



Control Number: 44200



Item Number: 5

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
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

RECEIVED

SOAH DOCKET NO. 582-01-3914  
TNRCC DOCKET NO. 2001-0845-UCR

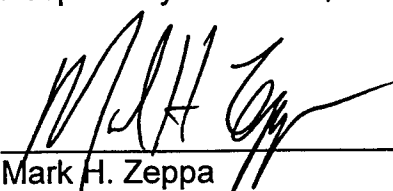
2015 JAN -9 AM 10:01  
PUBLIC UTILITY COMMISSION  
FILING CLERK

APPLICATION BY VILLAGE OF	§	BEFORE THE
WIMBERLEY TO OBTAIN A SEWER	§	STATE OFFICE OF
CERTIFICATE OF CONVENIENCE	§	ADMINISTRATIVE
AND NECESSITY IN HAYS COUNTY	§	HEARINGS

**AQUASOURCE UTILITY, INC'S ANSWERS TO THE APPLICANT VILLAGE  
OF WIMBERLEY'S REQUESTS FOR INFORMATION**

Pursuant to the Texas Rules of Civil Procedure and the prehearing orders of the presiding administrative law judge, AquaSource Utility, Inc. ("ASU"), within the period agreed to by counsel, provides the following answers to the Village of Wimberley's ("Village") Requests for Information to Bruce Wasinger at the offices of Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P., 1700 Frost Bank Plaza, 816 Congress, Ave., Austin, Texas, 78701.

Respectfully submitted,

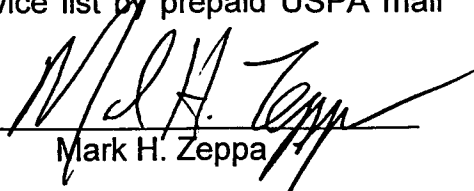


Mark H. Zeppa  
State Bar. No. 22260100  
Law Offices of Mark H. Zeppa, PC  
4833 Spicewood Springs Rd, #202  
Austin, Texas 78759-8436  
(512) 346-4011, Fax (512) 346-6847

ATTORNEY FOR AQUASOURCE  
UTILITY, INC.

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, certify that true and correct copies of the foregoing were served on all parties shown on the attached service list by prepaid USPA mail and/or fax on the 18th day of February 2002.

  
Mark H. Zeppa

SERVICE LIST

SOAH Docket No. 582-01-3914  
TNRCC Docket No. 2001-0845-UCR

John Deering, Staff Attorney  
Environmental Law Division  
Texas Natural Resource Conservation Commission  
P. O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Tel. (512) 239-3612  
Fax (512) 239-0606

Blas Coy, Jr., Attorney  
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Texas Natural Resource Conservation Commission  
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Bruce Wasinger  
Bickerstaff, Heath, Smiley, Pollan,  
Kever & McDaniel, LLP  
816 Congress Avenue, Ste. 1700  
Austin, Texas  
Tel. (512) 472-8021  
Fax (512) 320-5638

TNRCC Docket Clerk  
Office of the Chief Clerk  
Texas Natural Resource Conservation Commission  
P. O. Box 13087, MC 105  
Austin, Texas 78711-3087  
Fax (512) 239-3311

## **INTERROGATORIES**

1. Please identify all properties and facilities owned or operated by you that are within the requested area proposed for certification by the Village of Wimberley.

### **RESPONSE:**

The documentation containing information responsive to this discovery request is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

2. For each person AquaSource Utility, Inc. expects to call as a fact witness at the evidentiary hearing in this matter, please provide: (a) the person's name, and business address and telephone number; and (b) a brief description of the testimony AquaSource Utility, Inc. expects that person to provide.

### **RESPONSE:**

This information has been provided in ASU's answers to the Village's requests for disclosures.

3. If it is your contention that the granting of the CCN to Wimberley will negatively affect another utility, please provide the basis for your contention. Please identify each person, document, or other source of information upon which you base your contention. This information should include the financial consequences, both current and projected, changes in customer base, potential changes in rates charged by the utility, and the physical effects, such as potential changes in population density within the requested area.

