

MAILING LIST

**Applications of Circle T MUD Nos. 2 & 3 (formerly of Lake Turner MUD Nos. 2 & 3)
and the Town of Westlake
SOAH Docket No. 582-97-0134**

Andrew N. Barrett
Attorney at Law
Frost Bank Plaza
816 Congress Ave., Ste. 1280
Austin Texas 78701

Representing: Circle T (formerly Lake Turner)

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

Representing: Town of Westlake

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

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

§
§
§
§
§

STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

DEC 7 1999
10:00 AM
TNRCC

ORDER NO. 10
GRANTING REQUEST TO ABATE


On November 30, 1999, the Town of Westlake filed a request to abate the discovery and hearing in this matter until March 1, 2000. This would allow additional time for negotiations regarding settlement of all issues in dispute. The City of Keller filed a letter concurring with the request.

Given that the parties continue to believe there is a good chance of settlement, the Request to Abate is GRANTED. The following prehearing and hearing schedule is adopted:

March 1, 2000	discovery served
March 31, 2000	responses served
April 21, 2000	depositions conclude
May 8&9, 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 this 6th day of December, 1999.


TOMMY L. BROYLES
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

Tommy L. Broyles
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) 477-2860

Las Colinas Office:
4201 Wingren, Suite 106
Irving, Texas 75062
(972) 281-5820
FAX: (972) 650-1057

CHIEF OF STAFF

Skip Newsom*

November 30, 1999

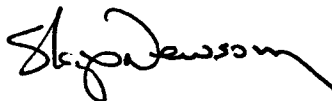
The Honorable Tommy L. Broyles
Administrative Law Judge
State Office of Administrative Hearings
Suite 502
300 W. 15th Street
P.O. Box 13025
Austin, Texas 78711-3025

RE: Application of Town of Westlake for Water Certificate of Convenience and Necessity:
SOAH Docket No. 582-97-0175 TNRCC - 1996-1898-UCR

Dear Judge Broyles:

I am in receipt of Mr. Rochelle's letter of this date requesting the abatement of the above proceedings to facilitate settlement discussions. The City of Keller concurs with the Town's request.

Yours very truly,



Skip Newsom

SN/keg

cc: Lyle Dresher
Stan Lowry
Attached Service List

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

MAILING LIST

Martin C. Rochelle
Lloyd, Gosselink, Blevins, Rochelle,
Baldwin & Townsend, P.C.
P.O. Box 1725
Austin, Texas 78767

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

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

December 1, 1999

LaDonna Castañuela
Chief Clerk, MC 105
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

CHIEF CLERK
MC 105
12-1-99

Re: Motion for Continuance
Petition of the Executive Director Against E.V. Mask dba Bee's Camp
SOAH Docket No. 582-99-2450; TNRCC Docket No. 1998-1108-PWS-E

Dear Ms. Castañuela:

Enclosed for filing is the original "Motion for Continuance" in the above matter.

Enclosed please also find one copy of this letter to you, and one copy of the Motion for Continuance. Please file stamp both of these documents and return them to John C. Wright, Attorney, Litigation Division, MC 175. If you have any questions or comments, please call me at (512) 239-2269.

Sincerely,

A handwritten signature in dark ink, appearing to read "John C. Wright".

John C. Wright
Attorney
Litigation Division

Enclosures

cc: Michael Meyer, Enforcement Division, TNRCC, MC 149
Paul Beasley, Enforcement Division, TNRCC, MC 149
Service List

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

December 1, 1999

LaDonna Castañuela
Chief Clerk, MC 105
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

CHIEF CLERK'S OFFICE

Re: Motion for Continuance
Petition of the Executive Director Against E.V. Mask dba Bee's Camp
SOAH Docket No. 582-99-2450; TNRCC Docket No. 1998-1108-PWS-E

Dear Ms. Castañuela:

Enclosed for filing is the original "Motion for Continuance" in the above matter.

Enclosed please also find one copy of this letter to you, and one copy of the Motion for Continuance. Please file stamp both of these documents and return them to John C. Wright, Attorney, Litigation Division, MC 175. If you have any questions or comments, please call me at (512) 239-2269.

Sincerely,

A handwritten signature in dark ink, appearing to read "John C. Wright".

John C. Wright
Attorney
Litigation Division

Enclosures

cc: Michael Meyer, Enforcement Division, TNRCC, MC 149
Paul Beasley, Enforcement Division, TNRCC, MC 149
Service List

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



SOAH DOCKET NO. 582-99-2450
TNRCC DOCKET NO. 1999-1108-PWS-E

CHIEF CLERK'S OFFICE

PETITION OF THE EXECUTIVE
DIRECTOR AGAINST
E.V. MASK DBA BEE'S CAMP
PWS NO. 2320052

§
§
§
§
§

BEFORE THE

STATE OFFICE OF

ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR'S MOTION FOR CONTINUANCE

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, the Executive Director of the Texas Natural Resource Conservation Commission, by and through a representative of the Litigation Division, and files this Motion for Continuance in the above-referenced matter pursuant to 30 TEX. ADMIN. CODE § 80.119(c). In support of the motion, the Executive Director would show the following:

I.

On July 19, 1999, the Executive Director filed his original Executive Director's Preliminary Report and Petition against E.V. Mask dba Bee's Camp ("Respondent"), for alleged violations of 30 TEX. ADMIN. CODE §§ 290.105 and 290.106 and TEX. HEALTH & SAFETY CODE § 341.033. On August 10, 1999, Respondent filed her answer with the TNRCC Chief Clerk's Office. On October 14, 1999, the Executive Director requested that the TNRCC Chief Clerk refer this matter to the State Office of Administrative Hearings ("SOAH"). A preliminary hearing was set for November 12, 1999. By an Order issued on November 12, 1999, the Administrative Law Judge continued the preliminary hearing to December 2, 1999.

II.

As of December 1, 1999, the parties reached a verbal agreement on settlement of this matter and are currently finalizing the written agreement as to the terms and conditions of

settlement. Upon finalization of the written agreement, the Executive Director expects to present the Agreed Order to the Commission for formal approval.

III.

In light of the factors set forth in Paragraph II, the parties respectfully request, pursuant to 30 TEX. ADMIN. CODE § 80.119(c), that the Administrative Law Judge continue this matter, currently scheduled for a preliminary on December 2, 1999, until such time that one of the parties requests that the hearing be reconvened. The parties submit this request to allow time to complete the settlement process, and not to delay resolution of the matter. Upon receipt by the Executive Director of a signed Agreed Order and administrative penalty payment, the Executive Director anticipates filing a motion requesting that the Administrative Law Judge remand this matter back to the Executive Director.

