

MAILING LIST
TAPATIO SPRINGS SERVICE COMPANY, INC.
SOAH DOCKET NO. 582-06-0425
TCEQ DOCKET NO. 2005-1515-URC

FOR THE APPLICANT:
Certified Mail No.:
7005 1820 0002 5752 3236

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:
Certified Mail No.:
7005 1820 0002 5752 3243

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

FOR THE CHIEF CLERK:
Certified No. :
7005 1820 0002 5752 3229

LaDonna Castañuela
Office of the Chief Clerk, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
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FOR THE PUBLIC INTEREST
COUNSEL:
Certified Mail No.:
7005 1820 0002 5752 3250

Mary Alice Boehm-McKaughan
Assistant Public Interest Counsel, MC-103
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
512-239-6361
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FOR RANGER CREEK HOA:
Certified Mail No.:
7005 1820 0002 5752 3267

Eric Sherer
Attorney at Law
11124 Wurzbach Road, Suite 100
San Antonio, TX 78232
210-696-9730
210-696-9675 FAX

RATEPAYERS RESPONSES TO PRODUCTION REQUESTS
REQUESTS FOR PRODUCTION

Please provide the following:

1. All documents referenced in your responses to the Request for Disclosure.

Response: No such documents are in our control.

2. To the extent not already provided, please produce copies of all documents identified in your response to the interrogatories, or used to assist you in responding to the interrogatories.

Response: See attached.

3. Produce all documents, including, but not limited to, all diaries, notes, memoranda, letters, charts, diagrams or photographs in any form in your or your attorney's possession, custody or control which you contend support or refute any of the defenses or allegations contained in this contested case hearing, including any and all documents you intend to rely on in this contested case hearing. This request does not seek documents protected by the attorney-client or attorney work product privileges.

Response: See attached.

4. Produce all witness statements, whether signed or unsigned, which directly or indirectly relate to the subject matter of this contested case hearing.

Response: No such documents exist.

5. Produce all tape recordings (whether video or audio) and transcriptions thereof that are in your or your attorney's possession, custody or control pertaining, directly or indirectly, to the issues in this contested case hearing.

Response: No such documents exist.

6. Produce all correspondence by and between you and the Commission relating in any way to the Application filed by the Applicants in this Docket.

Response: See attached.

7. Produce all documents you intend to offer as evidence at the hearing in this matter.

Response: See attached.

8. Produce all unprivileged statements made by anyone with knowledge of the facts relevant to this contested case hearing.

Response: We are unaware of any unprivileged statements. No such documents exist.

9. Produce all documents, including correspondence, e-mail communication and notes of any telephone communication or other communication by and between you and any other party to this contested case hearing.

Response: See attached.

10. Produce all documents, including correspondence, e-mail communication and notes of any telephone communication or other communication by and between you and any other party related in any way to the issues that are the subject of this contested case hearing.

Response: See attached.

11. Produce copies of all documents, including but not limited to, all correspondence related in any way to the Applicant and/or the Applicant's CCN.

Response: See attached.

12. Produce documents, that support your response to interrogatories Nos. 1-11

Response: See attached.

13. Produce all documents that demonstrate that Applicant does not meet the criteria in Section 13.246 of the Texas Water Code for granting a CCN.

Response: See attached.

CON/12122/582-06 0425/SO

Elizabeth Robison Martin
Dienger Building
106 West Blanco, Suite 206
P.O. Box 1764
Boerne, Texas 78006
830 816-8686
830 816-8282 fax

†

CHIEF CLERKS OFFICE

MAR 22 2006 PM 2:59

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

March 22, 2006

La Donna Castañuela
Office of the Chief Clerk, MC-105
Texas Comm. on Environmental Quality
PO Box 13087
Austin, Tx 78711-3087

RE: SOAH DOCKET NO. 582-06-0425;
TCEQ DOCKET NO. 2005-1516-UCR
Ratepayer's Responses to Executive Director and Tapatio Springs Service
Company, Inc. requests for discovery

Dear Ms. Castañuela;

Please find enclosed for filing with the Court, Ratepayer's Responses to discovery requested by Executive Director and Tapatio Springs Service Company, Inc. in the above referenced case.

Very truly yours,



Elizabeth R. Martin

erm/dw

enclosures

cc: Mailing List

Elizabeth Robison Martin
Dienger Building
106 West Blanco, Suite 206
P.O. Box 1764
Boerne, Texas 78006
830 816-8686
830 816-8282 fax

†

CHIEF CLERK'S OFFICE

27 MAR 27 PM 2:59

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

March 22, 2006

Via: Certified Mail No.: 7005 1820 0002 5752 3243

Ms. Kathy H. Brown
Staff Attorney
Texas Comm. on Environmental Quality
Law Division
PO Box 13087 MC1-173
Austin, Tx 78711-3087

Re: SOAH Docket No. 582-06-0425
TCEQ Docket No. 2005-1516-UCR
Ratepayers Responses to Executive Director's Request for Discovery

Dear Ms. Brown;

Enclosed please find Ratepayer's Response to the Executive Director's First Interrogatories and Request for Production.

Should you have any questions, please call us.

Very truly yours,



Elizabeth R. Martin

erm/dw

enclosures

cc: Mailing List

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	§	

RATEPAYER'S REPRESENTED BY MS. MARTIN,
RESPONSE TO TAPATIO SPINGS SERVICE COMPANY, INC.'S
REQUEST FOR ADMISSIONS

TO: Tapatio Springs Service Company, Inc. by and through their attorney Patrick Lindner, 7550 West IH-10, 7550 Northwest Center, Suite 800, San Antonio, TX 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, the Ratepayers responds to Tapatio Springs Service Company, Inc. Request for Admissions as attached.

