



Control Number: 44209



Item Number: 1

Addendum StartPage: 0

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

44207

RECEIVED

Fisher & Newsom, P.C. 2015 JAN -9 PM 1:40

Attorneys at Law

111 Congress Avenue, Suite 820
Austin, Texas 78701-4043
(512) 477-4121
FAX (512) 477-2860

PUBLIC UTILITY COMMISSION
FILING CLERK
Dallas Office
4201 Wingren, Suite 106
Irving, Texas 75062
(972) 281-5820
FAX: (972) 650-1057

Skip Newsom*

July 19, 1999

The Honorable Tommy L. Broyles
Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

CHIEF CLERKS OFFICE

JUL 21 11 35

RECEIVED
COMMISSION

Re: Applications of the Town of Westlake and Lake Turner Municipal Utility Districts No. 2
and No. 3 for Certificates of Convenience and Necessity; SOAH Docket Nos. 582-97-
0134 and 582-97-0175 1996-1901-UCB - 1996-1898-UCB* 7/22/99 mv

Dear Judge Broyles:

The City of Keller is in receipt of your July 13, 1999 Order setting this matter for evidentiary hearing. This letter requests dismissal of the above proceedings, or, alternatively, a pre-hearing conference in lieu of the September 7, 1999 evidentiary hearing scheduled by such Order.

The Westlake and Lake Turner MUD applications each seek certification to an area that is within Keller's water CCN No. 10975 and Keller has opposed such proposed encroachments of its service area. The proceedings have been abated since their inception in early 1997 to allow the applicants to adjudicate and/or settle various differences affecting their legal and fiscal capacities. Keller has not participated in either the litigation or the mediation efforts between the applicants.

Despite the amount of time allowed by the ALJ, the Town of Westlake and Lake Turner MUDs have not fully resolved their judicial and contractual differences and it is unlikely that any such resolution will be forthcoming in the near future. During the lengthy abatement of these proceedings, no discovery has been conducted by Keller or other parties and new substantive and procedural requirements applicable to CCN applications have been adopted by the Texas

*Board Certified, Administrative Law--Texas Board of Legal Specialization

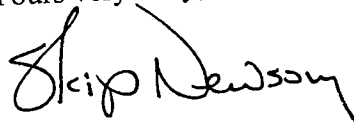
Honorable Tommy Lee Broyles
July 19, 1999
Page 2

Legislature and implemented by the Texas Natural Resource Conservation Commission. The pending applications have not been amended to satisfy current regulatory requirements.

The City of Keller submits that it is greatly disadvantaged by the current process and progress of this docket, whereby the competing applicants have been granted essentially a moratorium on discovery and unlimited time to negotiate, strategize, prepare and finalize their respective positions to adversely impact the City's CCN without affording the City of Keller any means by which to determine (a) what agreements, if any, applicants have reached between themselves, (b) how applicants propose to serve the area, (c) their managerial, financial and technical capability of providing such service, (d) their efforts, if any, to obtain regional service and (e) how either applicant proposes to address currently applicable statutory and regulatory criteria. The City of Keller should not be further penalized or disadvantaged by the applicants' inability to timely resolve their own internal differences.

Accordingly, the City requests that the applications of the Town of Westlake and Lake Turner MUD Nos. 2 and 3 be dismissed for want of prosecution, without prejudice to their refiling, should either or both parties desire to refile under currently applicable criteria. Such refilled applications, if any, should address current regulatory requirements as the pending applications do not. In the alternative, the City of Keller requests that the September 7, 1999 proceeding, currently scheduled for evidentiary hearing on the merits, be converted to a pre-hearing conference to allow the parties to preliminarily identify issues and develop a briefing, discovery and hearing schedule for same.

Yours very truly,

A handwritten signature in black ink, appearing to read "Skip Newsom". The signature is fluid and cursive, with the first name "Skip" being more prominent than the last name "Newsom".

Skip Newsom

SN/keg

cc Service List

SERVICE LIST

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Lake Turner MUD Nos. 2 and No. 3

Mr. Dwight A. Shupe
Hughes & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

*Hillwood/Willowbend, Ltd.
Lake Turner MUD Nos. 2 and 3*

Mr. Lyle H. Dresher
City Manager
City of Keller
P.O. Box 770
Keller, Texas 76248

City of Keller

Mr. Frank R. Booth
Booth & Dillon
NationsBank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Trophy Club MUD No. 1

Mr. Robert G. West
Michener, Larimore, Swindle, et al.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Trophy Club MUD No. 1

Mr. R.L. Guinn
3500 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Lake Turner MUD No. 1

Mr. Tom Allen
Maguire Thomas Partners
9 Village Circle, Suite 500
Westlake, Texas 76262

*Maguire Thomas Partners-Westlake
Southlake Partnership*

Mr. Hal L. Sanders
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

*Maguire Thomas Partners-Westlake
Southlake Partnership and MTB-IBM Phase II/III
Joint Venture*

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

*Walnut Grove Water System
(not protest; request for notice of hearing)*

Mr. Martin C. Rochelle
Lloyd, Gosselink, Fowler, Blevins & Mathews, P.C.
111 Congress Avenue, Suite 1800
Austin, Texas 78701

Town of Westlake

Mr. Andrew Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
919 Congress Avenue, Suite 1300
Austin, Texas 78701

Lake Turner MUD Nos. 2 and 3

Maria Sanchez, Staff Attorney
Legal Services Division MC-173
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Blas J. Coy, Jr., Attorney
Public Interest Counsel MC-103
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Stan Oestrick, TNRCC Docket Clerk
Office of the Chief Clerk MC-105
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

SOAH DOCKET NOS. 582-97-0134 & 582-97-0175

APPLICATIONS OF LAKE TURNER
MUD NOS. 2 & 3 and TOWN
OF WESTLAKE FOR CCNs

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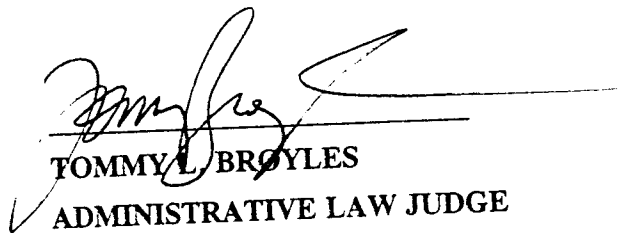
STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

✓ Docket 582-97-0134: ORDER NO. 5 1994-1901-UCR
✓ Docket 582-97-0175: ORDER NO. 7 1994-1898-UCR *

Clarifying Purpose of Hearing

This matter was recently set for evidentiary hearing on September 7, 1999. Because of the similar District Court litigation and the length of time the parties have had to negotiate this matter, the hearing was noticed up to combine the preliminary hearing with the evidentiary hearing. However, should the parties need time for a short discovery period, the hearing on the merits will be continued and the September 7, 1999, hearing will be a preliminary hearing.

