



Control Number: 44001



Item Number: 43

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014

The effective date of this CA is the signature date of Current Martin Respondents' authorized representatives.

Acceptance of the terms of this CA is indicated by the signatures below.

Michael M. Martin
Michael M. Martin

CO-OWNER
Title

2-24-06
Date

Michael M. MARTIN
Printed Name of Michael M. Martin

Mitchell M. Martin Jr.
Mitchell Mackay Martin, Jr.

CO-OWNER
Title

2-24-06
Date

Mitchell M. Martin, Jr.
Printed Name of Mitchell Mackay Martin, Jr.

Carolee Martin
Carolee Martin

Title

02.24.06
Date

CAROLEE MARTIN
Printed Name of Carolee Martin

Bryan Swick
Manager
Enforcement Division
Texas Commission on Environmental Quality

2/22/06
Date

submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

In return for the Current Martin Respondents' agreement and adherence to these terms, the Commission will withhold further enforcement actions related to the noted violations. Should the Current Martin Respondents believe that unforeseen circumstances indicate a need to alter the above mentioned schedule, particularly regarding the effective CI Plan, Current Martin Respondents must immediately notify the TCEQ Enforcement Division in writing so that the TCEQ can determine whether an extension of a deadline is warranted. The availability of any deadline extension is within the sole discretion of the TCEQ Enforcement Division.

- d. A plan of action to ensure that complete and approved plans, either as-built or otherwise appropriate, are available for all the CA Facilities within 24 months of the effective date of this CA.

A Texas Registered Professional Engineer shall prepare and seal the submitted CI-Plan. Unless modified in writing by the TCEQ Enforcement Division, the (most recently) submitted CA with its schedule shall become effective and incorporated by reference to this CA within 150 days after the effective date of this CA. The Current Martin Respondents must meet the corrective actions and schedule specified in the effective CI Plan. Any modifications subsequently requested to the effective CI Plan shall be made via written submission to TCEQ; upon written TCEQ approval, approved modifications shall become part of this plan and become incorporated by reference into this effective CA and the effective CI Plan.

- 5. Within 135 days after the effective date of this CA, submit written certification of compliance (as described below) with Provision Nos. 3 and 4 above.
- 6. Within 120 days of the effective date of this CA, and subsequently on the 15th day of January, April, July and October of each year while there are any improvements described in the effective CI Plan that remain uncompleted, the Current Martin Respondents shall provide update reports regarding certain items including:
 - a. Progress on completing the CI Plan at each of the CA Facilities;
 - b. Any changes (additions, withdrawals, switches) regarding Responsible Persons, as described in Provision No. 3.f.ii. above, including changes to ownership or operational staff at any CA Facility;
 - c. Status of any permit or authorization applications/registrations submitted; and
 - d. Changes regarding any other management, legal, funding and/or operational activities which are related to (and/or involve Current Martin Respondents oversight of) each of these CA Facilities.
- 7. Within 28 months after the effective date of this CA, using written certification of compliance as described below (for each CA Facility), submit either certification that the CA Facility is operating in compliance with applicable TCEQ requirements (and has appropriate TCEQ authorizations) or certification that the CA Facility has ceased operating (and has been adequately decommissioned) in compliance with state rules and regulations.
- 8. Written certifications shall be submitted as described in this CA provision, and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provision Nos. 1, 3, 4 and 7 above.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the

- i. A description of any regionalization/consolidation studies or other engineering analyses performed in the last five years, and a sketch showing the closest city or other entity that could supply an alternate supply of water and receiver/treat wastewater;
- ii. A list of persons ("Responsible Persons") who have an oversight or operational responsibility at each of the CA Facilities;
- iii. Whether as-built plans (approved by the TCEQ) are available for existing portions of each of the CA Facilities;
- iv. The date of the most recent TCEQ investigation, and a list of noncompliances noted during the TCEQ investigation;
- v. Status of any overdue fees, including those for public health service, water regulatory assessment and water quality fees; and
- vi. Any other pertinent identification/authorization information.

Additionally, the CR-Report should make recommendations as to what changes (related to current information in 3.a.-3.f. above) the Current Martin Respondents believe would make TCEQ information/databases more accurate, complete and representative. Such changes would include indicating where additional authorizations are needed (i.e., like a wastewater permit or a CCN) and where current information in the TCEQ Central Registry associated with CN or RN numbers needs to be updated. If a new permit application is needed for any existing facility, the Current Martin Respondents must properly submit (within 60 days after the effective date of this CA) a permit application and subsequently provide adequate, complete and timely responses to all TCEQ requests for information concerning the permit application. Regarding TCEQ investigation letters and reports, the Current Martin Respondents should compile a list of the most recent regional investigation (and whether any violations were noted) for each CA Facilities.

4. Within 120 days after the effective date of this CA, the Current Martin Respondents shall submit to the Executive Director for review and possible comment/modification, a comprehensive proposed improvement plan and proposed schedule (the "CI-Plan") for each of the CA Facilities defined pursuant to Provision No. 3.e. above. The CI Plan shall address certain considerations, including:
 - a. In the short term, how to update information as recommended in the CR-Report and how to accomplish operation/maintenance improvements which can further optimize compliance/performance at each of the CA Facilities;
 - b. A schedule of payments to ensure any overdue fees are paid within 365 days after the effective date of this CA;
 - c. Development of a prioritized list of capital improvements, with an associated schedule for implementation/completion, necessary to ensure all of the CA Systems are compliant with the respective applicable rules and statutes within 24 months of the effective date of this CA. This prioritized list and schedule must address, at a minimum, violations and deficiencies noted during TCEQ regional investigations; and

1. Immediately upon the effective date of the CA, the Current Martin Respondents shall:
 - a. Properly operate and maintain all the Systems' facilities (including the means of treatment and control, and related appurtenances) installed or used by the Current Martin Respondents to optimize performance and compliance of the Systems;
 - b. Ensure accurate and precise measurement, monitoring, recording and reporting regarding monitoring which is required to be performed for each of the Systems. This shall include providing the TCEQ with self-reported information and maintaining records for review by TCEQ representatives, in the manner and per the timeframe required by TCEQ rules, this CA, or any other applicable TCEQ authorization/permit/registration; and
 - c. Ensure that notices to the public and Commission are accomplished in the timeframe and manner specified in TCEQ rules.
2. Within 15 days after the effective date of this CA, submit written certification of compliance (as described below) with Provision Nos. 1.a. through 1.c. above.
3. Within 60 days after the effective date of this CA, the Current Martin Respondents shall submit a Customer and Regulated Entity Report ("CR-Report"), for TCEQ review and possible comment/modification, which describes and provides current information including:
 - a. A list of all public drinking water systems and wastewater systems (i.e., "the Systems"), including those noted in the Inventory and Appraisal of the Estate of Mitchell M. Martin, Sr. (filed August 18, 2004), those associated with Certificate of Convenience and Necessity ("CCN") Nos. 10347, 10350, 10835, 11193, 12624, 12639, 20197 and 20754 and any others, associated with the Previous Martin Respondents as well as those currently owned, operated or otherwise associated with the Current Martin Respondents;
 - b. All Customers and Regulated Entities associated with each of these Systems, accurately named and identified, including any Customer ("CN") or Regulated Entity ("RN") numbers;
 - c. Any authorizations (such as a CCN, permit, registration or other authorization) which are associated with any of the Systems;
 - d. The preferred name, address and telephone/facsimile number for the Current Martin Respondents representative/person to whom the TCEQ should direct its communications regarding this CA;
 - e. A proposal list, which specifies which (or all) of the Systems noted in 3.a. above that will be addressed and included in this CA (i.e., which of the Systems will need to address the rest of the provisions of this CA). Drinking water and wastewater systems included on the proposal list, may be referred to as the "CA Facilities" in following parts of this CA;
 - f. For each of the CA Facilities noted in Provision No. 3.e. above:

RECEIVED

Texas Commission on Environmental Quality

PUBLIC UTILITY COMMISSION

COMPLIANCE AGREEMENT

FILING CLERK

Mitchell Mackay Martin, Jr., Michael M. Martin and Carolee Martin
Martin Systems

Public Drinking Water and Wastewater Systems, including those associated with Certificate of Convenience & Necessity Nos. 10347, 10350, 10835, 11193, 12624, 12639, 20197 and 20754, located in Harris and Montgomery Counties, Texas

The Texas Commission on Environmental Quality ("Commission" or "TCEQ") is the state agency charged with enforcing Chapter 341, Subchapter C of the TEX. HEALTH & SAFETY CODE and Chapter Nos. 13 and 26 of the TEX. WATER CODE (the "Codes"), and the regulations promulgated pursuant to the Codes.

Mitchell Mackay Martin, Jr., Michael M. Martin and Carolee Martin (the "Current Martin Respondents"), all three of whom share a family relationship, now own, oversee and/or operate multiple public water and wastewater systems (the "Systems" herein) that are located in Harris and Montgomery Counties. It is understood that Mitchell ("Mitch") and Michael are the primary managers/administrators of the Systems. The Systems are in substantial violation of the TCEQ's requirements, including those found in TEX. HEALTH & SAFETY CODE Ch. 341, TEX. WATER CODE chs. 13 and 26, and 30 TEX. ADMIN. CODE Chs. 290, 291, 305 and 317. Previous owner/operators D. E. Martin and Mitchell M. Martin, Sr. (Subjects of state enforcement cases, indicated in this CA as the "Previous Martin Respondents") allowed noncompliances with rules applicable to many of the Systems since at least 1996. The Current Martin Respondents have taken responsibility for oversight of the Systems, as they acquired property associated with the Systems via court action on a family will, Cause No. 03-20, 764-P in the County Court of Montgomery County, Texas. The Current Martin Respondents are currently evaluating how specific property and other interests may be associated with Carolee Martin and/or others regarding these facilities.

The TCEQ recognizes that the Current Martin Respondents are in an ongoing process of determining all noncompliances at each of the Systems, obtaining engineering/consulting assistance, and of subsequently formulating a complete list of appropriate corrective actions and corresponding expedited implementation schedule tailored to each of the Systems. The Current Martin Respondents are willing to explore regionalization/consolidation (i.e., connecting some/all of the Systems to a larger, more capable utility, either by sale of other means of changing water supply, operational control, or ownership) or a sale of some or all of the Systems if such actions will help optimize both compliance and performance of the particular Systems. The Current Martin Respondents intend to bring the Systems into full compliance with the Commission's drinking water and water quality rules (including 30 TEX. ADMIN. CODE chs. 290, 291, 305 and 317).

