



Control Number: 44066



Item Number: 3

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

SOAH DOCKET NO. 582-09-4289
TCEQ DOCKET NO. 2009-0612-UCR

RECEIVED

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APPLICATION OF HARVEST
HILLS TREATMENT, LTD., TO
DECERTIFY A PORTION OF
CERTIFICATE AND CONVENIENCE
AND NECESSITY NO. 20973 FROM
GREEN VALLEY SPECIAL UTILITY
DISTRICT AND TO OBTAIN A
SEWER CCN IN GUADALUPE
COUNTY, TEXAS

§
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BEFORE THE STATE OFFICE
FILING CLERK

OF

ADMINISTRATIVE HEARINGS

**APPLICANT'S MOTION TO REMAND APPLICATION
TO THE EXECUTIVE DIRECTOR**

COMES NOW Harvest Hills Treatment, Ltd. ("Applicant") and files this Motion to Remand Application to the Executive Director of the Texas Commission on Environmental Quality ("TCEQ") and would show the court that all parties protesting the application at issue have withdrawn all protests and, specifically, the following:

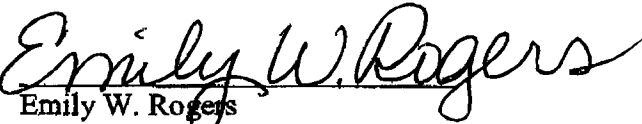
1. Green Valley Special Utility District withdrew its protest and reached a settlement agreement with Applicant, which has been tendered to the State Office of Administrative Hearings ("SOAH") and TCEQ for approval pursuant to Texas Water Code § 13.248 (Attachment A);
2. The City of Santa Clara withdrew its protest to the issuance of Applicant's sewer CCN application, as amended (Attachment B);
3. The City of Marion withdrew its protest to the issuance of Applicant's sewer CCN application, as amended (Attachment C); and
4. Staff Attorney for TCEQ has no objection to this matter being remanded to TCEQ for further processing of the application.

Applicant respectfully prays that SOAH remand this application to the Executive Director of TCEQ as uncontested so that the application may be processed and granted by the Executive Director. Applicant further requests any additional relief to which it is justly entitled.

Respectfully submitted,

BICKERSTAFF HEATH DELGADO ACOSTA LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746
Tel: (512) 472-8021
Fax: (512) 320-5638

By:


Emily W. Rogers
State Bar No. 24002863

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this 3rd day of December, 2009, a true and complete copy of the foregoing was sent to the following by facsimile, overnight delivery, or by first class mail:

Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, TX 78711-3025
512-475-4993
512-475-4994 (fax)

Mark Zeppa
Attorney at Law
4833 Spicewood Springs Road
Austin, TX 78759
512-346-4011
512-346-6847 (fax)

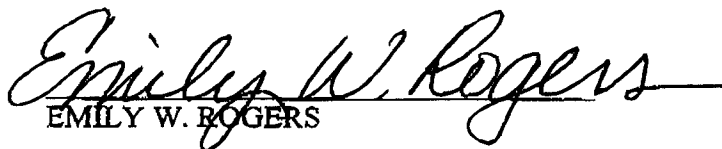
Shanna Horton
Texas Commission on Environmental Quality
P.O. Box 13087, MC 175
Austin, TX 78711-3087
512-239-1088
512-239-3434 (fax)

Randolph Schwenn
Public Works Director
City of Marion
PO Box 158
Marion, TX 78124
830-914-2391
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La Donna Castanuela
Office of the Chief Clerk - MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
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Blas Coy
Texas Commission on Environmental Quality
Public Interest Counsel - MC 103
P.O. Box 13087
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512-239-6363
512-239-6377 (fax)

Mayor David Mueller
City of Santa Clara
PO Box 97
Marion, TX 78124
830-914-2387
830-914-2917 (fax)