Signed this 20th day of July, 1999.


TOMMY L. BROYLES
ADMINISTRATIVE LAW JUDGE

CHIEF CLERK'S OFFICE

JUL 22 11:11:23

SOAH DOCKET
COMMUNICATIONS
SECTION

7/23/99
M.V.

MAILING LIST

Applications of Lake Turner MUD Nos. 2 & 3 and Town of Westlake
SOAH Docket Nos. 582-97-0134 & 582-97-0175

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Mr. Dwight A. Shupe
Hughes & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

Mr. Lyle H. Drescher
City Manager
City of Keller
PO Box 770
Keller, Texas 76248

Mr. Skip Newson
Fisher & Newson, P. C.
111 Congress Avenue, Suite 820
Austin, Texas 78701-4043

Mr. Frank R. Booth
Booth & Dillon
Nations Bank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Mr. Robert G. West
Michener, Larimore, Swindle, et al.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Mr. R. L. Guinn
3500 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Mr. Tom Allen
Maguire Thomas Partners
9 Village Circle, Suite 500
Westlake, Texas 76262

Mailing List (continued)
Lake Turner MUD Nos. 2 & 3
Town of Westlake

Mr. Hal L. Sanders
Strasburger & Price, L. L. P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

Lara Nehman, Staff Attorney
Legal Services Division MC-173
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Blas J. Coy, Jr., Attorney
Public Interest Counsel MC-103
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Martin Rochelle, Attorney
Lloyd, Gosselink, Blevins & Mathews, P.C.
111 Congress Ave, Ste 1800
Austin Tx 78701

Mr. Andrew N. Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin Texas 78701

Attn: Docket Clerk
Office of the Chief Clerk MC-105
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

1996-1901 ucl 1996-1898 ucl
SOAH DOCKET NOS. 582-97-0134 & 582-97-0175

TEXAS NATL
FEDERAL JUDGE CONG. JUDICIAL
COMMISSION

1997 JUL 14 11 41 AM

APPLICATIONS OF LAKE TURNER
MUD NOS. 2 & 3 and TOWN
OF WESTLAKE FOR CCNs

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STATE OFFICE
CHIEF CLERK'S OFFICE
OF
ADMINISTRATIVE HEARINGS

Docket 582-97-0134: ORDER NO. 4

Docket 582-97-0175: ORDER NO. 6

Setting Evidentiary Hearing

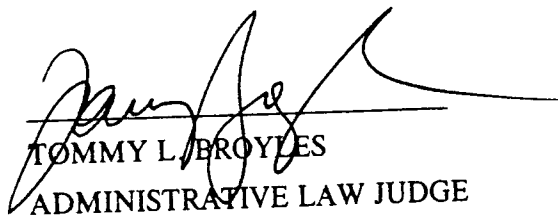
On March 6, 1997, this matter was referred to SOAH. On March 21, 1997, the case was continued due to ongoing mediation. An abatement of the proceeding was granted on October 24, 1997, due to pending litigation in state court that would have an impact on the applications.

On numerous occasions, the parties have filed status reports requesting that the abatement continue. The latest report, filed on March 5, 1999, requested abatement for an additional six months due to ongoing settlement negotiations.

The time has come for the parties to settle this matter, go to hearing, or have the cases dismissed for want of prosecution. If a mediator would be helpful, please advise so that one may be provided.

This matter is set for evidentiary hearing on **September 7, 1999**. The hearing will convene at 10:00 a.m., in the SOAH courtrooms on the 11th floor, Stephen F. Austin Building, 1700 North Congress Ave. in Austin, Texas.

Signed this 13th day of July, 1999.


TOMMY L. BROYLES
ADMINISTRATIVE LAW JUDGE

MAILING LIST
Applications of Lake Turner MUD Nos. 2 & 3 and Town of Westlake
SOAH Docket Nos. 582-97-0134 & 582-97-0175

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Mr. Dwight A. Shupe
Hughes & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

Mr. Lyle H. Drescher
City Manager
City of Keller
PO Box 770
Keller, Texas 76248

Mr. Skip Newson
Fisher & Newson, P. C.
111 Congress Avenue, Suite 820
Austin, Texas 78701-4043

Mr. Frank R. Booth
Booth & Dillon
Nations Bank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Mr. Robert G. West
Michener, Larimore, Swindle, et al.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Mr. R. L. Guinn
3500 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Mr. Tom Allen
Maguire Thomas Partners
9 Village Circle, Suite 500
Westlake, Texas 76262

Mailing List (continued)
Lake Turner MUD Nos. 2 & 3
Town of Westlake

Mr. Hal L. Sanders
Strasburger & Price, L. L. P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

Maria Sanchez, Staff Attorney
Legal Services Division MC-173
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Blas J. Coy, Jr., Attorney
Public Interest Counsel MC-103
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Martin Rochelle, Attorney
Lloyd, Gosselink, Blevins & Mathews, P.C.
111 Congress Ave, Ste 1800
Austin Tx 78701

Mr. Andrew N. Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin Texas 78701

Attn: Docket Clerk
Office of the Chief Clerk MC-105
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

TNRCC

DOCKET ~~96-1901-UCR~~
96-1898-UCR

SOAH DOCKET NOS. 582-97-0134 & 582-97-0175

APPLICATIONS	OF	§	STATE OFFICE
		§	
LAKE TURNER MUD NOS. 2 & 3 and		§	OF
		§	
TOWN OF WESTLAKE FOR CCN		§	ADMINISTRATIVE HEARINGS

Docket 582-97-0134: ORDER NO. 3

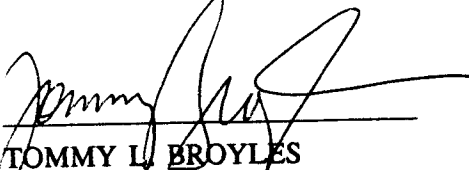
Docket 582-97-0175: ORDER NO. 5

Granting Requests to Continue Abatement of Proceedings

On May 1, 1998, the Town of Westlake and Lake Turner Municipal Utility Districts No. 2 and No. 3 filed status reports requesting an additional six month abatement of the proceedings. Both parties cited pending litigation, that will have an impact on applications for certificates of convenience and necessity, as reason for their requests.

WHEREAS good cause for the abatement of proceedings has been shown, this cause is abated indefinitely. The parties are ordered to file a status report by December 1, 1998.

Signed this 21st day of May, 1998.