Respectfully Submitted,

Jeffrey A. Saitas, P.E.
Executive Director
Texas Natural Resource Conservation Commission

Jim Phillips
Deputy Director
Office of Legal Services

Paul C. Sarahan
Director
Litigation Division

By: 

John C. Wright
State of Texas Bar No. 24001338
Litigation Division, MC-175
P.O. Box 13087
Austin, Texas 78711-3087
(512) 239-3400
(512) 239-3434 (FAX)

CERTIFICATE OF SERVICE

I hereby certify that on this the 1st day of December, 1999, a true and correct copy of the foregoing Motion for Continuance was filed with the Chief Clerk, Texas Natural Resource Conservation Commission, Austin, Texas. I further certify that on this day, a copy of the Motion for Continuance was served on each of the parties as indicated:

Via Certified Mail, Return Receipt Requested (Article No. Z-280-600-303)

E. V. Mask, Owner
Bee's Camp
P.O. Box 215
Con Can, Texas 78838

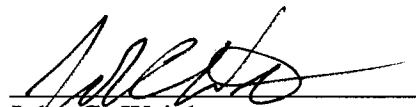
Via Facsimile Number (512) 936-0730

Via Interagency Mail

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

Via Hand Delivery

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



John C. Wright

Attorney

Litigation Division

Texas Natural Resource Conservation Commission

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: Honorable Tommy L. Broyles 512-475-4994
 Martin Rochelle 512-472-0532
 Mike Booth 512-473-2115
 Hal L. Sanders 214-651-4330
 Chief Clerk TNRCC 512-239-3311
 SOAH Docket Clerk 512-475-4994

DATE: 11-30-99

FROM: Skip Newsom

SUBJECT: Application of Town of Westlake for Water Certificate of Convenience and
 Necessity: SOAH Docket No. 582-97-0175

Number of pages (including this cover sheet): 3

Message:**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) 650-1057

Skip Newsom*

November 30, 1999

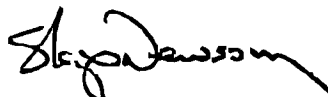
The Honorable Tommy L. Broyles
Administrative Law Judge
State Office of Administrative Hearings
Suite 502
300 W. 15th Street
P.O. Box 13025
Austin, Texas 78711-3025

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

Dear Judge Broyles:

I am in receipt of Mr. Rochelle's letter of this date requesting the abatement of the above proceedings to facilitate settlement discussions. The City of Keller concurs with the Town's request.

Yours very truly,



Skip Newsom

SN/keg

cc: Lyle Dresher
Stan Lowry
Attached Service List

CHIEF CLERK
TNRCC
NOV 30 1999
FOLIO 1

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

MAILING LIST

Martin C. Rochelle
Lloyd, Gosselink, Blevins, Rochelle,
Baldwin & Townsend, P.C.
P.O. Box 1725
Austin, Texas 78767

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

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

November 30, 1999

The Honorable Tommy L. Broyles
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) TNRLC-1996-1898-UCR

Dear Judge Broyles:

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, would result in Keller's withdrawal of its protest. Such effort has required the engagement of a third-party consultant to assist in the resolution of various settlement issues. This consultant's report is not expected until mid-to-late January, 2000.

I have discussed these ongoing negotiations with counsel for Keller, and we agree that an abatement of the discovery and hearing in the above-referenced docket is appropriate, given the costs associated with discovery and hearing, and the real possibility of settlement and resolution of the issues confronting our clients. Therefore, please consider this letter as the formal request of Westlake and Keller to abate the discovery and hearing in the above-referenced matter until March 1, 2000. The Parties would propose that: the deadline for delivery of discovery requests be continued from December 13, 1999 to March 1, 2000; the deadline for responses to discovery be continued from January 14, 2000 to March 31, 2000; the deadline for completing depositions be continued from February 4, 2000 to April 21, 2000; and, that the evidentiary hearing be continued from

The Honorable Tommy L. Broyles

November 30, 1999

Page 2

February 17, 2000 to a hearing date in the week of May 8, 2000. The Parties believe the abatement of this proceeding as proposed will enable them to fully explore these settlement options and that settlement of the dispute between Keller and Westlake 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.

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 December 13, 1999 deadline for discovery is fast approaching, we would appreciate your prompt response to this request for an abatement of these proceedings.

Sincerely,

A handwritten signature in black ink, appearing to read "M. C. Rochelle", with a stylized flourish at the end.

Martin C. Rochelle

MCR/ldp

1403\00\ltr991130mcr8

cc: Mayor Scott Bradley
Mr. Trent Petty
Mr. Stan Lowry
Mr. James Morris
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

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

§
§
§
§
§

STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

ORDER NO. 9
GRANTING REQUEST TO SEVER WATER ISSUES and
NAMING PARTIES

On September 7, 1999, a prehearing conference was held in this docket and SOAH Docket No. 582-97-0134. I delayed issuing this order until I received the transcript as my notes reflected that we ended up with three separate proceedings, but only two hearing schedules. In accordance with my reading of the transcript, I have consolidated the Docket No. 582- 97-0175 sewer application (TNRCC docket No. 96-1898-UCR) into Docket No. 582-97-0134. If this was not the intent of the parties, please advise.

Evidence of notice was presented and accepted without objection. All parties agreed to sever the water issues from the sewer issues in this docket. The water application will continue pursuant to this docket. The disposition of the sewer application is explained above.

Parties to this docket are: Town of Westlake, Applicant (represented by Martin C. Rochelle, Attorney); City of Keller (represented by Skip Newsom); the Executive Director of the Commission (ED)(represented by Lara Nehman, Attorney); Maguire Thomas Partners (represented by Hal Sanders); Michael Booth (Trophy Club); and the Public Interest Counsel (Blas J. Coy, Jr.).


10/1/99
CHIEF CLERK'S OFFICE
OCT - 1 PM 3:02
RECEIVED OCT 5 1999
COMMISSION

The parties agreed that time would be well spent in negotiations for the next two months rather than in discovery. In an effort to encourage settlement, the following generous prehearing schedule was adopted:

December 13, 1999	discovery served
January 14, 2000	responses served
February 4, 2000	depositions conclude
February 17-18, 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 this 30th day of September, 1999.