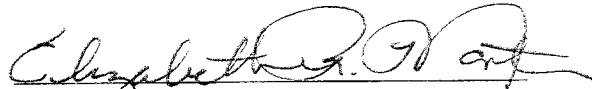
Law Office of Elizabeth R. Martin

By: 
Elizabeth R. Martin
State Bar No. 24027482
106 West Blanco, Suite 206
P.O. Box 1764
Boerne, TX 78006
(830) 816.8686
(830) 816.8282 (fax)

ATTORNEY FOR RATEPAYERS

CERTIFICATE OF SERVICE

I certify that on March 22, 2006 the Ratepayers Responses to Tapatio Springs Service Company, Inc. ("TCEQ") Requests for Admissions was sent via Certified Mail to the attached mailing list.

A handwritten signature in black ink, appearing to read "Elizabeth R. Martin", written over a horizontal line.

Elizabeth R. Martin,
Attorney for Ratepayers
State Bar No. 24027482

MAILING LIST
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SOAH DOCKET NO. 582-06-0425
TCEQ DOCKET NO. 2005-1515-URC

FOR THE APPLICANT:

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FOR THE EXECUTIVE DIRECTOR:

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Staff Attorney
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FOR THE CHIEF CLERK:

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**FOR THE PUBLIC INTEREST
COUNSEL:**

Certified Mail No.:
7005 1820 0002 5752 3250

Mary Alice Boehm-McKaughan
Assistant Public Interest Counsel, MC-103
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FOR RANGER CREEK HOA:

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Eric Sherer
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San Antonio, TX 78232
210-696-9730
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RESPONSES TO REQUESTS FOR ADMISSIONS

1. Applicant is currently providing continuous and adequate service.

Admit _____

Deny X

2. Applicant is an investor owned utility.

Admit X

Deny _____

3. Applicant should have alternate sources of water.

Admit X

Deny _____

4. By adding more customers to the system, Applicant will be able to spread operational and maintenance costs over a larger number of customers.

OBJECTION. Ratepayers object to this admission request as it is premature because the party will not know the answer until discovery is completed. TEX. RULE CIV. PROC. 193.1

Admit _____

Deny _____

5. A developer has requested service from the Applicant to provide service to the proposed CCN area.

OBJECTION. Ratepayers object to this admission request as it asks the party to admit matters that are hearsay.

Admit _____

Deny _____

6. Pursuant to the agreement between the Applicant and the developer, developer is required to pay for all costs of the facilities to provide serviced to the proposed CCN area.

Admit _____

Deny X

7. Tapatio Springs Services Company, Inc. is not a member owned member controlled "Water Supply Corporation" as defined by Chapter 291 of the TCEQ rules.

OBJECTION. Ratepayers object to this admission request as it asks the party to admit a proposition of law.

Admit _____

Deny _____

8. The TCEQ CCN application that was submitted by Tapatio Springs Services Company, Inc. requires a developer or entity who would be requesting a CCN for the first time to request service from adjacent water supply systems. (Item No. 4)

Admit X

Deny _____

9. There is a need for service in the proposed CCN area.

Admit _____

Deny X

10. Tapatio Springs Service Company, Inc. and Kendall County Utility Company, Inc. are the only utilities immediately adjacent to the proposed service area.

OBJECTION. Ratepayers object to this admission request as it is premature because the party will not know the answer until discovery is completed. TEX. RULE CIV. PROC. 193.1

Admit _____

Deny _____

11. No other utility or municipality is currently protesting this application?

OBJECTION. Ratepayers object to this admission request as it is premature because the party will not know the answer until discovery is completed. TEX. RULE CIV. PROC. 193.1

Admit _____

Deny _____

12. No other utility has proposed to provide service to the proposed CCN area.

OBJECTION. Ratepayers object to this admission request as it is premature because the party will not know the answer until discovery is completed. TEX. RULE CIV. PROC. 193.1

Admit _____

Deny _____

13. No other utility has filed a CCN application with the TCEQ to provide service to the proposed area.

OBJECTION. Ratepayers object to this admission request as it is premature because the party will not know the answer until discovery is completed. TEX. RULE CIV. PROC. 193.1

Admit _____

Deny _____

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	§	


RATEPAYER'S REPRESENTED BY MS. MARTIN,
RESPONSE TO TAPATIO SPINGS SERVICE COMPANY, INC.'S
INTERROGATORIES

TO: Tapatio Springs Service Company, Inc., by and through their attorney Patrick Lindner, 7550 West IH-10, Northwest Center, Suite 800, San Antonio, TX 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, the Ratepayers responds to Tapatio Springs Service Company, Inc.'s Interrogatories as attached.

Law Office of Elizabeth R. Martin

By:


Elizabeth R. Martin

State Bar No. 24027482

106 West Blanco, Suite 206

P.O. Box 1764

Boerne, TX 78006


(830) 816.8686

(830) 816.8282 (fax)

ATTORNEY FOR RATEPAYERS

CERTIFICATE OF SERVICE

I certify that on March 22, 2006 the Ratepayers Responses to Tapatio Springs Service Company, Inc. ("TCEQ") Interrogatories was sent via Certified Mail to the attached mailing list.

A handwritten signature in cursive script, appearing to read "Elizabeth R. Martin".