Many of the violations associated with the Systems are on-going and will continue to occur until such time as the Systems can be upgraded in accordance with the terms and conditions herein. The Current Martin Respondents shall correct all of the violations which will be listed in a corrective action plan and schedule submitted by the Current Martin Respondents pursuant to this Compliance Agreement ("CA").

In response to these violations and in an effort to eliminate the potential threat to public health, the Current Martin Respondents and the Commission have entered into this CA.

NOW, THEREFORE, in consideration of the foregoing, the TCEQ and the Current Martin Respondents agree and enter into an agreement; the provisions of this CA are as follows:

RECEIVED

FEB 02 2007

TCEQ
CENTRAL FILE ROOM

HAYS COUNTY WCID 1	CCN - AMENDMENT	35077-C	HAYS	05/10/2006
	CCN - DECERTIF	35077-C	HAYS	05/10/2006
	CCN - AMENDMENT	11670	HAYS	05/10/2006
	CCN - DECERTIF	11670	HAYS	05/10/2006
	CCN - AMENDMENT	13013	HAYS	05/10/2006
	CCN - DECERTIF	13013	HAYS	05/10/2006
NEW CANEY MUD	CCN - AMENDMENT	34875-S	MONTGOMERY	05/11/2006
	CCN - AMENDMENT	11444	MONTGOMERY	05/11/2006
	CCN - AMENDMENT	10347	MONTGOMERY	05/11/2006
	CCN - AMENDMENT	11969	MONTGOMERY	05/11/2006
	CCN - AMENDMENT	10350	MONTGOMERY	05/11/2006
GRAND HARBOR WSC	CCN - NEW	34835-C	WISE	05/15/2006
	CCN - NEW	13078	WISE	05/15/2006
WALKER WATER WORKS INC	ORDER - APPEAL	34783-A	BRAZORIA	05/18/2006
	ORDER - RATE/TARIF	34783-A	BRAZORIA	05/18/2006
	ORDER - APPEAL	34660-R	BRAZORIA	05/18/2006
	ORDER - RATE/TARIF	34660-R	BRAZORIA	05/18/2006
	ORDER - APPEAL	34661-R	BRAZORIA	05/18/2006
	ORDER - RATE/TARIF	34661-R	BRAZORIA	05/18/2006
	ORDER - APPEAL	20762	BRAZORIA	05/18/2006
	ORDER - RATE/TARIF	20762	BRAZORIA	05/18/2006
	ORDER - APPEAL	11862	BRAZORIA	05/18/2006
	ORDER - RATE/TARIF	11862	BRAZORIA	05/18/2006
CITY OF GRANBURY	CCN - AMENDMENT	35064-C	HOOD	05/22/2006
	CCN - AMENDMENT	35065-C	HOOD	05/22/2006
	CCN - AMENDMENT	20356	HOOD	05/22/2006
	CCN - AMENDMENT	10904	HOOD	05/22/2006
CITY OF KILLEEN	CCN - AMENDMENT	34969-C	BELL	05/22/2006
	CCN - AMENDMENT	10041	BELL	05/22/2006
MAHAN, JEFFREY	CCN - AMENDMENT	34963-S	FORT BEND	05/22/2006
	CCN - CANCEL	34963-S	FORT BEND	05/22/2006
	CCN - AMENDMENT	11648	FORT BEND	05/22/2006
	CCN - CANCEL	11648	FORT BEND	05/22/2006

RECEIVED

JUL 14 2006

TCEQ
CENTRAL FILE ROOM

CO CCN 10350

Texas Commission on Environmental Quality

To: Glenn Shankle, Executive Director
Texas Commission on Environmental Quality

Date: January 17, 2006

Thru: ^{1/17} Doug Holcomb, P.E., Section Manger
Utilities & Districts Section
Water Supply Division

From: ^{1/17} Tammy Lee Holguin-Benter
Utilities & District Section
Water Supply Division

Subject: Executive Summary and Staff Recommendation for Executive Director Approval
of Application No. 34848-S, 34875-S and 34876-S

CN: 60268505; RN: 101251551

New Caney Municipal Utility District (MUD), Certificate of Convenience and Necessity (CCN) No. 11969, has applied to acquire facilities and to transfer portions of water CCN (CCN) No. 11444 from William K. Bates dba Spring Creek Trails Water System, CCN No. 10347 from D.E. Martin dba Consumers Water, Inc., CCN No. 10350 from Mitchell M. Martin & Dell Martin dba Community Utility Company, and to amend CCN No. 11969 in Montgomery County, Texas.

The applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 291 rules and regulations.

The applicant is capable of providing continuous and adequate service.

Staff recommends approval of the order.

DH/SP/THB/ac



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

New Caney Municipal Utility District

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. 11969

to provide continuous and adequate water utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application Nos. 34848-S, 34875-S and 34876-S 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 New Caney Municipal Utility District 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 _____

For the Commission



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

**William K. Bates dba
Spring Creek Trails Water System**

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. 11444

to provide continuous and adequate water utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 34848-S 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 Spring Creek Trails Water System 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 _____

For the Commission



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

**Mitchell M. Martin & Dell Martin dba
Community Utility Company**

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. 10350

to provide continuous and adequate water utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application Nos. 34876-S 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 Community Utility Company 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 _____

For the Commission

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glean Shaul Jr., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 17, 2006

CERTIFIED MAIL

Mr. Mitchell M. Martin and
Mr. Dell Martin
Community Utility Company
P.O. Box 18
Spring, Texas 77383-0058

Re: Application from New Caney Municipal Utility District (MUD), Certificate of Convenience and Necessity (CCN) No. 11969 to Acquire a Portion of CCN No. 10350 from Mitchell M. Martin & Dell Martin dba Community Utility Company in Montgomery County; Application No. 34876-S

CN: 602686505; RN: 101251551

Dear Mr. Martin & Mr. Martin:

We have reviewed the above referenced application.

ENCLOSED ARE:

- ▶ **CONSENT FORM.**
- ▶ the proposed map, certificate, and staff recommendation.
- ▶ a copy of your approved tariff. The original copy of the tariff will be retained by the Commission. You should retain a complete copy of your tariff at each utility business office.
- ▶ a pamphlet explaining how to obtain a copy of Commission rules.
- ▶ Information Order Form which lists all forms and other information available for your use.

YOU **MUST** DO THE FOLLOWING:

- ▶ Review the map, certificate, and recommendation. If these documents are **accurate and you agree** with all of the provisions of the order, you must sign the **CONSENT FORM** and mark the line that says you concur and return the signed statement. You should keep a copy of the letter you signed along with the documents for your records. Failure to return the signed statement could result in your application being returned.
- ▶ Notify us (***in writing***) within **14 days** of the date of this letter, if these documents are **inaccurate or you disagree** with any of the provisions of the order. You may do this by marking the line on the **CONSENT FORM** that says you do not concur, signing the form and mailing it to the address on the form.

Mr. Mitchell M. Martin and Mr. Dell Martin

Page 2

January 17, 2006

WE WILL DO THE FOLLOWING:

- ▶ Submit the order for this application to the Executive Director for signature. However, before the Executive Director can sign the order, we **must** receive your written consent to the staff's recommendation.
- ▶ **After your signed CONSENT FORM is received**, submit your application and the staff recommendation to the Executive Director for approval on behalf of the Commission.
- ▶ Mail you a signed copy of the order and CCN after it has been approved.

If you have any questions, please contact Ms. Tammy Lee Holgun-Benter by phone at 512/239-6136, by fax at 512/239-6972, or by email at tholguin@tccq.state.tx.us, or, if by correspondence, include MC-153 in the letterhead address.

Sincerely,



Doug Holcomb, P.E., Section Manager
Utilities & Districts Section
Water Supply Division

DH/THB/ac

Enclosures



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

Consumers Water, Inc.

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. 10347

to provide continuous and adequate water utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 34875-S 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 Consumers Water, Inc. 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 _____

For the Commission

RECEIVED
2014 DEC 22 AM 7:42
PUBLIC UTILITY COMMISSION
FILING CLERK

1012E
CCN / 10350 / CO

THE 2006 COMPLIANCE AGREEMENT ("CA"),
REGARDING THE CCN NUMBERS LISTED IN THE
UNDERLINED HEADER BLOCK BELOW:

1 - MOST/ALL COMPLIANCE SUBMITTALS LIKELY
TO BE IN AT LEAST CCN FILES FOR 10835 AND
20754

2 - MAY ALSO BE IN OTHER CCN FILES LISTED
BELOW

ENF COMMENT

.COMPLIANCE AGREEMENT

Mitchell Mackay Martin, Jr., Michael M. Martin and Carolee Martin

Martin Systems

Public Drinking Water and Wastewater Systems, including those associated with Certificate of
Convenience & Necessity Nos. 10347, 10350, 10835, 11193, 12624, 12639, 20197 and 20754,
located in Harris and Montgomery Counties, Texas.

RECEIVED

APR 17 2006

TCEQ
CENTRAL FILE ROOM

CCN / 10350 / 10

Texas Commission on Environmental Quality

COMPLIANCE AGREEMENT

Mitchell Mackay Martin, Jr., Michael M. Martin and Carolee Martin
Martin Systems

Public Drinking Water and Wastewater Systems, including those associated with
Certificate of Convenience & Necessity Nos. 10347, 10350, 10835, 11193, 12624, 12639,
20197 and 20754, located in Harris and Montgomery Counties, Texas

The Texas Commission on Environmental Quality ("Commission" or "TCEQ") is the state agency charged with enforcing Chapter 341, Subchapter C of the TEX. HEALTH & SAFETY CODE and Chapter Nos. 13 and 26 of the TEX. WATER CODE (the "Codes"), and the regulations promulgated pursuant to the Codes.

