

Except in the case of an emergency, Grantee shall notify Grantor at least two weeks before Grantee commences any construction, maintenance, repair, removal or other work related to the waterline and shall obtain Grantor's agreement as to the appropriate time for Grantee to conduct any such work. In this regard, Grantee shall endeavor to conduct as much of this work as possible at times when the golf course is not in use. Grantee shall commence the initial construction and installation of the waterline within one (1) year of the date hereof and shall complete the same and the corresponding restoration of the land within ten (10) days after commencing same.

In the event that Grantee does not withdraw or amend its application to the Texas Commission on Environmental Quality (the "TCEQ"), formerly the Texas Natural Resource Conservation Commission, for a certificate of convenience and necessity ("CCN") so as to exclude the nearby Rayner Ranch development, an approximate 1165-acre development owned by Austex Enterprises No. 3, L.P., from the area to which it is seeking to provide water service and does not support the application by Canyon Lake Water Supply Corporation to the TCEQ for a CCN to provide water service to the said Rayner Ranch development within thirty (30) days of the date hereof, this Easement shall automatically terminate without any further action required by either party, and Grantee, at its sole cost and expense, shall remove the waterline and any other improvements or property installed or placed in, on or upon the Easement Tract, and shall restore the surface of the Easement Tract to the condition existing on the date hereof.

Further, Grantcc shall construct and install a valve in the water line at or near each end of the easement and Grantor shall have the right to turn off the water at either or both valves in the case of an emergency or in the case where there is a water leak that continues for over twenty-four (24) hours.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this $\frac{164}{164}$ day of 34nuary, 2003.

GRANTOR:

RAYNER RANCH GOLF CLUB, L.L.C. a Texas limited liability company

By:

Printed Name: Rowfoll N. Williamson

Title: Usec Ples Doct



P:13/16

ACKNOWLEDGEMENT

STATE OF TEXAS \$ TRAVIS \$ COUNTY OF COMPL \$

This instrument was acknowledged before me on the <u>16</u> day of <u>January</u>. 2003, by <u>Randall N. Williamson</u> the <u>Vice President</u> of RAYNER RANCH GOLF CLUB, L.L.C., a Texas limited liability company, on behalf of said company.

[SEAL]

Tenser

Notary Public, State of Texas

CANDIS CHRISTENSEN MY COMMISSION EXPIRES May 29, 2006

<u>After recording, return to:</u> Phil Haag Winstead Sechrest & Minick P.C. 100 Congress Avenue, Suite 800 Austin, Texas 78701 FEB-24-2003 02:50P FROM:

T<u>O</u>: 9360770

P:14/16

S. CRAIG HOLLMIG, INC. CONSULTING ENGINEERS - SURVEYORS 410 N SEGUIN STREET

NEW BRAUNFFLS, TEXAS 78130-5085

TEXAS SOCIETY OF PHONERBIONAL ENGINEERS AMERICAN SOCIETY OF CIVIL ENGINEERS

TEXAS SURVEYORS ASSOCIATION TELEPHONE: (830) 625-851 + FAX: (830) 625-851.

WATER SYSTEMS . SEWER SYSTEMS . SUDDIVISIONS . LAND PLANNING . STREETS . SURVEYING

FIELD NOTES FOR A 10' WIDE UTILITY EASEMENT (0.147 AC.)

Being a 10 foot wide utility easement, 0.147 acres of land, situated in the H. Raisner Survey No. 53, Abstract No. 489, Comal County, Texas, and being out of that certain part of a 124.3326 acre tract of the Correction and Vacating Plat of a portion of Rebecca Creek Park First Filing, recorded in Volume 9, Page 387-389 of the Map and Plat Records of Comal County, Texas, and all bearings are rotated and referenced to a bearing of S 76° 59° 13" E between monumentation found along the Southerly line of Rececca Creek Park Revised First Filing, recorded in Volume 3, Page 62 of the Map and Plat Records of Comal County, Texas, said 10 foot wide utility easement containing 0.147 acres of land, surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

BEGINNING: At a 5/8" iron pin found at a point of intersection of South Contour Drive, for the Southwest corner of Lot 3. Block 19, of said Rebecca Creek Park Revised First Filing, for the most Northwesterly corner of this casement;

THENCE: Along the Southerly line of Lots 3 and 4, Block 19, Rebecca Creek Park Revised First Filing, S 76° 59' 13" E at 294.46 feet a $\frac{1}{2}$ " iron pin found for the Southeast corner of said Lot 4 and continuing a total distance of 322.38 feet to the Northeast corner of this easement;