TOMMY L. BROYLES
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

Tommy L. Broyles
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

LLOYD, GOSSELINK, FOWLER, 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
TELECOPIER (210) 212-5889
*BY APPOINTMENT ONLY

TNRCC

DOCKET 96-1898-UCR

June 20, 1997

see also 96-1897-UCR

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

Re: SOAH Docket No. 582-97-0175 -- Application of Town
of Westlake for Certificate of Convenience and Necessity;
SOAH Docket No. 582-97-0137 -- Application of Lake
Turner Municipal Utility Districts No. 2 and No. 3 for
Certificate of Convenience and Necessity (140300:1.2)

Dear Judge Broyles:

On behalf of my client, the Town of Westlake, this letter will serve as the status report concerning the mediation and negotiations between the parties, and additional developments which have occurred in the intervening time since the issuance of your Order No. 1 on March 21, 1997 granting an abatement of the contested case hearing associated with the above-referenced matters.

While the mediation efforts of the parties were not successful, it is fair to say that many other actions have occurred since Order No. 1 was issued. For instance, there are presently pending in the trial courts of our state at least eight lawsuits affecting the Town of Westlake, and/or its duly elected officials, which relate to a purported disannexation of the Town. There is also one action presently pending before the Texas Supreme Court. The outcome of this litigation may well affect the parties' interest in and/or need for the Certificates of Convenience and Necessity ("CCNs") at issue in the pending TNRCC case.

Further, on June 9, 1997 Westlake filed a voluntary petition in bankruptcy with the United States Bankruptcy Court, Northern District of Texas, pursuant to Chapter 9 of the Bankruptcy Code. Pursuant to the provisions of 11 U.S.C. § 362(a)(1), such filing operates as an automatic stay, applicable to all entities, of the commencement or continuation of, among other things, any administrative

The Honorable Tommy L. Broyles
June 20, 1997
Page 2

action or proceeding in which the debtor (Westlake) has an interest which could be adversely affected. Thus, pending the action of the Bankruptcy Court on Westlake's Chapter 9 bankruptcy petition, any matter in which Westlake's interests are to be adjudicated, including this pending CCN dispute, is effectively stayed. I am advised by the bankruptcy lawyers that any action taken in violation of this stay is void and without effect. Attached please find copies of Westlake's voluntary petition and the Order assigning a bankruptcy judge to conduct all proceedings in that matter.

Based on the foregoing, Westlake requests that the automatic stay be honored, and that this matter be set for a second status conference in 90 days. By that time the parties may be in a better position to identify the steps to be taken to either resolve this matter or to proceed with these applications.

I hereby certify that I have forwarded copies of this letter to those persons included on the attached service list by first-class United States mailing of even date herewith. If you have questions concerning this status report or I may be of service to you, please feel free to call on me at your convenience.

Sincerely,


Martin C. Rochelle

MCR/ldp
1403/00000794.DOC
ENCLOSURES

United States Bankruptcy Court
Northern District of Texas

497-43322

VOLUNTARY
PETITION

DE: Name of debtor - If individual, enter: Last, First, Middle
Town of Westlake, a municipal corporation

NAME OF JOINT DEBTOR (Spouse)(Last, First, Middle)

ALL OTHER NAMES used by debtor in the last 6 years (last married, maiden, and trade names)

ALL OTHER NAMES used by joint debtor in the last 6 years (last married, maiden, and trade names)

SOC. SEC./TAX I.D. NO. (if same than one, state all)

SOC. SEC./TAX I.D. NO. (if same than one, state all)

STREET ADDRESS OF DEBTOR (No. and street, city, state and zip code)
**3 Village Circle, Suite No. 207
Westlake TX 76262**

STREET ADDRESS OF JOINT DEBTOR (No. and street, city, state and zip code)

COUNTY OF RESIDENCE/BUSINESS: **TARRANT**

COUNTY OF RESIDENCE/BUSINESS:

MAILING ADDRESS OF DEBTOR (if different from street address)

MAILING ADDRESS OF JOINT DEBTOR (if different from street address)

LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR (if other than street address)

VENUE (Check one box)

- ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- ☐ There is a temporary case concerning debtor's affairs, general partner, or partnership pending in this District.

INFORMATION REGARDING DEBTOR (Check applicable boxes)

TYPE OF DEBTOR (Check one box)

- ☐ Individual
☐ Joint (Husband & Wife)
☐ Partnership
☐ Other
- ☐ Corporation Publicly Held
☐ Corporation Not Publicly Held
☒ Municipality

CHAPTER OR SECTION OF BANKRUPTCY CODE FOR PETITION (Check one box)

- ☐ Chapter 7
☒ Chapter 9
☐ Chapter 11
☐ Chapter 12
☐ Chapter 13
☐ Sec. 504

NATURE OF DEBT (Check one box)

- ☐ Non-Business/Consumer
☒ Business - Complete A+B below

SMALL BUSINESS (Chapter 11 only)

- ☐ Debtor is a small business as defined in 11 U.S.C. § 101.
☐ Debtor is not alone to be considered a small business under 11 U.S.C. § 11216. (opt)

A. TYPE OF BUSINESS (Check one box)

- ☐ Farming
☐ Professional
☐ Retail/Wholesale
☐ Restaurant
- ☐ Transportation
☐ Manufacturing
☐ Mining
☐ Distribution
- ☐ Computer Related
☐ Construction
☐ Real Estate
☒ Other Business

FILING FEE (Check one box)

- ☒ Filing fee attached
☐ Filing fee to be paid in installments. (Applicable to individuals only.) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1005(b); see Official Form No. 3

B. BRIEFLY DESCRIBE NATURE OF BUSINESS

Municipality and Subdivision of State of Texas

NAME AND ADDRESS OF LAW FIRM OR ATTORNEY

**Cantey & Hanger, L.L.P.
801 Cherry Street, Suite 2100
Fort Worth, Texas 76102**

Telephone No: **(817) 877-2800**

NAMES OF ATTORNEY(S) DESIGNATED TO REPRESENT THE DEBTOR

**J. Robert Forshey 07264200
Jeff P. Prostek 16354200**
See attached sheet

STATISTICAL/ADMINISTRATIVE INFORMATION (U.S.C. § 504)
(Estimates only) (Check applicable boxes)

☐ Debtor is not represented by an attorney. Telephone No. of Debtor not represented by an attorney:

- ☐ Debtor certifies that funds will be available for distribution to unsecured creditors.
☒ Debtor certifies that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