Mitchell Mackay Martin, Jr., Michael M. Martin and Carolee Martin (the "Current Martin Respondents"), all three of whom share a family relationship, now own, oversee and/or operate multiple public water and wastewater systems (the "Systems" herein) that are located in Harris and Montgomery Counties. It is understood that Mitchell ("Mitch") and Michael are the primary managers/administrators of the Systems. The Systems are in substantial violation of the TCEQ's requirements, including those found in TEX. HEALTH & SAFETY CODE Ch. 341, TEX. WATER CODE chs. 13 and 26, and 30 TEX. ADMIN. CODE Chs. 290, 291, 305 and 317. Previous owner/operators D. E. Martin and Mitchell M. Martin, Sr. (Subjects of state enforcement cases, indicated in this CA as the "Previous Martin Respondents") allowed noncompliances with rules applicable to many of the Systems since at least 1996. The Current Martin Respondents have taken responsibility for oversight of the Systems, as they acquired property associated with the Systems via court action on a family will, Cause No. 03-20, 764-P in the County Court of Montgomery County, Texas. The Current Martin Respondents are currently evaluating how specific property and other interests may be associated with Carolee Martin and/or others regarding these facilities.

The TCEQ recognizes that the Current Martin Respondents are in an ongoing process of determining all

MARTIN UTILITY INC.
7493 HANNA RD STE 2
MONROE TX 77385

RECEIVED
APR 17 2006
TCEQ
CENTRAL FILE ROOM

Mr. Brian Lehmkuhle, Coordinator
Enforcement Division, MC-169

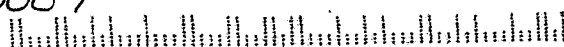
T. C. E. Q
P.O. Box 13087
Austin TX

78711-3087

RECEIVED
FEB 28 2005
Enforcement Division

RECEIVED
FEB 28 2006
TCEQ MAIL CENTER

78711-3087-87 8012



To: Administrative Reviewer

Date Complete: February 23, 2011

From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. A-142-10/36894-S
MBC Water Systems Inc to acquire all of Community Utility Co. (10350) in Harris and
Montgomery counties.

- X 1. No new overlap of service areas exists.
2. An overlap:
3. Dual certification:
4. An overlap exists with the city limits of:
- X 5. If this is a Sale, Transfer, or Merger, is additional area being requested? NO
7. Map submitted is digital request digital data.
9. Utility notice was sufficient.
- X 10. Utility notice was insufficient. In addition to those systems listed in the application, they will also need to notify:

TWO MILES:

Montgomery Place Water System (12639)

Everett Square Inc (12831)

Woodland Oaks Utility Co. Inc (12947)

Aqua Development (129002)

Blue Bell Manor Utility Co. Inc (10963)

SCF Water Company (13074)

Westwood North WSC (11599)

Orchard Crossing (12671)

Consumers Water Inc (10347)

Champs Water Company (10972)

Quadvest (11612)

J & S Water CO. LLC (12085)

Aqua Utilities (11157)

Sunbelt FWSD (10833)

Southern Water Corp (11389)

Crystal Springs Water Co. Inc (11373)

11. Notice:

remove Heathergate Estates and PWS 1011302 from notice area not certificated.

Forest Manor – OK

Sweetgum Forest – OK

Forest Trails-

Approximately 30 acres, 13.5 miles southeast of downtown Conroe

On the North by Kalka Rd.

On the East by Crystalwood Estates Dr

On the South by Pickering Rd

On the West by Dry Creek

Certificated area in Harris county

Approximately 99 acres, 10.5 miles northwest of downtown Houston

On the North by West Gulf Bank RD.

On the East by W. Montgomery Rd.

On the South by Rigel Rd.

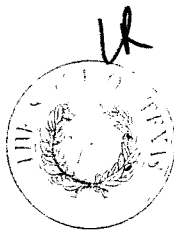
On the West by Scenic Green Dr

12. Other comments:



Kent Steelman

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



91 7108 2133 3935 2012 5944

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 16, 2010

BY FAX TO 512/863-0452 AND
BY CERTIFIED MAIL

Mr. Les Romo, Attorney
Law Office of Les Romo
307 Shannon Lane
Georgetown, Texas 78628

NOTICE OF DEFICIENCY

Re: Application from MBC Water Systems, Inc., A1945, to Purchase Facilities and to Transfer Certificate of Convenience and Necessity (CCN) No. 10350 from Mitchell Martin dba Community Utility Company, in Harris and Montgomery Counties; Application No. 36894-S

CN: pending; RN: pending (MBC Water Systems, Inc.)

CN: 603180696; RN: 101458933 (Mitchell Martin dba Community Utility Company)

Dear Mr. Romo:

Your Sale, Transfer or Merger application for MBC Water Systems, Inc., received on December 6, 2010, has been assigned Application No. 36894-S, but has not been accepted for filing. Please refer to the application number in future correspondence.

The next step towards having your application accepted is to provide the following information:

1. The maps submitted do not meet the mapping requirements. The detailed maps do not show all of the certificated systems. The location map should show **only** the areas to be transferred. Digital data is available from the Utilities & Districts Section. Please submit four (4) copies of the following maps:
 - a. Detailed maps showing all the current CCN service area to be transferred with this application; and
 - b. Location maps showing **only** the proposed area to be transferred with this application.

Fee Enclosure

Date: December 13, 2010

Re: Application from MBC Water Systems, Inc., A1945, to Purchase Facilities and to Transfer Certificate of Convenience and Necessity (CCN) No. 10350 from Mitchell Martin dba Community Utility Company, in Harris and Montgomery Counties; Application No. 36894-S
CN: pending; RN: pending (MBC Water Systems, Inc.)
CN: 603180696; RN: 101458933 (Mitchell Martin dba Community Utility Company)

The staff of the Texas Commission on Environmental Quality (TCEQ) has determined that payment for the following item is required before the application can be declared administratively complete.

Fees

The fees owed are Regulatory Assessment fees for 2002 (a portion of the payment), 2003, 2004, 2005, 2006 and 2008 in the amount of approximately \$1693.94 in fees + approximately \$935.49 in late charges.

Please be advised: Failure to pay fees within 30 days will result in additional administrative actions affecting your fee accounts and your application with TCEQ. With respect to fees, these actions may include enforcement and collections efforts to recover the debt owed to the state. Regarding your application, additional administrative actions may include return of your application (forfeiting the application fee), or a contested case hearing that may result in the denial of your application.

If you believe that your liability for any portion of the delinquency noted above has been discharged in bankruptcy, or if you are presently a debtor in a pending bankruptcy proceeding, please immediately furnish the undersigned with file-stamped copies of the following pleadings from the bankruptcy court where your bankruptcy case was/is filed: (1) Bankruptcy Petition; (2) Schedules and Statement of Affairs; (3) Creditor Matrix/Matrices; and (4) Discharge Order or Confirmation Order. Please mail to the TCEQ at P.O. Box 13087, Mail Code 132, Austin, TX 78711-3087 and include any additional documents from the bankruptcy court that you believe are relevant to your responsibilities for the noted delinquency. We will immediately review these pleadings and take appropriate action regarding your application.

Payment may be made through the following methods: cash, check, ACH (electronic check), money order, or credit card through TCEQ's electronic payment portal (e-pay). Additional information regarding payment options is available at <http://www.tceq.state.tx.us/agency/delin/index.html>. Upon payment, please send documentation reflecting payment of all delinquent fees to the Utilities & Districts Section. If you have any questions regarding your application, you may contact Ms. Karen Blaschke at 512/239-6932. If you have any questions regarding the delinquencies, please use the enclosed list of fee coordinators for contact information. Please use Mail Code 153 when responding by mail.



Southwest Engineers

Civil · Environmental · Planning

307 Saint Lawrence Street
Gonzales, Texas 78629

Phone (830) 672-7546
Fax (830) 672-2034

www.swengineers.com
TBPE No. F-1909

LETTER OF TRANSMITTAL

TO: TCEQ UTILITIES & DISTRICTS SECT.
P.O. Box 13087, MC-153
Austin, TX 78711

DATE: <u>16 February 2011</u>	FILE NO.: <u>03200610</u>
ATTENTION: <u>Ms. Karen Blaschke</u>	
RE: <u>MAP HARD COPIES</u>	
<u>STM APPLICATIONS</u>	
<u>M.B.C. Water Systems Inc., Conroe, TX</u>	

WE ARE SENDING YOU THE FOLLOWING ITEMS...

☐ Shop Drawing(s)

☐ Print(s)

☒ ATTACHED ☐ Specification(s)

☐ Bid Invitation(s)

☐ Invoice(s)

☐ Letter(s)

☐ Drawing(s)

☐ Change Order(s)

☐ Quote Request(s)

☒ See Below

QNTY	DATE	c = COPY or o = ORIGINAL	DESCRIPTION of ITEM
4	.	o	Hearthgate Large Scale Map

RECEIVED

FEB 18 2011

TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY

THESE ITEMS ARE BEING TRANSMITTED AS INDICATED BELOW...