TOMMY L. BROYLES
ADMINISTRATIVE LAW JUDGE

CLERK'S OFFICE

MAILING LIST
Application of the Town of Westlake
SOAH Docket No. 582-97-0175

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Mr. Dwight A. Shupe
Hughs & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

Mr. Lyle H. Drescher
City Manager
City of Keller
PO Box 770
Keller, Texas 76248

Mr. Skip Newson
Fisher & Newson, P. C.
111 Congress Avenue, Suite 820
Austin, Texas 78701-4043

Mr. Frank R. Booth
Booth & Dillon
Nations Bank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Mr. Robert G. West
Michener, Larimore, Swindle, et al.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Mr. R. L. Guinn
3500 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Mailing List (continued)
Town of Westlake

Mr. Tom Allen
Maguire Thomas Partners
9 Village Circle, Suite 500
Westlake, Texas 76262

Mr. Hal L. Sanders
Strasburger & Price, L. L. P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

Maria Sanchez, Staff Attorney
Legal Services Division MC-173
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Blas J. Coy, Jr., Attorney
Public Interest Counsel MC-103
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Martin Rochelle, Attorney
Lloyd, Gosselink, Blevins & Mathews, P.C.
111 Congress Ave, Ste 1800
Austin Tx 78701

Mr. Andrew N. Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin Texas 78701

Mailing List (continued)
Town of Westlake

Attn: Docket Clerk
Office of the Chief Clerk MC-105
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

LLOYD, GOSSELINK, BLEVINS, ROCHELLE,
BALDWIN & TOWNSEND, P. C.
ATTORNEYS AT LAW

111 CONGRESS AVENUE
SUITE 1800
AUSTIN, TEXAS 78701
TELEPHONE (512) 322-5800
TELECOPIER (512) 472-0532

Mr. Rochelle's Direct Line:
(512) 322-5810
email: mrochelle@lglawfirm.com

111 SOLEDAD STREET*
SUITE 300
SAN ANTONIO, TEXAS 78205
TELEPHONE (210) 212-5888
TELECOPIER (210) 212-5889
*BY APPOINTMENT ONLY

April 30, 1998

The Honorable Tommy Broyles
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025

**TNRCC
DOCKET**

96-1901-UCR
96-1898-UCR

CLERKS OFFICE
MAY -1 PM 3:47
MUNICIPAL RESOURCE

Re: SOAH Docket Nos. 582-97-0134 and 582-97-0175
Applications of the Town of Westlake and Lake Turner
Municipal Utility District Nos. 2 and 3 for Certificate of
Convenience and Necessity (140300:1.2)

Dear Judge Broyles:

Pursuant to your Order of October 24, 1997, please consider this letter as the Status Report of the Town of Westlake concerning the abatement of proceedings in the above-referenced docket numbers. With this filing, Westlake respectfully requests that this matter be further abated for an additional six-month period in order to allow the resolution of several pieces of litigation which will have a direct impact on the Town and its need for a Certificate of Convenience ("CCN") and Necessity for the retail water and sewer services it will afford within its corporate boundaries. The Town is currently involved in several civil cases which will have a direct bearing on the scope of these administrative matters.

1. *State of Texas ex rel Dale White vs. Scott Bradley*. This case involves the improper removal from office of Westlake Mayor Scott Bradley. The trial judge granted a summary judgment for Mayor Bradley and held that he was improperly removed from office by the former Board of Aldermen and that he is and always has been the mayor of Westlake. The State appealed the judgment to the Fort Worth Court of Appeals, and it reversed and rendered the judgment of the trial court. Mayor Bradley filed a petition for review with the Supreme Court and it was granted on February 26, 1998. The Supreme Court has scheduled oral arguments in this matter in Waco on September 28, 1998.

2. *Town of Westlake vs. City of Fort Worth and Hillwood Development Corporation*. This suit by Westlake challenges the disannexations and release of extraterritorial jurisdiction to Fort Worth of the Circle T Ranch and several other tracts of land in Westlake by the Town's former aldermen. On February 13, 1998,

SOAH DOCKET NOS. 582-97-0134 & 582-97-0175

APPLICATIONS OF § STATE OFFICE
LAKE TURNER MUD NOS. 2 & 3 and § OF
TOWN OF WESTLAKE FOR CCN § ADMINISTRATIVE HEARINGS

Docket 582-97-0134: ORDER NO. 2

TNRCC

Docket 582-97-0175: ORDER NO. 4

DOCKET

Granting Requests to Continue Abatement of Proceedings

96-1901-UCR
96-1898-UCR


On October 15, 1997, the Town of Westlake filed a status report requesting an abatement of the proceedings until February 1, 1998. Lake Turner Municipal Utility Districts Nos. 2 and 3 also filed a status report requesting that the proceedings be abated until February 1, 1998. Both parties cited pending litigation, that will have an impact on applications for certificates of convenience and necessity (CCN), as reason for their requests.

The City of Keller (City) filed a response stating that the matters pending before the courts effectively preclude the TNRCC from resolving the merits of the competing CCN applications. The City believes that because the amount of time required for full and final judicial determination is unknown, the interests of all may be best served by dismissal without prejudice.

No party is opposed to an abatement of the proceedings. The City's response offers an alternative but does not oppose an abatement. The ALJ agrees with City's contention that the amount of time necessary for resolution of matters before the district court is unknown. However, the ALJ is reluctant to grant a dismissal without agreement of the parties or sanctionable actions. In some cases, the date of filing an application may have an impact on the matter to be addressed (e.g. where the rules have changed since the filing of an application).

WHEREAS good cause for the abatement of proceedings has been shown, this cause is abated indefinitely. The parties are ordered to file a status report by May 1, 1998.

Signed this 24th day of October, 1997.


TOMMY L. BROYLES
ADMINISTRATIVE LAW JUDGE

LLOYD, GOSSELINK, BLEVINS & MATHEWS, P. C.
ATTORNEYS AT LAW

111 CONGRESS AVENUE
SUITE 1800
AUSTIN, TEXAS 78701
TELEPHONE (512) 322-5800
TELECOPIER (512) 472-0532

Mr. Rochelle's Direct Line:
(512) 322-5810

mrochelle@lgfbm.com

111 SOLEDAD STREET
SUITE 300
SAN ANTONIO, TEXAS 78205
TELEPHONE (210) 212-5888
*BY APPOINTMENT ONLY

October 8, 1997

The Honorable Tommy Broyles
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025

VIA FACSIMILE
AND FIRST-CLASS MAIL

TNRCC

96-1898-UCR

Re: SOAH Docket No. 582-97-0175

Application of Town of Westlake for Certificate of
Convenience and Necessity (140300:1.2)

Dear Judge Broyles:

I am in receipt of your Order No. 3 in the above-referenced matter, wherein you notice the parties of your intent to remand this matter to the Executive Director of the Texas Natural Resource Conservation Commission ("TNRCC") for further processing on October 17, 1997, absent objection of the parties to same. In that Order you note that in your Order No. 2 the parties were instructed to file a status report by October 1, 1997. Unfortunately, I never received Order No. 2, nor did any other representative of the Town of Westlake ("Westlake"), the applicant in the above-referenced case. For that matter, I only received Order No. 3 after I requested a copy be forwarded to me by Ms. Maria Sanchez, TNRCC Staff Attorney. I received your Order No. 3 by facsimile transmission yesterday afternoon.

