



Control Number: 44200



Item Number: 1

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

44200

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



2015 JAN -9 AM 10:00

PUBLIC UTILITY COMMISSION
FILING CLERK

SOAH DOCKET NO. 582-01-3914
TCEQ DOCKET NO. 2001-0845-UCR
APPLICATION NO. 33437-C

IN THE MATTER OF THE
APPLICATION OF THE VILLAGE OF
WIMBERLEY TO OBTAIN A SEWER
CERTIFICATE OF CONVENIENCE AND
NECESSITY IN HAYS COUNTY, TEXAS

§
§
§
§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

ORDER

An application by the Village of Wimberley ("Wimberley") to obtain a Certificate of Convenience and Necessity ("CCN") to provide sewer service in Hays County, Texas was presented to the Executive Director of the Texas Commission on Environmental Quality ("Commission") for approval pursuant to Section 5.122 of the Texas Water Code ("Code") and Commission rules.

Wimberley wants to provide sewer service in Hays County, Texas, and to become a retail public utility as defined in Section 13.002(19) of the Code.

On January 30, 2001, Wimberley filed an application with the Commission pursuant to Section 13.241 *et. seq.* of the Code to obtain a sewer CCN to provide sewer service in Hays County, Texas. The application was accepted for filing and it was assigned Application No. 33437-C.

contested issues, subject to Wimberley's amending its application to delete a portion of the proposed service area. When the amendment has been completed, ASU will formally withdraw as a party. The parties also requested a continuance of the hearing on the merits to allow Wimberley to amend its application, and to provide additional time for Wimberley and the ED to discuss a settlement of the ED's protest of the application. Judge Ramos granted the request on July 1, 2002, and reset the hearing for August 5, 2002.

On August 2, 2002, Wimberley and the ED filed a Joint Motion to Continue Hearing and to Remand Wimberley's CCN Application to the ED on the basis that there had been a settlement in principle between the parties. The motion requested a severance of the proposed certificated area within the city limits of Wimberley and a remand of this portion of the application to the ED for issuance of the CCN at this time. For the remainder of the requested certificated area, the settlement calls for Wimberley and the Guadalupe-Blanco River Authority ("GBRA") to dually certificate the territory. In order to evaluate procedural issues relating to dual certification, Wimberley and the ED requested a two week continuance of the hearing on the merits. The parties requested an additional two week continuance by way of a letter dated August 16, 2002. Judge Ramos granted the motion on August 19, 2002, severed the requested certificated area within the city limits of Wimberley, and remanded that portion of the application to the Executive Director for proceedings in accordance with the parties' agreement. As to the balance of the application, Judge Ramos granted the additional continuance requested by the parties and the request for a telephone conference, indicating that no hearing on the merits would be set until a telephone conference had been conducted.

Notice was provided to affected persons and neighboring utilities by Wimberley on January 24, 2001. Because of a deficiency in the original notice, an amended notice was provided to affected persons and neighboring utilities by Wimberley on May 15, 2001. Notice of the application was published on May 11, 2001, and May 18, 2001, in the San Marcos Daily Record, a newspaper generally circulated in Hays County, Texas. The notice to obtain a CCN by Wimberley complied with the notice requirements of 30 Texas Administrative Code ("TAC") Section 291.106 and was sufficient to place affected persons on notice regarding the application for service. The Commission received a request for a public hearing on the application from AquaSource Utility, Inc. ("ASU")

On November 26, 2001, Sarah G. Ramos, an administrative law judge with the State Office of Administrative Hearings ("SOAH"), conducted a preliminary hearing, assumed jurisdiction, set a procedural schedule, and admitted the following as parties: Wimberley represented by Bruce Wasinger; the Executive Director ("ED") of the Commission represented by John E. Deering; the Public Interest Counsel of the Commission ("PIC") who did not appear; and ASU, represented by Mark Zeppa.

The parties continued to negotiate over a period of several months, and on June 19, 2002, ASU filed a letter with Judge Ramos confirming that a settlement of all contested issues of fact and law had been reached that afternoon, and requesting the prehearing conference scheduled for the next day be held by telephone so the parties could announce their settlement on the record, and establish a schedule for filing a written settlement agreement, motion for remand to the ED, and entry of appropriate administrative orders.

Judge Ramos convened the prehearing telephone conference on June 20, 2002. During the conference and in written statements, ASU and Wimberley announced their settlement of all

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

The application by the Village of Wimberley for a Certificate of Convenience and Necessity for single certification within a portion of the Village of Wimberley city limits as reflected in the attached copy of TCEQ's sewer service area map for Hays County, is hereby approved.