ESTIMATED NUMBER OF CREDITORS					
1-15	16-25	26-50	51-100	101-200	201-over
()	()	()	()	()	()
ESTIMATED ASSETS (in thousands of dollars)					
Under 25	25-50	50-100	100-200	200-500	500-over
()	()	()	()	()	()
ESTIMATED LIABILITIES (in thousands of dollars)					
Under 25	25-50	50-100	100-200	200-500	500-over
()	()	()	()	()	()
EST. NO. OF EMPLOYEES - CH. 11 & 12 ONLY					
0	1-10	11-20	21-50	51-100	101-over
()	()	()	()	()	()
EST. NO. OF EQUITY SECURITY HOLDERS - CH. 11 & 12 ONLY					
0	1-10	11-20	21-50	51-100	101-over
()	()	()	()	()	()

THIS SPACE FOR COURT USE ONLY

US BANKRUPTCY COURT
OFFICE OF THE CLERK
FORT WORTH, TEXAS

JUN 9 8 45 AM '97

FILED

Name of Debtor(s): Town of Westlake, a municipal corpo

Case Number: _____

FILING OF PLAN

For Chapter 9, 11, 12 and 13 cases only. Check appropriate box.

☐ A copy of debtor's proposed plan dated _____ is attached.☒ Debtor intends to file a plan within the time allowed by statute, rule, or order of the court.

PRIOR BANKRUPTCY CASE FILED WITHIN LAST 6 YEARS (if more than one, attach additional sheet)

Location Where Filed
NONE

Case Number

Date Filed

PENDING BANKRUPTCY CASE FILED BY ANY SPOUSE, PARTNER, OR AFFILIATE OF THE DEBTOR (if more than one, attach additional sheet)

Name of Debtor
NONE

Case Number

Date

Relationship

Debtors

Judge

REQUEST FOR RELIEF

Debtor is eligible for and requests relief in accordance with the chapter of this 11, United States Code, specified in this petition.

SIGNATURES

ATTORNEY

X
Jeff P. Fink

Cantey & Hanger, LLP

6/19/97

INDIVIDUAL/JOINT DEBTOR(S)

I declare under penalty of perjury that the information provided in this petition is true and correct.

X Not Applicable
Signature of Debtor

Date

X Not Applicable
Signature of Joint Debtor

Date

CORPORATE OR PARTNERSHIP DEBTOR

I declare under penalty of perjury that the information provided in this petition is true and correct and that I have been authorized to file this petition on behalf of the debtor.

X

Signature of Authorized Individual

Print or Type Name of Authorized Individual

Title of Individual Authorized by Debtor to File this Petition

Date

If the debtor is a corporation filing under chapter 11, Exhibit "A" is attached and made part of this petition.

TO BE COMPLETED BY INDIVIDUAL CHAPTER 7 DEBTOR WITH
PRIMARILY CONSUMER DEBTS (See P.L. 98-353 § 322)I am aware that I may proceed under chapter 7, 11, 12, or 13 of this 11, United States Code, whichever is most available under each such chapter, and choose to proceed under chapter 7 of such this.
If I am represented by an attorney, Exhibit "B" has been completed.X Not Applicable
Signature of Debtor

Date

X Not Applicable
Signature of Joint Debtor

Date

CERTIFICATION AND SIGNATURE OF NON-ATTORNEY
BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Not Applicable

Printed or Typed Name of Bankruptcy Petition Preparer

Not Applicable

Social Security Number

Address

Telephone

Name and Social Security number of all other individuals who prepared or assisted in preparing this document:

Not Applicable

If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.

X Not Applicable
Signature of Bankruptcy Petition Preparer

A bankruptcy petition preparer's failure to comply with the provisions of this 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

EXHIBIT "B"

(To be completed by attorney for individual chapter 7 debtor(s) with primarily consumer debts.)

I, the attorney for the debtor(s) named in the foregoing petition, declare that I have informed the debtor(s) that the, she, or they may proceed under chapter 7, 11, 12, or 13 of this 11, United States Code, and have explained the relief available under each chapter.

X Not Applicable
Signature of Attorney

Date

ASSIGNMENT OF BANKRUPTCY JUDGE TO CONDUCT

A CASE UNDER 11 U.S.C. § 921(b)

Pursuant to the provisions of 11 U.S.C. § 921(b), as acting Chief Judge of the United States Court of Appeals for the Fifth Circuit, I hereby designate Chief United States Bankruptcy Judge Robert C. McGuire, Northern District of Texas, to conduct all proceedings in the matter styled *In Re: Town of Westlake*, Case No. 4:97-43322, before the United States Bankruptcy Court for the Northern District of Texas.

Carolyn Dineen King
Carolyn Dineen King
Acting Chief Judge, United
States Court of Appeals
for the Fifth Circuit

June 9, 1997

SERVICE LIST

I hereby certify that on this the 20th day of June, 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
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

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

Mr. John J. Carlton
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

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

LLOYD, GOSSELINK, FOWLER, 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
TELECOPIER (210) 212-5889
*BY APPOINTMENT ONLY

TNRCC

DOCKET 96-1898-UCR

June 20, 1997

see also 96-1897-UCR

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

CHIEF CLERKS OFFICE
JUN 23 PM 4:25

Re: SOAH Docket No. 582-97-0175 -- Application of Town
of Westlake for Certificate of Convenience and Necessity;
SOAH Docket No. 582-97-0137 -- Application of Lake
Turner Municipal Utility Districts No. 2 and No. 3 for
Certificate of Convenience and Necessity (140300:1.2)

Dear Judge Broyles:

On behalf of my client, the Town of Westlake, this letter will serve as the status report concerning the mediation and negotiations between the parties, and additional developments which have occurred in the intervening time since the issuance of your Order No. 1 on March 21, 1997 granting an abatement of the contested case hearing associated with the above-referenced matters.

While the mediation efforts of the parties were not successful, it is fair to say that many other actions have occurred since Order No. 1 was issued. For instance, there are presently pending in the trial courts of our state at least eight lawsuits affecting the Town of Westlake, and/or its duly elected officials, which relate to a purported disannexation of the Town. There is also one action presently pending before the Texas Supreme Court. The outcome of this litigation may well affect the parties' interest in and/or need for the Certificates of Convenience and Necessity ("CCNs") at issue in the pending TNRCC case.