I note that your service list for this matter does not include my name and address, nor those of any other representative of Westlake. Further, I note that your service list fails to contain the name and address of counsel to the Lake Turner Municipal Utility Districts No. 2 and No. 3, who have competing applications to those of Westlake. I trust you will remedy this error.

Please be assured that Westlake will be filing a formal response to your Order No. 3 on or before October 17, 1997. In the interim, please ensure that the

The Honorable Tommy Broyles
October 8, 1997
Page 2

service lists associated with the applications of Westlake and the Lake Turner Municipal Utility Districts are amended to reflect counsel for each of those entities. Additionally, would you please have your office provide me a copy of Order No. 2?

Thank you for your attention to this matter. If you have questions concerning this request, or I may be of service to you, please feel free to call on me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin C. Rochelle", with a stylized, cursive script.

Martin C. Rochelle

MCR/ldp
L:\clients\1403\00\00005265.DOC

cc: Mr. Scott Bradley
Attached Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that on this the 8th day of October, 1997, a true and correct copy of the foregoing was sent by First Class mail, by facsimile, or by hand-delivery to the following persons.

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Mr. Dwight A. Shupe
Hughes & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

Mr. Lyle H. Drescher
City Manager
City of Keller
158 S. Main
P.O. Box 770
Keller, Texas 76244-0770

Mr. Skip Newsom
Fisher & Newsom, P.C.
111 Congress Avenue
Suite 820
Austin, Texas 78701-4043

Mr. Andrew N. Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin, Texas 78701

Mr. Frank R. Booth
Booth & Dillon
NationsBank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Mr. Robert G. West
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3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

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3500 Lincoln Plaza
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Dallas, Texas 75201

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9 Village Circle, Suite 500
Westlake, Texas 76262


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600 Congress Avenue
Austin, Texas 78701

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Staff Attorney
Legal Services Division MC-173
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

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Public Interest Counsel MC-103
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

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



Martin C. Rochelle

LLOYD, GOSSELINK, BLEVINS & MATHEWS, P. C.
ATTORNEYS AT LAW

111 CONGRESS AVENUE
SUITE 1800
AUSTIN, TEXAS 78701
TELEPHONE (512) 322-5800
TELECOPIER (512) 472-0532

Mr. Rochelle's Direct Line:
(512) 322-5810

mrochelle@lgfbm.com

111 SOLEDAD STREET*
SUITE 300
SAN ANTONIO, TEXAS 78205
TELEPHONE (210) 212-5888
*BY APPOINTMENT ONLY

October 15, 1997

The Honorable Tommy Broyles
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025

TNRCC
DOCKET 96-1898-UCR

Re: SOAH Docket No. 582-97-0175
Application of Town of Westlake for Certificate of
Convenience and Necessity (140300:1.2)

Dear Judge Broyles:

Pursuant to your Order No. 3 of October 6, 1997, this letter will serve as the Status Report of the Town of Westlake ("Westlake") in the above-referenced matter. In its last Status Report to you, dated June 20, 1997, Westlake advised you of a number of lawsuits pending at that time in the trial courts of our state which involved Westlake and/or its duly elected officials, and which related to the purported disannexation of the vast majority of the land included within the Town. This litigation is still pending in the courts, and the resolution of such litigation will, to a significant extent, be determinative of whether Westlake pursues any Certificate of Convenience and Necessity ("CCN") from the Texas Natural Resource Conservation Commission ("TNRCC").

The Mayor of Westlake, the Honorable Scott Bradley, has advised me that a District Court in Tarrant County recently determined that the purported disannexation of lands within Westlake was not authorized, the position asserted by Mayor Bradley and Westlake's Board of Aldermen in that litigation. This ruling has been appealed, however, to the Fort Worth Court of Appeals. Motions for Summary Judgment are pending in this matter and are currently set for the Court of Appeals' consideration on December 5, 1997. While decisions on such motions may or may not finally resolve the issue of whether Westlake needs a CCN, it certainly appears to be appropriate to wait and see what the Fort Worth Court of Appeals does with regard to this litigation before remanding Westlake's application to the Executive Director of the TNRCC. In this regard, Westlake asserts that its

The Honorable Tommy Broyles
October 15, 1997
Page 2

application, even if remanded to the Executive Director, would continue to be protested, and Westlake would continue to protest the applications of the Lake Turner Municipal Utility Districts for CCNs. Thus, we believe the Executive Director would have no option but to refer such matters back to the State Office of Administrative Hearings for processing. Given these facts, and the prospect that the pending litigation at the Court of Appeals will be resolved in the next few months, Westlake requests that you stay further actions on its application and on the applications of the Lake Turner Municipal Utility Districts until February 1, 1998. The parties may be in a better position by that date to assess their need for CCNs and/or the appropriateness of pursuing applications for CCNs through the contested case hearing process.

You have not yet responded to my letter of October 8, 1997, nor have I received a copy of your Order No. 2. Please ensure that I am on the service list utilized by your office so that my client and I are apprised of your decisions in these matters.

If you have questions concerning this Status Report, or I may be of further service to you or your office, please feel free to call on me at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "Martin C. Rochelle". The signature is fluid and cursive, with the first name "Martin" being more prominent.

Martin C. Rochelle

MCR/ldp

L:\clients\1403\00\00005395.DOC

cc: Mr. Scott Bradley
Attached Service List

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of October, 1997, a true and correct copy of the foregoing was sent by First Class mail, by facsimile, or by hand-delivery to the following persons.

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Mr. Dwight A. Shupe
Hughes & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

Mr. Lyle H. Drescher
City Manager
City of Keller
158 S. Main
P.O. Box 770
Keller, Texas 76244-0770

Mr. Skip Newsom
Fisher & Newsom, P.C.
111 Congress Avenue
Suite 820
Austin, Texas 78701-4043

Mr. Andrew N. Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin, Texas 78701

Mr. Frank R. Booth
Booth & Dillon
NationsBank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Mr. Robert G. West
Michener, Larimore, Swindle, et al.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Mr. R. L. Guinn
3500 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Mr. Tom Allen
Maguire Thomas Partners
9 Village Circle, Suite 500
Westlake, Texas 76262

Mr. Hal L. Sanders
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

Maria Sanchez
Staff Attorney
Legal Services Division MC-173
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

Blas J. Coy, Jr.
Public Interest Counsel MC-103
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

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


Martin C. Rochelle

Fisher & Newsom, P.C.