The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties, and the Commission will issue a Certificate of Convenience and Necessity to the applicant.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: OCT 30 2002

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Margaret Hoffman
For the Commission

Texas Natural Resource Conservation Commission

By These Presents Be It Known To All That

Village of Wimberley

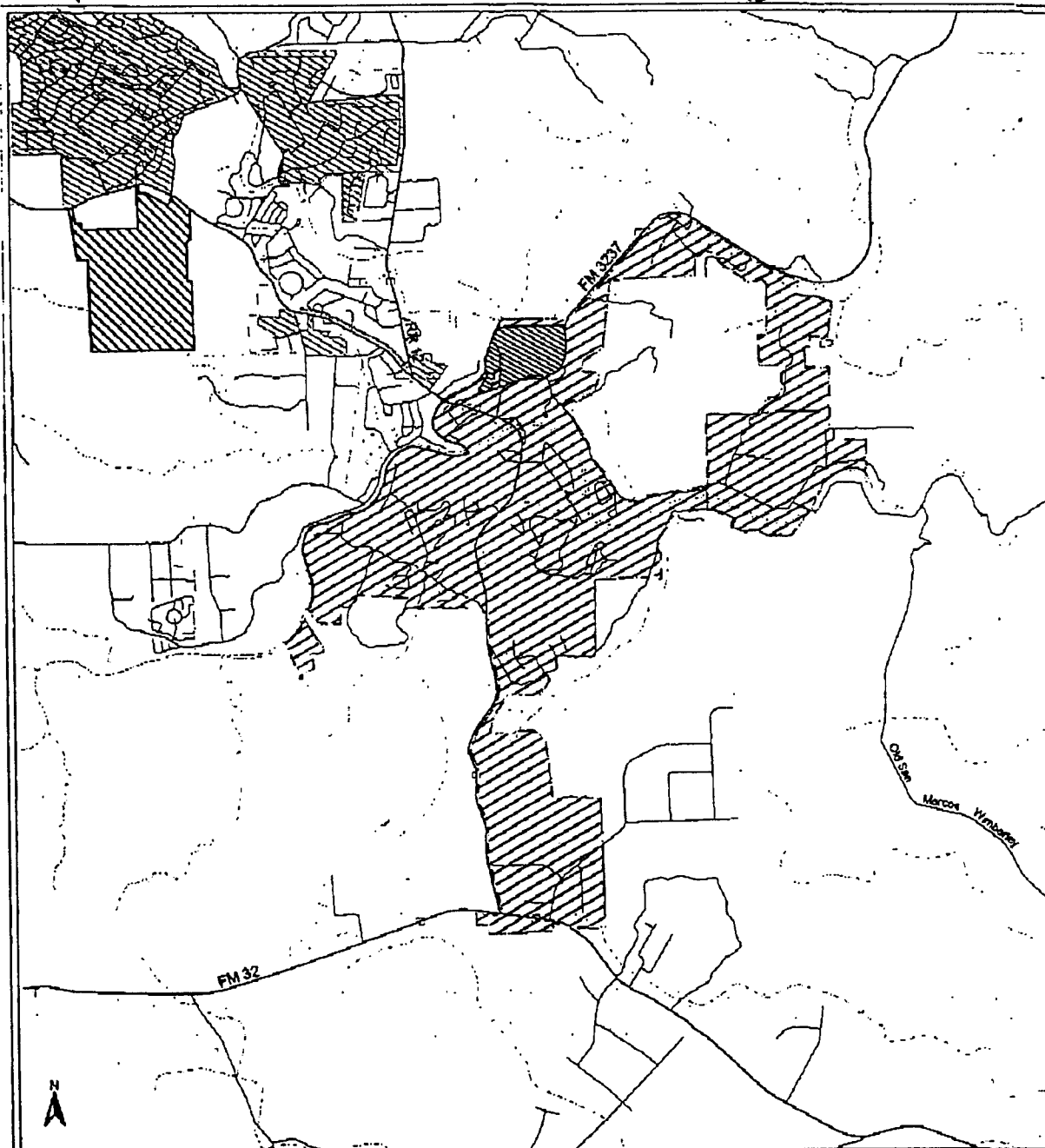
having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled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

Certificate of Convenience and Necessity No. 20936


to provide continuous and adequate water utility service to those service areas in Wise County as by final Order duly entered by this Commission, which Order resulting from Application No. 33437-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Village of Wimberley 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 OCT 30 2002


Margaret Hoffman
For the Commission




Recommended Sewer CCN Area - Single Certification

 Village of Wimberley - City Limits w/ Exclusions (AquaSource Agreement & Sewer CCNs)

Existing Sewer CCNs

 20453 - AQUASOURCE UTILITY INC

 20867 - AQUASOURCE DEV CO INC

 20702 - BLUE HOLE WW SYSTEM

 Existing CCN - Facilities + 200 Feet

 20453 - AQUASOURCE UTILITY INC

1 0 1 Miles

Map created by S. Jolly 10/28/2002
 Printed at: C:\gis\arcview\wimberley2.sxd