☒ As Requested

☐ For Processing

☐ Approved As Submitted

☐ As Reference

☐ For Execution

☐ Approved As Noted

☐ For Your Use

☐ For Approval

☐ Approved For Construction

☐ For Review

☐ For Quotes Due _____

☐ Returning After Loan

☐ For Distribution

☐ For Bids Due _____

☐ See Below

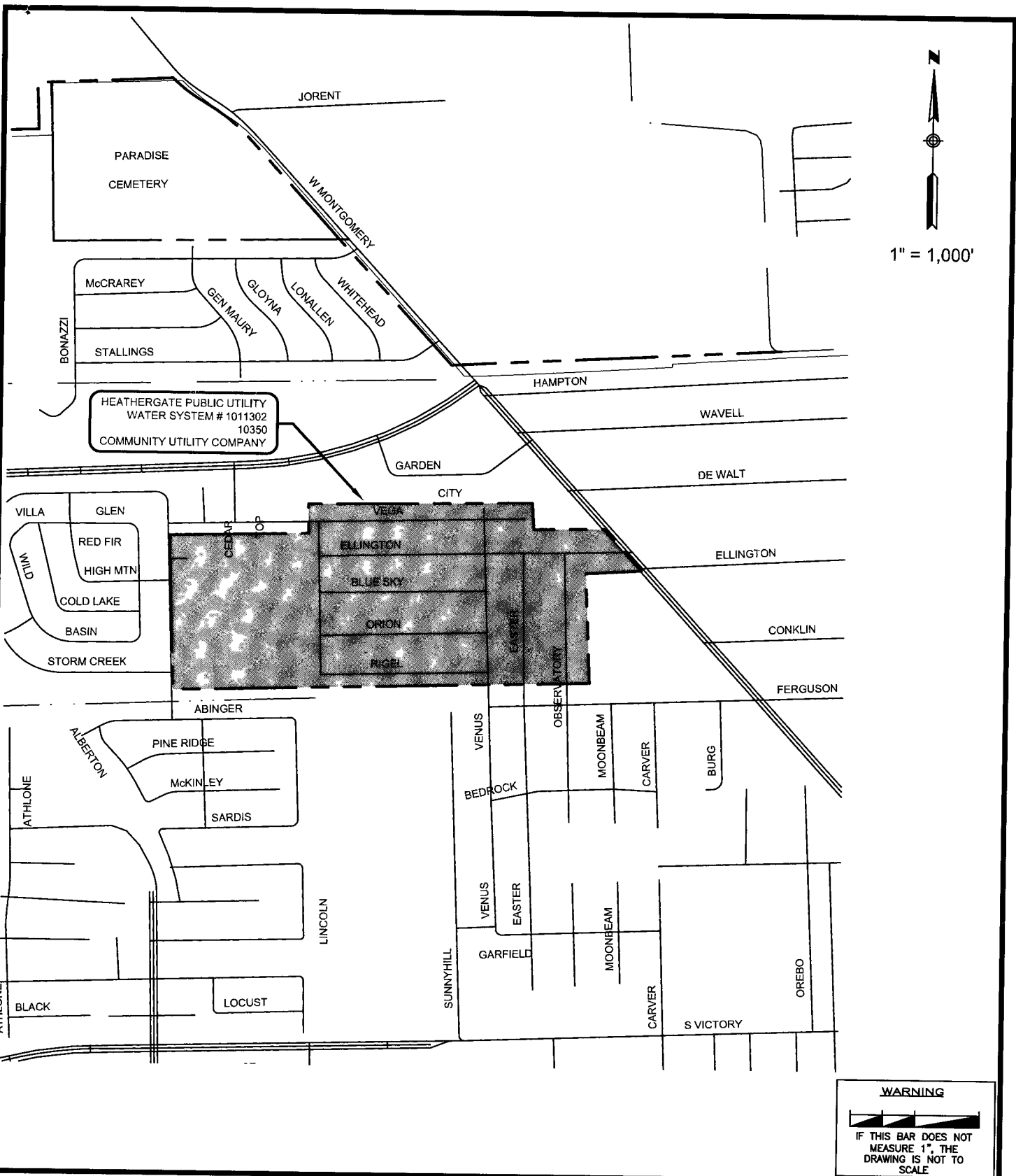
MESSAGE or COMMENT(S)

CC: MBC w/1 original map
Bret Fomer w/1 original map
Les Kamo w/1 original map

SIGNED:

Jerry G. Shepherd, P.E.

C:\Users\ThomasB SWE\Desktop\ACAD STUFF\0362-006-10 2011 TWDB DWSRF\Work In Progress\Sale Transfer Merger\STM-LARGE SCALE-CCN.dwg Thu, Jan 06, 2011, 1:41pm



SALE, TRANSFER, MERGER APPLICATION
HEATHERGATE PUBLIC UTILITY COMPANY LARGE SCALE MAP

M.B.C. WATER SYSTEMS
HARRIS AND MONTGOMERY COUNTIES, TEXAS

 **Southwest Engineers, Inc.**
Civil - Environmental - Planning
Gonzales Austin
www.swengineers.com
TBPE No. F-1909

To: Administrative Reviewer

Date: February 14, 2011

From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. A-142-10/36894-S
MBC Water Systems Inc to acquire all of Community Utility Co. (10350) in Harris and
Montgomery counties.

1. No new overlap of service areas exists.
2. An overlap:
3. Dual certification:
4. An overlap exists with the city limits of:
5. If this is a Sale, Transfer, or Merger, is additional area being requested?
7. Map submitted is digital request digital data.
9. Utility notice was sufficient.
10. Utility notice was insufficient. In addition to those systems listed in the application, they will also need to notify:
TWO MILES:
- X 11. Notice: **DO NOT NOTICE**
- X 12. Other comments: **Large map of "Heathergate Estates" shows the area in the wrong place. Need large map showing in correct place. This is another area the utility does not appear to be certificated to.**


Kent Steelman



Southwest Engineers

Civil · Environmental · Planning

307 Saint Lawrence Street
Gonzales, Texas 78629

Phone (830) 672-7546
Fax (830) 672-2034

www.swengineers.com
TBPE No. F-1909

LETTER OF TRANSMITTAL

TO: TCEQ UTILITIES & DISTRICTS SECT.
P.O. Box 13087, MC-153
AUSTIN, TX 78711

DATE: <u>31 January 2011</u>	FILE NO.: <u>036200610</u>
ATTENTION: <u>Ms. Karen Blaschke</u>	
RE: MAP HARD COPIES	
STM APPLICATIONS	
M.B.C. Water Systems, Inc., Conroe, TX	

WE ARE SENDING YOU THE FOLLOWING ITEMS...

☐ Shop Drawing(s)

☐ Print(s)

☒ ATTACHED ☐ UNDER SEPARATE COVER VIA

☐ Specification(s)

☐ Bid Invitation(s)

☐ Invoice(s)

☐ Letter(s)

☐ Drawing(s)

☐ Change Order(s)

☐ Quote Request(s)

☒ See Below

QNTY	DATE	c = COPY or o = ORIGINAL	DESCRIPTION of ITEM
4	01.11	o	Overall Small Scale Map of Community Utility Company
4	01.11	o	Overall Small Scale Map of Consumers Water, Inc.
4	.	o	Forest Trails Large Scale Map

THESE ITEMS ARE BEING TRANSMITTED AS INDICATED BELOW...

☒ As Requested

☐ As Reference

☐ For Your Use

☐ For Review

☐ For Distribution

☐ For Processing

☐ For Execution

☐ For Approval

☐ For Quotes Due

☐ For Bids Due

☐ Approved As Submitted

☐ Approved As Noted

☐ Approved For Construction

☐ Returning After Loan

☐ See Below

RECEIVED
FEB 02 2011
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

MESSAGE or COMMENT(S)

cc: MBC w/1 original of each map
LesRomo w/1 original of each map
Bret Ferner w/1 original of each map

SIGNED:

Jerry G. Shepherd, P.E.

To: Administrative Reviewer

Date: January 19, 2011

From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. **A-142-10/369-894-S**
MBC Water Systems Inc to acquire all of Community Utility Co. (10350) in Harris and Montgomery counties.

1. No new overlap of service areas exists.
2. An overlap:
3. Dual certification:
4. An overlap exists with the city limits of:
5. If this is a Sale, Transfer, or Merger, is additional area being requested?
7. Map submitted is digital request digital data.
9. Utility notice was sufficient.
10. Utility notice was insufficient. In addition to those systems listed in the application, they will also need to notify:

TWO MILES:

- X 11. Notice: **DO NOT NOTICE**
- X 12. Other comments: **Maps do not meet requirements. Please submit original and copies of the following. (applications stated intent is to transfer all of CCN maps do not show all certificated area, digital data is available)**
- A. A general location map delineating the proposed service area with enough detail to accurately locate the proposed area within the county.
 - B. A map showing only the proposed area by:
 - (1) Metes and bounds survey certified by a licensed state or register professional land surveyor ; or
 - (2) Projectable digital data with metadata (proposed areas should be in a single record and clearly labeled for each utility) ; or
 - (3) Following verifiable natural and man-made landmarks; or
 - (4) Copy of recorded plat map with metes and bounds
 - C. A written description of the proposed service area.



Kent Steelman

**Law Office of
LES ROMO
Attorney at Law and Mediator**

**307 Shannon Lane
Georgetown, Texas 78628**

**(512) 868-5600
Fax: (512) 863-0452
lesomo.lawoffice@gmail.com**

January 13, 2011

Ms. Benter, Manager
Texas Commission on Environmental Quality
Utilities & Districts Section
Water Supply Division
P.O. Box 13087, MC0153
Austin, Texas 78711-3087

Re: Application from M.B.C. Water Systems, Inc., A1945, to Purchase Facilities and to Transfer Certificate of Convenience and Necessity (CCN) No. 10350 from Mitchell Martin dba Community Utility Company, in Harris and Montgomery Counties; Application No. 36894-S

*CN: pending; RN: pending (M.B.C. Water Systems, Inc.)
CN: 603180696; RN: 101458933 (Mitchell Martin dba Community Utility Company)*

Dear Ms. Benter:

I am writing to provide a response to the Notice of Deficiency that you sent me dated December 16, 2010 related to the above-referenced STM application by my client, M.B.C. Water Systems, Inc. ("M.B.C.") to purchase the assets of Mitchell Martin dba Community Utility ("Community") and to have its CCN transferred to my client. I will respond to the requests for information contained in your letter:

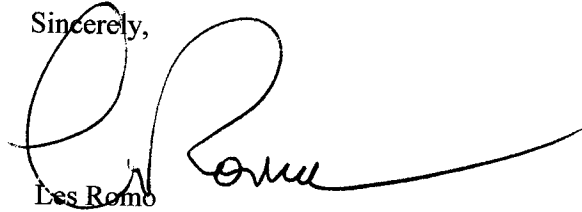
1. As your request, please find enclosed four (4) copies of revised maps showing all of the certificated systems, and showing only the areas to be transferred in the STM. My client's STM application is not intended to amend Community's Certificate of Convenience and Necessity ("CCN"), nor to decertify any areas in its CCN.
2. As to the deficiencies listed in the latest inspection reports for Forest Manor Subdivision and the Heathergate Public Utility Co water systems, I am enclosing four (4) copies of a response to your request as to what my client plans to do to address these deficiencies.
3. Please find enclosed four (4) copies of the Bill of Sale agreement between M.B.C. and Community for the sale of the water system between the companies.
4. My client has researched its records, and submits that it has paid all of the Regulatory Assessment fees for 2002, 2003, 2004, 2005, 2006 and 2008. Mitchell M. Martins, Jr., President of Community has been in contact with Karen Blaschke who works at the Commission and she concurs that all of the regulatory fees for these years have been paid by Community. The attached payment schedule reflects that Community owed the sum of \$1,815.62 in Regulatory Assessment fees for the above-stated years. I am enclosing a copy of the payment transaction report where my client paid the required \$1,815.62. So there are no further regulatory fees owed by Community at this time

Ms. Tammy Benter, Manager
Texas Commission on Environmental Quality
Utilities & District Section
Water Supply Division
January 13, 2011
Page 2

and no deficiency regarding this matter.