### **RESPONSE:**

See witnesses identified in ASU's answers to the Villages' requests for disclosure. The documentation containing information responsive to this discovery request is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th,

between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011. Granting the Village's application north of Cypress Creek will restrict ASU's opportunity to serve customers outside of its existing service area, especially in areas in which ASU intends to file for a sewer CCN amendment for corridor certification along FM 2325 from the ASU wastewater treatment plant (WWTP) to the Brookshire Brothers Grocery on RR 12 and out RR 12 to the City of Woodcreek. ASU also intend to seek certification to property owned by ASU's affiliate around the WWTP and to 10 adjoining acres to which ASU has contractual obligations to provide sewer service upon request and upon TNRCC approval. ASU has sufficient existing treatment capacity in place to serve this additional area and only needs collection lines it has already planned to build to finish its system to serve in the Wimberley area. Certifying the area to the Village would result in the lose of this business opportunity for which ASU has already made considerable financial investment after the community asked ASU to extend its sewer service into the Wimberley commercial district.

ASU does not plan to serve south of Cypress Creek but does not believe that the Village has the financial, managerial or technical resources with which to design, construct or operate a sewer plant. The Village has no WWTP or permits so certifying the Village to an area it cannot serve would restrict the ability of another more capable sewer utility from providing service to the community. GBRA intends to serve the area, let GBRA hold the CCN and bear the regulatory risk.

4. If it is your contention that there is adequate sewer service provided to the requested area, please provide the basis for that contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

There is not adequate central sewer service in the area except to those few customers now receiving ASU service and those customer who will be receiving ASU service as soon as the recent sewer CCN amendment granted to ASU inside the Village becomes final, i.e., after all motions for rehearing have been over ruled or have expired by operation of law, and ASU has connect new customers requesting immediate sewer service. ASU believes the Blue Hole Management's sewer service may be marginal or near capacity.

5. Please explain why you are opposed to sewer service being provided by the Village of Wimberley to the requested area.

**RESPONSE:**

The Village is seeking certification to service area already certificated to ASU as well as to service area to which ASU plans to file a sewer CCN amendment application. As to other service areas, ASU believes that the Village is incapable of providing sewer service to the public since it has no financial, managerial, or technical resources with which to design, construct or operate a state- and federally-approved sewer utility system or the permits to treat and/or discharge water borne waste. Certifying the Village will deter other more capable utilities from bring more timely sewer service to the area. If GBRA intends to serve the area, let GBRA bear the regulatory risk of holding its own operating licenses/permits and operating under its own name and not through a proxy.

6. Please explain why you believe another sewer service provider other than the Village of Wimberley would be able to more adequately provide sewer service to the requested area. Please identify the utility and each person, document, or other source of information upon which you base your assertion.

**RESPONSE:**

See answers Nos. 2 and 5 above.

7. If it is your contention that the granting of the Village's CCN will negatively affect the environmental integrity in the requested area, please provide the basis for your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

The Village has not demonstrated that it has any financial, managerial or technical resources capable of designing, constructing or operating a sewer utility system, including a state and federally permitted WWTP that would adequately treat human health and safety and state waters. The Village has no track record. It has no permits. It has no plant design. It has no discharge site. It has no irrigation site in lieu of discharge.

8. If it is your contention that the Village or GBRA (acting on behalf of the Village) lacks technical, managerial, and financial ability to provide continuous and adequate sewer services to the requested area, please provide the basis for your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

See No. 7 above. GBRA has no experience or resources for operating a sewer system or WWTP in this valley. It has no WWTP or permits. It has no plant design or sewer system plans. It has no financing for a sewer system for the Village and the Village has no independent financing. Given the opposition ASU has received from the community in its permitting and CCN applications, GBRA has not demonstrated that it has a better program or that it can obtain the necessary permits in less than 2 to 3 years which would not be timely continuous and adequate service.

9. Please describe the feasibility of obtaining sewer service from an adjacent retail public utility, including you. Your answer should include information describing the locations of existing and proposed facilities, proximity to the requested area, current and projected capacities of the facilities, including wastewater plants, lines and collection system, current and projected number of customers to be served by those facilities, the time frames for constructing or upgrading facilities, and the cost of your existing system and long-term costs and which of these costs will be passed on to customers in the requested area.