ATTORNEYS AT LAW

111 CONGRESS AVENUE, SUITE 820
AUSTIN, TEXAS 78701-4043
(512) 477-4121
FAX (512) 477-4136

LAS COLINAS OFFICE:
4201 WINGREN, SUITE 106
IRVING, TEXAS 75062
(972) 281-5820
FAX: (972) 650-7105

CHIEF CLERKS OFFICE

Skip Newsom*

October 17, 1997

VIA FACSIMILE - (512) 475-4994

TNRCC
DOCKET 96-1898-UCR

The Honorable Tommy Broyles
Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

Re: SOAH Docket No. 582-97-0175; Application of Town of Westlake for CCN

Dear Judge Broyles:

The City of Keller, which holds Certificate of Convenience and Necessity (CCN) No. 10975, protested the above application as well as the competing applications of Lake Turner Municipal Utility Districts Nos. 2 and 3. The proceedings were abated at the applicants' request in order to allow a variety of matters in dispute between the two applicants to be mediated. The City of Keller did not participate in such mediation efforts, although it requested the opportunity to do so, insofar as the area of the applications which overlap the area currently certificated to the City of Keller became a subject of such efforts. Because the City of Keller did not participate in such mediation, it could not provide a status report thereon per your Order No. 2 and perceived that your request for a status report was directed at the two applicants, not the protestants.


It is the City of Keller's current understanding that mediation between the Town of Westlake (Westlake) and Lake Turner Municipal Utility Districts (Turner MUDs) was terminated and that a great number of lawsuits have been filed in which the City of Keller is not a party. It is the City of Keller's further understanding that one of the central issues in such litigation is the current legal authority of the Town of Westlake over all or part of the area to which both Westlake and the Turner MUDs seek certification. If this understanding is correct, it would not appear that the Texas Natural Resource Conservation Commission (TNRCC) has jurisdiction to resolve such legal issue. The pendency of such question before the Courts effectively precludes the TNRCC from resolving the merits of the competing CCN applications or the City of Keller's protest thereof. Hence, the only viable alternative that may be taken at this time appears to be either an indefinite abatement of the proceedings pending final judicial determination of Westlake's legal authority or dismissal of the applications. Because the amount of time required for full and final

*Board Certified, Administrative Law--Texas Board of Legal Specialization

The Honorable Tommy Broyles
October 17, 1997
Page 2

judicial determination is unknown, the interests of all may be best served by dismissal. The City of Keller would not object to such dismissal being made without prejudice to the refiling of such applications after the legal authority of the parties is judicially resolved.

Yours very truly,


Skip Newsom

SN:ra

cc: Lyle Dresher
Service List

SERVICE LIST

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Lake Turner MUD Nos. 2 and No. 3

Mr. Dwight A. Shupe
Hughes & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

*Hillwood/Willowbend, Ltd.
Lake Turner MUD Nos. 2 and 3*

Mr. Lyle H. Dresher
City Manager
City of Keller
P.O. Box 770
Keller, Texas 76248

City of Keller

Mr. Frank R. Booth
Booth & Dillon
NationsBank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Trophy Club MUD No. 1

Mr. Robert G. West
Michener, Larimore, Swindle, et al.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Trophy Club MUD No. 1

Mr. R.L. Guinn
3500 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Lake Turner MUD No. 1

Mr. Tom Allen
Maguire Thomas Partners
9 Village Circle, Suite 500
Westlake, Texas 76262

*Maguire Thomas Partners-Westlake
Southlake Partnership*

Mr. Hal L. Sanders
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

*Maguire Thomas Partners-Westlake
Southlake Partnership and MTB-IBM Phase II/III
Joint Venture*

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

*Walnut Grove Water System
(not protest; request for notice of hearing)*

Mr. Martin C. Rochelle
Lloyd, Gosselink, Fowler, Blevins & Mathews, P.C.
111 Congress Avenue, Suite 1800
Austin, Texas 78701

Town of Westlake

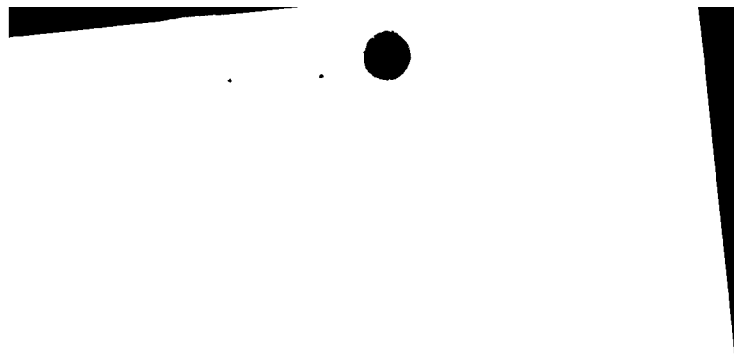
Mr. Andrew Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
919 Congress Avenue, Suite 1300
Austin, Texas 78701

Lake Turner MUD Nos. 2 and 3

Maria Sanchez, Staff Attorney
Legal Services Division MC-173
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Blas J. Coy, Jr., Attorney
Public Interest Counsel MC-103
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Stan Oestrick, TNRCC Docket Clerk ✓
Office of the Chief Clerk MC-105
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087



ter & Newsom, P.C.
ATTORNEYS AT LAW
CONGRESS AVENUE, SUITE 820
STIN, TEXAS 78701-4043

Stan Oestrick, TNRCC Docket Clerk
Office of the Chief Clerk MC-105
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

001 20 97
SOURCE
MISSION

78711-3087

001 20 97

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

October 15, 1997

To: To All Parties

Re: Town of Westlake and Lake Turner Municipal Utility Districts No. 2 and No. 3;
SOAH Docket No. 582-97-0175

The Town of Westlake has requested that this proceeding be abated until February 1, 1998. If no objection is received by October 22, 1997, this request will be granted.

I apologize for the confusion caused by the inaccurate mailing list. Because we have two separate files, two mailing lists were prepared. Unfortunately, only one mailing list was updated while the other was mistakenly used. If any party does not have copies of Orders 1-3, please contact Kelley Wood at 475-4993.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tommy Broyles", with a long horizontal flourish extending to the right.