I hope this addresses any questions or concerns your agency has related to the STM application filed by M.B.C. Please let me know if you need any additional information. Thank you for your assistance. I look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'Les Romo', with a long horizontal flourish extending to the right.

LDR/sler

cc: Mitchell M. Martin, Jr., Board President, Community Utility Company

Enclosures

BILL OF SALE

STATE OF TEXAS)
)
COUNTY OF MONTGOMERY)

The undersigned, is COMMUNITY UTILITY COMPANY, a corporation formed and doing business in the State of Texas, that is located in Montgomery County, Texas; known herein as "Grantor," and for and in consideration of the sum of Ten and NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to it by M.B.C. WATER SYSTEMS, INC., of Montgomery County, Texas, referred to herein as "Grantee", the receipt of which is acknowledged in the manner and form stated as follows, has and hereby does BARGAIN, SALE and DELIVER, to Grantee the following described personal property in both Harris County, Texas and Montgomery County, Texas, to wit:

The complete water system owned by Grantor, including all wells, master water meters, chlorination and treatment systems, ground storage tanks, service pumps, pressure tanks, and the water distribution lines owned by the Grantor in Montgomery County, Texas, as well all other assets and real property owned by Grantor.

The above-referenced sale price also includes the sale of certain real property from Grantor to Grantee that is covered by a Deed Without Warranty of even date herewith.

Terms of Payment:

Payment for the above-referenced property has been received by the Grantor, and Grantor acknowledges receipt of the payment of the consideration for the sale of the above-referenced personal property, all other water system and other assets owned by Grantor.

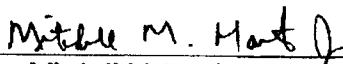
Grantor warrants that it is the lawful owner of the subject personal property and assets, and that the sale and conveyance of the personal property and assets is free of all encumbrances and liens. Grantor covenants and warrants that it has the right to sell the subject personal property and assets and will warrant and defend that right against the lawful claims and demands of all persons, and Grantor hereby sells and conveys all of Grantor's right, title and interest in the above-stated personal property and assets owned by Grantor for the same to Grantee.

This Bill of Sale is effective as to the transfer of all personal property and assets listed above from Grantor to Grantee and becomes effective upon the date of the approval of the sale and transfer of Grantor's assets by the Texas Commission on Environmental Quality.

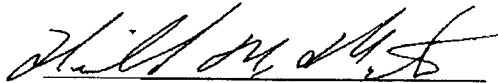
Dated this 1st day of NOVEMBER, 2010.

GRANTOR:

COMMUNITY UTILITY COMPANY

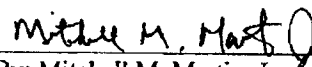

By: Mitchell M. Martin, Jr.
Its: Board President

ATTEST:

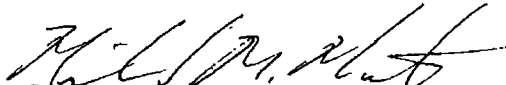

Michael M. Martin, Sr., Board Secretary

GRANTEE:

M.B.C. WATER SYSTEMS, INC.


By: Mitchell M. Martin, Jr.
Its: Board President

ATTEST:


Michael M. Martin, Sr., Board Secretary

Reply to Request for Information Number 2 in the December 16, 2010 Letter from Tammy Benter:

2. As to the designated deficiencies in the inspection reports for Forest Manor Subdivision and Heathergate Public Utility Co water systems, M.B.C. Water Systems, Inc. ("M.B.C.") has applied for a loan from the Drinking Water State Revolving Fund ("DWSRF") from the Texas Water Development Board (the "Board"). The Board has given notice it has tentatively accepted my client's loan application for the sum of thirteen million four hundred fifty-five thousand six hundred twenty-four and No/100 dollars (\$13,455,624.00) to purchase the Community Utility Company ("Community") water system, and to perform work on addressing any deficiencies in the water system. Community Utility Company has filed a surcharge applications as part of the process of getting the DWSRF loan funds. As we discussed, Consumer's officers and representatives and I believe that Community's customers will protest the surcharge application, and since the Board has placed a time-limit on Community getting approval for the surcharge by the Commission, it is requested that the Commission voluntarily protest the surcharge application so the hearing process can take place as soon as possible. Once the surcharge is approved, and the DWSRF loan funds are obtained by M.B.C., it will begin to make the necessary repairs and/or upgrades as may be needed to address the deficiencies noted in the inspection reports for Forest Manor Subdivision and Heathergate Public Utility Co water systems.

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 30, 2006

CERTIFIED MAIL #7002 2030 0003 4747 6683
RETURN RECEIPT REQUESTED

Mr. Michael Martin, Co-Owner
Community Utility Company
P.O. Box 58
Spring, Texas 77383-0058

Re: Notice of Violation for the Comprehensive Compliance Investigation at:
Heathergate Public Utility Co, 20703 1/2 Berry Thicket, Harris County, Texas
TCEQ ID No: 1011302

Dear Mr. Martin:

On August 15, 2006, Ms. Melody Kirksey of the Texas Commission on Environmental Quality (TCEQ), Houston Region Office, conducted an investigation of the above-referenced facility to evaluate compliance with applicable requirements for public water supply systems. Enclosed is a summary which lists the investigation findings. During the investigation, certain outstanding alleged violations were identified for which compliance documentation is required. A due date for submitting compliance documentation for the outstanding alleged violations will be determined by the TCEQ Enforcement Division. Please take the necessary steps to start correcting the alleged violations.

The Texas Commission on Environmental Quality appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. We anticipate that you will resolve the alleged violations as required in order to protect the State's environment. If you have additional information that we are unaware of, you have the opportunity to contest the violation documented in this notice. Should you choose to do so, you must notify the Houston Region Office within 10 days from the date of this letter. At that time, Mr. David W. Livings, PWS Work Leader, will schedule a violation review meeting to be conducted within 21 days from the date of this letter. However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the attached Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.

REPLY TO: REGION 12 • 5425 POLK ST., STE. H • HOUSTON, TEXAS 77023-1452 • 713/767-3500 • FAX 713/767-3520

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

printed on recycled paper using soy-based ink



Mr. Michael Martin, Co Owner
Page 2
August 30, 2006

If you or members of your staff have any questions, please feel free to contact Ms. Melody Kirksey in the Houston Region Office at 713/767-3650.

Sincerely,

David W. Livings, Work Leader
Public Water Supply
Houston Region Office

DWL/MK/ra

cc: Harris Co. Health Dept

Enclosures: Summary of Investigation Findings

Summary of Investigation Findings

COPY

HEATHERGATE PUBLIC UTILITY CO

Investigation # 510194

Investigation Date: 08/15/2006

, HARRIS COUNTY,

Additional ID(s): 1011302

No Violations Associated to this Investigation

ADDITIONAL ISSUES

Description

Other violations noted during the investigation? (If non-compliant then describe violation in the comment section.)

Other violations noted during the investigation? (If non-compliant then describe violation in the comment section.)

Other violations noted during the investigation? (If non-compliant then describe violation in the comment section.)

Other violations noted during the investigation? (If non-compliant then describe violation in the comment section.)

Additional Comments

Failure to provide at least two service pumps with at least 2 gallons per minute per connection of pumping capacity. With 128 connections, your system is required to have at least 256 gallons per minute of service pump capacity. Currently, your system has no service pumps. This violation has already been noted by the Commission's enforcement division and is part of an active enforcement case.

Failure to provide at least 200 gallons per connection of ground storage capacity. With 128 connections, your system is required to have at least 25,600 gallons of ground storage. Currently, your system has no ground storage. This violation has already been noted by the Commission's enforcement division and is part of an active enforcement case.

Failure to provide at least 0.6 gallons per minute per connection of well capacity. With 128 connections, your system is required to have at least 77 gallons per minute of well capacity. Currently, your system has 48 gallons per minute of well capacity. This violation has already been noted by the Commission's enforcement division and is part of an active enforcement case.

Track No: 119889

Compliance Due Date: No Date Entered

30 TAC Chapter 290.46(m)(1)(B)

Alleged Violation:

Comment Date: 08/28/2003

Investigation: 152121

Design and Construction of Pressure Tanks
Failure to inspect the pressure tank annually, to determine that the pressure release device and pressure gauge are working properly, the air-water ratio is being maintained at the proper level, the exterior coating systems are continuing to provide adequate protection to all metal surfaces, and that the tank remains in a watertight condition. Pressure tanks provided with an inspection port must have the interior surface inspected every five years.

The results of these inspections must be recorded and maintained for at least five years, per §290.46(f)(3)(D)(ii). The records must be available for review by Commission staff during annual sanitary surveys



By: _____
Mr. _____, Executive Director

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by demanding preventive pollution

September 25, 2008

CERTIFIED MAIL #7002 2030 0003 4747 9301
RETURN RECEIPT REQUESTED

Mr. Michael Martin, President
Community Utility Company
P.O. Box 58
Spring, Texas 77383-0058

Re: Notice of Violation for the Comprehensive Compliance Investigation at
Forest Manor Subdivision, 1615 Beckman Drive, Harris County, Texas
RN101198554, Investigation No. 681126, TCEQ Additional ID 1010264

Dear Mr. Martin:

On July 22, 2008, Ms. Leticia De Leon of the Texas Commission on Environmental Quality (TCEQ) Houston Region Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for public water supply. Enclosed is a summary which lists the investigation findings. During the investigation, the investigator resolved some apparent instances of noncompliance noted during previous investigations. Information has been provided which appears to indicate that these problems have been corrected. In addition, certain outstanding alleged violations were identified for which compliance documentation is required. Please submit to this office by March 25, 2009 a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for each of the outstanding alleged violations.


The TCEQ appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. We anticipate that you will resolve the alleged violations as required in order to protect the State's environment. If you have additional information that we are unaware of, you have the opportunity to contest the violations documented in this notice. Should you choose to do so, you must notify the Houston Region Office within 10 days from the date of this letter. At that time, David W. Livings, Team Leader, will schedule a violation review meeting to be conducted within 21 days from the date of this letter. However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the attached Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.