Elizabeth R. Martin,
Attorney for Ratepayers
State Bar No. 24027482

MAILING LIST
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COUNSEL:**
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RATEPAYER'S RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: For each person you expect to call as a fact witness for any evidentiary purpose in this Docket, please provide: (a) the person's of the testimony you expect that person to provide name, business address, and telephone number; and (b) a brief description.

Answer:

The only fact witnesses to be called will be those designated by Tapatio Springs Service Company and Texas Commission on Environmental Quality.

INTERROGATORY NO. 2: For each expert not listed in the response to the Request for Disclosure who you have consulted and whose mental impressions and opinions have been reviewed by and expert you expect to testify in this Docket, please provide: (a) the consulting expert's name and business address and telephone number; (b) the facts known by the expert that relate to form the basis of the expert's mental impressions and opinions formed or made in connection with this Docket, 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 Docket and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.

Answer:

None at this time.

INTERROGATORY NO. 3: Please state the basis of each ground on which you contend that the application should be denied, in whole or in part.

Answer:

1. The financial and managerial history of the applicant, found in public records, available financial statements and reports, clearly indicates it does not have the technical, financial or managerial capability to service the proposed CCN area.
2. The existing ratepayer's water supply, as evidenced in the well reports of the applicants, will be severely depleted by the additional customers even with the addition of the 250 acre feet from GBRA dedicated to the CDS International development and the 500 acre feet from the GBRA currently allocated to the existing applicant's customers and proposed additional development by Tapatio Springs. The current customers reported to be 800 connections, have available water of 1.7 acre feet per connection but the addition of the 1700 connections in the CDS International development combined with the 800 additional connections in the Tapatio Development results in the the available acre feet per connection being reduced by 60% to .57 acre feet per connection. According to the contract in the CCN application, there are 1700 connections to be developed with an additional water supply of only 250 acre-feet. Ultimately this will deplete existing water supplies by approximately 1,450 acre-feet. Thus instead of increasing the supply of water to the existing customers the applicant will stress the current groundwater resource and reduce the amount of available per connection water supply while increasing the ratepayers cost.
3. The applicant is overleveraged to the point of having a 2.8 or greater debt to equity ratio as calculated using the financial statements submitted with the

expansion application. According to the financial information the ratepayers currently have, the cost of the proposed expansion has not been estimated by the applicant thus the applicant is unaware of the additional debt it will have to incur. The current customers of the utility company will be subjected to an enormous risk that Tapatio Springs Service Company will go bankrupt if CCN expansion is approved. A comprehensive analysis of the cost of the expansion should be performed to determine if the utility company has the resources to undertake the project. Considering the lack of cost information on the project the ratepayers will be subjected to higher rates and degradation in service.

4. The contract in the CCN application obligates the applicant to all development costs above 1.5 million dollars. The costs could be five times that amount and ultimately the ratepayers would be responsible for the costs and/or the utility company might face bankruptcy procedures.
5. The requirements of the TEXAS ADMINISTRATIVE CODE Title 30 Chapter 290 is not complied with by the applicant. The relevant portion of this chapter states;

“ (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;

(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.”

The applicant has not provided any plans, cost estimates or any other documents to show compliance with these requirements.

6. The applicant currently services just over 800 connections including the Kendall County Utility Company customers and wells. The applicant will be adding approximately 800 connections within the service area it current covers. Additionally the applicant proposes that it will service 1,700 connections on the expanded area. The total amount of water the applicant states it has secured from the GBRA Canyon Lake resource is a total of 750 acre feet. Considering that the total of the new connections is 2,600, requiring 0.97 acre feet of supply to be in compliance with the current requirements, a total of 2,522 acre feet will be necessary to comply. Taking the required 2,522 acre feet less the 750 acre feet to come from the GBRA, a remaining 1,772 acre feet will be required from groundwater sources. According to the Region L water report which covers this area, that amount of water would be over 50% of the available water in the groundwater table. The applicant has demonstrated no ability or provided any plan to show where the water will come from or if this is even realistic. The applicant should provide cost estimates and realistic plans for securing water to comply with the supply requirement as set forth in the statutes and codes controlling in this matter.

INTERROGATORY NO. 4: For each contention identified in response to Interrogatory No. 3, identify the particular legal authority that you contend supports the contention and describe in reasonable detail the facts that relate to or form the basis of such contention.

Answer:

1. (a) The financial statements included in the application indicate a debt to equity ratio of 2.8 to 1. These financial statements are dated December 31, 2004 and should be updated as there may even be additional debts not reported on the financial statements creating a larger problem. This clearly indicates the applicant is not financially capable of successfully completing this project. (b) The billings, as included in the ratepayers' responses to applicant's request for production indicate that water consumption for some meters at Tapatio Springs Golf Resort are not being fully billed. This appears to be a violation of TEXAS WATER CODE Sections 13.189 and 13.190 and another factor indicating lack of sufficient and competent managerial financial capability. (c) The annual reports indicate a water loss factor of 15% to 20% for the past five years. This is a clear indication of both technical and managerial problems. (d) The current rate structure favor the higher water users which is counter intuitive for the region; the Tapatio Resort affiliated company consumes in excess of 20% of the applicant's well production, but is not billed properly as compared to homeowners and presents an apparent conflict of interest. (e) The financial statements clearly indicate the company is insolvent, relying on loans to keep their cash flow requirements met. Thus any additional debt would likely bankrupt the applicant.
2. The contract as submitted in the CCN application states the 1700 connections and the supply of 250 acre-feet, thus requiring substantial increase in pumping out of the existing wells as well as drilling new wells in the area, depleting the existing resources. TEXAS ADMINISTRATIVE CODE Title 30 Chap 290 requires 0.6 gpm per connection. This means existing ratepayer water resources will have to make of the difference reducing their existing groundwater supply by approximately 60%.
3. The applicant's financial statements as submitted in the CCN application clearly show the applicant is incapable of the proposed expansion. The current cashflow from operations indicates that the managerial inefficiencies and lack of billing for the water produced and used on property apparently owned by the stockholders. This proves that the applicant's current business model will not support the addition of 1,700 connections with only a 1.5 million dollar financial commitment for the project. The applicant first of all has not complied even an estimate of the cost that will be incurred in just piping the GBRA water to their location and secondly has not identified the source of financial resources to cover the construction cost above 1.5 million dollars.
4. Based on the documentation received in public record requests and in discovery requests in this matter as evidenced by the documents produced by Ratepayers, it appears the applicant has not notified the TCEQ of numerous loans made to their affiliate companies, which is in violation of TEXAS WATER CODE Section 13.303 that states "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."