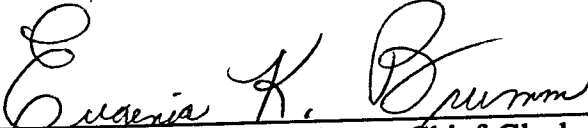
Further, on June 9, 1997 Westlake filed a voluntary petition in bankruptcy with the United States Bankruptcy Court, Northern District of Texas, pursuant to Chapter 9 of the Bankruptcy Code. Pursuant to the provisions of 11 U.S.C. § 362(a)(1), such filing operates as an automatic stay, applicable to all entities, of the commencement or continuation of, among other things, any administrative

STATE OF TEXAS)(

COUNTY OF TRAVIS)(

I, Dr. Eugenia K. Brumm, Chief Clerk of the Texas Natural Resource Conservation Commission, do hereby certify that the attached lists the persons to whom notice of public hearing on SOAH Docket No. 582-97-0175, TOWN OF WESTLAKE was mailed first class on February 24, 1997.

Given under my hand and the seal of the Texas Natural Resource Conservation Commission, this 24th day of February, 1997.



Eugenia K. Brumm, Ph.D., Chief Clerk
Texas Natural Resource Conservation Commission

(SEAL)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



NOTICE OF PUBLIC HEARING ON AN APPLICATION FOR WATER AND SEWER CERTIFICATES OF CONVENIENCE AND NECESSITY

The TOWN OF WESTLAKE has applied to the Texas Natural Resource Conservation Commission (Commission) for Certificates of Convenience and Necessity to provide both water and sewer utility service in Denton and Tarrant Counties, Texas under Section 13.246 of the Texas Water Code. The Town of Westlake is requesting to deceritfy a portion of CCN No. 12311 issued to the City of Fort Worth in Denton and Tarrant Counties. The proposed utility service areas are located approximately 18 miles north-northwest of downtown Fort Worth, Texas and are generally bounded on the north by State Highway 114, on the east by the Town of Southlake, on the south by the City of Keller, and on the west by State Highway 377. The total area being requested includes approximately 3,951 acres and 62 current customers.

This matter has been designated as SOAH Docket No. 582-97-0175. Staff is requesting that this application be consolidated for the purpose of the hearing with applications by Lake Turner Municipal Utility District No. 2 and Lake Turner Municipal Utility District No. 3 for water and sewer Certificates of Convenience and Necessity in Denton and Tarrant Counties (SOAH Docket No. 582-97-0134).

An Administrative Law Judge of the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - Thursday, March 27, 1997
Texas Natural Resource Conservation Commission
Building C - Room 131E
12124 Park 35 Circle - Austin, Texas
(see enclosed map for location)

to establish jurisdiction, receive public comment, designate parties, and provide an opportunity for discussions and negotiation of a settlement by all parties prior to an evidentiary hearing on the merits of the application. In the event there is an evidentiary hearing on the merits, parties may present evidence and cross-examine witnesses of the other parties on relevant considerations such as the utility's ability to provide continuous and adequate service to the proposed areas.

No person or entity will be admitted as a party to the proceeding unless he/she complies with the Commission's rule for designation of parties which states that those persons or entities seeking party status must demonstrate a justiciable interest in the matter and must attend this public hearing in person or by a qualified representative. If attended by a representative, the representative must be able to demonstrate and provide proof of the interested person/entity's justiciable interest in this matter. A designated representative should also attend the public hearing with proof of his/her authority to speak on behalf of the interested person/entity seeking party status and to negotiate and enter into settlements on behalf of the interested person/entity.

This hearing will be held under the authority of Chapter 13 of the Texas Water Code, as amended, the substantive rules of the Commission found in Chapter 291 of the Texas Administrative Code, and the Procedural Rules of the Commission and the State Office of Administrative Hearings. **The original of any document filed prior to the hearing must be filed with the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. If you want the Administrative Law Judge to consider a document, you must show that the original of that document has been filed with the TNRCC Chief Clerk.**

The Commission requires that an applicant or an applicant's representative be present at the hearing. Failure to appear may result in the suspension or dismissal of the application. The record of this proceeding will include evidence and testimony taken at the public hearing. The hearing may be continued from time to time and place to place, if necessary, to develop all relevant evidence bearing on the subject of the hearing. Further information concerning any aspect of the application, if available, may be obtained by writing the Water Utilities Division, Mail Code 153, P.O. Box 13087, Austin, Texas 78711-3087, telephone 512/239-6960. Information may also be obtained from Maria Sanchez, Staff Attorney, at Mail Code 173, the same address or by calling 512/239-0600. Information concerning hearing procedures and public participation in hearings may be obtained by contacting Blas Coy, Public Interest Counsel, at Mail Code 103, the same address or by calling 512/239-6363. **When contacting the Commission regarding the application, reference the SOAH docket number given at the top of this notice.**

Persons with disabilities who plan to attend this hearing and who may need auxiliary aids or services (such as interpreters for persons who are deaf or hearing impaired, readers, large print, or braille) are requested to contact the Office of the Chief Clerk at 512/239-3300 or 1-800-RELAY-TX (TDD) at least two (2) weeks prior to the hearing so that appropriate arrangements can be made.

Issued this 24th day of February, 1997.

(Seal)



Eugenia K. Brumm, Ph.D., Chief Clerk
Texas Natural Resource Conservation Commission

MAILING LIST
SOAH Docket No. 582-97-0175

TOWN OF WESTLAKE
TNRCC Nos. 96-1897-UCR and 96-1898-UCR
Application Nos. 31252-C and 31253-C

Representing Lake Turner MUD Nos. 2 & 3

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

Representing Lake Turner MUD Nos. 2 & 3

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

Representing Hillwood/Willowbend, Ltd.
(Lake Turner MUD Nos. 2 & 3)

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

Representing City of Keller

Mr. Lyle H. Dresher, City Manager
City of Keller
158 South Main
Keller, Texas 76248

Representing City of Keller

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

Representing Trophy Club MUD No. 1

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

Representing Trophy Club MUD No. 1

Mr. Robert G. West
Michener Larimore Swindle Whitaker
Flowers Sawyer Reynolds & Chalk, L.L.P.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186

Representing Lake Turner MUD No. 1

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

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

Representing Maguire Thomas Partners
Southlake Partnership

Mr. John J. Carlton
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Representing Maguire Thomas Partners
MTP-IBM Phase II/III Joint Venture

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

Representing Town of Westlake

Ms. Sarah K. Walls
Cantry and Hanger
2100 Burnett Plaza
801 Cherry Street
Fort Worth, Texas 76102