Tommy Broyles
Administrative Law Judge

/klw

cc: Mailing List

CLERK'S OFFICE
OCT 22 1997

MAILING LIST
Application of the Town of Westlake
SOAH Docket No. 582-97-0175

Mr. Timothy G. Green
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fannin
Houston, Texas 77002-6707

Mr. Dwight A. Shupe
Hughs & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, Texas 75201

Mr. Lyle H. Drescher
City Manager
City of Keller
158 S. Main
Keller, Texas 76248

Mr. Skip Newson
Fisher & Newson, P. C.
111 Congress Avenue, Suite 820
Austin, Texas 78701-4043

Mr. Frank R. Booth
Booth & Dillon
Nations Bank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Mr. Robert G. West
Michener, Larimore, Swindle, et al.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Mr. R. L. Guinn
3500 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Mailing List (continued)
Town of Westlake

Mr. Tom Allen
Maguire Thomas Partners
9 Village Circle, Suite 500
Westlake, Texas 76262

Mr. Hal L. Sanders
Strasburger & Price, L. L. P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

Maria Sanchez, Staff Attorney
Legal Services Division MC-173
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Blas J. Coy, Jr., Attorney
Public Interest Counsel MC-103
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

Martin Rochelle, Attorney
Lloyd, Gosselink, Blevins & Mathews, P.C.
111 Congress Ave, Ste 1800
Austin Tx 78701

Mr. Andrew N. Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin Texas 78701

Mailing List (continues)
Town of Westlake

◆ Stan Oestrick, TNRCC Docket Clerk
Office of the Chief Clerk MC-105
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION

1997 JUL -3 PM 2: 54

CHIEF CLERKS OFFICE

STRASBURGER & PRICE, L.L.P.

ATTORNEYS AND COUNSELORS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2600 ONE AMERICAN CENTER
600 CONGRESS AVENUE
AUSTIN, TEXAS 78701-3248
(512) 499-3600

TELECOPIER (512) 499-3660

DALLAS

SUITE 4300
901 MAIN STREET
DALLAS, TEXAS 75202
(214) 651-4300

HOUSTON

SUITE 2800
1221 MCKINNEY STREET
HOUSTON, TEXAS 77010
(713) 951-5600

MEXICO CITY

EDIFICIO HEWLETT-PACKARD
MONTE PELVOUX NO. III, PISO 5
LOMAS DE CHAPULTEPEC
11000 MEXICO D.F., MEXICO
011-525-202-8796

HAL L. SANDERS, JR.
(512) 499-3646

July 3, 1997

TNRCC

DOCKET 96-1898-UCR
96-1901-UCR

Stan Oestrick, Docket Clerk
Office of the Chief Clerk MC-105
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

RE: Applications of the Town of Westlake and Lake Turner Municipal Utility Districts
No. 2 and No. 3 for Certificates of Convenience and Necessity - SOAH Docket
Numbers 582-97-0175 and 582-97-0134

Dear Mr. Oestrick:

Please file in the records of the Commission this Notice of Substitution of Counsel whereby Hal L. Sanders of the firm of Strasburger & Price, L.L.P., 2600 One American Center, 600 Congress Avenue, Austin, Texas 78701 is substituted as lead counsel of record for Protestants Maguire Thomas Partners-Westlake Southlake Partnership and MTP-IBM Phase II/III Joint Venture in place of John J. Carlton of Strasburger & Price, L.L.P., 2600 One American Center, 600 Congress Avenue, Austin, Texas 78701. By copy hereof, I am advising all counsel of record of this change of counsel.

Thank you.

Sincerely,

Hal L. Sanders
LS

Hal L. Sanders

Enclosure

cc: Service List

SOAH DOCKET NO. 582-97-0175
TNRCC DOCKET NOS. 96-1897-UCR AND 96-1898-UCR

APPLICATION OF THE
TOWN OF WESTLAKE
FOR WATER CCN

§
§
§
§
§

CHIEF CLERK'S OFFICE

STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORDER NO. 11
GRANTING REQUEST TO ABATE

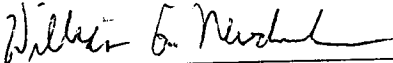
On February 28, 2000, the Town of Westlake filed a request to abate the discovery and hearing in this matter to allow the parties additional time to explore a settlement. No party opposes the request.

The motion is granted. The following prehearing and hearing schedule is adopted:

April 4, 2000	discovery served
May 1, 2000	responses served
May 22, 2000	depositions conclude
June 15 and 16, 2000	hearing on the merits

The hearing will begin at 9:00 a.m. in the SOAH hearing rooms, located at the Stephen F. Austin Building, 1700 North Congress Avenue, 11th Floor, Austin, Texas.

Signed March 1, 2000.


WILLIAM G. NEWCHURCH
ADMINISTRATIVE LAW JUDGE

MAILING LIST
Application of the Town of Westlake
SOAH Docket No. 582-97-0175

Martin Rochelle, Attorney
Lloyd, Gosselink, Blevins, Rochelle,
Baldwin & Townsend, P.C.
111 Congress Ave, Ste 1800
Austin Tx 78701

Representing: Town of Westlake

Mr. Skip Newsom
Fisher & Newsom, P.C.
111 Congress Ave., Ste. 820
Austin, Texas 78701-4043

Representing: City of Keller

Hal Sanders
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Representing: Maguire Thomas Partners

Mr. Frank R. Booth
Mr. Mike Booth
Booth, Ahrens & Werkenthin, P.C.
Nations Bank Tower, Suite 1212
515 Congress Avenue
Austin, Texas 78701-3503

Representing: Trophy Club

Lara Nehman, Staff Attorney
Legal Services Division MC-173
Texas Natural Resource Conservation
Commission - MC - 173
P. O. Box 13087
Austin, Texas 78711-3087

Representing: Executive Director of the
Texas Natural Resource Conservation
Commission

Blas J. Coy, Jr., Attorney
Public Interest Counsel
Texas Natural Resource Conservation
Commission - MC - 103
P. O. Box 13087
Austin, Texas 78711-3087

Representing: the Office of the Public
Interest Counsel of the Texas Natural
Resource Conservation Commission

William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th St., Suite 502
Austin, Texas 78711-3025

Attn: Docket Clerk
Office of the Chief Clerk MC-105
TNRCC
P. O. Box 13087
Austin, Texas 78711-3087

FISHER & NEWSOM, P.C.

ATTORNEYS AT LAW
111 CONGRESS AVENUE, SUITE 820
AUSTIN, TEXAS 78701-4043
(512) 477-4121
FAX (512) 477-4136

Las Colinas Office:
4201 Wingren, Suite 106
Irving, Texas 75062
(972) 281-5820
FAX (972) 650-7105

FACSIMILE TRANSMITTAL

TO: Martin Rochelle 512-472-0532
Stan Lowry 972-650-7105
Mike Booth 512-473-2609
Hal L. Sanders 214-651-4330
Ms. Lara Nehman (MC 173) 512-239-0606
Mr. Blas J. Coy, Jr. (MC 103) 512-239-6377
Office of Chief Clerk MC 105 512-239-3311
Docket Clerk 512-239-3311

CHIEF CLERK'S OFFICE
FEB 28 11 00 AM '00

DATE: 2-28-2000

FROM: Skip Newsom

SUBJECT: Keller CCN

Number of pages (including this cover sheet): 4

Message:

Disregard first fax

CONFIDENTIALITY NOTICE

The information contained in this facsimile transmittal and the matters transmitted hereby are confidential and/or privileged and are intended to be reviewed initially only by the individual named below. If the reader of this facsimile transmittal is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this facsimile transmittal, the information contained herein or the matters transmitted hereby is prohibited. If you have received this facsimile transmittal in error, please notify the sender by telephone immediately and return this facsimile transmittal and all matters transmitted hereby to the sender at the above address. Thank you.