This lack of compliance with statutory requirements further illustrates the problems with applicant's management of the utility company.

INTEROGATORY NO. 5: For each contention identified in response to Interrogatory No. 3, identify the changes to the Application that you believe would be necessary for its approval.

Answer:

1. The applicant should answer all application requirements on the TCEQ's application for expansion.
2. Applicant should provide a cost estimate with a timeline for the proposed expansion.
3. Party providing financial commitment for the expansion should submit evidence of financial capability as required by the TCEQ.
4. The applicant should provide audited financial statements to ascertain their managerial and financial stability and capability to the proposed CCN.
5. Applicant should comply with controlling state laws, federal laws, and administrative codes.

INTEROGATORY NO. 6: Please state the basis for your opposition to the Application.

Answer:

See answer to Interrogatory #3 and #4.

INTEROGATORY NO. 7: Identify any and all oral or written communications made between you or on your behalf and any governmental authority, public body, or governmental or public representative (such as municipalities, the TCEQ, the Governor of Texas, and state and/or federal senator or representative) regarding any matters related to the Application, and/or the Application Area, by describing in detail the actual or approximate date and time of the communication, the parties to and person privy to the communication, whether the communication was oral or written, and the substance of the communication, and any response received as a result of the communication.

Answer:

July 2005 Dan Smith, TCEQ. Several telephone conversions regarding financial requirements of an applicant.

July 2005 Kamal Adhikari, TCEQ. Several telephone conversations requesting documents sent to applicant and applicant's response.

August 2005 Scott Humphries, TCEQ. Several telephone conversations regarding SOAH administrative procedures.

December 2005 Kendall County Commissioners Court. Addressed the commissioners in public session. Informed them there was a protest pending with the TCEQ.

February 2006 John Mouring, Councilman City of Boerne. A telephone conversation regarding groundwater supplies in Kendall County, and the CCN application.

October 2005 Michael Mann, Director of Public Works City of Boerne – A telephone conversations regarding GBRA water and applicant's request to for wheeling GBRA water.

March 2006 Tommy Mathews. Cow Creek Groundwater Conservation District. Discussed groundwater supply in Kendall County.

INTERROGATORY NO. 8: Identify any and all oral or written communications and agreements made between you or on your behalf regarding any matters related to the Application, and/or the Application Area, by describing in detail the actual or approximate date and time of the communication or agreement, the parties to and person privy to the communication or agreement, whether the communication or agreement was oral or written, the substance of the communication or agreement, and any response received as a result of the communication.

Answer:

June-September 2005 - Al Hamilton. Written and oral communication regarding the CCN application.

June-September 2005 - Travis Cannon. Written and oral communication regarding the CCN application.

June-September 2005 - Bill Wielder. Written and oral communication regarding the CCN application.

June- August 2005 - Walter Trapp. Written and oral communication regarding the CCN application.

June - March 2006 - Dick Haas. Written and oral communication regarding the CCN application.

October 2005 - Stan Scott. Oral communication; a telephone conversation asking him to explain the Tapatio Springs Service District's financial statements.

October 2005 - George Mendez. Oral communication; a telephone conversation asking him to explain the Tapatio Springs Service District's financial statements.

December 2005 - Randy Richards. A telephone conversation regarding the lawsuit between CDS and the Perez family. Result was directed to the District Court to get details of lawsuit.

February 2006 Mark Trevino, Lerrin Development Company - A telephone conversation regarding the Lerrin Development and GBRA water acquisition.

March 2006 John Kight. Telephone conversation regarding groundwater resources in Kendall County and the Region I report.

March 2006 Micha Voulgaris, Cow Creek Groundwater Conservation District. Discussed groundwater supply in Kendall County.

INTERROGATORY NO. 9: Identify each person who answered or who was consulted to answer each interrogatory, identifying such persons by name, title, employer, address and phone number and identifying the particular interrogatory, by number, which each person answered or for which each person was consulted.

Answer:

None.

INTERROGATORY NO. 10: Please describe any experience you have in operating and/or managing a water utility under the original jurisdiction of the TCEQ.

Answer:

None

INTERROGATORY NO. 11: Please describe the basis for your objection to this application.

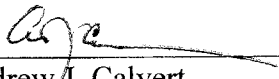
Answer:

See Interrogatory No. 3 and No. 4.