**RESPONSE:**

The documentation containing information responsive to this discovery request is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

10. If it is your contention that the TNRCC should not grant the CCN to Wimberley, please provide the basis of that contention. Please include the identity of any and all deficiencies in the Wimberley's Application, and each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

This question cannot be answered since the Village has here to date failed to failed to answer ASU's request for copies of its application and all up dates and amendments. Based upon the information provided to ASU to date, the Village had failed to demonstrate that it has the ability to provide timely and cost effective sewer utility sewer to any portion of its proposed service area and could

not serve any portion of that service area for several years. Even this would require the slow construction of a collection of force main sewer collection lines into collection tanks or wet wells to be emptied into vacuum truck under collect and haul permits for treatment at distant WWTP's. ASU is unaware of the Village having any such permits or applications for any sewer permits of any type.

11. Identify all costs that would be borne by you to serve the requested area. Identify all costs that would be borne by the developer, commercial customer, or residential customer to obtain sewer service from you for the requested area. Identify all costs that would be borne by individual retail customers to obtain sewer service from you in the requested area.

**RESPONSE:**

The documentation containing information responsive to this discovery request is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

12. If it is your contention that Wimberley or GBRA (acting on behalf of Wimberley) is incapable of meeting the TNRCC's design criteria for sewer treatment plants, commission rules, and the Texas Water Code, please provide the basis for that contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

This question cannot be answered since the Village has here to date failed to failed to answer ASU's request for copies of its permit applications and all up dates and amendments plus its sewer system and WWTP plans. Based upon the information provided to ASU to date, the Village had failed to demonstrate that it has the ability to provide timely and cost effective sewer utility sewer to any portion of its proposed service area and could not serve any portion of that service area for several years. Even this would require the slow construction of a collection of force main sewer collection lines into collection tanks or wet wells to be emptied into vacuum truck under collect and haul permits for treatment at distant WWTP's. ASU is unaware of the Village having any such permits or applications for any sewer permits of any type



13. Please identify any changes to the application, or other steps the Village should take that would satisfy your concerns about the Village's CCN application.

**RESPONSE:**

This question cannot be answered for the reasons stated in answers 11 and 12 above.

14. If it is your contention that there is no need for additional sewer service in the requested area, please provide the basis for your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

There is a need for additional sewer service from ASU and/or from another qualified sewer utility service purveyor who can actually provide the service not a newly incorporated municipality looking for a revenue source, which wants to control land use and real estate development through a utility service CCN.

15. If it is your contention that Wimberley or GBRA (acting on behalf of Wimberley) does not have the ability to provide adequate sewer service to the requested area, please provide any and all reasons and factual basis to support your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

See answers collectively set forth above.

16. If it is your contention that Wimberley or GBRA (acting on behalf of Wimberley) is not financially stable, please state the factual basis to support your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

See answers collectively set forth above.

17. If it is your contention that sewer service provided by Wimberley or GBRA (acting on behalf of Wimberley) will not improve service or lower costs to customers in the requested area, please provide the factual basis for your contention. Please identify each person, document, or other source of

information upon which you base your contention.

**RESPONSE:**

See answers collectively set forth above.

18. If it is your contention that Wimberley's CCN application is incomplete or otherwise defective, including, but not limited to, concerns relating to notice of the application, please identify the alleged defect and provide any and all reasons that support your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

See answers collectively set forth above.

19. If it is your contention that it is economically feasible for the Village of Wimberley to regionalize or consolidate with another retail public utility, please provide any and all reasons that support your contention. Please identify the retail public utility and each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

It is ASU's contention that there is no need for the Village sewer system. Service from the Village is not needed where service is being provided or could be provided by ASU or Blue Hole Management, the two existing certificated sewer utilities inside the Village so regionalization or consolidation is not needed. If GBRA truly has the financial, managerial and technical resources to design, construct and operate a sewer system in the Village and its ETJ, then GBRA, an existing sewer utility and therefore a regional utility, can serve the area and there is no need for the Village to start up a new sewer utility.

20. Please describe your ability to provide adequate sewer service to the requested area. Please describe the approximate time from in which you could provide adequate sewer service to the requested area.

**RESPONSE:**

ASU can serve the areas to which it is certificated now and to which it will be filing a sewer CCN amendment. The additional area will be the property it's affiliate owns around its WWTP and 10 adjacent acres on FM 2325, a corridor 200 feet from the center line of FM 2325 to the Brookshire Brothers Grocery, the

11 acres around the Brookshire Brothers Grocery, a corridor 200 feet from the center line of RR 12 to the City of Woodcreek where the sewer lines will tie into ASU' sewer lines inside of Woodcreek. Service to customers outside of areas currently certificated to ASU will depend upon the timing the CCN amendment. Most customers can be served within 6 months or less of becoming qualified applicants under ASU's tariff and the Chapter 291 rules after the granting of the CCN amendment depending on weather delays in laying the sewer line extensions along FM 2325 and RR 12 and getting the necessary ROW's easements.

