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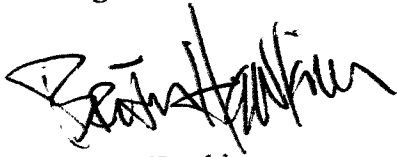
To: The Parties of SOAH Docket No. 582-12-6658
Docket No. 2012-1058-UCR

2012 AUG 20 AM 9:10

Subject: Proof of Representation

Date: 08/13/2012

Please note the attached documentation from the residents of Tierra Vista Homeowners Association, allowing me to represent the TVHOA at all hearings, meetings, settlement negotiations and other matters pertaining to Docket No. 582-12-6658
Docket No. 2012-1058-UCR.



Brian Hawkins
President, Tierra Vista Homeowners Association
P.O. Box 294558
Kerrville, Texas 78029
830-257-2570
bhawkins@kvc.com

Aqua Texas Proposed Rate Change Preliminary Hearing SOAH Docket #582-12-6658

Summary Request to be designated a Party to above Hearing and Authorization of a Representative to the proceedings as follows:

Statement We, the undersigned, are customers of Aqua Texas, and designate BRIAN HANKIVIS, a customer of Aqua Texas to represent us in the above Hearing. As we cannot be present at the Preliminary Hearing we request to be a party to the proceedings represented by the above person in all matters concerning the proposed rate change. All matters would include but not be limited to discovery, discussion, testimony, negotiation and/or settlement. Furthermore, we agree to hold the above designated person harmless in this representation on our behalf.

Printed Name	Signature	Address	City/Subdivision	Date
ALLEN H. LACHER	<i>[Signature]</i>	154 TIERRA VISTA DR.	KERRVILLE TX	7/30/12
Team M Locker	<i>[Signature]</i>	154 TIERRA VISTA DR.	Kerrville / Tierra Vista	7/30/12
DOB Properties %	<i>[Signature]</i>	195 TIERRA VISTA	Kerrville TX 78008	7/31/12
HEATH LYONSON	<i>[Signature]</i>	1717 TIERRA VISTA DR.	Kerrville TX 78008	7/31/12
OLIVE F. PENNY	<i>[Signature]</i>	177 TIERRA VISTA DR.	KERRVILLE TX	7/31/12
JOHN G. PENNY	<i>[Signature]</i>	199 Anna Vista Dr.	Spencer, TX 78088	7/31/12
KATHY MILDREAD	<i>[Signature]</i>	199 Anna Vista Dr.	Spencer, TX 78088	7/31/12
LARRY MILDREAD	<i>[Signature]</i>	199 Anna Vista Dr.	Spencer, TX 78088	7/31/12
Lebbie Koss	<i>[Signature]</i>	193 TIERRA VISTA DR.	Kerrville TX 78008	7/31/12
EDWARD SCOTT	<i>[Signature]</i>	171 TIERRA VISTA DR.	Kerrville TX 78008	7/31/12
KEVELYN SCOTT	<i>[Signature]</i>	171 TIERRA VISTA DR.	KERRVILLE TX 78008	7-31-12
Paul Jackson	<i>[Signature]</i>	155 TIERRA DR.	Kerrville TX 78008	7/31/12
PATSY JACKSON	<i>[Signature]</i>	155 TIERRA DR.	Kerrville, TX 78008	8/1/12

Aqua Texas Proposed Rate Change Preliminary Hearing SOAH Docket #582-12-6658

Summary Request to be designated a Party to above Hearing and Authorization of a Representative to the proceedings as follows:




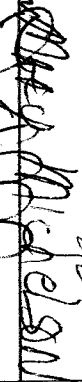

Statement We, the undersigned, are customers of Aqua Texas, and designate **BRIAN HAWKINS**, a customer of Aqua Texas to represent us in the above Hearing. As we cannot be present at the Preliminary Hearing we request to be a party to the proceedings represented by the above person in all matters concerning the proposed rate change. All matters would include but not be limited to discovery, discussion, testimony, negotiation and/or settlement. Furthermore, we agree to hold the above designated person harmless in this representation on our behalf.

Printed Name	Signature	Address	City/Subdivision	Date
Carol Burson	<i>Carol Burson</i>	109 Tierra Vista Dr.	Kerrville/Tierra Vista	7/28/12
BUB BURSON	<i>Bub Burson</i>	109 Tierra Vista Dr.	Kerrville, Tierra Vista	7/28/2012
June Halderson	<i>June Halderson</i>	103 Tierra Vista Dr.	Kerrville, Tierra Vista	7/28/12
ROBERT O. DEEMAN	<i>Rob Deeman</i>	124 Tierra Vista Dr.	Kerrville, Tierra Vista	7/28/12
Joy Putnam	<i>Joy Putnam</i>	121 Tierra Vista Dr.	Kerrville, Tierra Vista	7/28/12
TERRIE CECOLA	<i>Terrie Cecola</i>	119 Tierra Vista Dr.	Kerrville, Tierra Vista	7/28/12

Aqua Texas Proposed Rate Change Preliminary Hearing SOAH Docket #582-12-6658

Summary Request to be designated a Party to above Hearing and Authorization of a Representative to the proceedings as follows:

Statement We, the undersigned, are customers of Aqua Texas, and designate ~~BRIAN HANKINS~~ BRIAN HANKINS a customer of Aqua Texas to represent us in the above Hearing. As we cannot be present at the Preliminary Hearing we request to be a party to the proceedings represented by the above person in all matters concerning the proposed rate change. All matters would include but not be limited to discovery, discussion, testimony, negotiation and/or settlement. Furthermore, we agree to hold the above designated person harmless in this representation on our behalf.

Printed Name	Signature	Address	City/Subdivision	Date
Joseph Brooks		181 Aqua Vista Dr.	Kerrville - Tierra Vista	7-28-12
James A. Van		102 Tierra Vista Dr	Kerrville - Tierra Vista	7-28-12
MARIA STOFFEL		181 Tierra Vista Dr.	Kerrville TX 78028	7-28-12
Mary Michael		210 Tierra Vista Dr	Kerrville, TX 78028	7-28-12
Don STEHLING		150 Lonesome Doukls	Kerrville Tierra Vista	7/28/2012

SOAH Docket Number 582-12-6658

TCEQ Docket Number 2012-1058-4CR

40

We endorse Mr. Gene Huffty of 950 Monica Drive, Avinger, Texas 75630 to speak on our behalf regarding the Application of Aqua Texas Inc., Aqua Utilities, Inc., Aqua Development, Inc. Harper Water Company, Inc., and Kerrville South Water Company, Inc. DBA Aqua Texas for North and Southwest Region Water Rate /Tariff Changes

2012 AUG 20 AM 9:09

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[Handwritten signature]
[Handwritten signature]
Tom [unclear]
Lonna [unclear]

Lynn Thompson

[Handwritten signature]

Charlotta Mentemeyer

Jinita Burrows

Joe Strackland

Adam Crawford



BROCKWAY DR

WOODCREEK DR

QUINCY DR

MILBERRY LN

SYCAMORE LN

OSWEGO

MYSTEL

30 GARDEN DR

TUBES RD

30 GARDEN DR

30 GARDEN DR

30 GARDEN DR

30 GARDEN DR

30 GARDEN DR

30 GARDEN DR

MEDICAL DR

QUINCY DR

REICH DR

BASS RD

REICH DR

REICH DR

REICH DR

REICH DR

EREA DR

COURTESY DR

BASS RD

BASS RD

BASS RD

BASS RD

BASS RD

LAKE DR

TROUT DR

TROUT DR

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TROUT DR

TROUT DR

LAKE DR

VALERIE PL

VALERIE PL

VALERIE PL

VALERIE PL

BLANCHE DR

LYNNE DR

CHRIS DR

WONNE DR

WAYNE DR

RUSSEL DR

NICOLE DR

RENEE DR

RANCH TRAIL RD

COUNTYLINE RD

EVANS RD



BROCKWAY DR

WOODCREEK DR

QUINCY DR

WILBERRY LN

SYCAMORE LN

QUINCY DR

WILBERRY LN

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MEDICAL DR

QUINCY DR

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WILBERRY LN

BREAM DR

LAKESIDE DR

TROUT DR

LAKESIDE DR

VALERIE PL

VALERIE PL

VALERIE PL

VALERIE PL

BLANCHE DR

LYNNE DR

CHRIS DR

WYONNE DR

WAYNE DR

RUSSEL DR

NICOLE DR

RENEE DR

ANCH TRAIL RD

QUINCY DR

EVANS RD

To: Administrative Reviewer

Date Complete: November 9, 2011

From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. A-081-11/37110&11-C
Petition by Residents of Rockwall Estates to revoke a portion of Aqua Development (11157 & 20453) in Rockwall county.