VERIFICATION

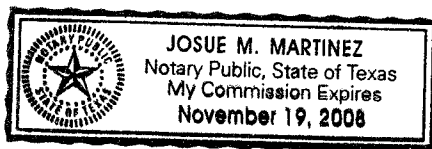
STATE OF TEXAS §
 §
COUNTY OF KENDALL §


BEFORE ME, the undersigned notary public, on this day personally appeared Andrew J. Calvert, who, upon being duly sworn, testified that he prepared the attached Ratepayers Responses to Tapatio Springs Service Company, Inc.'s Interrogatories, and that the information is true and correct to the best of his knowledge and belief.



Andrew J. Calvert

SUBSCRIBED AND SWORN BEFORE ME on this 22^d day of March, 2006.






NOTARY PUBLIC, STATE OF TEXAS

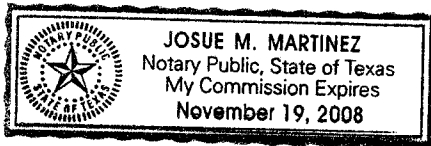
VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF KENDALL §

BEFORE ME, the undersigned notary public, on this day personally appeared Richard Haas, who, upon being duly sworn, testified that he prepared the attached Ratepayers Responses to Tapatio Springs Service Company, Inc.'s Interrogatories, and that the information is true and correct to the best of his knowledge and belief.


Richard Haas

SUBSCRIBED AND SWORN BEFORE ME on this 22nd day of March, 2006.




NOTARY PUBLIC, STATE OF TEXAS

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	§	

RATEPAYER'S REPRESENTED BY MS. MARTIN,
RESPONSE TO TAPATIO SPINGS SERVICE COMPANY, INC.'S
REQUEST FOR DISCLOSURE

TO: Tapatio Springs Service Company, Inc. by and through their attorney Patrick Lindner, 7550 West IH-10, Northwest Center, Suite 800, San Antonio, TX 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, the Ratepayers responds to Tapatio Springs Service Company, Inc. Request for Disclosure as attached.

Law Office of Elizabeth R. Martin

By: 
Elizabeth R. Martin
State Bar No. 24027482
106 West Blanco, Suite 206
P.O. Box 1764
Boerne, TX 78006
(830) 816.8686
(830) 816.8282 (fax)

ATTORNEY FOR RATEPAYERS

CERTIFICATE OF SERVICE

I certify that on March 22, 2006 the Ratepayers Responses to Tapatio Springs Service Company, Inc. ("TCEQ") Request for Disclosure" was sent via Certified Mail to the attached mailing list.

A handwritten signature in cursive script, appearing to read "Elizabeth R. Martin", written over a horizontal line.

Elizabeth R. Martin,
Attorney for Ratepayers
State Bar No. 24027482

MAILING LIST
TAPATIO SPRINGS SERVICE COMPANY, INC.
SOAH DOCKET NO. 582-06-0425
TCEQ DOCKET NO. 2005-1515-URC

FOR THE APPLICANT:

Certified Mail No.:
7005 1820 0002 5752 3236

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:

Certified Mail No.:
7005 1820 0002 5752 3243

Kathy Humphreys 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:

Certified Mail No.:
7005 1820 0002 5752 3229

LaDonna Castañuela
Office of the Chief Clerk, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
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**FOR THE PUBLIC INTEREST
COUNSEL:**

Certified Mail No.:
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Mary Alice Boehm-McKaughan
Assistant Public Interest Counsel, MC-103
Texas Commission on Environmental Quality
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Austin, TX 78711-3087
512-239-6361
512-239-6377 FAX

FOR RANGER CREEK HOA:

Certified Mail No.:
7005 1820 0002 5752 3267

Eric Sherer
Attorney at Law
11124 Wurzbach Road, Suite 100
San Antonio, TX 78232
210-696-9730
210-696-9675 FAX

RATEPAYER'S RESPONDS TO 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;

Response: Ratepayers contend that the applicant should comply with the laws and regulations applicable to expansions of CCN areas and regulations of water/sewer utility companies.

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

Response: See parties and experts for TCEQ, Tapatio Springs Service Company, and named ratepayers.

(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 experts current resume and bibliography;

Response: None designated at this time.

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

Response: None at this time.

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

Response: None at this time.

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

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

APPLICATION OF TAPATIO SPRINGS
SERVICE COMPANY, INC.,
TO AMEND CERTIFICATES
OF CONVENIENCE AND NECESSITY
NOS. 12122 AND 20698 IN KENDALL
COUNTY, TEXAS

§
§
§
§
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§


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BEFORE THE STATE OFFICE
OF
CHIEF CLERKS OFFICE
ADMINISTRATIVE HEARINGS

RATEPAYER'S REPRESENTED BY MS. MARTIN,
RESPONSE TO EXECUTIVE DIRECTOR'S
REQUEST FOR PRODUCTION

TO: Executive Director, by and through the attorney of record, Kathy Humphreys Brown, Staff Attorney, Environmental Law Division, MC-173, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

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, the Ratepayers responds to Executive Director of the Texas Commission on Environmental Quality ("TCEQ") Request for Production as attached.

Law Office of Elizabeth R. Martin

By 
Elizabeth R. Martin
State Bar No. 24027482
106 West Blanco, Suite 206
P.O. Box 1764
Boerne, TX 78006
(830) 816.8686
(830) 816.8282 (fax)

ATTORNEY FOR RATEPAYERS

CERTIFICATE OF SERVICE

I certify that on March 22, 2006 the Ratepayers Responses to "Executive Directors' Requests for Production" was sent via Certified Mail to the attached mailing list.