EMILY W. ROGERS

SOAH DOCKET NO. 582-09-4289
TCEQ DOCKET NO. 2009-0612-UCR

APPLICATION OF HARVEST	§	BEFORE THE STATE OFFICE
HILLS TREATMENT, LTD., TO	§	
DECERTIFY A PORTION OF	§	
CERTIFICATE AND CONVENIENCE	§	
AND NECESSITY NO. 20973 FROM	§	OF
GREEN VALLEY SPECIAL UTILITY	§	
DISTRICT AND TO OBTAIN A	§	
SEWER CCN IN GUADALUPE	§	
COUNTY, TEXAS	§	ADMINISTRATIVE HEARINGS

ORDER REMANDING CASE

On December ____, 2009, counsel for Harvest Hills Treatment, Ltd. ("Applicant") filed a Motion to Remand indicating that all parties protesting the application at issue in this matter have withdrawn all protests and, accordingly, the Staff Attorney of the Texas Commission on Environmental Quality ("TCEQ") has no objection to this matter being remanded to TCEQ for further processing of the application.

THEREFORE, IT IS ORDERED that Applicant's Motion for Remand is GRANTED pursuant to TCEQ rules and, accordingly, this matter is DISMISSED from the docket of the State Office of Administrative Hearings.

Signed this ____ day of _____, 2009.

ADMINISTRATIVE LAW JUDGE

LAW OFFICES OF MARK H. ZEPPA, P.C.

**4833 Spicewood Springs Road, Suite 202
Austin, Texas 78759-8436
(512) 346-4011 Fax (512) 346-6847
markzeppa@austin.rr.com**

November 4, 2009

Honorable William Newchurch
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, TX 78701

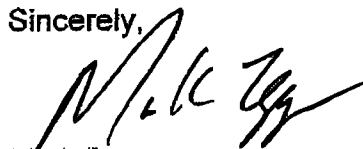
Re: Application of Harvest Hills Treatment, Ltd., to Decertify a Portion of Certificate of Convenience and Necessity ("CCN") No. 20973 from Green Valley Special Utility District and to Obtain a Sewer CCN in Guadalupe County, Texas; SOAH Docket No. 582-09-4289; TCEQ Docket No. 2009-0612-UCR

Dear Judge Newchurch:

Green Valley Special Utility District (GVSUD) and Harvest Hills Treatment, Ltd. (Harvest Hills) have reached a settlement in the above-referenced sewer utility certification docket. That agreement, attached hereto, is tendered to SOAH/TCEQ for approval pursuant to Texas Water Code §13.248. As provided in the agreement, GVSUD withdraws its protest to the issuance of the Harvest Hills Treatment, Ltd.'s sewer CCN applications, as amended.

GVSUD withdraws its request for a contested hearing in this docket and agrees that this docket should be remanded to the TCEQ Executive Director for administrative approval.

Sincerely,



Mark Zeppa
Attorney for Green Valley SUD

Encl. (1)

cc: Pat Allen, GVSUD General Manager
Mailing List

Attachment A

SOAH DOCKET NO. 582-09-4289
TCEQ DOCKET NO. 2009-0612-UCR

MAILING LIST

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Mayor David Mueller
City of Santa Clara
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830-914-2917 (fax)

La Donna Castanuela
Office of the Chief Clerk - MC 105
Director
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Public Works

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Emily Rogers
Bickerstaff Heath Delgado

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Texas Commission on Environmental Quality
Public Interest Counsel - MC 103
P.O. Box 13087
Austin, TX 78711-3087
512-239-6363
512-239-6377 (fax)

Shanna Horton
Texas Commission on Environmental Quality
P.O. Box 13087, MC 175
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512-239-1088
512-239-3434 (fax)

**TEXAS WATER CODE §§ 13.248 AND 13.250(b)(2)
AGREEMENT BETWEEN HARVEST HILLS
TREATMENT, LTD AND GREEN VALLEY SPECIAL
UTILITY DISTRICT**

WATER UTILITY:

Green Valley Special Utility District (GREEN VALLEY)
P O Box 99
Marion, Texas 78124
(830) 914-2330

SEWER UTILITY:

Harvest Hills Treatment, Ltd. (HARVEST HILLS)
8400 Blanco Road, Suite 204
San Antonio, TX 78216

PURPOSE:

Green Valley Special Utility District (GREEN VALLEY) provides water utility service to the Harvest Hills Subdivision in Guadalupe County, Texas under a state-issued certificate of convenience and necessity (CCN). Harvest Hills Treatment, Ltd. (HARVEST HILLS) seeks to provide sewer utility service to the same subdivision under a state-issued CCN. This Agreement will accommodate the service desires of both utilities. Each utility shall bill its customers separately using billing data it generates on its own. In order to insure that sewer customers of HARVEST HILLS make timely payments of their sewer service bills, HARVEST HILLS requires the ability to terminate water service to the delinquent sewer customer under terms and conditions prescribed by the Texas Commission on Environmental Quality (TCEQ). As provided by Texas Water Code 13.250(b)(2) and 30 TAC §291.88(e), GREEN VALLEY agrees to terminate its water service to sewer customers of HARVEST HILLS for nonpayment of delinquent, undisputed sewer bills after lawful termination of service notices have been issued by HARVEST HILLS. The terms and conditions of this Agreement shall be controlled by the rules and regulations of the TCEQ on this subject matter applicable to investor-owned utilities as the same may be adopted and amended from time to time as if said rules were written verbatim herein.

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AGREEMENT:


1. HARVEST HILLS shall give TCEQ-required written termination of service notices to all delinquent sewer customers subject to discontinuance of sewer utility service under the sewer company's tariff and the rules of the TCEQ. Disputed bills shall not be subject to disconnection. Copies of said notices shall be sent to GREEN VALLEY. If more than one customer is subject to disconnection at the same time, it shall be sufficient for HARVEST HILLS to send GREEN VALLEY a single sample termination notice with a list of all customers subject to termination by name and service address.
2. If any delinquent customer has not paid their sewer bill by 8 a.m. of the noticed termination date, HARVEST HILLS shall notify GREEN VALLEY to proceed with termination of that customer's water service. HARVEST HILLS shall notify GREEN VALLEY of which previously delinquent sewer customers have paid their accounts and are no longer subject to water service termination. If this notice is given verbally, it shall be followed by a written notice.
3. Upon receipt of all monies lawfully due from the delinquent sewer customer, HARVEST HILLS shall notify GREEN VALLEY that it may restore the customer's water service as required by the TCEQ's rules. GREEN VALLEY shall restore the service within 36 hours unless the customer is also delinquent on their water bill and a lawful termination of water utility service notice has been issued by GREEN VALLEY. In which case, GREEN VALLEY shall not be required to restore the customer's water service until all service restoration requirements have been met under GREEN VALLEY'S water tariff and the rules of the TCEQ.
4. GREEN VALLEY may not charge the delinquent sewer customer a reconnect fee for restoring water service after payment of delinquent sewer bills.
5. GREEN VALLEY may charge HARVEST HILLS a service charge not to exceed twenty five (\$25.00) dollars per disconnection/reconnection. This fee may change from time to time as agreed to by the parties and as allowed by the TCEQ's rules. The initial charge shall be \$ 25.00. If the TCEQ rules authorize an increase in investor-owned utilities' reconnection fees, the ceiling on the fees charged in this paragraph will increase proportional to the new rule.

QU

6. GREEN VALLEY may charge HARVEST HILLS a service charge not to exceed five (\$5.00) dollars per sewer account to modify its customer service record system as may be needed to fulfill this agreement. The same fee shall be charged each time HARVEST HILLS adds or replaces a sewer service account to the total sewer accounts affected by this agreement.