21. If it is your contention that the proposed CCN, if granted, would negatively affect Wimberley, please provide the factual basis for your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

The Village is a newly incorporated municipality with very limited experience in operating a municipal government and offering municipal services. It has no experience in operating a municipal business enterprise or a public utility. Either the Village will be taking on an intolerable municipal debt to obtain its own municipal sewer system or GBRA will be the true owner-operator of the Village sewer system in everything except the CCN name. In this instance, the Village will bear the regulatory risk for the river authority's negligence and violations. For a small general law city with very limited financial resources, this can be a very great financial risk.

22. Are there people already living the requested area that are currently receiving sewer service from you or that have requested sewer service from you? If so, please describe where those customers or potential customers are located.

**RESPONSE:**

Yes, along FM 2325 and RR 12.

23. If it is your contention that Wimberley's requested CCN is not necessary for the service, accommodation, convenience, or safety of the public, please provide the basis for your contention. Please identify each person, document, or other source of information upon which you base your contention.

**RESPONSE:**

See witnesses identified in ASU's answers to the Villages' requests for disclosure. The documentation containing information responsive to this

discovery request is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011. Granting the Village's application north of Cypress Creek will restrict ASU's opportunity to serve customers outside of its existing service area, especially in areas in which ASU intends to file for a sewer CCN amendment for corridor certification along FM 2325 from the ASU wastewater treatment plant (WWTP) to the Brookshire Brothers Grocery on RR 12 and out RR 12 to the City of Woodcreek. ASU also intend to seek certification to property owned by ASU's affiliate around the WWTP and to 10 adjoining acres to which ASU has contractual obligations to provide sewer service upon request and upon TNRCC approval. ASU has sufficient existing treatment capacity in place to serve this additional area and only needs collection lines it has already planned to build to finish its system to serve in the Wimberley area. Certifying the area to the Village would result in the lose of this business opportunity for which ASU has already made considerable financial investment after the community asked ASU to extend its sewer service into the Wimberley commercial district.

24. Please list any other lawsuits or administrative proceedings in which your testifying expert witnesses have testified within the preceding five years, including the venue of the suit and the identifying cause number.

**RESPONSE:**

David Beyer: SOAH Docket No. 582-00-1469; TNRCC Docket No. 2000-0335-UCR; Application of Woodcreek Utilities to Amend Sewer CCN No. 20124 in Hays County and SOAH Docket No. 582-00-2102; TNRCC Docket No. 2000-0314-MWD – AquaSource Development Company Application For TPDES Permit No. 14114-001.

Jeff Goebel: SOAH Docket No. 582-00-2102; TNRCC Docket No. 2000-0314-MWD – AquaSource Development Company Application For TPDES Permit No. 14114-001

Craig Sherwood: SOAH Docket No. 582-00-1469; TNRCC Docket No. 2000-0335-UCR; Application of Woodcreek Utilities to Amend Sewer CCN No. 20124 in Hays County and Westwood Joint Venture v. Woodcreek Utilities, Inc., Cause No. 99-0447, 274th Judicial District Court, Travis County, Texas.

## **PRODUCTION REQUESTS**

1. Please produce all requests for service you have received from people or entities in the requested area and any response, documents, or contracts you provided to those requestors.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

2. Please produce a copy of your most recent sewer tariff.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

3. Please produce a copy of all documents and maps depicting Woodcreek Utilities, Inc.'s or its successor entity's sewer service area and any sewer certificate of convenience and necessity.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

4. Please produce AquaSource Utility, Inc.'s business plan and the business plan of its parent corporation.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833

Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

5. Please produce all of your documents, spreadsheets, studies, or other information relating to or otherwise examining growth and population projections for the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

6. Please provide AquaSource Utility, Inc.'s current balance sheet, the balance sheet of Woodcreek Utilities, Inc., the balance sheet of AquaSource Utility, Inc.'s parent corporation, and the balance sheets of any affiliated company in the AquaSource family that either owns assets that you intend to use to provide sewer service in the requested area, or provides services to you that are necessary for you to provide sewer service to the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