A handwritten signature in cursive script, appearing to read "Elizabeth R. Martin", written over a horizontal line.

Elizabeth R. Martin,
Attorney for Ratepayers
State Bar No. 24027482

MAILING LIST
TAPATIO SPRINGS SERVICE COMPANY, INC.
SOAH DOCKET NO. 582-06-0425
TCEQ DOCKET NO. 2005-1515-URC

FOR THE APPLICANT:
Certified Mail No.:
7005 1820 0002 5752 3236

Patrick Lindner
Attorney at Law
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210-349-6484
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FOR THE EXECUTIVE DIRECTOR:
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Kathy Humphreys Brown
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512-239-0606 FAX

FOR THE CHIEF CLERK:
Certified Mail No.:
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LaDonna Castañuela
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Texas Commission on Environmental Quality
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FOR THE PUBLIC INTEREST
COUNSEL:
Certified Mail No.:
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Mary Alice Boehm-McKaughan
Assistant Public Interest Counsel, MC-103
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FOR RANGER CREEK HOA:
Certified Mail No.:
7005 1820 0002 5752 3267

Eric Sherer
Attorney at Law
11124 Wurzbach Road, Suite 100
San Antonio, TX 78232
210-696-9730
210-696-9675 FAX

RATEPAYER'S RESPONDS TO REQUEST FOR PRODUCTION

Production Request No. 1

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

SEE ATTACHED PRODUCTION.

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

TEXAS
COMMISSION ON ENVIRONMENTAL
QUALITY

2006 MAR 27 PM 2:59

APPLICATION OF TAPATIO SPRINGS §
SERVICE COMPANY, INC., §
TO AMEND CERTIFICATES §
OF CONVENIENCE AND NECESSITY §
NOS. 12122 AND 20698 IN KENDALL §
COUNTY, TEXAS §


BEFORE THE STATE OFFICE
OF CHIEF CLERK'S OFFICE
ADMINISTRATIVE HEARINGS

RATEPAYER'S REPRESENTED BY MS. MARTIN,
RESPONSE TO EXECUTIVE DIRECTOR'S
FIRST SET OF INTERROGATORIES

TO: Executive Director, by and through the attorney of record, Kathy Humphreys Brown, Staff Attorney, Environmental Law Division, MC-173, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087

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, the Ratepayers responds to Executive Director of the Texas Commission on Environmental Quality ("TCEQ") first set of written interrogatories as attached.

Law Office of Elizabeth R. Martin

By: 
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106 West Blanco, Suite 206
P.O. Box 1764
Boerne, TX 78006
(830) 816.8686
(830) 816.8282 (fax)

ATTORNEY FOR RATEPAYERS

CERTIFICATE OF SERVICE

I certify that on March 22, 2006 the Ratepayers Responses to "Executive Directors", First Set of Interrogatories, and was sent via Certified Mail to the attached mailing list.

A handwritten signature in cursive script, appearing to read "Elizabeth R. Martin", written over a horizontal line.

Elizabeth R. Martin,
Attorney for Ratepayers
State Bar No. 24027482

MAILING LIST
TAPATIO SPRINGS SERVICE COMPANY, INC.
SOAH DOCKET NO. 582-06-0425
TCEQ DOCKET NO. 2005-1515-URC

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RATEPAYER'S RESPONDS TO
FIRST SET OF 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.

Answer

From the time Tapatio Springs Service Company (TSSC) applied to TCEQ for a Pass-Through Rate Adjustment to cover the costs involved with the connection of the GBRA water delivery point to their system, it has been clear that TSSC does not possess either the managerial or financial capability to accomplish the goal of providing water and sewer services on the magnitude required in the proposed area. The TCEQ disallowed the Pass-Through application explaining that it was in fact a Rate Increase Application and should be filed as such. Although the contract with GBRA was signed in 2001, neither the route nor the rights-of-way have been acquired for the water connection and the take-or-pay provision regarding the Canyon Lake water has already commenced. This extreme lack of planning by management should not be rewarded by expanding the TSSC operational area. While all the financial statements provided with the applications have a caveat of "For Management Purposes Only" or "Unaudited – For Management Purposes Only" on them, it is clear that TSSC does not possess the financial resources to provide the necessary infrastructure for such an undertaking.

Further, TSSC does not possess enough groundwater to provide for its current Rate Payers with the Kendall County Utility Company (KCUC) wells. Only through the merger of these two utilities is there adequate supply for the TSSC ratepayers. This merger has been proposed to the TCEQ by the owners since they are the same for both companies. While supporting this merger, an investigation into the financial statements of KCUC shows a debt of \$175,000 in favor of CDS International Holdings, part of the Developer family of companies. There are also UCC Financing Statements filed as early as November 2004 showing the obligation of a substantial interest of KCUC as collateral for debts incurred by Tapatio Springs Holdings, Inc. to C.D. Financial LLC, another member of the Developer's companies.

The TSSC financial statements submitted to TCEQ in support of this application indicate loans to other Tapatio Springs companies as Intercompany Transfers as well as Accounts Payable to KCUC. These financial maneuvers appear to be in violation of the Texas Water Code **Section 13.303** unless the Commission has been notified of these transactions within 60 days of effect. There is also noted a Long Term Liability in the amount of \$905,146.35 to Clyde B. Smith which is incurring 6% interest, yet none of the intercompany transfers and note accounts are collecting interest from the other Tapatio Springs companies.