IF TRANSMISSION ERROR OCCURS, PLEASE CALL (512) 477-4121

Fisher & Newsom, P.C.
Attorneys at Law

111 Congress Avenue, Suite 820
Austin, Texas 78701-4043
(512) 477-4121
FAX (512) 477-2860

Las Colinas Office:
4201 Wingren, Suite 106
Irving, Texas 75062
(972) 281-5820
FAX: (972) 850-1057

Skip Newsom*

February 28, 2000

The Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
Suite 502
300 W. 15th Street
P.O. Box 13025
Austin, Texas 78711-3025

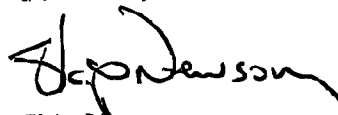
RECORDED
INDEXED
20 FEB 27 11:00
CHIEF CLERK'S OFFICE

RE: Application of Town of Westlake for Certificate of Convenience and Necessity: SOAH
Docket No. 582-97-0175 96-1898-UCR

Dear Judge Newchurch:

The City of Keller has no objection to the continuance and rescheduling dates requested by Martin Rochelle's letter of this date. The consultant's report engaged by the two municipal parties to assist settlement in this proceeding was not finalized until recently and the parties are currently engaged in serious discussions towards a negotiated resolution. Accordingly, the City of Keller supports the continuance.

Yours very truly,


Skip Newsom

SN/keg

cc: Lyle Dresher

Attached Service List

*Board Certified, Administrative Law--Texas Board of Legal Specialization

SOAH Docket No. 582-97-0175
Town of Westlake Application for Water and Sewer CCN

Service List

Martin Rochelle
Lloyd, Gosselink, Blevins, Rochelle,
Baldwin & Townsend, P.C.
P.O. Box 1725
Austin, Texas 78767
(512) 472-0532

Stan Lowry
Boyle, Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763
Fax (972) 650-7105

Mr. Mike Booth
Booth, Ahrens & Werkenthin
Suite 1515
515 Congress Avenue
Austin, Texas 78701
(512) 473-2609

Mr. Hal L. Sanders
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701
(214) 651-4330

Ms. Lara Nehman (MC 173)
Staff Attorney
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087
(512) 239-0606

Mr. Blas J. Coy, Jr.
Public Interest Counsel MC-103
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087
(512) 239-6377

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

Docket Clerk
State Office of Administrative Hearings
Austin, Texas 78711-3025
300 W. 15th Street, Suite 502
(512) 239-3311

LLOYD, GOSSELINK, BLEVINS, ROCHELLE,
BALDWIN & TOWNSEND, P. C.
ATTORNEYS AT LAW

111 CONGRESS AVENUE, SUITE 1800
AUSTIN, TEXAS 78701
TELEPHONE (512) 322-5800
TELECOPIER (512) 472-0532

Mr. Rochelle's Direct Line:
(512) 322-5810

mrochelle@lglawfirm.com

807 SOUTH AUSTIN AVENUE*
GEORGETOWN, TEXAS 78626
TELEPHONE (512) 930-1317
*BY APPOINTMENT ONLY

February 28, 2000

The Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
Suite 502
300 W. 15th Street
P.O. Box 13025
Austin, Texas 78711-3025

VIA HAND DELIVERY

Re: Application of Town of Westlake for Certificate of Convenience
and Necessity: SOAH Docket No. 582-97-0175 (Water CCN)
(140300:1.2) *96-1898-UCR*

Dear Judge Newchurch:

As you know, in the above-referenced matter, the City of Keller ("Keller") has protested the application of my client, the Town of Westlake ("Westlake") for a water certificate of convenience and necessity ("CCN"). The City Managers of Keller and Westlake have been discussing the terms of a settlement agreement, which, if successfully achieved, could result in Keller's withdrawal of its protest of Westlake's CCN application. The cities have engaged the services of a third-party consultant to assist in the resolution of various settlement issues. This consultant's report was completed and delivered to Keller and Westlake a couple of weeks ago. Following completion of the consultant's analysis, the city managers of Keller and Westlake met with the consultant to discuss various aspects of his report. As I understand it, the city managers are in the process of further evaluating the report and their respective positions concerning a possible acquisition by Westlake of water system infrastructure currently owned and operated by Keller. Thereafter, the city managers will need to consult with their respective governing bodies in order to reach a final determination as to possible settlement of this CCN dispute.

Based on these ongoing negotiations, Westlake believes that a continuance of the discovery and hearing schedule in the above-referenced docket is appropriate, given the costs associated with discovery and hearing, and the real possibility of settlement and resolution of this matter. Therefore, please consider

this letter as the formal request of Westlake to abate the discovery and hearing in the above-referenced matter. Westlake would propose that: the deadline for delivery of discovery requests be continued from March 1, 2000 to April 4, 2000; the deadline for responses to discovery be continued from March 31, 2000 to May 1, 2000; the deadline for completing depositions be continued from April 21, 2000 to May 22, 2000; and, that the evidentiary hearing be continued from May 8, 2000 to June 15 and 16, 2000. I have discussed these dates with counsel for the City of Keller, and he has tentatively agreed to them, but I do not know if he or his client fully support this motion for continuance.

Westlake believes the continuance of this proceeding as proposed will enable the full exploration of the settlement options available to the parties, and that settlement of our dispute with Keller is likely if additional time is provided outside of the context of contested case hearing proceedings. Further, this proposed abatement will ensure that the parties spend their efforts in resolving the issues between them instead of pursuing discovery and hearing preparation that is both costly and does not serve to facilitate settlement discussions.

I hereby certify that by copy of this letter I am providing notice of this request to the parties of record in the above-referenced docket. Inasmuch as the March 1, 2000 deadline for discovery is fast approaching, I would appreciate your prompt response to this request for a continuance of these proceedings.