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 Other comments: **Maps do not meet requirements. Please submit original and copies of the following. (No digital data (disk contained image files), metes and bounds not legible and no key to show how to put together multiple tracts.)**

- A. A general location map delineating the proposed area with enough detail to locate in 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



Kent Steelman

From: Lisa Fuentes
To: david@gdavidsmith.com
CC: Brian Dickey; Karen Blaschke; Kent Steelman
Date: 11/3/2011 11:24 AM
Subject: Re: Petition to revoke CN 602787509; Nos. 37110-C and 37111-C
Attachments: RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C; RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C

Hi Sir,
 Although we received your 10/20/11 emails to Brian and myself, the petition has not been accepted for filing. We are still lacking mapping information that meets the criteria mentioned in our 9/19/11 email to you. We need projectable digital data that allows TCEQ to determine the exact area you are seeking to be decertified in your petition. Without all of the mapping information, we are not able to verify the defined area your petition is seeking to carve out of Aqua Texas, Inc.'s CCN area in Rockwall County. The pdf maps submitted on 10/20/11 are essentially pictures of plats somewhere. Unless we have the digital data, we have no mechanism for tying the pdfs to Aqua Texas Inc.'s ccn in Rockwall County.
 Here is a link the agency's webpage where you can download the CCN information for Aqua Texas Inc., in Rockwall County. Look in the lower right hand column and click on "*Download Spatial Data.*"

<http://gis3.tceq.state.tx.us/iWudSpatialEx/Controller/?ccn=&zipCode=>

Please let me know if something in this email is not clear.

Sincerely,
 Lisa

Lisa Fuentes, Team Leader
 Utilities Financial Review
 Utilities & Districts Section
 Water Supply Division
 512/239-6117

>>> On 11/2/2011 at 5:38 PM, in message
 <608EC77E8BD633428694CBF3E1F77ED7039EAD30FA@P3PW5EX1MB10.EX1.SECURESERVENET>, "david@gdavidsmith.com"
 <david@gdavidsmith.com> wrote:

Dear Ms. Fuentes and Mr. Dickey:

I received an answer to the petition in the above-referenced matter from Aqua Texas, Inc. today. As I had not had any correspondence from TCEQ regarding the acceptance of the petition for filing, do I assume that Aqua has been so advised and that the petition has now been accepted?

Yours truly,

G. David Smith

Law Office of G. David Smith P.C.
 702 N. Goliad
 Rockwall, Texas 75087
 (972) 771-2579
 (972) 771-0513 facsimile

Board Certified in Personal Injury Trial Law

Karen Blaschke - Petition to revoke CN 602787509; Nos. 37110-C and 37111-C

From: "david@gdavidsmith.com" <david@gdavidsmith.com>
To: Brian Dickey <Brian.Dickey@tceq.texas.gov>, Lisa Fuentes <Lisa.Fuentes@tceq.texas.gov>
Date: 10/21/2011 3:21 PM
Subject: Petition to revoke CN 602787509; Nos. 37110-C and 37111-C

Dear Mr. Dickey and Ms. Fuentes:

I have made efforts to comply with the Notice of Deficiency sent on September 23, 2011 by Ms. Benter with your agency. While mapping is required on applications and amendments sought on CCNs, the petition I filed is not brought as an application or amendment. Rather, it is a petition under *Tex. Water Code § 13.254(a) and TAC §291.113(a) (1)* which seeks revocation of an existing CCN. The stated authority in the Notice, *30 TAC 291.105*, does not apply to the petition.

Nonetheless, I am sending an original and three copies of the petition with the requested mapping. I would appreciate a call to discuss.

G. David Smith

Law Office of G. David Smith P.C.
702 N. Goliad
Rockwall, Texas 75087
(972) 771-2579
(972) 771-0513 facsimile

Board Certified in Personal Injury Trial Law

Karen Blaschke - RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C

From: "david@gdavidsmith.com" <david@gdavidsmith.com>
To: Brian Dickey <Brian.Dickey@tceq.texas.gov>
Date: 10/20/2011 5:54 PM
Subject: RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C
CC: Lisa Fuentes <Lisa.Fuentes@tceq.texas.gov>

Per Ms. Fuentes' request, the petition filed regarding both applications is on behalf of all residents in the affected area.

From: Brian Dickey [mailto:Brian.Dickey@tceq.texas.gov]
Sent: Monday, September 19, 2011 10:32 AM
To: david@gdavidsmith.com
Cc: Lisa Fuentes
Subject: RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C

Mr. Smith:

Thank you for the information submitted. When you get the Notice of Deficiency letter please make sure the maps you submit meet the mapping requirements contained in the CCN application which are:

Attach the following hard copy maps with each copy of the application (original plus three copies required):

- a. A general location map delineating the proposed service area with enough detail to locate the proposed area within the county (ies).
- 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); or
 - (3) Following verifiable natural and man-made landmarks; or
 - (4) A copy of a recorded plat map with metes and bounds
- c. A written description of the proposed service area.

If you have any additional questions you can call me at 512-239-0963.

Thank you

Brian Dickey
Utilities Technical Review Team
Plan and Groundwater Review Section
Water Supply Division
Texas Commission on Environmental Quality

>>> "david@gdavidsmith.com" <david@gdavidsmith.com> 9/16/2011 3:05 PM >>>

Here are two maps I have of the affected area. The star by the outlined area indicates where we are talking about.

From: Brian Dickey [mailto:Brian.Dickey@tceq.texas.gov]

Sent: Wednesday, September 14, 2011 4:23 PM

To: david@gdavidsmith.com

Subject: Re: Lake Rockwall Estates v. Aqua Texas, Inc.

Mr. Smith:

If you type the TCEQ docket number in the search by specific Docket Number blank and click search you will be able to download all the filings in the City of Tyler's petition to decertify Tall Timbers Utility Company.

<http://agmt.tceq.texas.gov/epic/efilings/index.cfm?fuseaction=search.home>

TCEQ Docket Number: 2009-2054-UCR

Brian Dickey
Utilities Technical Review Team
Plan and Groundwater Review Section
Water Supply Division
Texas Commission on Environmental Quality

>>> "david@gdavidsmith.com" <david@gdavidsmith.com> 9/14/2011 4:14 PM >>>

Mr. Dickey:

Here is all my contact information. I will be following up shortly with the mapping information you requested.

Yours truly,

G. David Smith

Law Office of G. David Smith P.C.
702 N. Goliad
Rockwall, Texas 75087
(972) 771-2579
(972) 771-0513 facsimile

Board Certified in Personal Injury Trial Law

From: Beckie Figg <BFigg@terrill-law.com>
To: "brian.dickey@tceq.texas.gov" <brian.dickey@tceq.texas.gov>
CC: Geoff Kirshbaum <gkirshbaum@terrill-law.com>, "Glen Lewis(gelewis@aquaam...
Date: 3/16/2012 11:21 AM
Subject: FW: Residents of Lake Rockwall Estates' Petition to Revoke CCN
Attachments: 2011-11-2 Aqua Texas' Response to Petition to Revoke CCN.pdf

Brian:

Attached please find Aqua Texas' Response to Residents of Lake Rockwall Estates' Petition to Revoke Aqua Texas' CCN. As you can see by the e-mail this Response was originally sent to the TCEQ on November 2, 2011. If there is any other additional information that you need from Aqua Texas, please contact Geoff Kirshbaum.

Thank you,

Beckie Figg
Paralegal
The Terrill Firm, P.C.
810 W. 10th Street
Austin, Texas 78701
(512) 474-9100
(512) 474-9888 - fax

From: Beckie Figg
Sent: Wednesday, November 02, 2011 5:02 PM
To: 'todd.galiga@tceq.texas.gov'; 'tammy.benter@tceq.texas.gov'; 'lisa.fuentes@tceq.texas.gov'
Cc: Geoff Kirshbaum
Subject: Residents of Lake Rockwall Estates' Petition to Revoke CCN

Attached please find Aqua Texas Response to the Petition to Revoke CCN.

Please feel free to contact us if you have any questions regarding the information in the Response, or if you have any difficulties opening the attachment.