The present rate structure for the TSSC customers is approximately 50% higher than surrounding communities and this was true even before the requested pass-through application. At the same time, TSSC has a rate schedule that favors the high users of water resulting in a 40% reduction of their charges when compared to other utilities in the area.

These facts plus the water loss factor of 16-20% for the past five years, would present little chance of the ratepayers in the proposed area of getting anything but an inflated cost for water and sewer service. During this water loss, the ratepayers have been placed on drought restrictions.

Interrogatory No. 2

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

Answer:

Tapatio Springs Service Company (TSSC) and its affiliate Kendall County Utility Company (KCUC) signed a contract in 2001 to purchase treated surface water from the Guadalupe Blanco River Authority (GBRA). This contract has incurred debt cost, water reservation costs and is presently incurring take-or-pay costs since a connecting pipeline from the GBRA delivery point to the TSSC/KCUC system has not even been designed as to route or rights-of-way, hence no installation is ongoing. If this CCN amendment were approved, the installation of the connection could not commence as stated above and would probably take at least two years to complete with the above three costs mounting.

These costs are accumulating yet the combined TSSC/KCUC production of 843 gpm is adequate for 1405 connections at peak load while the present combined ratepayer's total less than 800 customers. TSSC/KCUC has already tried to pass through these costs to the present ratepayers even though the Cow Creek Groundwater Management Plan shows that the present wells should be capable to this sustained production for the next 40 years. With this background, the owners and general manager of TSSC/KCUC held a Public Meeting of the concerned ratepayers on July 13, 2005 and stated that the present customers had a water shortage problem. The General Manager of TSSC/KCUC is also a Director of the Cow Creek Groundwater Conservation District which adopted the above Management Plan on September 7, 2004.

Due to the financial mismanagement, partially due to the GBRA contract and intercompany money shifting, TSSC/KCUC are bordering on bankruptcy in spite of the 50% excess of customer rates over surrounding communities. Records from TSSC indicate that they are not fully billing for water consumed by the Tapatio Springs Golf Resort which is in violation of Texas Water Code Section 13.189 as we read the statute. This is an ongoing problem of mismanagement, disinformation and conflict of interest.

This applicant should be required to provide the financial information required in Section 6.A.i. of the Application Form TCEQ-10362 (Revised 11/02) instead of just the Balance

Sheet, with the caveat "Unaudited – For Management Purposes Only" provided in Attachment G.

Interrogatory No. 3

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

Answer

There are no existing customers in the proposed CCN area, there is no subdivision plan approved and the current owner has the property for sale. However, there is a contract between CDS International Holdings, Inc, the developer and TSSC to provide water and wastewater services within the property. Although this was envisioned by the two parties as "an extension of the Utility Company's water system and wastewater system", the contract contains dangerous caveats which protect the developer, endanger the utility company and put the present customers at a significant risk.

A partial list of these problem areas for the present ratepayers are as follows:

- The design and details of this extension including the costs have not been properly shown or supported.
- The developer does not share the cost of rights-of-way, easements and government approvals.
- The maintenance and upkeep of the extension would rest on the current customers if the developer decided not to build any houses.
- The maximum contribution by the developer for the delivery pipeline would be \$1,500,000 even though the cost of this project has not been established.
- TSSC may have to construct some roads within the proposed area in order to service the extension.
- The costs of the wastewater collection and treatment system was not delineated.
- There has been no submittal by the developer to demonstrate the financial ability to cover his portion of these costs.
- The financial information submitted on behalf of TSSC is inadequate as pointed out above.

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 sewer utility services to the proposed area.

Answer

As stated previously, the financial information provided with this application is questionable at best; it does show financial irregularities such as loans to other Tapatio companies and some very alarming ratios of debt to equity. It appears that TSSC is almost entirely relying on the financial resources of the developer to complete this extension and delivery pipeline. This is apparently to be accomplished by means of large

loans from a company, which already has a substantial interest in KCUC as a result of that stock being provided as collateral for loans to another company in the Tapatio family. The contract with the developer already has clauses for CDS to withdraw from many obligations with regard to the installation of the infrastructure required for this extension and loans to the TSSC would only exacerbate the present tenuous financial situation. The developer has not received an approval for the plat of this area and further is involved in lawsuits with a local party and the previous owner regarding the property. In November 2005, the developer was committed to auctioning off the property but withdrew the notice shortly before the advertised date.

With regard to the managerial ability, TSSC signed a contract with GBRA for treated surface water and has yet to complete the design of the pipeline to transport the purchased water to their system. In January 2006, the owners approached the Boerne City Council to have the city use their pipelines to carry 200 acre-feet of GBRA water to Tapatio Springs customers. "We want to take delivery of the water on time and without the city's help we will be delayed," the owner told the council. In an interview, the general manager said that arranging financing for the project was the chief reason that the pipeline was not yet in place. This is almost 5 years after a contract was signed with GBRA and no pipeline is in sight. The Boerne City Council has failed to agree to provide the water transportation.

The annual reports for the past years have shown losses of 15-20% of the water produced by TSSC. This demonstrates a careless waste of water or something even more sinister and far exceeds the acceptable norms for this indicator of competence.

Addressing technical ability, TSSC and KCUC have only one full time employee who is licensed to operate the water and sewer facilities. This individual serves as the manager for the companies and although there are restrictions against having persons with vested interests in water services, acted as a Director for the Cow Creek Groundwater Conservation District (CCGCD). To expand the CCN by 8-fold will only exacerbate these problems and certainly not alleviate the situation.