Representing Town of Westlake

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

Representing Walnut Grove Water System
(not a protest but request for notice of hearing)

Senator Jane Nelson
P.O. Box 2068
Austin, Texas 78711

Legislative Contact

Senator Jane Nelson
District Office
3700 Forums Drive, Suite 107
Flower Mound, Texas 75028

Texas Natural Resource Conservation Commission
P. O. Box 13087
Austin, Texas 78711-3087

Maria Sanchez, Staff Attorney
Albert Holck, Staff Engineer
George Freitag, Staff Engineer
Tonja Castillo, Office of Public Interest Counsel
Patrick Crimmins, Agency Communications - Media Relations
Annie Tyrone, Pollution Cleanup - Technical Program Support
Dell Sites, Public Outreach

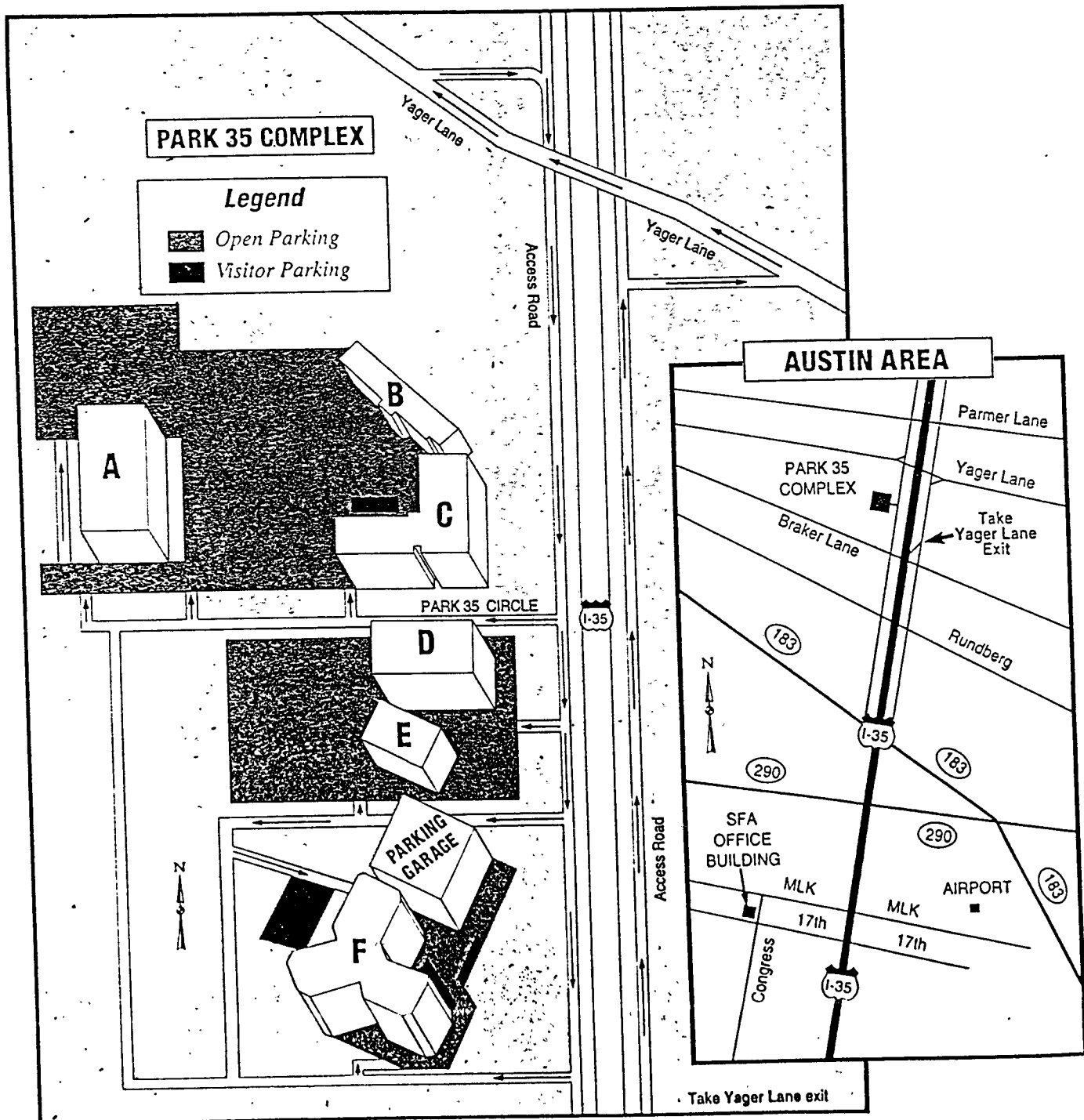
State Office of Administrative Hearings
P. O. Box 13025
Austin, Texas 78711-3025

Pablo Carrasquillo, Natural Resources Docket Clerk, for Administrative Law Judge

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

TNRCC Park 35 Complex

- Building A - 12124 Park 35 Circle (formerly called TNRCC Building)
- Building B - 12124 Park 35 Circle (formerly called TACB Annex)
- Building C - 12124 Park 35 Circle (formerly called TACB Main Building)
- Building D - 12118 I.H. 35 (formerly called Technology Center B)
- Building E - 12118 I.H. 35 (formerly called Technology Center A)
- Building F - 12015 Park 35 Circle (formerly called The Colonnade)



TNRCC
DOCKET 96-1898-UCR

SOAH DOCKET NO. 582-97-0175

APPLICATION OF
TOWN OF WESTLAKE
FOR CCN

§
§
§
§
§

STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

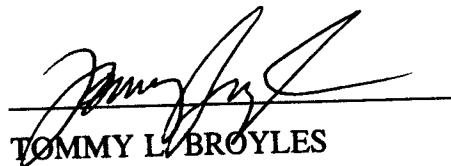
ORDER NO. 3

Notice of Intent to Remand

On July 7, 1997, the Town of Westlake and Lake Turner Municipal Utility District requested and received an abatement of these proceedings. In Order No. 2, the parties were instructed to file a status report by October 1, 1997.

WHEREAS no status report was filed by October 1, 1997, the ALJ assumes there are no issues remaining in dispute. This matter will be remanded to the Executive Director for further processing on October 17, 1997, absent objection to same.

Signed this 6th day of October, 1997.