Sincerely,



Martin C. Rochelle

MCR/ldp
1403\00\ltr000228mcr1

cc: Mayor Scott Bradley
Mr. Trent Petty
Mr. Stan Lowry
Mr. Larry Fuson, P.E.
Attached Mailing List

MAILING LIST

Mr. Skip Newsom
Fisher & Newsom, P.C.
111 Congress Avenue
Suite 820
Austin, Texas 78701-4043

Mr. Mike Booth
Booth, Ahrens & Werkenthin
Suite 1515
515 Congress Avenue
Austin, Texas 78701

Mr. Hal L. Sanders
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Ms. Lara Nehman (MC 173)
Staff Attorney
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

Mr. Blas J. Coy, Jr.
Public Interest Counsel MC-103
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

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

Docket Clerk
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78711-3025

96-1898-UCR

**LLOYD, GOSSELINK, BLEVINS, ROCHELLE,
BALDWIN & TOWNSEND, P.C.**

Austin - Georgetown

P.O. Box 1725

Austin, Texas 78767

Telephone: (512) 322-5800

Facsimile: (512) 472-0532

TELECOPIER COVER SHEET

February 28, 2000

CHIEF CLERK'S OFFICE

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FROM: Martin C. Rochelle

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LLOYD, GOSSELINK, BLEVINS, ROCHELLE,
BALDWIN & TOWNSEND, P. C.
ATTORNEYS AT LAW

111 CONGRESS AVENUE, SUITE 1800
AUSTIN, TEXAS 78701
TELEPHONE (512) 322-5000
TELECOPIER (512) 472-0532

Mr. Rochelle's Direct Line:
(512) 322-5810

mrrochelle@lglawfirm.com

807 SOUTH AUSTIN AVENUE*
GEORGETOWN, TEXAS 78626
TELEPHONE (512) 930-1317
*BY APPOINTMENT ONLY

February 28, 2000

The Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
Suite 502
300 W. 15th Street
P.O. Box 13025
Austin, Texas 78711-3025

VIA HAND DELIVERY

Re: Application of Town of Westlake for Certificate of Convenience
and Necessity: SOAH Docket No. 582-97-0175 (Water CCN)
(140300:1.2)

Dear Judge Newchurch:

As you know, in the above-referenced matter, the City of Keller ("Keller") has protested the application of my client, the Town of Westlake ("Westlake") for a water certificate of convenience and necessity ("CCN"). The City Managers of Keller and Westlake have been discussing the terms of a settlement agreement, which, if successfully achieved, could result in Keller's withdrawal of its protest of Westlake's CCN application. The cities have engaged the services of a third-party consultant to assist in the resolution of various settlement issues. This consultant's report was completed and delivered to Keller and Westlake a couple of weeks ago. Following completion of the consultant's analysis, the city managers of Keller and Westlake met with the consultant to discuss various aspects of his report. As I understand it, the city managers are in the process of further evaluating the report and their respective positions concerning a possible acquisition by Westlake of water system infrastructure currently owned and operated by Keller. Thereafter, the city managers will need to consult with their respective governing bodies in order to reach a final determination as to possible settlement of this CCN dispute.

Based on these ongoing negotiations, Westlake believes that a continuance of the discovery and hearing schedule in the above-referenced docket is appropriate, given the costs associated with discovery and hearing, and the real possibility of settlement and resolution of this matter. Therefore, please consider

The Honorable William G. Newchurch
February 28, 2000
Page 2

this letter as the formal request of Westlake to abate the discovery and hearing in the above-referenced matter. Westlake would propose that: the deadline for delivery of discovery requests be continued from March 1, 2000 to April 4, 2000; the deadline for responses to discovery be continued from March 31, 2000 to May 1, 2000; the deadline for completing depositions be continued from April 21, 2000 to May 22, 2000; and, that the evidentiary hearing be continued from May 8, 2000 to June 15 and 16, 2000. I have discussed these dates with counsel for the City of Keller, and he has tentatively agreed to them, but I do not know if he or his client fully support this motion for continuance.

Westlake believes the continuance of this proceeding as proposed will enable the full exploration of the settlement options available to the parties, and that settlement of our dispute with Keller is likely if additional time is provided outside of the context of contested case hearing proceedings. Further, this proposed abatement will ensure that the parties spend their efforts in resolving the issues between them instead of pursuing discovery and hearing preparation that is both costly and does not serve to facilitate settlement discussions.

I hereby certify that by copy of this letter I am providing notice of this request to the parties of record in the above-referenced docket. Inasmuch as the March 1, 2000 deadline for discovery is fast approaching, I would appreciate your prompt response to this request for a continuance of these proceedings.

Sincerely,



Martin C. Rochelle

MCR/ldp

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cc: Mayor Scott Bradley
Mr. Trent Petty
Mr. Stan Lowry
Mr. Larry Fuson, P.E.
Attached Mailing List

MAILING LIST

Mr. Skip Newsom
Fisher & Newsom, P.C.
111 Congress Avenue
Suite 820
Austin, Texas 78701-4043

Mr. Mike Booth
Booth, Ahrens & Werkenthin
Suite 1515
515 Congress Avenue
Austin, Texas 78701

Mr. Hal L. Sanders
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Ms. Lara Nehman (MC 173)
Staff Attorney
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

Mr. Blas J. Coy, Jr.
Public Interest Counsel MC-103
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087

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

Docket Clerk
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78711-3025

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SOAH DOCKET NO. 582-97-0134
TNRCC DOCKET NOS. 96-1902-UCR, 96-1904-UCR, and 96-1898-UCR

APPLICATIONS OF CIRCLE T	§	CHIEF OF STATE OFFICE
MUD NOS. 2 & 3 (FORMERLY	§	
LAKE TURNER MUDS) AND THE	§	OF
TOWN OF WESTLAKE	§	
FOR SEWER CCNs	§	ADMINISTRATIVE HEARINGS

ORDER NO. 10
DISMISSING CASE AND
REMANDING APPLICATIONS TO THE EXECUTIVE DIRECTOR

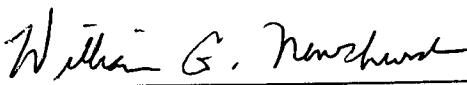
On December 28, 1999, Circle T Municipal Utility District No. 3 (Circle T MUD 3) filed a letter indicating that it wished to withdraw its certificate of convenience and necessity (CCN) application, No. 31352-C, in this case. Similarly, on January 10, 2000, Circle T MUD No. 2 filed a letter stating that it wished to withdraw its sewer CCN application, no. 31350-C. At the scheduled hearing on January 10, 2000, both MUDs clarified that they were moving to withdraw their applications without prejudice to refiling.

By letters on January 10, 11, and 12, 2000, the Executive Director (ED), the Office of Public Interest Counsel (OPIC), and the Town of Westlake (Westlake) agreed to the withdrawal of Circle T MUDs 2's and 3's applications without prejudice. In accord with 30 TAC § 80.25, therefore, Circle T MUDs 2's and 3's applications are remanded to the ED for dismissal without prejudice to refiling.

All parties now support approval of Westlake's application, no. 31253-C, for a sewer CCN. Westlake's application is remanded to the ED for uncontested administrative approval.

This case is dismissed from SOAH's docket.

Issued January 14, 2000.



William G. Newchurch
Administrative Law Judge