7. Please provide information describing your wastewater treatment and disposal system you intend to use to serve the requested area. Provide any and all documents describing each component of the system, i.e., type of treatment process, capacity of each major vessel, type of aeration, lift stations, feet of lines of a given diameter, pumps and their rated and current capacities, treatment plants and their capacities not already used to meet peak demands of your existing customers and/or customers you are already committed to serve. Provide a map or diagram showing the location of each component of this sewer system and its relationship to the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and

4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

8. To the extent not already provided, please produce any and all maps of all your sewer facilities currently in place in or within two miles of the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

9. Please produce any and all documents used as the basis for your assertion that the City or GBRA (acting on behalf of the City) is unable to demonstrate the technical, managerial, and financial ability to provide adequate service to the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

10. Please provide any and all plans, projections, studies, reports, or other similar information concerning or relating to current and future sewer service needs in the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

11. Please produce any and all current or proposed TNRCC wastewater permits issued to you and any and all TNRCC applications submitted by you to the TNRCC for a CCN or wastewater treatment facility relating to sewer service in the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

12. To the extent not already produced, please produce any and all diagrams, maps, drawings, title documents, property descriptions, or other documents that identify or describe your sewer CCN's, wastewater treatment facilities', and property's or properties' location(s) and boundary(s) that you believe would be within the Village's requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

13. Please provide any and all documents or information used as the basis for your assertion that another retail public utility other than Wimberley would be better able or more adequately provide sewer service to the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

14. Please provide all studies and reports relating to your current and future planned development, including infrastructure additions and improvements, in the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.



15. To the extent not already provided, please provide any and all maps of all your sewer facilities planned in or within two miles of the requested area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

16. Please provide copies of all demonstrative or tangible evidence you intend to produce at trial.

No decision has been made at this time what evidence will be presented at this time. The documents and tangible items selected to date will all be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011. Any additional items will be provided with ASU's prefiled testimony and shall be deemed to be a timely supplement of this discovery answer.

17. Please provide copies of all documents or other tangible items exchanged in the context of this docket by you and any other party to this cause other than Wimberley.

All documents and tangible items responsive to the discovery request will all be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011. Any additional items will be provided with ASU's prefiled testimony and shall be deemed to be a timely supplement of this discovery answer.

18. Please provide copies of all documentation that supports your contention that Wimberley or GBRA (acting on behalf of Wimberley) cannot operate a wastewater collection system in the requested area in the future in compliance with all TNRCC regulations.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

19. Please provide all notices of violation, notices of enforcement, and any draft or issued TNRCC orders and penalty calculations relating to sewer service provided by you in the Wimberley-Woodcreek area.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

20. Please provide copies of all documents and communications between you and any governmental agency, political subdivision (other than Wimberley), or public official (other than a Wimberley official), concerning Wimberley's CCN application and this hearing on Wimberley's CCN application.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

21. Please produce all documents relating to, including the experts' reports and depositions, or otherwise identifying any other lawsuits or administrative proceedings in which your testifying experts have been a witness within the preceding five years.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833

Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

22. To the extent not previously produced, please provide all documents submitted by you to the TNRCC in connection with the City's application.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

23. To the extent not previously produced through the above production requests, please provide all documents in which you reviewed, referenced, or relied to respond to the City's Interrogatories Numbers 1-24 propounded on you.

The documentation responsive to these discovery requests is voluminous and will be made available for inspection and copying at a mutually acceptable time by appointment with ASU's counsel Mark H. Zeppa or between the hours of 9:00 am and 4:00 pm, Monday, February 25th, between the hours of 9:00 am and 4:00 pm, Tuesday, February 26th and between the hours of 9:00 am and 4:00 pm, Wednesday, February 27th at the Law Offices of Mark H. Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, (512) 346-4011.

### **REQUESTS FOR ADMISSIONS AND RESPONSES**

**Request for Admission No. 1.** You are not currently capable of providing sewer service that meets the TNRCC rules minimum requirements for public sewer systems and retail public utilities in the requested area.

**ADMIT or DENY**

DENY

**Request for Admission No. 2.** You do not currently have enough permitted sewer treatment capacity to provide sewer service in the requested area.

**ADMIT or DENY**

DENY

**Request for Admission No. 3.** You do not have a sewer CCN for any portion of the requested area.

**ADMIT or DENY.**

DENY

**Request for Admission No. 4.** Wimberley or GBRA (acting on behalf of Wimberley) is capable of providing sewer service that meets the TNRCC rules minimum requirements for retail public sewer utilities.