Beckie Figg
Paralegal
The Terrill Firm, P.C.
810 W. 10th Street
Austin, Texas 78701
(512) 474-9100
(512) 474-9888 - fax

TCEQ APPLICATION NO. 37125-C

PETITION UNDER WATER CODE § BEFORE THE TEXAS COMMISSION
SECTION 13.254(a) FROM RESIDENTS §
OF LAKE ROCKWALL ESTATES, TO §
REVOKE A PORTION OF §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY (“CCN”) NO. 11157 § ON
AND OF CCN NO. 20453 FROM AQUA §
UTILITIES, INC. D/B/A AQUA TEXAS, §
INC., IN ROCKWALL COUNTY; §
APPLICATION NOS. 37110-C AND §
37111-C § ENVIRONMENTAL QUALITY

AQUA TEXAS’ RESPONSE TO THE PETITION TO REVOKE AND/OR
REFUSE CONTINUATION OF ITS CCNS

Aqua Utilities, Inc. d/b/a Aqua Texas, Inc. (“Aqua Texas”) files this Response to the Residents of Lake Rockwall Estates¹ (“Petitioners”) Petition to Revoke and/or Refuse Continuation of the Certificate of Convenience and Necessity Held by Aqua Utilities, Inc./Aqua Development, Inc. d/b/a Aqua Texas, Inc. (“Petition”), and in support would show as follows:

I. INTRODUCTION

The Petition seeks decertification of unspecified water and sewer service territory in Rockwall County, Texas currently included within Aqua Texas’ water Certificate of Convenience and Necessity (“CCN”) No. 11157 and sewer CCN No. 20453.² Aqua Texas refers to the areas serving the Lake Rockwall Estates subdivision as its Buffalo Creek Utility water and sewer service

¹ The Petitioners are identified by name and address on Exhibit A of the Petition. Aqua Texas has compared this list to its billing records and has found several discrepancies. First, Aqua Texas’ records have different addresses on file for many individuals. Second, several individuals do not appear in Aqua Texas’ billing records at all. Those individuals are as follows: Mario Cruz, Jose Guadalupe Gallegos, Marilyn K. Hayes, Jose Herreros, Lari Jackson, Ruth Ramirez, Maria Rico, Selia Rivera, Ana Rodriguez, Santiago Sanchez, Mario Sandoval, and Micela Tova. Aqua Texas is providing its notes on the Exhibit A list as **Attachment A** hereto. If an individual has no check mark next his/her information, that individual did not show up in Aqua Texas’ records. The Executive Director should seek information from the Petitioners about these discrepancies.

² These water and sewer certificated service areas are considered part of Aqua Texas’ North Region certificated service areas for which Aqua Texas has requested and received approval from TCEQ to transfer to Aqua Texas, Inc. d/b/a Aqua Texas. However, they are currently included within the CCN areas for Aqua Utilities, Inc. d/b/a Aqua Texas, Inc.

The Petition is not filed under Subsection (a-1) and the Petitioners do not qualify to file such a petition. TEX. WATER CODE § 13.254(a-1). Therefore, revocation must be initiated on the Commission's "own motion," not that of the Petitioners. TEX. WATER CODE § 13.254(a). Aqua Texas urges the Executive Director and the Commission to refrain from making any such motion for the following reasons.

The Petitioners' TEX. WATER CODE § 13.254(a) allegations are baseless with absolutely no support. Indeed, no backing evidence is provided with the Petition to substantiate any of the allegations made. The Petitioners falsely assert that Aqua Texas "has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate." Petition, at 3-4; TEX. WATER CODE § 13.254(a); 30 TEX. ADMIN. CODE § 291.113. But the Petitioners simultaneously admit that they "are customers and users of the water and sewer services provided to them by" Aqua Texas. Petition, at 1. The Petitioners cannot honestly contend that Aqua Texas has failed to provide them or the Lake Rockwall Estates subdivision with service. Rather, the real issue appears to be whether service has been "continuous and adequate" in accordance with Commission rules as compared with the misinformed opinion of certain residents. In fact, Aqua Texas' service to its Buffalo Creek Utility water and sewer system service areas has been continuous and adequate for many years.

The allegation of "numerous breakdowns" and bald unsupported assertion of "inadequacy" of its Buffalo Creek Utility systems are false. Petition, at 3. Admittedly, Aqua Texas has experienced service interruptions from time to time for reasons beyond its control. However, Aqua Texas has always responded to those problems within the shortest possible time and used all reasonable efforts to prevent such interruptions. See 30 TEX. ADMIN. CODE § 291.90 ("Continuity of Service"); see also 30 TEX. ADMIN. CODE §§ 291.93 ("Adequacy of Water Utility Service") and

See 30 TEX. ADMIN. CODE § 291.94(a).⁴ Aqua Texas has even taken the extra step of voluntarily entering into a Sanitary Sewer Overflow (“SSO”) Agreement with TCEQ to address certain issues with the Buffalo Creek Utility sewer system. *See Attachment B*. Aqua Texas is working to implement that multi-year agreement, but it will not be totally complete until 2014 as reflected therein. *Id.* This is not grounds for CCN revocation.

The Petitioners contend that the “sewer treatment facility is not maintained in accordance with TCEQ guidelines and requirements.” *Petition*, at 4. This is false. Aqua Texas is maintaining its Buffalo Creek Utility wastewater treatment plant in accordance with TCEQ guidelines and requirements. But there are improvements Aqua Texas would like to make that will serve to facilitate continued compliance. These improvements were put off while certain contract negotiations with the City of Rockwall took place. The City of Rockwall and Aqua Texas were in talks about alternative treatment configurations, such as a wholesale agreement that would allow Aqua Texas to use City of Rockwall facilities to send waste to the North Texas Municipal Water District for treatment. Aqua Texas was unable to reach such an agreement with the City of Rockwall and now plans to proceed with its wastewater treatment plant improvements. *See Attachment C*. However, the plant is properly maintained at present, and the Petitioners’ allegations to the contrary are inaccurate. This is not grounds for CCN revocation.

The Petitioners contend that the “minimum system requirements of the TCEQ are not being met by the facilities at LRE.” *Petition*, at 4. This is false. The *Petition* is not specific about what types of requirements are not being met, and Aqua Texas refuses to speculate. But, as stated, Aqua Texas’ wastewater treatment plant is compliant even though it has planned improvements in the

⁴ This rule indicates that a sewer utility is not required to process such grease.

established service provider with facilities in place to serve the Petitioners, and Aqua Texas would no longer be able to serve them. This would not be in the public's best interest.

The City of Rockwall has no right to use Aqua Texas' facilities to serve the Petitioners. The Petition, while filed mostly by residents served by Aqua Texas, appears to be a front to effect the desires of the City of Rockwall to serve within Aqua Texas' Buffalo Creek Utility certificated areas.⁶ But the City has not joined the Petition. Moreover, the Petition does not state who would compensate Aqua Texas for the loss of its certificated Buffalo Creek Utility service areas and rendering its facilities in those areas useless. Neither the Executive Director nor the Commission should facilitate the City of Rockwall's gamesmanship via the Petitioners and should either decline administrative completeness for the Petition at the outset or, at minimum, subsequently deny the Petition after further inquiry into the facts asserted.

III. CONCLUSION & PRAYER

For the reasons set forth above, Aqua Texas respectfully requests the Executive Director and/or the Commission deny the Residents of Lake Rockwall Estates' Petition in its entirety by either rejection during the administrative review process or following technical review. If the agency decides to accept the Petition, Aqua Texas reserves the right to supplement this Response and the information contained herein in subsequent submissions to TCEQ or SOAH as appropriate.

⁶ This conclusion is based on other protests filed by the City of Rockwall with TCEQ and other recent City of Rockwall actions that echo the Petition's baseless allegations. *See Attachment D.*