TOMMY L. BROYLES

ADMINISTRATIVE LAW JUDGE

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
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
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

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

INTEROFFICE MEMORANDUM

TX NATURAL RESOURCE CONS COMM
UTILITY RATES AND SERVICES

PROPOSED MAILING LIST FOR DOCKET NO. 96-1897-UCR AND DOCKET NO. 96-1898-UCR
(Applications No. 31252-C and No. 31253-C)

PROPOSED MAILING LIST FOR DOCKET NO. 96-1901-UCR,
DOCKET NO. 96-1902-UCR, DOCKET NO. 96-1903-UCR, AND DOCKET NO. 96-1904-UCR,
(Applications No. 31349-C, No. 31350-C, No. 31351-C, No. 31352-C)

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

Representing Lake Turner MUD No. 2
Lake Turner MUD No. 3

Mr. Andy Barrett
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin, Texas 78701
(512)495-6000
Fax (512) 495-6093

Representing Lake Turner MUD No. 2
Lake Turner MUD No. 3

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

Representing Hillwood/Willowbend, Ltd.
(Lake Turner MUD No. 2)
(Lake Turner MUD No. 3)

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

Representing City of Keller

Mr. Skip Newsom, Fisher & Newsom, P.C.
111 Congress Avenue, Suite 820
Austin, Texas 78701-4043
(512) 477-4121
Fax (512) 477-4136

Representing City of Keller

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

Representing Trophy Club Municipal Utility District No. 1

Mr. Robert G. West
Michener Larimore Swindle Whitaker Flowers Sawyer Reynolds & Chalk, L.L.P.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4186
(817) 335-4417

Representing Trophy Club Municipal Utility District No. 1

Mr. R. L. Guinn, Director
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

Representing Maguire Thomas Partners-Westlake
Southlake Partnership

John J. Carlton
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701

Representing Maguire Thomas Partners
MTP-IBM Phase II/III Joint Venture

Mr. Martin C. Rochelle
Lloyd, Gosselink, Fowler, Blevins & Mathews, P.C.
111 Congress Avenue, Suite 1800
Austin, Texas 78701
(512) 322-5800
Fax (512) 472-0532

Representing Town of Westlake

Ms. Sarah K. Walls
Cantry and Hanger
2100 Burnett Plaza
801 Cherry Street
Fort Worth, Texas 76102

Representing Town of Westlake

Mr. Rick Frederick
624 Walnut Grove
Roanoke, Texas 76262

Representing Walnut Grove Water System
(not a protest but request for notice of hearing)

Legislative Contact
Senator Jane Nelson
P. O. Box 2068
Capitol Building
Austin, Texas 78711

Senator Jane Nelson
District Office
3700 Forums Drive, Suite 107
Flower Mound, Texas 75028

LLOYD, GOSSELINK, FOWLER, BLEVINS & MATTHEWS, 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

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

October 29, 1996

Mr. Douglas Holcomb, P.E.
Texas Natural Resource
Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

CONSERVATION COMMISSION
DATE: 10/29/96

Re: Application of Town of Westlake for Water and Sewer
Certificates of Convenience and Necessity (140300:1.2)

Dear Mr. Holcomb:

The Town of Westlake ("Westlake") has reached an agreement with the Trophy Club Municipal Utility District No. 1 ("District") concerning water and sewer service to the area which is within both the corporate boundaries of Westlake and the District, whereby the District will be the purveyor of retail water and sewer services within such area. Attached please find a map which has been marked to show this area. This territory is shaded and depicted on the attached map as "TCMUD # 1 Ord. # 127.147". Therefore, please amend Westlake's application to exclude this territory from its proposed CCN areas.

If you have questions concerning this request, or I may be of service to you or your staff, please call me at your convenience.

Sincerely,



Martin C. Rochelle

MCR/ldp
1403/000-012.LTR
ENCLOSURE

Mr. Douglas Holcomb, P.E.
October 29, 1996
Page 2

cc: The Honorable Jane Nelson
Mr. Scott Bradley
Ms. Sarah Walls
Mr. Paul Phv

Mr. Bob West
Mr. John Carlton

Barry R. McBee, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

December 10, 1996

Ms. Sarah K. Walls
Cantry and Hanger
2100 Burnett Plaza
801 Cherry Street
Fort Worth, Texas 76102

Re: Docket No. 96-1897-UCR; Protests of the Application of the Town of Westlake for a Water Certificate of Convenience and Necessity (CCN) and to Decertify a Portion of CCN No. 12311 issued to the City of Fort Worth, in Denton and Tarrant Counties; Application No. 31252-C

Docket No. 96-1898-UCR; Protests of the Application of the Town of Westlake for a Sewer Certificate of Convenience and Necessity (CCN) in Denton and Tarrant Counties; Application No. 31253-C

Dear Ms. Walls:

The Texas Natural Resource Conservation Commission (TNRCC) received protests to your applications for CCNs of the Town of Westlake for water and sewer utility service in Denton and Tarrant Counties. The Commission's Chief Clerk has assigned Docket Nos. 96-1897-UCR and 96-1898-UCR to this matter. Any further communications should refer to these docket numbers. V.T.C.A Water Code, Section 13.246 provides that affected parties may protest the applications and request a hearing on whether a CCN should be granted. Trophy Club MUD #1, the City of Keller, Hillwood/Willowbend, Ltd., Lake Turner MUD No. 2, Lake Turner MUD No. 3 and Maguire Thomas Partners-Westlake Southlake Partnership and MTP-IBM Phase II/III Joint Venture have protested the referenced applications.

This matter has been referred to the State Office of Administrative Hearings to schedule a hearing. When a hearing has been scheduled, you will receive a notice of hearing which explains when and where the hearing will be held.

It is understood that efforts are being made to mediate these protests. At any time that the protestants and the applicant can reach an agreement, please inform this office as soon as possible. A hearing may not be necessary if the parties reach an agreement over the proposed service areas.

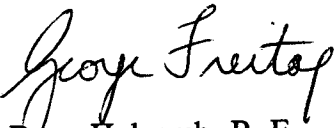
In order to review these CCN applications, the staff of the TNRCC may need additional information regarding your utility's service. You may be receiving Staff Requests for Information (RFI's) within a few weeks. We would appreciate your cooperation in providing the information requested.

Ms. Sarah K. Walls
Page 2

The staff will recommend that Applications No. 31349-C, No. 31350-C, No. 31351-C and No. 31352-C of Lake Turner MUD No. 2 and Lake Turner MUD No. 3 be consolidated with these applications because many of the issues are the same.

If you have questions about this process or what material you should bring with you to the hearing, please contact Albert Holck at (512) 239-6960.