7. GREEN VALLEY shall not terminate the water service to any delinquent sewer customer if GREEN VALLEY would otherwise be prohibited, under the TCEQ's rules, from terminating that customer's water service due to the illness or potential illness of any resident at that service location. This prohibition shall remain in effect for so long as GREEN VALLEY would otherwise be prohibited from terminating that customer's water service. GREEN VALLEY shall provide timely notice to HARVEST HILLS of which of its water customers are subject to this medical prohibition of termination of utility service.


EFFECT ON PROVISION OF SEWER.

It is agreed that HARVEST HILLS shall be granted an exclusive CCN to provide sewer utility service within the Harvest Hills Subdivision. To this extent, GREEN VALLEY agrees to release this territory from its sewer utility service area CCN to HARVEST HILLS. This Agreement shall not affect or in any way impair GREEN VALLEY'S right and obligations with respect to its customers or the provision of sewer utility services in the remainder of its sewer service area. Unless otherwise ordered by TCEQ or other authorized regulatory agency, HARVEST HILLS agrees that it will not provide, or seek to provide, retail sewer utility service within GREEN VALLEY'S state-certificated areas. 

EFFECT ON PROVISION OF WATER.

This Agreement shall not affect or in any way impair GREEN VALLEY'S right and obligations with respect to its customers or the provision of water utility services, except as specifically and expressly set forth in the Agreement and as allowed by law. Unless otherwise ordered by TCEQ or other authorized regulatory agency, HARVEST HILLS agrees that it will not provide, or seek to provide, retail water utility service within GREEN VALLEY'S state-certificated areas.

PURPOSE OF AGREEMENT/INDEMNITY:

This Agreement is made for the purpose of facilitating the billing and collection of fees for wastewater services provided by HARVEST HILLS. No partnership or joint venture is intended to be created hereby. GREEN 

Fax from : 2186962834

12-28-09 13:36 Pg: 5

VALLEY'S sole responsibility is to terminate water service to delinquent sewer customers for collection purposes. GREEN VALLEY shall have no responsibility for, and HARVEST HILLS shall indemnify, defend and hold GREEN VALLEY harmless from, any damage, claims, demands, or causes of action arising from the construction, operation, maintenance, repair or existence of the sewer collection system.

TERM:

This Agreement shall remain in full force and effect for so long as such agreements are allowed by law and the parties continue to be the respective water and sewer utility purveyors in the subdivision. Either party may terminate this Agreement for cause with thirty (30) days written notice to the other party.

ELECTRONIC COMMUNICATIONS:

All notices required herein may be given by facsimile, email or other electronic transmission.

EXECUTED on the 15th day of October, 2009.

HARVEST HILLS.
TREATMENT LTD

GREEN VALLEY SPECIAL
UTILITY DISTRICT

By: [Signature]By: [Signature]Name: SACK UPTMOREName: PAT ALLENTitle: MANAGERTitle: General Manager

★ HARVEST HILL SEWER UTILITY SERVICE
AREA AS PER TCEQ CCN APPLICATION
36353-C [Signature]

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Nov 25 2009 10:18AM

#INS#AGENCY

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P. 1

CITY of SANTA CLARA
Est. 1999

Honorable William Newchurch
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78701

Re: Withdrawal of Protest of Application of Harvest Hills Treatment, LTD., to decertify a portion of Certificate of Convenience and Necessity ("CCN") No. 20973 from Green Valley Special Utility District and to obtain a Sewer CCN in Guadalupe County, Texas; TCEQ Docket # 2009-0612-UCR

Dear Judge Newchurch,

The City of Santa Clara hereby withdraws its protest to the issuance of the Harvest Hills Treatment, LTD.'s sewer CCN applications, as amended.