THENCE: Across the above referenced 124.3326 acre tract, S 00° 00' 42" E 326.04 feet to a Southeasterly corner of this easement, situated on the Southerly line of Fawn Drive and also being situated on the Northerly line of Lot 47. Rebecca Creek Park First Filing, recorded in Volume 1, Pages 26-27 of the Map and Plat Records of Comal County, Texas, and being further located S 84° 30' 07" W 51.50 feet from the Northeast corner of said Lot 47;

THENCE: Continuing with the South line of Fawn Drive, the North line of said Lot 47, S 84° 30' 07" W 10.05 feet to a Southwesterly corner of this easement;

THENCE: Across the above referenced 124.3326 acre tract. N 00° 00' 42" W 319.05 feet to an interior corner of this easement;

THENCE: Parallel with and 10 feet from the Southerly line of the above referenced Lots 3 and 4, Block 19, Rebecca Creek Park Revised First Filing, N 76° 59' 13" W 314.43 feet to a corner of this easement;

EXHIBIT A



Page 2: 10' wide utility easement (0.147 Ac.)

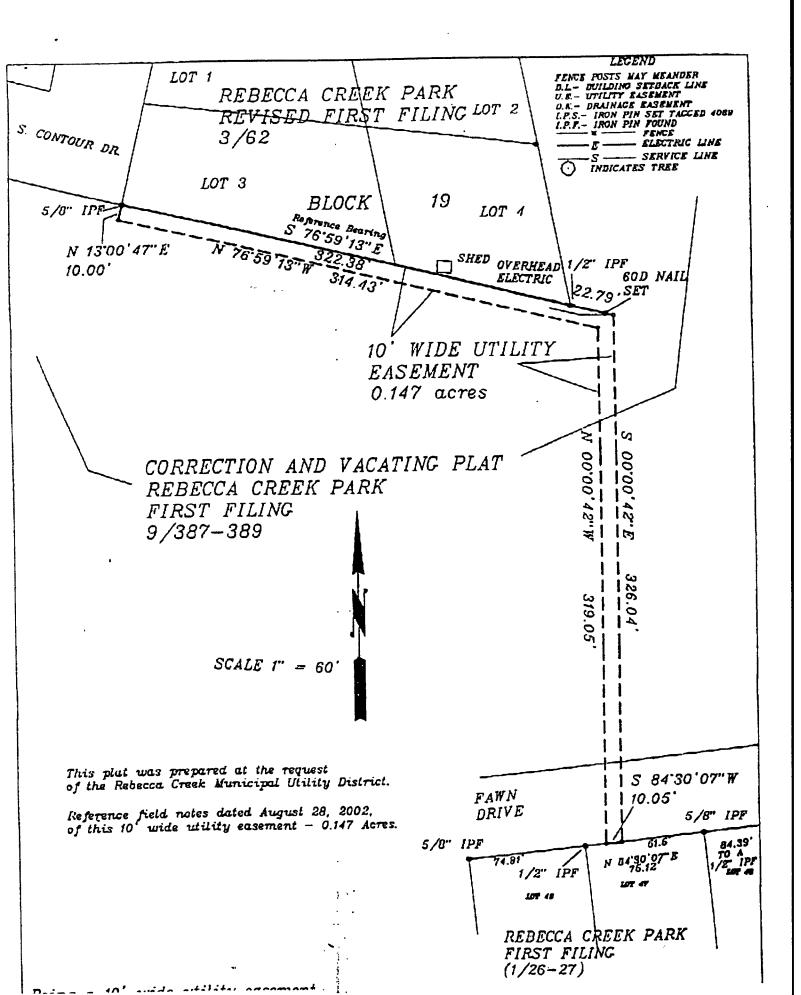
THENCE: N 13° 00' 47" E 10.00 feet to the Point of Beginning and containing 0.147 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, August 28, 2002. Reference plat prepared this same date of this 0.147 acre easement.



Richard A. Goodwin, RPLS #4069

Јођ #02-663



0.147 acres of land, situated in the H. Raisner Survey No. 53, 0489. Comal County, Texas. and being out of that certain part of a	STATE OF TEXAS CRINTY OF COMAL	S. CRAIG HOLLMIG. INC 410 N. SECUIN STREET NEW BRAUNFELS TRIAS FRISO 030-665-0665	
124.3326 acre tract of the Correction and Vacating Plat of a portion of Rebecca Creek Park First Filing recorded in Vol. 9, Pgs. 387-389 of the Map and Plat Records of	I HEREBY STATE AND BELIEF THE ACCORDING TO AN UNDER MY SUPER		ס
Comal County, Tezas. Comal County, Tezas.	RICHARD & COOD	DAY OF AUGUST	02663
A BICHAHDA GOODATA 14	RICHARD A. COUDA		02003

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0310-UCR

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APPLICATION OF CANYON LAKE WATER SUPPLY CORPORATION TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 10692 IN COMAL COUNTY, TEXAS BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0335-UCR

APPLICATION OF REBECCA CREEK MUNICIPAL UTILITY DISTRICT TO OBTAIN CERTIFICATE OF CONVENIENCE AND NECESSITY IN COMAL COUNTY, TEXAS BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

REBECCA CREEK MUNICIPAL UTILITY DISTRICT STATUS REPORT

TO the Honorable Administrative Law Judge MICHAEL J. O'MALLEY, comes now

REBECCA CREEK MUNICIPAL UTILITY DISTRICT (the "DISTRICI"), by and through

counsel and pursuant to Order No 2 in this case files this status report.