Furthermore, the Bulverde SOAH hearing (SOAH Dockets 582-01-3633 & 582-02-0432; TCEQ Dockets 2001-0697 & 2001-0951-UCR and the final TCEQ ruling rejected Bulverde's DDN since they did not have the financial, managerial or technical ability to serve the customers, instead of relying solely upon the developer's resources to construct the facilities.

Interrogatory No. 5

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

Answer

The water and sewer utility services for the proposed area must only be provided if divided to accommodate the 1700 customers stated in the CCN Amendment application.

however, the lawsuit filed against the developer maintains the covenants of the property restrict subdivision to less than 25-acre parcels. These parcels could be served by individual wells and individual septic systems throughout the development.

If the developer were granted permission to develop the property as presented in the CCN Amendment application, the 1700 connections would require 1645 acre-feet of water availability for peak load conditions. What is being projected is an additional 250 acre-feet of GBRA water and 10 wells at 75 gpm (1210 acre-feet annually) resulting in a shortage of 185 acre-feet. The CCGCD manual indicated that in the year 2000 there were only 2,093 acre-feet of Remaining Groundwater Available to Meet Future Demands for the entire Kendall County. It would seem very hard to believe that TSSC could, with this expansion, obtain permission to utilize 60% of the public asset.

Interrogatory No. 6

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

Answer

In August of 2005, Tapatio Springs Service Company (TSSC) contracted with Matkin-Hoover Engineering, Inc. to conduct a Water Supply Analysis for TSSC for the expansion into the 5000 acres known as the "Broken O" ranch. The results of this study were submitted to the TCEQ in October 2005 as part of the TSSC request to provide the water and sewer service to this area. A synopsis of the Executive Summary to the study is provided in the next couple of paragraphs. The present capacity of TSSC is 843 gallons per minute, which equates to 1360 Acre-Feet/Year. The term Acre-Feet/Year is used since that is the measure by which the Guadalupe Blanco River Authority (GBRA) sells the Canyon Lake water.

"Through the acquisition of GBRA water, TSSC has sufficient capacity by state regulations to serve this property... We have accounted for a 75% reduction (*actually a reduction to a level of 75% of present capacity*) in maximum (*present*) pumping capability, which will allow 1020 Ac-Ft/Yr for water service by existing well production. There is a current contract for GBRA water signed July 14, 2005. This contract is for 750 Ac-Ft/Yr... There is an existing customer base of 843 connections on TSSC... The 5000 acres that is currently being added to the CCN (*Certificate of Convenience and Necessity*) will result in additional 1700 connections to the system and future lots in Tapatio will yield 850 lots. The ultimate connections for TSSC at this time are 3393 connections. A total of 1697 Ac-Ft/Yr will be required. Including the GBRA supply of water, the total production at this time will be 1770 Ac-Ft/Yr."

What this says is that TSSC will have 1770 Ac-Ft/Yr to serve 3393 customers and we now have 1020 Ac-Ft/Yr to serve 843 customers. This results in LESS THAN TWICE THE PRODUCTION CAPACITY to serve almost FOUR TIMES AS MANY CUSTOMERS. Presently we have 1.7 Ac-Ft/Yr per connection whereas if this expansion is allowed as proposed, the ratio would be **0.52** Ac-Ft/Yr per connection after the

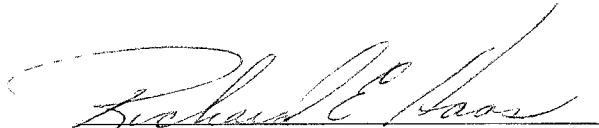
presented reduction in capacity! This is a reduction of 69% per connection if this expansion is approved.

| These results, combined with undue costs and exposure to very costly risks, would be the consequence of an approval by the TCEQ even though the Cow Creek manual demonstrates that there is adequate groundwater to serve the present customers for the foreseeable future.

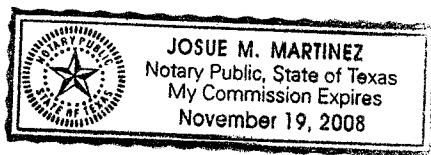
VERIFICATION


STATE OF TEXAS §
 §
COUNTY OF KENDALL §

BEFORE ME, the undersigned notary public, on this day personally appeared Richard Haas, who, upon being duly sworn, testified that he had prepared the attached Ratepayers Responses to Executive Director's First Set of Interrogatories, and that the information is true and correct to the best of his knowledge and belief.


Richard Haas

SUBSCRIBED AND SWORN BEFORE ME on this 22^d day of March, 2006.

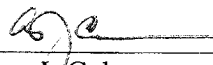



NOTARY PUBLIC, STATE OF TEXAS

VERIFICATION

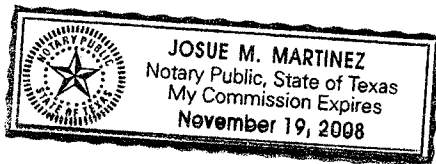
STATE OF TEXAS §
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COUNTY OF KENDALL §

BEFORE ME, the undersigned notary public, on this day personally appeared Andrew J. Calvert, who, upon being duly sworn, testified that he had prepared the attached Ratepayers Responses to Executive Director's First Set of Interrogatories, and that the information is true and correct to the best of his knowledge and belief.



Andrew J. Calvert

SUBSCRIBED AND SWORN BEFORE ME on this 22nd day of March, 2006.





NOTARY PUBLIC, STATE OF TEXAS