Mr. Mark J. Moran, President
September 1, 2008
Page

If you or members of your staff have any questions, please feel free to contact Ms. Leticia De Leon in the Houston Region Office at 713-767-3650.

Sincerely,


David W. Evans, R.S., Sr.
PWS Team Leader
Houston Region Office

DW7 LDM

cc: Harris Co. Public Health and Environmental Services

Enclosures: Summary of Investigation Findings

Summary of Investigation Findings



FOREST MANOR SUBDIVISION

Investigation # 681126

Investigation Date 07/22/2008

HARRIS COUNTY

Additional ID(s) 1010264

OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION

Track No. 644134 Compliance Due Date 03/09/2009

30 TAC Chapter 290.45(b)(1)(C)(iii)

Alleged Violation

Investigation # 681126

Comment Date 08/28/2008

Capacity Requirements

Failure to meet this Agency's "Minimum Water System Capacity Requirement." This requirement includes a total storage capacity of 200 gallons per connection. Your water system must be modified to meet this requirement to assure an adequate supply of water at all times.

The facility is required to provide a minimum of 17,000 gallons of ground storage tank capacity. This is calculated in the following manner:

$$200 \text{ Gall/Conn} \times 85 \text{ Conn} = 17,000 \text{ Gallons}$$

At the time of this inspection the facility did not have a ground storage tank installed; the facility was forced to disconnect the existing ground storage tank due to poor structural integrity.

Please be advised that public water systems shall notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, or distribution facilities. Public water systems shall submit plans and specifications for the proposed changes upon request.

The water system may request an exception to this requirement by writing to TCEQ, Water Supply Division, Public Drinking Water Section, Technical Review & Oversight, MC 155, P.O. Box 3087, Austin, TX 78711-3087, phone (512) 239-4798.

Recommended Corrective Action: Submit a compliance plan, engineering report or certification OF a copy of a letter requesting an exception in addition to a compliance plan for final compliance, OF a copy of a letter granting an exception to verify compliance.

Track No. 644901 Compliance Due Date 03/09/2009

30 TAC Chapter 290.39(j)

Alleged Violation

Investigation # 681126

Comment Date 08/26/2008

Examination of Plans and Specifications

Failure to notify the executive director in writing of any changes in existing system or supplies. Public water systems shall notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, or distribution facilities. Public water systems shall submit plans and specifications for the proposed changes upon request.

At the time of the inspection the facility had installed an 80 gallon per minute service pump between the well and the pressure tank which was not approved. Furthermore, because the ground storage tank was in such poor condition it had to be removed and the service pumps for the ground storage tank have also been removed. This facility is required to have this

COPY

Recommendation/Corrective Action: Submit an approved engineering report or certification
OR
Submit an approved plan of execution in order to resume once plan or final compliance
OR
Submit an approved plan of corrective action

ALLEGED VIOLATION(S) NOTED AND RESOLVED
ASSOCIATED TO A NOTICE OF VIOLATION

30 - AC C-72 - 296 46(m)

INVESTIGATION 1 100

Print Date 07/28/2003

Document Date 01/12/2008

Comment Date 08/20/2008

Resolution facility is performing required maintenance as of the July 22, 2008 inspection

307 AC Chapter 290 46(m)(4)

myra 0111 1128

Comment Date 07/28/2003

Comment Date 01/12/2008

Comment Date 08/20/2008

Results for quality provided an insight for both the pressure tank and ground storage tank at the water treatment inspector.

30 TAC Chapter 290.46(f)

100

Printed Date 07/28/2003

Document Date: 01/21/2008

Completed Date 08/19/2008

Reso for [redacted] was a major inspection of the facility and the city of 108 inspection



At the

Comment Date 07/24/2008

At the

Comment Date 07/24/2008

At the

Comment Date 08/19/2008

At the

At the

At the

At the

At the

Comment Date 09/04/2003

At the

At the

At the

Comment Date 01/12/2008

At the

Comment Date 09/26/2008

At the

At the

At the

At the

At the

At the

At the

Comment Date 09/04/2003

At the

At the

At the

At the

Comment Date 01/12/2008

At the

At the

Comment Date 08/19/2008

At the



ADDITIONAL ISSUES

Description

Other violations noted during the investigation include the following description of violations noted during the inspection:

Additional Comments

Facility still has an outstanding violation for the following:

Track #142845

30 Tex. Admin. Code §290.46(v)(1)(C)(ii)
Capacity Requirement

Failure to meet this Agency's "Minimum Water System Capacity Requirement". This requirement includes a service pump capacity such that each pump station or pressure zone must have two or more pumps with a total capacity of 2.0 gallons per minute per connection.

At the time of this inspection, this facility did not have any service pumps and is required to provide a minimum of 170 gallons per minute of service pump capacity. This is calculated in the following manner:

1.00 GPM/Connection X 85 Connections = 170 GPM

This violation is part of your compliance agreement please continue working towards resolving this issue.

Other violations noted during the investigation include the following description of violations noted during the inspection:

Please be aware that this facility still has an outstanding violation for the following:

Track #142845

30 Tex. Admin. Code §290.46(v); Operating Practices for Public Water Systems

Failure to install a water system electrical wiring in a securely mounted conduit in compliance with a local or national electrical code.

This violation is part of your compliance agreement please continue working towards resolving this issue.

Bryan W. Shaw, Ph.D. *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G. *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution
September 10, 2009

CERTIFIED MAIL #7007 0710 0004 7392 5345
RETURN RECEIPT REQUESTED

Mr. Mitchell M. Martin Jr., President
Community Utility Company
P.O. Box 58
Spring, Texas 77383-0058


Re: Additional Compliance Documentation Needed for:
Sweetgum Forest, Sweetgum and FM 1488, Montgomery County, Texas
Investigation # 761818 TCEQ ID No. 1700113

Dear Mr. Martin:

On November 12, 2008 and July 31, 2009 the Texas Commission on Environmental Quality (TCEQ) Houston Region Office received compliance documentation for the alleged violations noted during the investigation of the above-referenced facility conducted on July 17, 2008. The compliance documentation contained in your response appears to indicate that some of the problems documented during the investigation have been corrected. However, information is still needed for the outstanding alleged violations listed in the enclosed *Summary of Investigation Findings*. Please submit to our office by October 10, 2009, a written description of corrective actions taken and the required compliance documentation demonstrating that these remaining alleged violations have been resolved.

The Texas Commission on Environmental Quality appreciates your assistance in this matter and your compliance efforts to protect the State's environment. We look forward to receiving your response for the remaining alleged violations. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. If you or members of your staff have any questions, please feel free to contact Ms. LaTrichia Spikes in the Houston Region Office at (713)767-3650.

Sincerely,


Leticia De Leon, Team Leader
Public Water Supply
Houston Region Office

LD/LS/ra

cc: Montgomery County Environmental Health Dept
Kelly Wisian, Water Enforcement, TCEQ, Austin, MC-149

Enclosure: Summary of Investigation Findings

REPLY TO: REGION 12 • 5425 PEEK STREET, STE. H • HOUSTON, TEXAS 77023-1452 • 713-767-3500 • FAX 713-767-3520

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • Internet address: www.tceq.state.tx.us

Summary of Investigation Findings



SWEETGUM FOREST

Investigation # 761818

Investigation Date: 07/20/2009

MONTGOMERY COUNTY

Additional ID(s): 1700113

OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION

Track No. 343509

Compliance Due Date: 10/01/2008

30 TAC Chapter 290.44(d)

30 TAC Chapter 290.46(r)

Alleged Violation

Investigation: 689559

Comment Date: 08/12/2008

Water Distribution

Failure to design and maintain a water distribution system to provide at all points within the distribution network a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute per connection at each service outlet or connection. When the regulated entity is intended to provide fire fighting capability, it must also be designed to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions.

At the time of the investigation the pressure in distribution was 29 psi.

Investigation: 761818

Comment Date: 08/03/2009

Failure to design and maintain a water distribution system to provide at all points within the distribution network a minimum pressure of 35 pounds per square inch (psi).

Recommended Corrective Action: Submit documentation verifying the pressure of at least 35 psi has been obtained and maintained to verify compliance.

Track No. 343510

Compliance Due Date: 10/01/2008

30 TAC Chapter 290.121

Alleged Violation

Investigation: 689559

Comment Date: 08/12/2008

Monitoring Plans

Failure by the regulated entity to develop and maintain an up to date system monitoring plan. The plan shall identify all bacteriological and chemical sampling locations, describe the sampling frequency, and specify the analytical procedures and laboratories to be used to comply with monitoring requirements. The completed plan must be retained at each water plant, and made available to agency personnel for review during succeeding sanitary surveys.

At the time of the investigation no monitoring plan was made available.

Investigation: 761818

Comment Date: 08/03/2009

Failure by the regulated entity to develop and maintain an up to date system monitoring plan.

Recommended Corrective Action: Submit a copy of the monitoring plan to verify compliance.

Track No. 343511

Compliance Due Date: 12/10/2008

30 TAC Chapter 290.46(n)(2)

Alleged Violation

Investigation: 689559

Comment Date: 08/12/2008

Operating Practices for Public Water Systems

Failure to prepare and maintain a map of the distribution system so that valves and mains may be easily located during emergencies.

No distribution map was made available at the time of the investigation.

Investigation: 761818

Comment Date: 08/03/2009

Failure to provide at the time of the investigation a distribution map.

Recommended Corrective Action: Submit a copy of the accurate distribution map as to verify compliance.

Track No: 343512

Compliance Due Date: 03/10/2009

30 TAC Chapter 290.46(u)

Alleged Violation

Investigation: 689559

Comment Date: 08/12/2008

Abandoned Wells

Failure to plug an abandoned public water supply well(s) owned by the system, with cement according to 16 TAC Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers).

It is noted that the well has dried up. The entity receives purchased water and alleges no future plans to use well.

We have enclosed a copy of the plugging report which must be submitted when the operation has been completed.

Investigation: 761818

Comment Date: 08/03/2009

Failure to plug the well.

Recommended Corrective Action: Submit a copy of the plugging report to verify compliance.