**ADMIT or DENY.**

DENY

**Request for Admission No. 5.** Currently, there is no retail public utility providing sewer service in the requested area.

**ADMIT or DENY.**

DENY

**Request for Admission No. 6.** Wimberley or GBRA (acting on behalf of Wimberley) is capable of providing continuous and adequate sewer service to the requested area.

**ADMIT or DENY.**

DENY

**Request for Admission No. 7.** There is need for retail public sewer service in the requested area.

**ADMIT or DENY.**

ADMIT

**Request for Admission No. 8.** There will be no adverse effects on Wimberley from granting the Wimberley's CCN application.

**ADMIT or DENY.**

DENY

**Request for Admission No. 9.** There will be no adverse effects on you from granting Wimberley's CCN application.

**ADMIT or DENY.**

DENY

**Request for Admission No. 10.** It is feasible to obtain sewer service from Wimberley or GBRA (acting on behalf of Wimberley) in the requested area.

**ADMIT or DENY.**

DENY

**Request for Admission No. 11.** It is not feasible to obtain sewer service from another retail public sewer utility in the requested area.

**ADMIT or DENY.**

DENY

**Request for Admission No. 12.** Wimberley or GBRA (acting on behalf of Wimberley) is financially stable.

**ADMIT or DENY.**

DENY

**Request for Admission No. 13.** Wimberley or GBRA (acting on behalf of Wimberley) has a reasonable debt-equity ratio in its capital structure.

**ADMIT or DENY.**

DENY

**Request for Admission No. 14.** There is no adverse impact on the environmental integrity in the requested area from granting Wimberley's CCN application..

**ADMIT or DENY.**

DENY

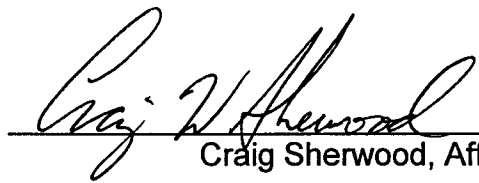
**Request for Admission No. 15.** You do not have an adequate collection system to provide adequate sewer service in the requested area.

**ADMIT or DENY.**

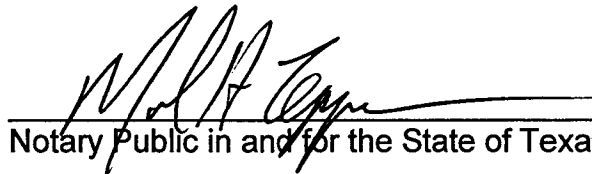
DENY

STATE OF TEXAS  
COUNTY OF TRAVIS

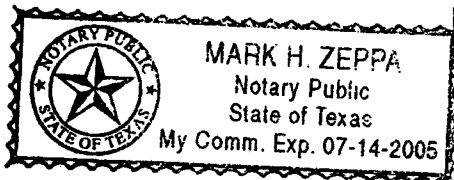
I, Craig Sherwood, Central Texas Area Manager, do swear and affirm that I have participated in the preparation of the foregoing answers to discovery requests, that I have reviewed these answers, that the information contained therein has been taken from the official records of the utility and its affiliates and that the information contained therein is true and correct to the best of my knowledge and belief.

  
Craig Sherwood, Affiant

SWORN AND SUBSCRIBED to under oath by Craig Sherwood before the undersigned notary public on February 18th 2002.

  
Notary Public in and for the State of Texas

SEAL



Name: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

STATE OF TEXAS

§

COUNTY OF HAYS

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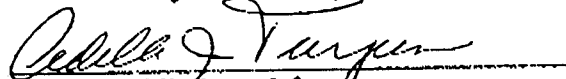
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VERIFICATION

On this day the undersigned authority appeared Steve Klepfer, Mayor Pro Tem of the Village of Wimberley, who, upon being duly sworn, testifies that he is authorized to make this affidavit to the Village of Wimberley's Response to Executive Director's First Request for Disclosure, Interrogatories and Production and that the facts alleged herein are true and correct or is based upon information obtained from other agents, contractees or employees of the Village of Wimberley.

  
Mayor Pro Tem Steve Klepfer

Subscribed and sworn to before me on this 27<sup>th</sup> day of February 2002.

  
Notary Public in and for  
State of Texas

