completed in early 2003.

30. It is possible to drill additional wells in higher producing areas in the Trinity Aquifer and transport water to other parts of the requested service area to provide water service.

31. BexarMet will consider drilling stand-alone wells if necessary to provide water service.

in compliance with applicable customer service regulations, and with public drinking water supply system requirements under Texas Health and Safety Code, Chapter 341.

37. GBRA successfully operates 5 water treatment plants.
38. GBRA has over 30 years experience providing water to more than 70,000 persons (3,000 retail and industrial customers.)

● BexarMet Application

39. BexarMet is a general law water conservation district and municipal corporation with over 70,000 accounts and 250 employees.
40. BexarMet is an experienced and capable water supplier with 50 years of experience.

● Conclusion

41. The fact that Bulverde will not own or operate the facility does not impede its ability to control GBRA's management and operation of the utility through its contracts, nor does it impede the TCEQ's authority to require continuous and adequate service.
42. Bulverde and BexarMet each have the financial, managerial, and technical capability to provide continuous and adequate service.

ABILITY TO PROVIDE ADEQUATE SERVICE/ACCESS TO ADEQUATE SUPPLY OF WATER

● Bulverde's Application

43. Through the Western Canyon Project, GBRA is implementing a surface water supply system to meet the increasing needs of western Comal County, southeastern Kendall County, and portions of northern Bexar County. GBRA has sought customers such as Bulverde with large base water demands to fully utilize project facilities in the near term.
44. Through its contracts with GBRA, Bulverde will have adequate supply of water in the spring of 2004 when the Western Canyon Project is complete. Until that time, if necessary,

50. The 2002 South Texas Regional Water Plan (Region L) clearly identifies Comal County as an area in need of additional water from surface sources.
51. The area is a prime growth corridor for the San Antonio metropolis expanding to the north.
52. Bulverde has received requests for service throughout its requested area.

- BexarMet's Application

53. As to the service area requested by BexarMet which does not overlap Bulverde's service area, there is no documented need for service, except in BexarMet's previously certified areas.

- Conclusion

54. There is a need for service in the area requested by Bulverde.

#### SERVICE FROM AND IMPACT ON OTHER UTILITIES

55. Ten utilities have service areas adjacent to, within, or near BexarMet's requested service area: Comal, WSI, Diamond, Canyon Lake WSC, GBRA, Elm Ridge Water Company, Berry Oaks Water Company, Lomas Water Company, Fair Oaks Ranch Utilities, and BSR Water Company.
56. While granting the CCN amendment would make it more difficult for other utilities to serve the area within 1/4 mile of those utilities' service areas, those utilities may benefit from the proximity of a dependable supply of surface water.
57. There will be no significant adverse effect on other utilities already serving the area if Bulverde is granted the CCN.

#### EFFECT ON ENVIRONMENTAL INTEGRITY

58. If the CCN amendment is granted, the environment will be temporarily disrupted by the construction of water distribution systems, additional pumping, and storage facilities.



4. Bulverde has the financial, managerial, and technical capability to provide continuous and adequate service through its contracts with the Guadalupe Blanco River Authority.
5. Bulverde has met the requirements to receive a CCN to provide water service in Comal County, Texas. TEX. WATER CODE ANN. §§ 13.241, 13.244, 13.246.
6. Bulverde, through its contracts with the Guadalupe Blanco River Authority, is capable of providing drinking water that meets the requirements of Chapter 341, Health and Safety Code, and the requirements of the Water Code.
7. Based on the above Findings of Fact and Conclusions of Law, Bulverde's application for a CCN should be granted.
8. Based on the above Findings of Fact and Conclusions of Law, BexarMet's application to amend its CCN No. 10675 should be denied.

**NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:**

1. Application No. 33194 by the City of Bulverde for a CCN to provide water service in Comal County is granted.
2. Application No. 33309-C by Bexar Metropolitan Water District to amend its CCN No. 10675 in Comal County is denied.
3. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief not expressly granted herein, are hereby denied for want of merit.
4. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to all parties and, subject to the filing of motions for rehearing, issue a CCN to the City of Bulverde that conforms to this Order.



# Texas Commission on Environmental Quality

By These Presents Be It Known To All That

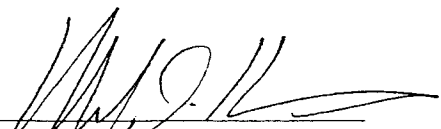
## City of Bulverde

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

## Certificate of Convenience and Necessity No. 12864

to provide continuous and adequate water utility service to those service areas in Comal County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 33194-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Bulverde to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this JUN 16 2003

  
For the Commission