A

LAKE ROCKWALL ESTATES RESIDENT LIST

✓ ACOSTA, JUVENTINO
251 Bass Road
Rockwall, Texas 75032-6107

✓ ACOSTA, LAURA
451 Bass Road
Rockwall, Texas 75032-6338

✓ ACOSTA, PENTRENILO
227 Trout Street
Rockwall, Texas 75032-6326

✓ ADAY, ELIZABETH
500 Trout Street
Rockwall, Texas 75032-6331

✓ ALMARAZ, MARIA
505 Bass Road
Rockwall, Texas 75032-6300

✓ ALVIZO, LORENA
388 Bass Road
Rockwall, Texas 75032

✓ AVILES, FRANCISCO
304 Chris Drive
Rockwall, Texas 75032-6372

AYALA, ARLAE
535 Blanche Drive
Rockwall, Texas 75032

768 Blanche

✓ BAMFO, GEORGE A.
173 Trout Street
Rockwall, Texas 75032-6191

✓ BARRIOS, JUAN GERMAN
185 Blanche Drive
Rockwall, Texas 75032-6363

✓ CASTELL, LETICIA
115 Eva Place
Rockwall, Texas 75032

✓ CERVANTES, ^{Elsa} BISA
251 Wayne
Rockwall, Texas 75032

✓ CHANTACA, MAURICIO
261 Tubbs Road
Rockwall, Texas 75032-6195

✓ CHAVEZ, ^{Laurence} LAURENCE A.
510 Blanche Road
Rockwall, Texas 75032

✓ CORODANO, MARIA
513 Chris Drive
Rockwall, Texas 75032-6383

✓ CORTEZ, MANUEL
328 Bass Road
Rockwall, Texas 75032

CRUZ, MARIA L.
212 Lynne Drive
Rockwall, Texas 75032

913A Lynne

CRUZ, MARIO
461 Yvonne Drive
Rockwall Texas 75032

✓ DELGADO, JUAN E.
541 Evans Road
Rockwall, Texas 75032-6127

✓ DIAZ, JUAN U.
147 Chris Drive
Rockwall, Texas 75032-6373

DOMINGUEZ, GUADALUPE H.
419 Tubbs Road
Rockwall, Texas 75032-6334

409 Wayne Dr.

GONZALEZ, BENJAMIN
589 Lakeside Drive
Rockwall, Texas 75032

501 Front

✓ GUTIERREZ, FLORINA
594 Eva Place
Rockwall, Texas 75032-6118

GUTIERREZ, JAVIER
379 Bass Road
Rockwall, Texas 75032-6108

*425 Bass Rd
396 Bass R.d.*

HAYES, MARILYN K.
303 Tubbs Road
Rockwall, Texas 75032

✓ HAYES, JOSEPH S. *grl*
303 Tubbs Road
Rockwall, Texas 75032

✓ HERNANDEZ, CARMELITA
500 Yvonne Drive
Rockwall, Texas 75032

✓ HERNANDEZ, JOSE
251 Lynne
Rockwall, Texas 75032

✓ HERNANDEZ, ROSA V.
484 Perch Road
Rockwall, Texas 75032-6323

✓ HERREROS, BERTOLDO *Bertoldo*
180 Evans Road
Rockwall, Texas 75032

HERREROS, JOSE
342 Wayne Drive
Rockwall, Texas 75032-5675

JACKSON, LARI
281 Blanche
Rockwall, Texas 75032

✓ MAZARIEGOS, ESTELA
224 Yvonne
Rockwall, Texas 75032

✓ MAZARIEGOS, ROMULO
224 Yvonne
Rockwall, Texas 75032

✓ MEDRANO, JOSE
505 Eva Place
Rockwall, Texas 75032-6111

✓ MENDEZ, GLORIA
402 Trout Road
Rockwall, Texas 75032-6329

✓ MOLINA, MARLIN
340 Yvonne Drive
Rockwall, Texas 75032

✓ MONGELLI, ROBERT
194 Diana Drive
Rockwall, Texas 75032

✓ MORENO, FRANCISCO
571 Bass Road
Rockwall, Texas 75032

✓ MORENO, IGNACIO
241 Trout
Rockwall, Texas 75032

✓ NEVAREZ, LUIS E.
476 Perch Road
Rockwall, Texas 75032-6321

✓ NEVAREZ, GODOFREDO
589 Trout Street
Rockwall, Texas 75032-6332

NINO, JOSE (JESUS) M.
480 Perch Road
Rockwall, Texas 75032-6323

520 Perch

✓ RENOVA-LIMON, ROSIE
493 Bass Road
Rockwall, Texas 75032

Rosie v Evaristo Limon

✓ RENTERIA, MARIA
683 Tubbs Road
Rockwall, Texas 75032-6195

RICO, MARIA
212 Valerie Place
Rockwall, Texas 75032-6198

RIVERA, SELIA
138 Eva Place
Rockwall, Texas 75032

RODRIGUEZ, ANA
352 Lynne Drive
Rockwall, Texas 75032-6146

✓ RODRIGUEZ, MARIA v.
529 Bass Road
Rockwall, Texas 75032

✓ RODRIGUEZ, ROMAN
540 Chris Drive
Rockwall, Texas 75032-6382

Rosales
✓ ROSALO, MARIA M.
416 Blanche Drive
Rockwall, Texas 75032

✓ RUIZ, JOSE C.
219 Valerie Place
Rockwall, Texas 75032-6199

✓ SANCHEZ, JESUS
293 Yvonne Drive
Rockwall, Texas 75032-5684

✓ SANCHEZ, JULIO
400 Chris Drive
Rockwall, Texas 75032-6380

✓ SOTO, CARLOS P.
364 Yvonne Drive
Rockwall, Texas 75032-5685

Tamez
✓ TAMAZ, CLARA
188 Bass Road
Rockwall, Texas 75032-6104

TARCICIO, GUADARRAMA
346 Yvonne Drive
Rockwall, Texas 75032

1082 Yvonne

TOVA, MICELA
723 Lakeside
Rockwall, Texas 75032

Jose Tovar

✓ TOVAR, JOSE
723 Lakeside Drive
Rockwall, Texas 75032-6139

✓ VALDEZ, MARGARITO
525 Wayne
Rockwall, Texas 75032

Valadez
✓ VALDEZ, TERESA
422 Trout Street
Rockwall, Texas 75032-6191

✓ WILSON, ROBERTA
203 Lynne Drive
Rockwall, Texas 75032-6145

✓ ~~WILSON-UNDERWOOD~~, TAMMY
215 Lynne Drive
Rockwall, Texas 75032-6145

Texas Commission on Environmental Quality

AGREEMENT

AQUA UTILITIES, INC.
RN101513109
Enforcement Case No. 37059
Rockwall County, Texas

The Texas Commission on Environmental Quality ("Commission" or "TCEQ") is the state agency charged with enforcing TEX. WATER CODE ch. 26 (the "Code") and the regulations promulgated pursuant to the Code.

Aqua Utilities, Inc. ("Aqua") owns and operates a wastewater collection system located in Rockwall County, Texas (the "System").

Aqua has reported three unauthorized discharges totaling 100,060 gallons during the period between March 19, 2006 and June 17, 2006. The majority of these discharges were due to infiltration and inflow during times of increases in the water level at Lake Rockwall. Aqua will be required to rehabilitate the System to insure a reduction of risk to the public health and the environment and to comply with Commission requirements.

PROVISIONS

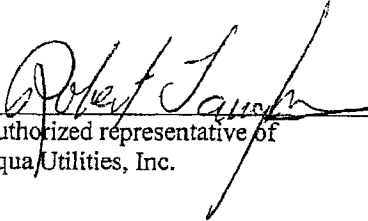
In response to these deficiencies and in an effort to eliminate the potential threat to public health, Aqua and the Commission have entered into an Agreement. This Agreement formalizes the commitments made by Aqua in its letter to the TCEQ dated December 1, 2008 (see Attachment A). The provisions of this Agreement are as follows:

1. The Executive Director recognizes that Aqua completed a smoke testing survey of the System on October 31, 2008.
2. By February 28, 2009, Aqua shall replace two main line clean-out caps.
3. By February 28, 2009, Aqua shall replace, re-grout, and/or seal six sanitary sewer manholes throughout the System.
4. By March 31, 2009, Aqua shall replace the lift station at the wastewater treatment plant.
5. By June 30, 2009, Aqua shall ensure that System customers have installed clean-out caps at 18 locations.
6. By June 30, 2009, Aqua shall notify six customers of needed repairs to their private service lines and ensure that the repairs are completed.
7. By June 30, 2009, and on an annual basis thereafter, Aqua shall meet with representatives from Kaufman and Rockwall Counties to address flooding issues and needed dredging of Lake Rockwall.

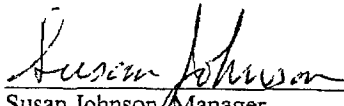
Aqua Utilities, Inc.
Agreement
Page 3

In return for Aqua's agreement and adherence to these terms, the Commission will withhold further enforcement actions related to the noted deficiencies. Should unforeseen circumstances indicate a need to alter the above mentioned schedule, Aqua must immediately notify the Commission so that an amendment can be discussed.

The effective date of this Agreement is the signature date of Aqua's authorized representative. Acceptance of the terms of this Agreement is indicated by the signature below.

48 
Authorized representative of
Aqua Utilities, Inc.

ROBERT LAUGHMAN
Printed name of authorized representative
for Aqua Utilities, Inc.


Susan Johnson, Manager
Water Enforcement Section I, Enforcement Division

April 6, 2009
Date

Title PRESIDENT

Date 3/9/09

Instructions: Send this signed, original Agreement to Pamela Campbell, Enforcement Division, MC 169, Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087

AQUA

Aqua Texas, Inc.
2211 Louetta Road
Spring, TX 77388

An Aqua America Company

December 1, 2008

Mr. Sid Slocum
Water Section Manager, Region 4
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

By Fax and Regular Mail

Re: Sanitary Sewer Overflow (SSO) Outreach Initiative – Final Plan
Buffalo Creek Subdivision (Rockwall County), Texas
TPDES Permit No. 11974-001

Dear Mr. Slocum:

As per your letter of July 9, 2008, please find attached the Final Sanitary Sewer Overflow Plan for our Buffalo Creek system.

Should you have any questions, please feel free to contact me by e-mail at aboutista@aquaamerica.com or at 281-651-0174 ext. 119.