**ALLEGED VIOLATION(S) NOTED AND RESOLVED
ASSOCIATED TO A NOTICE OF VIOLATION**

Track No: 343507

30 TAC Chapter 290.44(g)

30 TAC Chapter 290.46(k)

Alleged Violation:

Investigation: 689559

Comment Date: 08/12/2008

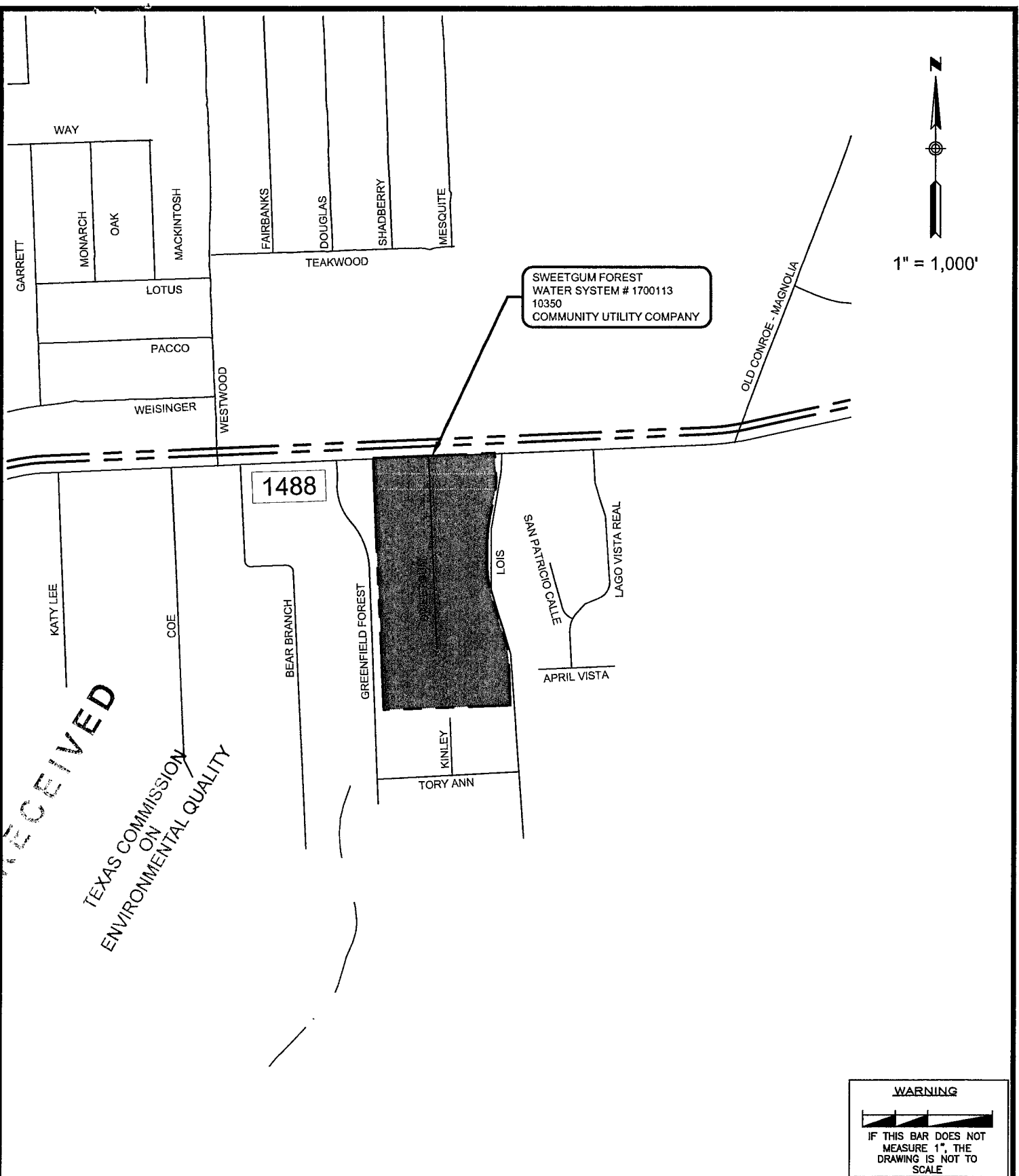
Interconnections

Failure to provide documents showing the approved proposal for a direct connection between public drinking water systems.

At the time of the investigation no documentation was provided to show the interconnect between Greenfield Forest (Wholesaler) and Sweetgum Forest (Purchaser) has been approved. It is noted that at the time of the investigation the entity originally was provided an interconnect for emergency purposes. The entity is now provided water on a permanent basis.

Investigation: 761818

Comment Date: 08/03/2009



RECEIVED
TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY

WARNING
IF THIS BAR DOES NOT
MEASURE 1", THE
DRAWING IS NOT TO
SCALE

SALE, TRANSFER, MERGER APPLICATION
SWEETGUM FOREST LARGE SCALE MAP

M.B.C. WATER SYSTEMS
HARRIS AND MONTGOMERY COUNTIES, TEXAS

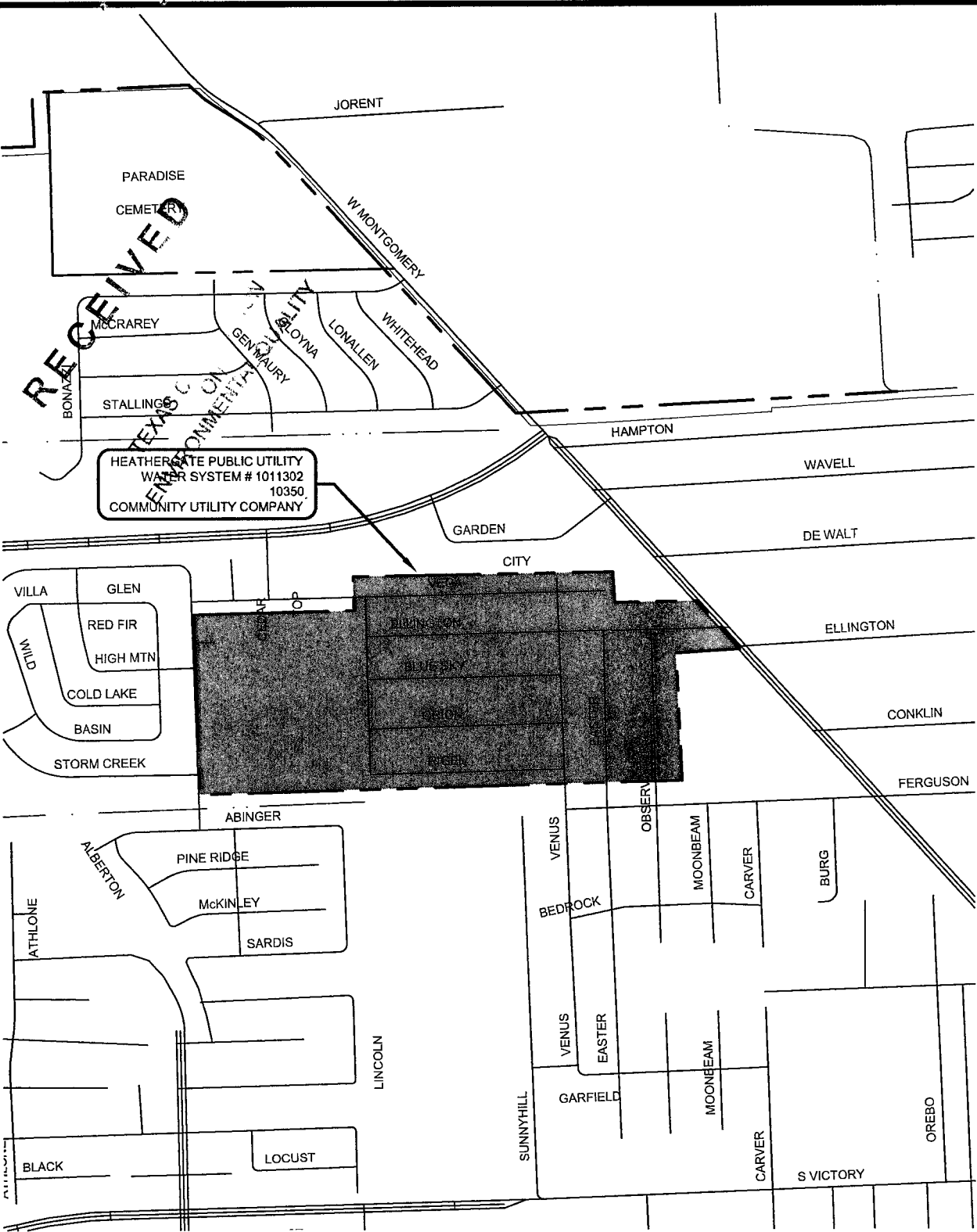
 **Southwest Engineers, Inc.**
Civil - Environmental - Planning
Gonzales Austin
www.swengineers.com
TBPE No. F-1909




1" = 1,000'