Sincerely,



Hon. David D Mueller
Mayor

November 9, 2009

cc: Mailing list

Attachment B

11/17, 2009

Honorable William Newchurch
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, TX 78701

Re: Withdrawal of Protest of Application of Harvest Hills Treatment, Ltd., to Decertify a Portion of Certificate of Convenience and Necessity ("CCN") No. 20973 from Green Valley Special Utility District and to Obtain a Sewer CCN in Guadalupe County, Texas; SOAH Docket No. 582-09-4289; TCEQ Docket No. 2009-0612-UCR

Dear Judge Newchurch:

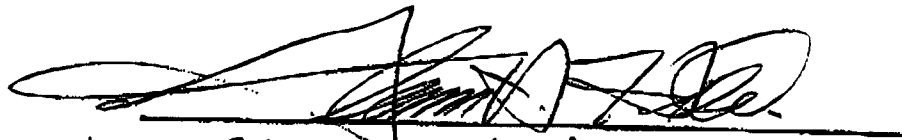
The City of Marion hereby withdraws its protest to the issuance of the Harvest Hills Treatment, Ltd.'s sewer CCN applications, as amended.

Sincerely,



Randolph Schwenn
City of Marion Public Works Director

cc: Mailing List


Glenn Aild; Mayor

Attachment C

SOAH DOCKET NO. 582-09-4289
TCEQ DOCKET NO. 2009-0612-UCR

MAILING LIST

Honorable William G. Newchurch
Administrative Law Judge
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La Donna Castanuela
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Bickerstaff Heath Delgado Acosta LLP*A Registered Limited Liability Partnership*

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<http://www.bickerstaff.com>

The information contained in this facsimile is privileged & confidential. It is intended only for the use of the individual or entity named below. If you have received this transmission in error, please notify us by telephone collect and return it to us at the above address. Thank you.

DATE: December 3, 2009

CLIENT #: 3496-01

TELECOPIER COVER SHEET

Fax Number: (512) 320-5638

<u>Send To:</u>	<u>Confirmation No.</u>	<u>Facsimile No.</u>
Hon. William Newchurch	475-4993	475-4994
Mark Zeppa	346-4011	346-6847
Blas Coy	239-6363	239-6377
Shanna Horton	239-1088	239-3434
Hon. David Mueller	830-914-2387	830-914-2917
Randolph Schwenn	830-914-2391	830-420-4460

FROM: Emily Rogers
Return to Denise Fregeolle-Burk

TOTAL PAGES INCLUDING COVER SHEET: 15☐ ORIGINAL WILL FOLLOW VIA U.S. MAIL☒ ORIGINAL WILL NOT FOLLOW

TELECOPIER OPERATOR: _____ TIME: _____ a.m./p.m.

*Please contact the fax center at 512-472-8021 if complete FAX is not received.***MESSAGE:**

Please see attached.

BN

Bickerstaff Heath Delgado Acosta LLP

3711 S. MoPac Expressway Building One, Suite 300 Austin, Texas 78746 (512) 472-8021 Fax (512) 820-5638 www.bickerstaff.com

December 3, 2009

Via e-file

La Donna Castañuela
Office of the Chief Clerk - MC 105
Texas Commission on Environmental Quality
12100 Park 35 Circle
Building F, 1st Floor
Austin, TX 78753

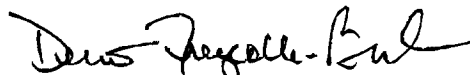
Re: SOAH Docket No. 582-09-4289; TCEQ Docket No. 2009-0612-UCR;
*Application of Harvest Hills Treatment, Ltd. to Decertify a Portion of CCN No.
20973 from Green Valley Special Utility District and to Obtain a Sewer CCN in
Guadalupe County, Texas*

Dear Ms. Castañuela:

Enclosed for filing is Harvest Hills Treatment Plant, Ltd.'s Motion to Remand to Executive Director in connection with the above-referenced matter. A copy is being served on each party of record.

Should you have questions, please call Emily Rogers at (512) 472-8021.

Sincerely,



Denise Fregeolle-Burk
Assistant to Emily W. Rogers

/dfb
Enclosure

cc: Judge Craig Bennett
All Parties of Record