Sincerely,



FOR Doug Holcomb, P. E.
Utility Certification and
Rate Design Section
Water Utilities Division

DEH/AH/mmr

cc: TNRCC, Region 4 Office
Attached Mailing List

Fisher & Newsom, P.C.

ATTORNEYS AT LAW

111 Congress Avenue
Suite 820
Austin, Texas 78701-4043
(512) 477-4121
(512) 477-4136 (Facsimile)
(512) 477-2860 (Facsimile)

RECEIVED
1996 SEP 24 11:11:02
CHIEF CLERK OFFICE

Skip Newsom*

September 20, 1996

Ms. Mamie Black
Acting Chief Clerk
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application No. 31252C of the City of Westlake for a Water Certificate of Convenience and Necessity in Tarrant County

Dear Ms. Black:

This firm has been retained by the City of Keller in connection with its protest of the above application. Please include me on the service list of any and all filings, notices and schedulings pertinent to this matter. By copy hereof, I am advising all counsel of record of this firm's representation of the City of Keller.

Yours very truly,


Skip Newsom

SN:ra

cc: Service List

MAILING LIST

Martin C. Rochelle Lloyd, Gosselink, Fowler, Blevins & Mathews, P.C. 111 Congress Avenue, Suite 1800 Austin, Texas 78701	(Represents the City of Westlake)
R.L. Guinn, Director 3500 Lincoln Plaza 500 North Akard Street Dallas, Texas 75201	(Represents Lake Turner MUD No. 1)
Frank R. Booth Booth & Dillon NationsBank Tower, Suite 1212 515 Congress Avenue Austin, Texas 78701	(Represents Trophy Club MUD No. 1)
Ken Peterson Small, Craig & Werkenthin, P.C. 100 Congress Avenue, Suite 1100 Austin, Texas 78701	(Represents Lake Turner MUD Nos. 2 and 3)
Mr. Dwight A. Shupe Hughes & Luce 1717 Main Street, Suite 2800 Dallas, Texas 75201	(Represents Hillwood/Willowbend, Ltd.) (Lake Turner MUD No. 2)
Mr. Robert G. West Michener, Larimore, Swindle, Whitaker, Flowers, Sawyer, Reynolds & Chalk, L.L.P. 3500 City Center Tower II 301 Commerce Street Fort Worth, Texas 76102	(Represents Trophy Club MUD No. 1)
Mr. Tom Allen Maguire Thomas Partners 9 Village Circle, Suite 500 Westlake, Texas 76262	(Represents Maguire Thomas Partners Southlake) Partnership
John J. Carlton Strasburger & Price, L.L.P. 2600 One American Center 600 Congress Avenue Austin, Texas 78701	(Represents Maguire Thomas Partners MTP-IBM Phase II/III Joint Venture)

Ms. Sarah K. Walls
Cantry and Hanger
2100 Burnett Plaza
801 Cherry Street
Fort Worth, Texas 76102

(Represents Town of Westlake)

Barry R. McBee, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

September 3, 1996

Mr. Robert G. West
Michener Larimore Swindle Whitaker Flowers
Sawyer-Reynolds & Chalk, L.L.P.
3500 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102

Re: Application of the Town of Westlake for a Water Certificate of Convenience and Necessity (CCN) and to Decertify a Portion of CCN No. 12311 issued to the City of Fort Worth, in Denton and Tarrant Counties; Application No. 31252-C

Application of the Town of Westlake for a Sewer Certificate of Convenience and Necessity (CCN) in Denton and Tarrant Counties; Application No. 31253-C

Dear Mr. West:

Enclosed please find copies of the protest letters and other correspondence relating to the above applications, as you requested in your telephone call on August 27.

If you have any questions, please contact me at (512) 239-6960.

Sincerely,

A handwritten signature in cursive script, appearing to read "Albert Holck".

Albert Holck
Utility Certification and Assistance
Water Utilities Division MC 153

AH/mmr

Enclosure

TOWN OF WESTLAKE

3 Village Circle
Suite 207 Solana
Roanoke, Texas 76262
Metro (817) 430-8616

31252-C
31253-C

August 30, 1996

Board of Directors
Lake Turner Municipal Utility District No. 3
c/o Paul W. Phy, Esq., General Counsel
8300 Douglas Avenue, Suite 800
Dallas, Texas 75225-5826

Re: Offer to Acquire the Assets of Lake Turner Municipal Utility District No. 3 (the District)

Ladies and Gentlemen:

The Town of Westlake makes the following offer: With your cooperation, the Town will abolish the District, vesting all of the District's assets and obligations in the Town as provided under Section 43.074 of the Local Government Code.

Under the provisions of Chapter 552 of the Government Code, we respectfully ask that you furnish the following as soon as possible:

- List of assets.
- Copy of each contract binding the District.
- Copy of each agenda of the meetings of the District's Board of Directors for the past three years.
- Minutes of each Board of Director's meeting.
- Copy of each budget adopted by the District.
- List of any claims asserted against the District.

RECEIVED


03

CONSERVATION COMMISSION

Lake Turner Municipal Utility District No. 3
August 31, 1996
Page 2

With best regards, I remain

Very truly yours,


Scott Bradley

SB:dr

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

Kenneth L. Petersen, Jr., Esq.
Small, Craig & Werkinthin
Suite 1100, 100 Congress Avenue
Austin, Texas 78701-4099

Rice M. Tilley, Jr., Esq., President
Lake Turner Municipal Utility District No. 2
c/o Paul W. Phy, Esq., General Counsel
8300 Douglas Avenue, Suite 800
Dallas, Texas 75225-5826

Rice M. Tilley, Jr., Esq.
Law, Snakard & Gambill, A P.C.
Suite 3200, 500 Throckmorton Street
Fort Worth, Texas 76102
(President, Lake Turner Municipal Utility District No. 3)

Mr. Carroll Huntress
P. O. Box 593
Roanoke, Texas 76262

Mr. Howard Dudley
1650 West Dove Road
Westlake, Texas 76262

Mr. Al Oien
1440 West Dove Road
Westlake, Texas 76262

Mr. Jerry Moore
P. O. Box 674
Westlake, Texas 76262

Mr. Fred Held
4105 Aspen Lane
Westlake, Texas 76262

Mr. Douglas Holcomb, P.E.
Utility Rates and Services Section
Water Utilities Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Mr. Steve Blackhurst, P.E.
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

Ms. Irene Montelongo
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087