Sincerely,



Abel Bautista
Wastewater Compliance Coordinator

AMB

Attachment

e-c: Mr. Gary Douglas, Field Supervisor
Mr. Darryl Waldock, Central Texas Area Manager
Mr. Steve Blackhurst, PE, Regional Environmental Compliance Manager
Mr. Michael Pickel, Senior Engineer and Environmental Manager, Aqua America

RECEIVED

DEC 08 2008

DFW REGION-4

- Check the collection system manholes to ensure that manholes in low laying areas have inflow disks. This program is to be completed every two years. The inspection will also indicate the need of repairs in the collection system.
- Conduct another inspection by smoke testing the previously identified area of the collection system.

➤ *Time line for completing each milestone:*

This is the time line to complete each milestone:

- Replace 2 main line clean-out caps. This to be completed by January 31, 2009.
- Ensure the installation of clean out caps by customers at 18 locations. This is to be completed by June 30, 2009.
- Notify and ensure that 6 customers repair their service lines. This to be completed by June 30, 2009.
- Replace, re-grout and/or seal 6 sanitary sewer manholes throughout the collection system. This is to be completed by January 31, 2009.
- Replace the old lift station at the wastewater plant site with a new one by March 2009.
- Conduct another inspection by smoke testing the previously identified area of the collection system in 2010.
- Complete repairs of the collection system found during the 2010 smoke testing in 2011, 2012 and 2013.
- Schedule annual meetings with Kaufman and Rockwall Counties to address the need of dredging Lake Rockwall. Send letter to both Agencies by June 30 of every year.

➤ *Description of the source for funding.*

Funds will be budgeted from 2009 through 2013 for completion of the improvements.

➤ *Provisions for evaluating the effectiveness of the improvements.*

To evaluate the effectiveness of the improvements we will monitor flows at the wastewater treatment plant paying particular attention to days with major rain events. In addition, we will:

- Prepare a Progress report which will be submitted by October 30 of each year.
- Prepare the Final report which will be submitted by April 30, 2014.

The SSO occurrences will be tracked and summarized in both reports.

C

AQUA

Aqua Texas, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010

www.aqua-texas.com

October 19, 2011

Ms. Mary Smith
Director of Finance
City of Rockwall
385 South Goliad
Rockwall, Texas 75087

Re: Aqua Texas ("Aqua") and the Buffalo Creek Wastewater System

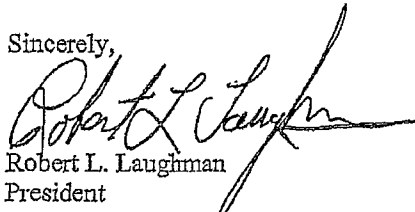
Dear Ms. Smith:

The City of Rockwall ("City") has not responded to Aqua's request to enter into a wholesale wastewater agreement. The agreement would allow Aqua to transport wastewater from its Buffalo Creek Wastewater System ("System") through the City's wastewater collection system for ultimate processing by the North Texas Municipal Water District. Aqua had requested such an agreement if the City and Aqua could not agree upon a purchase price for the System. The City's failure to respond to Aqua's September 1, 2011 letter -- even well past the response date Aqua requested -- leads us to conclude the City is uninterested in either purchasing the system or entering into a wholesale wastewater agreement..

A wholesale agreement would have allowed Aqua to minimize system improvements that will ultimately be reflected in rates paid by Aqua's customers. Without the City's cooperation, Aqua is now forced to move forward with those improvements that are necessary for Aqua to ensure continued compliance with Texas Commission on Environmental Quality ("TCEQ") and the City's regulations and ordinances.

Due to the unique circumstances presented by the City's recently enacted ordinances (City of Rockwall Ordinances Nos. 11-17, 11-27, and 11-28), Aqua has decided to pull the Buffalo Creek systems from its next North Region water and sewer rate case filings to TCEQ and, in the near future, will file a separate rate application with the City for Aqua's water and wastewater systems within the City's boundaries. The cost for the system improvements will be included within that application.

Sincerely,


Robert L. Laughman
President

cc: The Honorable Bob Deuell, Senate of Texas

An Aqua America Company

Texas Commission on Environmental Quality
March 15, 2011
Page 2

The City of Rockwall is concerned about the information supporting the applicant's conclusion that the proposed transfer will not have an impact on rates or quality of service on ratepayers located within the City of Rockwall. The applicant did not offer any conclusion regarding whether the applicant's assignee will be able to honor its contractual obligations that involve the City of Rockwall.

Communications regarding this protest and request for hearing should be directed to me at the address, phone number, and e-mail address provided in the letterhead.

At this time, the City of Rockwall does not know what adjustments, if any, can be made to satisfy the concerns of the city or to cause the city to withdraw this protest and request for hearing.

Sincerely,



Patrick W. Lindner
For the Firm

PWL/rre

CC: Pete Eckert, City Attorney, City of Rockwall
Julie Couch, City Manager, City of Rockwall

(b) An Application shall be submitted by an Applicant in duplicate originals, with one counterpart to be filed with the City Manager and the other counterpart to be filed with the City Secretary. If both counterparts are not filed on the same date, then the later of the submittal dates shall constitute the date of initial filing for all purposes.

(c) Each Application and any supplement or addendum thereto shall be submitted in the form of an affidavit or have an affidavit attached thereto attested by a duly appointed agent or officer of the Applicant setting forth that all information contained therein is true and correct.

(d) No Application shall be deemed filed with the city unless and until it contains substantially all the information called for in this Ordinance. An Application shall be deemed to be sufficiently complete if the City Manager does not send the Applicant a notice of insufficiency of the Application on or before the thirtieth (30th) day following completion of the initial filing are required under section 2(a) of this Ordinance. Each such notice shall be in writing and shall specify the insufficiency with particularity. In the event such notice is given, the Applicant shall have ten (10) business days within which to supplement its Application to address the notice of insufficiency.

Section 3. Forms and Interpretation.

(a) For the convenience of an Applicant in assembling the information required, and for the sake of the convenience of the City in interpreting the information, the City Manager or his/her designee may prescribe forms and formats for the submission of the information required under this Ordinance. Each Applicant shall comply with all applicable forms and formats which have been so prescribed. The City Manager, or any person designated by him/her, is authorized to prepare and publish guidance to aid Applicants in the preparation of an Application.

(b) The provisions of this Ordinance shall not be construed to relieve any utility of its obligation to file with and make available to the City, or to any authorized City officer or agency, any information not specified that is required to be furnished or made available by any ordinance or other law. Furthermore, each utility shall file, furnish and make available to the City, within such time limits as may be reasonably prescribed by the City Manager, all information that the City Manager may from time to time lawfully request.

Section 4. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, void or invalid, or for any reasons unenforceable, the validity of the remaining portions of this Ordinance shall not be affected thereby; It being the intent of the City in adopting this Ordinance that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, and to this end, all provisions of this Ordinance are declared to be severable.

Section 5. Effective Date. The text of this Ordinance shall, after final passage by the City Council, be published once each week for two consecutive weeks in a newspaper of general circulation published in the City of Rockwall. Upon said publication being completed, this Ordinance shall take effect thirty (30) days after its last

ORDINANCE # 11-17

City of Rockwall, Texas

Attachment A

Information/Documents Required

Except as expressly limited, include information required below for each type of service made subject of the Application, for each System (or portion thereof) that connects to customers within the Area Served, and for the four-year period leading up to the date of submission of a completed Application. If the water or sewer System serving within the City also serves areas outside the City, the requested information shall include be for the entire water or sewer system in question, providing information on a system basis and for the portion that is within the City.

(1) SUMMARY INFORMATION:

- a. A complete set of proposed tariff revisions;
- b. A statement specifying in detail each proposed tariff revision, the classes and numbers of utility customers affected, and the change in gross revenues (in absolute dollar amounts and in percentage terms—each by customer class and by total) that the utility expects the revised tariffs to furnish as opposed to those furnished by existing tariffs;
- c. A schedule comparing under current tariffs the income statements of the system or division for the test year and the twelve-month period immediately previous to the test year, together with a description of all substantial changes reasonably anticipated by the utility to occur during the projected fiscal year;
- d. A schedule comparing the capital structure of the utility for the test year and the twelve-month period immediately previous to the test year, with a description of all substantial changes reasonably anticipated by the utility to occur during the projected fiscal year. [Note: If any component of the capital of the utility is not obtained primarily through its own financing, but rather is obtained primarily from a company which controls the utility ("controlling company"), then the capital structure information shall be both for the controlling company on a consolidated basis and for the utility. If the utility controls any other companies, then the capital structure information shall be both for the utility on a consolidated basis and for the utility on an unconsolidated basis];
- e. A schedule showing gross plant in service of the system or division and a breakdown by functional classification of construction work in progress for the test year;
- f. A schedule showing forecasted construction expenditures of the system or division for the five (5) years following the test year. [Note: Such schedule shall, show expenditures by year and project];
- g. A schedule showing the rates of return (on an actual and adjusted basis) for the test year on the original cost rate base of the system or division (thirteen-month average) and the book common equity of the utility (thirteen-month average), together with an explanation of the basis on which those rates of return were calculated; and

h. A schedule showing the determination of original and current cost of the system's or division's plant in service, (Service Life (years; Years, Months and Days in Service) including an explanation of the methods and calculations used in arriving at such costs;

i. A schedule showing the determination of the adjustment for both age and condition of the system's or division's plant in service, including an explanation of the methods and calculations used;

j. A schedule showing facilities under construction or included in the construction budget itemized by:

1. Date in service or estimated date in service;
2. Estimated total cost;
3. Cost at the beginning and end of test year;
4. Estimated annual cost from test year end until placement in service;
5. Purpose of construction (replacement or growth);

k. A schedule of planned retirements by major transmission or distribution unit over the five-year period after the test year end;

l. A schedule showing the computation of the utility's allowance for funds used during construction rate; also an explanation of the utility's policy regarding the capitalization of allowance for funds used during construction which includes limits on projects, amounts, and timing;

m. A schedule showing the utility's plant held for future use including the reason that the plant or property is being held for future use and the anticipated date such plant or property will be placed into service;

n. A schedule showing the amount of construction work in progress requested by the utility at the end of the test year; such schedule shall be itemized by major project and shall show the estimated date of placement in service, location and the estimated cost of each project at the time of placement in service;

o. A schedule showing the monthly balance of construction work in progress during the test year, the monthly balance used to calculate the charge to the allowance for funds used during construction during the test year, and the monthly charge to the allowance for funds used during construction during the test year;

p. A schedule showing the amount of construction work in progress requested by the utility that will not increase the capacity of the applicable system or division;

q. A schedule showing the computation of the working capital allowance requested by the system or division; this schedule shall include for each of the twelve (12) months in the test year the monthly book balances during the test year for materials and supplies (excluding appliances), and prepayments;

r. A schedule listing the banking and depository institutions from which records can be supplied to compute the total daily bank balances by day for the test year, including cash, special deposits, working funds, and temporary cash investments;

s. A copy of a lead-lag study and supporting workpapers which may have been performed and used by the utility in requesting its proposed working capital allowance;

6. Issuance expense including amount, percent gross proceeds, net proceeds and net proceeds per unit;
7. Cost of money: yield to maturity based on the interest rate and net proceeds per unit outstanding determined by reference to any generally accepted table of bond yields;
8. A description of the projects and their locations funded with the debt.
9. Current amortization schedules for all capital outlays and debt issuances.
10. If the issue is owned by an affiliate of the utility (or the controlling company, if any), state the name of the affiliate and its relationship to the utility (and the controlling company, if any); and
11. If the utility (or the controlling company, if any) has acquired at a discount or premium some part of the outstanding debt which could be used in meeting sinking fund requirements or for other reasons, it shall show the annual amortization of the discount or premium for each series of debt from the date of acquisition over the remaining life of the debt being retired and shall separately show the total remaining or unamortized discount and premium, as a result of such amortization, applicable to the test year;

c. A schedule showing the monthly balances of short-term debt, excluding the current portion of long-term debt, for the utility (or controlling company, if any), during the test year and the latest date available, including the following information:

1. Title of the issue and lender name (bank loan, commercial paper, etc.);
2. Date of issuance and maturity;
3. Interest rate;
4. Principal amount of issue;
5. Compensating balance, if any, including the supporting compensating balance agreement; and
6. Interest expense including the cost of money computed as the interest rate divided by net proceeds per unit outstanding; if the issue is owned by an affiliate of the utility (or the controlling company, if any), then the name of the affiliate, its relationship to the utility (and the controlling company, if any) and an explanation of the method of determining the interest rate shall be stated;
7. A description of the projects and their locations funded with the debt.
8. Current amortization schedules capital outlays and debt issuances.

d. A schedule showing for each class and series of preferred and preference stock of the utility (and the controlling company, if any) outstanding at the end of the test year and the latest date available, the following information:

1. Title of the stock issue;
2. Date of issuance;

- c. A schedule setting forth monthly detailed net income statements of the utility, and the relevant system or division, for the test year, showing revenues by customer class and showing detailed operating expenses;
- d. An annual schedule of detailed operating expenses, by line item, for the system, for the test year.
- e. A schedule showing actual sales by month (1,000/gal and revenue) of the utility by customer classification for the twelve (12) months during the test year and projected annual sales (units and dollars) for the next three (3) years subsequent to the test year end;
- f. A schedule showing the number of active customer accounts by customer classification of the utility by month during the test year and the projected annual number of customers by customer classification for the period subsequent to the test year end during which the requested rates are to be in effect;
- g. A schedule showing utility personnel, by department for the utility for the three (3) years prior to the test year end, during the test year, and budgeted for the period subsequent to the test year end during which the requested rates are to be in effect; total compensation levels for all employees who operate or administer the System and an estimate of the amount of each employee's professional time that is devoted to servicing the System.
- h. The utility's current and proposed wage contracts, where applicable;
- i. A schedule showing rate case expenses incurred at the time of the filing and estimated rate case expenses for the utility and outside expert witnesses; the schedule should itemize:
 - 1. The salary, expenses and allocations thereof to the filing for each expert retained (other than a regular salaried employee of the utility), whether such person is expected to testify upon the hearing of the rate case or not;
 - 2. All materials and supplies cost;
 - 3. Any other costs associated with the filing preparation and hearings;
- j. A schedule reconciling book net income of the utility with taxable net income as reported to the Internal Revenue Service for the most recent year for which a tax return was filed and the previous three (3) years;
- k. A schedule showing the tax computation for the relevant system or division of the utility during the test year and all supporting workpapers;
- l. A schedule showing the computation of consolidated income taxes for the utility and for the controlling company, if any, during test year operations;
- m. A schedule showing a reconciliation of the treatment of allowance for funds used during construction (AFUDC) for both book and tax purposes for the utility during the test year; this schedule shall be accompanied by a narrative explanation;
- n. A schedule showing the depreciation rates used by the utility in its filing classified by major plant accounts;
- o. A schedule indicating for the utility the date of the most recent change in depreciation lives and studies supporting such a change in depreciable asset lives and corresponding depreciation rates;

2. Number of customers by month by class;
3. Number of customers by class by meter size;
3. System demand by month;
4. Water pumped by month for any and all wells serving the system.
5. Water purchased to serve the system including monthly volumes, monthly total cost and cost/1,000 gal for each identified seller.
6. Water losses with break outs of percentages flushed, leaked, stolen or any other source of water loss by month.
7. Where applicable, cooling and heating degree days by month, both normal and actual;
8. Actual peak per year by class;

(6) EXPERT TESTIMONY:

The utility shall submit two (2) copies of the testimony and reports, if any, of company representatives and outside expert witnesses used to support such filing.

(7) ADDITIONAL INFORMATION UPON REQUEST:

An Applicant shall make available any or all of the following information to the City Manager or his/her designee for inspection or copying upon written request therefor:

- (1) Current and detailed system maps of facilities that, in whole or in part, serve the Area Served.
- (2) Annual inspection reports filed by Applicant to the TCEQ (or other regulatory body) addressing the Area Served.
- (3) Any deficiencies reports produced for the Area Served and Applicant's responses to same.
- (4) Customer complaints about any aspect of Applicant's service within the Area Served.
- (5) Total actual dollars of un-collectable accounts for customers within the Area Served, by customer class.
- (6) Documents detailing the acquisition/price paid by Applicant (or any of predecessor) for the System(s) within the Area Served, the associated number of accounts acquired, the date(s) of closing and the seller(s) of the System(s).
- (7) Supporting studies, workpapers, or documentation relied upon by each representative or witness in the presentation of his testimony;
- (8) The utility's books of original entry including the general ledger, subledgers, journals, balance sheets, operating income statements, and monthly trial balances by primary account number, for each month during the test year;
- (9) All workpapers used to derive the utility's adjusted value of invested capital which were not included in the filing package; and

JOHN W. DAVIDSON
ARTHUR TROILO
CHEREE TULL KINZIE
R. GAINES GRIFFIN
RICHARD E. HETTINGER
PATRICK W. LINDNER
IRWIN D. ZUCKER
RICHARD D. O'NEIL
J. MARK CRAUN
LEA A. REAM
FRANK J. GARZA
JAMES C. WOO

LAW OFFICES OF
DAVIDSON & TROILO,
A PROFESSIONAL CORPORATION

SAN ANTONIO
7550 WEST IH 10, SUITE 800, 78229-5815
210/349-6484 * FAX: 210/349-0041

June 7, 2011

RICHARD L. CROZIER
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STEVEN PEÑA
LISA M. GONZALES

OF COUNSEL:
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ROBERT F. EICHELBAUM
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LESLIE M. LUTTRELL

AUSTIN OFFICE
919 CONGRESS, SUITE 810, 78701
512/469-8006 * FAX: 512/473-2159

Direct Dial (210) 442-2310
plindner@davidsontroulo.com

Via Regular Mail and Email

Office of the Chief Clerk
MC 105
TCEQ,
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application by Aqua Utilities, Inc. to renew Permit No. WQ0011974001;
Comment; Protest; & Request for Contested Case Hearing.