RECEIVED
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

HEATHERGATE PUBLIC UTILITY
WATER SYSTEM # 1011302
10350
COMMUNITY UTILITY COMPANY



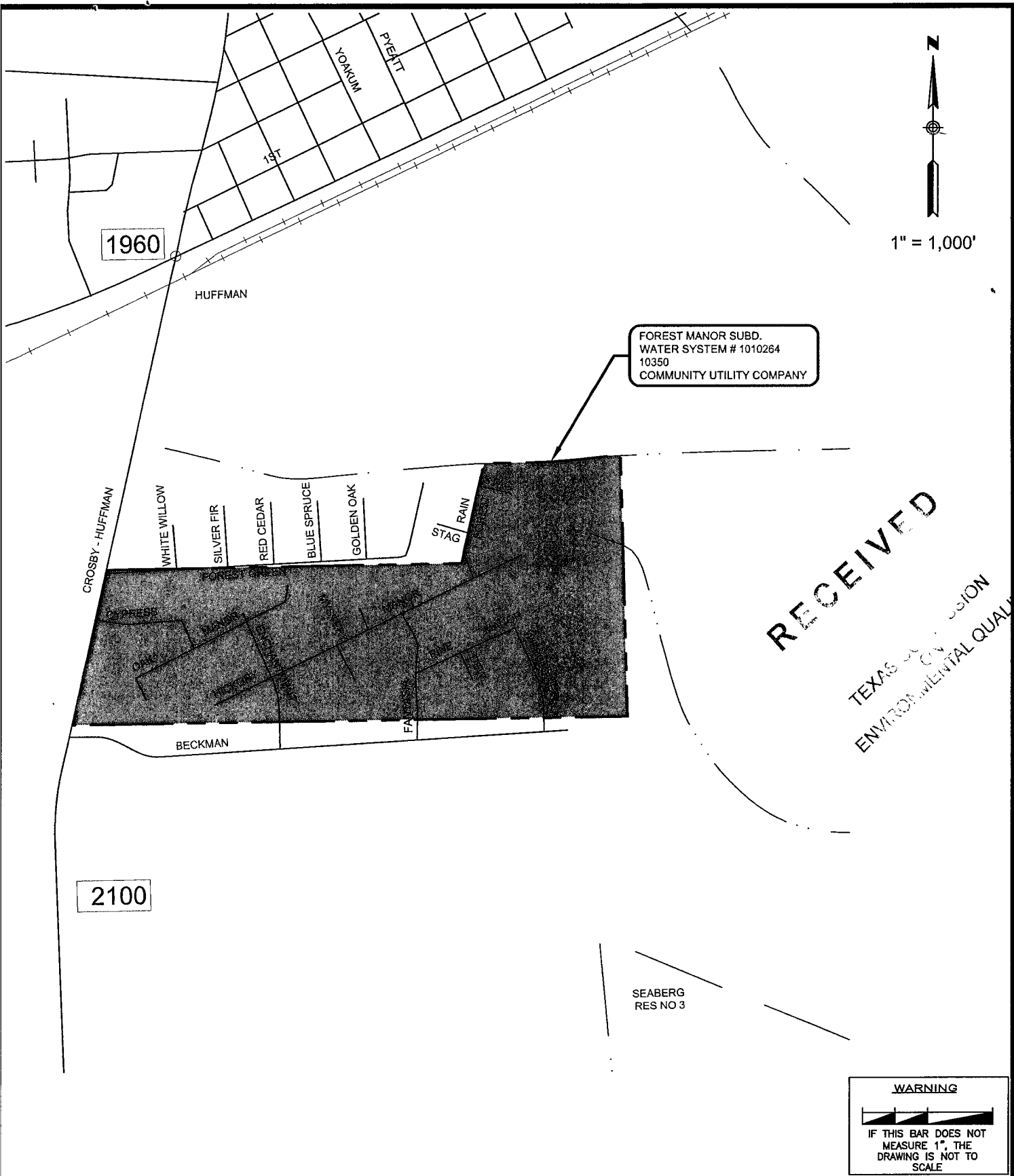
WARNING

IF THIS BAR DOES NOT
MEASURE 1", THE
DRAWING IS NOT TO
SCALE

SALE, TRANSFER, MERGER APPLICATION
HEATHERGATE PUBLIC UTILITY COMPANY LARGE SCALE MAP

M.B.C. WATER SYSTEMS
HARRIS AND MONTGOMERY COUNTIES, TEXAS



Southwest Engineers, Inc.
Civil - Environmental - Planning
Gonzales Austin
www.swengineers.com
TBPE No. F-1909



SALE, TRANSFER, MERGER APPLICATION

FOREST MANOR SUBDIVISION LARGE SCALE MAP

M.B.C. WATER SYSTEMS

HARRIS AND MONTGOMERY COUNTIES, TEXAS



Southwest Engineers, Inc.

Civil - Environmental - Planning

Gonzales Austin

www.swengineers.com

TBPE No. F-1909

To: Administrative Reviewer

Date: December 9, 2010

From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. A-142-10/369-894-S
MBC Water Systems Inc to acquire all of Community Utility Co. (10350) in Harris and
Montgomery counties.

1. No new overlap of service areas exists.
2. An overlap:
3. Dual certification:
4. An overlap exists with the city limits of:
5. If this is a Sale, Transfer, or Merger, is additional area being requested?
7. Map submitted is digital request digital data.
9. Utility notice was sufficient.
10. Utility notice was insufficient. In addition to those systems listed in the application, they will also need to notify:

TWO MILES:

X

11. Notice: **DO NOT NOTICE**

X

12. Other comments: **Maps do not meet requirements. Please submit original and copies of the following. (detailed maps do not show all certificated systems, location maps should show areas to be transferred specific for the application and no other CCN's and show all certificated areas, digital data is available)**

- A. A general location map delineating the proposed service area with enough detail to accurately locate the proposed area within the county.
- B. A map showing only the proposed area by:
 - (1) Metes and bounds survey certified by a licensed state or register professional land surveyor ; or
 - (2) Projectable digital data with metadata (proposed areas should be in a single record and clearly labeled for each utility) ; or
 - (3) Following verifiable natural and man-made landmarks; or
 - (4) Copy of recorded plat map with metes and bounds
- C. A written description of the proposed service area.



Kent Steelman

**APPLICATION FOR SALE, TRANSFER,
OR MERGER OF A RETAIL PUBLIC UTILITY**

*RN# _____ *CN# _____ *If known (See instructions)

1. Proposed action of application (check all the boxes that apply):

☒ Sale of ☒ All of the ☒ Water system(s) under CCN No.: 10350
☐ Acquisition ☐ Portion ☐ Sewer system(s) under CCN No.: _____
☐ Lease/Rental

☒ Transfer of ☒ All of the _____ Certificated water service area – CCN No.: 10350
☐ Portion _____ Certificated sewer service area – CCN No.: _____

☐ If only a portion of a system or certificated service area is affected by this transaction, please specify the areas or subdivision involved:

and to:

☐ Obtain a CCN for the transferee (purchaser) – indicate if purchaser will take the seller's CCN
☐ Amend the transferee's CCN No.: _____
☒ Merge or consolidate public utilities _____
☐ Cancel CCN of the transferor (seller) _____

2. Proposed effective date of this transaction: _____
(Must be at least 120 days after proper notice is provided)

**QUESTIONS 3 THROUGH 5 APPLY TO THE TRANSFEROR
(CURRENT SERVICE PROVIDER OR SELLER)**

3. For the current CCN holder or service provider please indicate:

A. Name: Community Utility Company

(Individual, Corporation or Other Legal Entity)

who is a(n): ☐ Individual ☒ Corporation ☐ WSC ☐ HOA or POA ☐ Other _____

B. Utility Name (if different than above):

Address: P.O. Box 455 Telephone: (AC) (281) 444-747
Spring, Texas 77383

C. Contact person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney or accountant.

Name: Les Romo

Title: Attorney

Address: 307 Shannon Lane, Georgetown, TX 78628 Telephone: (AC) 512-868-5600

Fax: 512-563-0452

Email: lesromo.lawoffice@gmail.com

4. About the last rate increase for the system or facilities being transferred: _____
 A. What was the effective date of the last rate increase? September 1, 2008
 B. Was notice of this increase provided to the Texas Commission on Environmental Quality or its predecessors?
 ___ No X Yes Application/Docket Number: 2008-1463-UCR/582-09-0655 Date: September 1, 2008

5. Please provide a list of all customers affected by this transaction who have deposits held by the transferor or seller utility, if any, and include the following information (attach additional sheets if necessary):

Name and Address of Utility Customer	Date of Deposit	Amount of Deposit	Amount of Unpaid Interest on Deposit
None			

- ☛ Within 30 days of the actual transaction date, and prior to the transfer of the certificate by the TCEQ, the seller must provide proof to the Commission that these customer deposits were returned to the customers or transferred to the purchasing utility. Proof should include a sworn affidavit.

QUESTIONS 6 THROUGH 16 REFER TO THE TRANSFEREE OR PURCHASER

6. For the person or entity acquiring the facilities and/or CCN:
 Applicant: M.B.C. Water Systems, Inc.
 (Individual, Corporation, or Other Legal Entity)

Utility Name: _____
 (If different than above)

Utility Address: 27493 Hanna Road, Suite Number 2, Conroe, Texas 77385

Fax: (281) 292-439 Email: _____ Telephone (AC): (281)37-4460

CCN Numbers held prior to the filing of this application: N/A

7. Check the appropriate box and provide information regarding the legal status of the transferee applicant:
 ___ Individual
 ___ Home or Property Owners Association
 ___ Partnership; attach copy of partnership agreement
X Corporation; provide charter number as recorded with the Office of the Secretary of State for Texas: 801076654
 ___ Non-profit, member-owned, member-controlled Cooperative Corporation (Article 1434(a) Water Supply or Sewer Service Corporation); provide charter number: _____
 ___ Municipally-owned utility
 ___ District (MUD, SUD, WCID, etc.)
 ___ County
 ___ Other (please explain): _____

8. If the applicant is an *Individual* or sole proprietorship, provide the following information. If not, skip to the next question.

Name: _____ Telephone (AC): _____
Fax: _____ Email: _____
Address: _____

9. If the applicant is other than an *Individual* provide the following information regarding the officers or partners of the legal entity applying for the transfer. You must complete either question 8 or question 9, whichever applies to the transferee applicant.

•Name: Mitchell M. Martin, Jr. Telephone (AC): 281-367-4460
Address: 27493 Hanna Road, Suite No. 2, Conroe, TX 77385
Position: President and Director Ownership % (if applicable): 50%

•Name: Michael M. Martin, Sr. Telephone (AC): 281-367-4460
Address: 27493 Hanna Road, Suite No. 2, Conroe, TX 77385
Position: Secretary-Treasurer and Director Ownership % (if applicable): 50%

•Name: _____ Telephone (AC): _____
Address: _____
Position: _____ Ownership % (if applicable): _____

•Name: _____ Telephone (AC): _____
Address: _____
Position: _____ Ownership % (if applicable): _____

•Name: _____ Telephone (AC): _____
Address: _____
Position: _____ Ownership % (if applicable): _____

•Name: _____ Telephone (AC): _____
Address: _____
Position: _____ Ownership % (if applicable): _____

- Attach additional sheet(s) if necessary -

- ☛ **Important:** • If the applicant is a for-profit corporation, please provide a copy of the corporation's "Certification of Account Status" from the State Comptroller Office. This "Certification of Account Status" can be obtained from: **(See Attached Certificate)**

Texas Comptroller of Public Accounts
P. O. Box 13528, Capitol Station
Austin, Texas 78711
1-800-252-5555

- If the applicant is an Article 1434a water supply or sewer service corporation or other non-profit corporation, please provide a copy of the Articles of Incorporation and By-Laws.