Dear Sirs:

This law firm serves as special counsel for the City of Rockwall.

The City of Rockwall protests and requests a hearing on the above-referenced application. The City of Rockwall has a pending protest and request for a hearing on an application by the above-referenced applicant seeking to transfer the facility to an entity named "Aqua Texas, Inc."¹. The City of Rockwall also opposes any application to amend the above-referenced permit to change the name of the entity holding the permit.

Since the initial permit was issued and the existing facility constructed, the City of Rockwall has extended its corporate limits to include the location of the facility authorized by the above-referenced permit. In addition, the City of Rockwall has extended its respective wastewater collection and treatment systems to be within a few hundred feet of the applicant's facility. The City of Rockwall has offered a contract to the applicant to receive and treat the wastewater so the applicant's aging treatment plant can be removed from service. The City of Rockwall owns land along the receiving stream within a few hundred feet downstream of the discharge point for the existing plant and is concerned about the quality of the effluent discharged by the applicant. The location of these existing facilities is shown on the attached aerial photograph.

The City of Rockwall requests a hearing on whether there is a continued need for the facility and whether any additional terms or conditions should be included in the permit based upon the Commission's consideration of need under Texas Water Code § 26.0282. Texas Water Code § 26.0282 provides that in considering the issuance, amendment, **renewal**, of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed permit, amendment, renewal, based on

¹ See Application Nos. 36875-S and 36876-S.

1 inch = 200 feet



Date: 4/7/2011

To: El Paso
Regional WWTTP

Alpine Road
Wastewater Treatment
Plant

ROCKWELL AVENUE

NOT TO SCALE
Lake Rockwell Estates
Utility Basins are
approximate and are
shown for context
only.

LAKE ROCKWELL ESTATES
WASTEWATER MAP
ROCKWELL, TX 77032



City of Rockwall
The New Horizon

June 30, 2011

Robert L. Laughman
Aqua Texas Water Supply
810 W. 10th Street
Austin, TX 78701

Re: Water and Wastewater Standards of Service Ordinance-Adopted

Dear Mr. Laughman:

At the June 20 City Council Meeting, the City Council approved the second reading of the attached Water and Wastewater Standards of Service Ordinances which amend the City Code of Ordinances. The amendments establish the minimum water and wastewater service requirements. The ordinances apply to all water and wastewater providers within the City including both investor owned utilities and water supply corporations. The ordinances are now in effect.

I have also attached a copy of the ordinance that relates to rate changes for water and wastewater providers within the City where the City has original jurisdiction.

If you have any questions please contact me at 972-771-7746.

Sincerely,

A handwritten signature in black ink that reads "Chuck Todd". The signature is written in a cursive style.

Chuck Todd, P.E.
City Engineer

Attachments

CAT 145 Water and Wastewater Standards of Service Transmittal Aqua Texas 6-30-2011
CAT/ct

Section 3. Service Obligations of Utility. The utility's service obligations will be subject to, and will comply with, the statutory obligations of a retail public utility to provide customers with continuous and adequate service at rates that are just and reasonable. The utility shall assure continuity of service. The City acknowledges that the utility is required to comply with certain state standards for health and safety, including, but not limited to, the rules of the TCEQ. To the extent there is any conflict between complying with state standards and complying with City ordinances, the stricter standards shall prevail.

Section 4. Accounts, Records and Reports.

a. Utility shall keep complete and accurate books of accounts and records of its business and operations within the City in accordance with generally accepted accounting practices.

b. Within seven (7) business days after receipt of a request from the City, the utility will make its books and records pertaining to service provided within the City available for inspection and copying by the City at the utility's place of business in the City during regular business hours.

c. Utility shall furnish the City with record drawings of the existing system within the City, including updating record drawings with any additional facilities constructed.

d. Utility shall furnish the City with a copy of its adopted Water Conservation Plan and its Drought Management Plan and shall maintain such plans in a manner so as to be consistent with the City's plans of the same title.

Section 5. Defaults and Remedies.

a. Notice of Violation. If the City has reason to believe that utility is in violation of federal or state law or regulations, or local regulations, the City shall notify the utility in writing of the alleged violation setting forth the nature of such alleged violation. Within thirty (30) days of receipt of such notice, or such longer period specified by the City, the utility shall respond in writing that the violation has been cured or provide a cure plan or schedule or provide explanations in refutation or excuse with documentation to support that an alleged violation did not occur.

b. Cure Period. Notwithstanding Subsection 5.a. above, the utility shall be allowed ninety (90) days to cure violations after written notice is received from the City, by taking appropriate steps to comply with the terms of any lawful regulations. If the nature of the violation is such that it cannot be fully cured within 90 days, the period of time in which the utility must cure the violation shall be extended for such additional time reasonably necessary to complete the cure, provided that (i) the utility shall have promptly commenced to cure, and (ii) the utility is diligently pursuing its efforts to cure.

Section 6. Utility Construction, Street Cuts and Bores. Utility shall be bound by all City ordinances that govern the placement, location, design and construction of water pipelines, equipment, infrastructure, fixtures, facilities, and related appurtenances in the City; and City ordinances that assist in the management of the Public Rights-of-Way to the extent such are necessary to protect the public health, safety, or welfare, and are adopted pursuant to the City's police powers.

ORDINANCE NO. 11- 28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING CHAPTER 44 UTILITIES, ARTICLE IV SEWERS AND SEWAGE DISPOSAL OF THE CODE OF ORDINANCES; SETTING REQUIREMENTS TO BE SATISFIED BY UTILITIES PROVIDING SEWER UTILITY SERVICE WITHIN ITS CORPORATE LIMITS; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has authority to specify the standards, classifications, regulations, service rules, minimum service standards or practices to be observed and followed with respect to the sewer service to be furnished within the corporate limits of the City of Rockwall;

WHEREAS, the City Council finds the adoption of the following standards for design, operation and maintenance is necessary to protect the public safety and health;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:

Section 1. Standards. Each component part of the utility's sewage collection and treatment system must be designed, constructed, and operated to satisfy the minimum design criteria set forth in the Title 30, Texas Administrative Code, Chapter 217 and any subsequent construction or modification by the utility within the corporate limits of the City shall satisfy the minimum design requirement adopted by the City or applicable to sewage collection and treatment facilities constructed by the City or by others for the City. The facility design must incorporate processes that use the least hazardous and toxic chemicals and the least amounts of those chemicals that will effectively treat and disinfect the influent so that the effluent and the sludge meet the requirements in the associated wastewater permit and do not degrade the water quality in a receiving stream or cause accumulation in a land application area.

Section 2. Reports. The utility shall provide to the City a copy of each periodic report or compliance records filed with any state or federal agency and each and every report describing an event involving sewage backup, overflow in the collection system or by-pass in the treatment process. The utility shall forward to the City a copy of each and every notice of violation or other letter or report from any state or federal agency with jurisdiction over the utility's operation to the utility specifically addressing the utility's operations within the City.

Section 3. Nuisance. The utility shall remove and abate at its own expense any sewage backup. The City shall have the power, using reasonable means and methods, to clean up any sewage back-up at the expense of the utility and in that event, the utility shall pay the City's charges within thirty days after receiving a demand for payment and explanation of the charges due.

Section 4. Service Obligations of Utility. The utility's service obligations will be subject to, and will comply with, the statutory obligations of a retail public utility to provide

Section 9. That if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions of this ordinance shall remain in full force and effect;

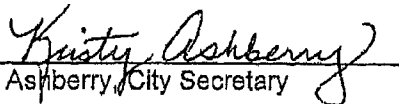
Section 10. That this ordinance shall take effect immediately from and after its passage and approval, and it is so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, this 20th day of June, 2011.

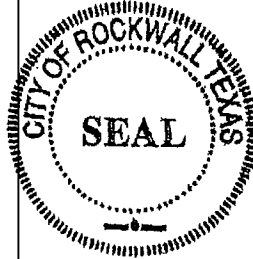


David Sweet, Mayor

ATTEST:


Kristy Ashberry, City Secretary

APPROVED AS TO FORM:


Pete Eckert, City Attorney


1st Reading: 06-06-11

2nd Reading: 06-20-11

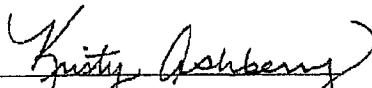
publication.

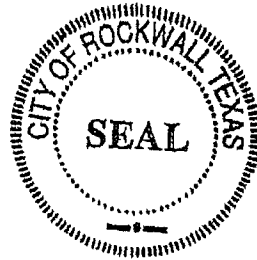
Section 6. Notice. It is hereby officially found that the meeting at which this Ordinance is passed is open to the public and that due notice of this meeting was posted, all as required by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, this 16th day of May, 2011.



William R. Cecil, Mayor

ATTEST:


Kristy Ashberry, City Secretary



Approved as to form:


Pete Eckert, City Attorney

1st Reading: May-2-11

2nd Reading: May-16-11

Law Office of G. David Smith, P.C.

702 N. Goliad
Rockwall, Texas 75087
972-771-2579 Fax 972-771-0513
Toll Free 800-548-8128
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G. David Smith, Attorney
Board Certified - Personal Injury Trial Law
Texas Board of Legal Specialization
Email: david@gdavidsmith.com

Ryan K. Lee, Attorney
Email: ryan@gdavidsmith.com

October 25, 2011

Diane L. Martin
Legal Assistant
Email: diane@gdavidsmith.com

Via Certified Mail / RRR: 7011-0470-0002-1544-5337

Ms. Tammy Benter
Texas Commission on Environmental Quality
Utilities and Districts Section
MC 153
P.O. Box 13087
Austin, Texas 78711

Re: Petition to Revoke and/or Refuse Continuation of Certificate of Convenience and Necessity;
Petition numbers assigned as 37110-C and 37111-C

Dear Ms. Benter:

Please accept this letter as a response to your correspondence dated September 23, 2011 in regard to the above-referenced petition. In the letter, you advise that mapping must be submitted by the Petitioners pursuant to *30 TAC 291.105* by October 28, 2011 or "...your applications (sic) will be returned for failure to prosecute."

I must protest this notice and request that the petitions be accepted for filing. *30 TAC 291.105(a)* provides that mapping submission is required of a *public utility or water supply or sewer service corporation* seeking to obtain a certificate of public convenience and necessity (CCN) or an amendment to a CCN. The petition in this case is brought pursuant to *Tex. Water Code § 13.254 and 13.246* as well as *30 TAC 291.113*. It is a petition to revoke and/or refuse continuation of the CCN previously granted to Aqua Texas, the respondent. It is brought by the consumers of the services in question, not the investor owned utility. The Commission, upon receipt of such a petition, after notice and hearing, may revoke any CCN, *30 TAC 291.113(a)*. There is no administrative or statutory requirement that the petitioners in this case file mapping of an area already subject to a CCN that has previously been identified, mapped, and made the subject of a CCN.

It is my request that the Commission proceed with notice and hearing as required by statute and administrative rule and refrain from unwarranted requests and demands of the petitioners in this case.

2011 OCT 28 PM 4 11

WATER SUPPLY DIV.
RECEIVED

Ms. Tammy Benter
October 25, 2011
Page 2

As an accommodation, I am enclosing mapping that meets the criteria of 30 TAC 291.105. Enclosed you will find the following:

1. Mapping from TCEQ and apparently prepared by TCEQ showing the Lake Rockwall Estates subdivision subject to the water and sewer service CCNs held by Aqua Texas (Exhibit 1);
2. A disc with digital aerial maps of Lake Rockwall Estates with the water and sewer services the subject of the Aqua Texas CCN depicted thereon. Two different sizes of the TCEQ mapping (Exhibit 1) are recorded on the disc as well. The disc is Exhibit 2;
3. A certified copy of the plat maps of Lake Rockwall Estates (originally platted as Lake Echo, then Rockwall Lake Estates, and Rockwall Lake Properties) filed with the County Clerk in Rockwall County, Texas, Exhibit 3.

Mr. Brian Dickey of the TECQ advised in an e-mail dated September 19, 2011 that a written description of the area be included as well. Despite the conflict between his correspondence and yours, in an abundance of caution, I am providing the following description of the area of interest:

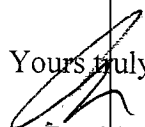
Lake Rockwall Estates is a subdivision in the City of Rockwall, County of Rockwall, State of Texas bordered by FM 3097 to the south, Bass Road to the West, Evans Road to the north, the back lot lines, inclusive of easements, of all lots along Renee Street to the northeast, and County Road on the eastern perimeter.

As stated above, it is my review of the statutes and rules applicable to the petition that the petitioners have met their initial burden without this mapping, especially in light of the fact that TCEQ mapping currently depicts the "area of interest" involved. Accordingly, I ask that this petition be accepted for filing and notice and hearing proceed per statute and rule.

This letter is being submitted with an additional three copies per your letter's demand.

Please contact me if you have any questions or need additional information.

Yours truly,


G. David Smith

GDS/dlm
enc.
cc: Clients

EXHIBIT 1

Protecting Texas by
Reducing and
Preventing Pollution

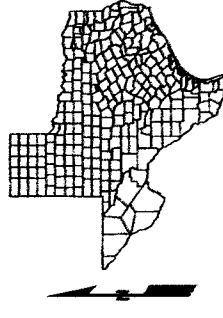


Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
For more information
concerning this map, please contact the
Water Supply Division at (512) 239-4691
09/15/2011

The Selected Area of Interest



- Legend**
- Water CCN Facility Line
 - Sewer CCN Facility Line
 - Senate - Districts
 - House - Districts
 - TCEQ Service Region Boundary
 - County Boundary
 - Sewer CCN Service Area
 - Water CCN Service Area
 - City Boundary
- CCN Overlap Key**
- Sewer-Water CCN Service Area



Disclaimer:
This map was generated by the Integrated Water Utilities Database (IWUD) from the Texas Commission on Environmental Quality. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use.



EXHIBIT 2

EXHIBIT 3

Karen Blaschke - RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C

From: "david@gdavidsmith.com" <david@gdavidsmith.com>
To: Brian Dickey <Brian.Dickey@tceq.texas.gov>
Date: 10/20/2011 5:55 PM
Subject: RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C
CC: Lisa Fuentes <Lisa.Fuentes@tceq.texas.gov>
Attachments: LRE East Side of Lake Sewer Map 102011.pdf; LRE East Side of Lake Water Map 102011.pdf; LRE West Side of Lake Sewer Map 102011.pdf; LRE West Side of Lake Water Map 102011.pdf

I have the certified plats with legal descriptions for the affected area. Attached are maps showing the water and sewer service for Lake Rockwall Estates, the affected areas. The water maps show the location of existing Aqua Texas water lines in blue and the sewer lines in orange. Will these, along with the plats of the subdivision, suffice for mapping purposes?

From: Brian Dickey [mailto:Brian.Dickey@tceq.texas.gov]
Sent: Monday, September 19, 2011 10:32 AM
To: david@gdavidsmith.com
Cc: Lisa Fuentes
Subject: RE: Lake Rockwall Estates v. Aqua Texas, Inc. application No. 37111-C

Mr. Smith:

Thank you for the information submitted. When you get the Notice of Deficiency letter please make sure the maps you submit meet the mapping requirements contained in the CCN application which are:

Attach the following hard copy maps with each copy of the application (original plus three copies required):

- a. A general location map delineating the proposed service area with enough detail to locate the proposed area within the county (ies).
- 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); or
 - (3) Following verifiable natural and man-made landmarks; or
 - (4) A copy of a recorded plat map with metes and bounds
- c. A written description of the proposed service area.

If you have any additional questions you can call me at 512-239-0963.

Thank you

Brian Dickey
Utilities Technical Review Team
Plan and Groundwater Review Section
Water Supply Division
Texas Commission on Environmental Quality

>>> "david@gdavidsmith.com" <david@gdavidsmith.com> 9/16/2011 3:05 PM >>>

Here are two maps I have of the affected area. The star by the outlined area indicates where we are talking about.

From: Brian Dickey [mailto:Brian.Dickey@tceq.texas.gov]
Sent: Wednesday, September 14, 2011 4:23 PM
To: david@gdavidsmith.com
Subject: Re: Lake Rockwall Estates v. Aqua Texas, Inc.

Mr. Smith:

If you type the TCEQ docket number in the search by specific Docket Number blank and click search you will be able to download all the filings in the City of Tyler's petition to decertify Tall Timbers Utility Company.

<http://agmt.tceq.texas.gov/epic/efilings/index.cfm?fuseaction=search.home>

TCEQ Docket Number: 2009-2054-UCR

Brian Dickey
Utilities Technical Review Team
Plan and Groundwater Review Section
Water Supply Division
Texas Commission on Environmental Quality

>>> "david@gdavidsmith.com" <david@gdavidsmith.com> 9/14/2011 4:14 PM >>>

Mr. Dickey:

Here is all my contact information. I will be following up shortly with the mapping information you requested.

Yours truly,

G. David Smith

Law Office of G. David Smith P.C.
702 N. Goliad
Rockwall, Texas 75087
(972) 771-2579
(972) 771-0513 facsimile

Board Certified in Personal Injury Trial Law