- 1. On September 10, 2002 the parties filed an agreement to suspend the procedural schedule in this case while the parties pursued settlement negotiations. Whereupon the Honorable Administrative Law Judge issued Order No. 2 suspending the schedule and requiring a periodic status report from the DISTRUCT's counsel.
 - 2. Apologies are made for any delay in filing this second report, however, the

DISTRICT's counsel was waiting to hear from the other parties concerning some issues related to the proposed settlement between them.

3 The DISTRICT wishes to advise the Honorable Administrative Law Judge that it appears that the DISTRICT, CANYON LAKE WATER SUPPLY CORPORATION ("CANYON LAKE"), and SRS PROPERTIES, L.L.C./AUSTEX ENTERPRISES NO. 3, L.P. ("SRS") appear to have reached an agreement concerning the disputed issues between these parties. A written settlement agreement has been sent to CANYON LAKE and SRS and the DISTRICT is awaiting execution of the agreement by these parties. Once the DISTRICT receives the signed agreement its Board of Directors will sign it and it will be filed with your Honorable Administrative Law Judge.

4. The DISTRICT's counsel is available if the Honorable Administrative Law Judge has any questions or needs additional information.

Respectfully submitted this 5th day of November, 2002

La

Law Ollice of Les Romo 307 Shannon Lane Georgetown, Texas 78628 (512) 868-5600 Fax: (512) 863-0452 State Bar No. 17225800

ATTORNEY FOR REBECCA CREEK MUNICIPAL UTILITY DISTRICT

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that on November 5, 2002 a true and correct copy of the above Rebecca Creek Municipal Utility District's Status Report was served on the following by telefax and by U.S. mail.

> Representing the Executive Director of the Texas Commission on Environmental Quality

Todd Burkey, Attorney Legal Services Division- MC-175 Texas Commission on Environmental Quality P O. Box 13087 Austin, Texas 78711-3087 512-512-239-3400 Fax, 512-239-3434

Blas Coy Office of the Public Interest Counsel Texas Commission on Environmental Quality TCEQ MC-103 P.O. Box 13087 Austin, Texas 787)1-3087 512-512-239-6363 Fax: 512-239-6377

John O. Houchins 13738 Kingsride Houston, Texas 77079 713-464-3205 Fax: 713-461-8711

Phillip Haag Winstead Sechrest & Minick, P.C. Austex Enterprises No 3, L.P. 100 Congress Avenue, Suite 800 Austin, Texas 78701-4042 512-370-2862 Fax: 512-370-2882

Docket Clerk Office of the Chief Clerk-MC-105 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 Representing Canyon Lake Water Supply Corporation

Representing SRS Properties and Austex Enterprises No. 3, L.P.

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0310-UCR

APPLICATION OF CANYON LAKE	§	BEFORE THE STATE OFFICE
WATER SUPPLY CORPORATION TO	§	
AMEND CERTIFICATE OF	§	OF
CONVENIENCE AND NECESSITY NO.	§	
10692 IN COMAL COUNTY, TEXAS	§	ADMINISTRATIVE HEARINGS

ORDER NO. 3 CANCELING TELEPHONIC PREHEARING CONFERENCE

SOAH DOCKET NO. 582-02-2414 TCEQ DOCKET NO. 2002-0335-UCR

APPLICATION OF REBECCA CREEK§MUNICIPAL UTILITY DISTRICT TO§OBTAIN CERTIFICATE OF§CONVENIENCE AND NECESSITY IN§COMAL COUNTY, TEXAS§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORDER NO. 3 CANCELING TELEPHONIC PREHEARING CONFERENCE

Because the Administrative Law Judge (ALJ) has suspended the procedural schedule while the parties negotiate a settlement, the telephonic prehearing conference will not be necessary. Therefore, the telephonic prehearing conference scheduled for 9:00 a.m., Monday, October 28, 2002, is canceled. The ALJ previously canceled the hearing on the merits in Order No. 2.

Issued October 24, 2002.

STATE OFFICE OF ADMINIS	FRATIVE HEARINGS
Millicel J. C. Mall	ly
MICHAEL J. O'MALLEY	7
Administrative Law Judge	v

Mailing List Canyon Lake Water Supply Corporation/Rebecca Creek Municipal Utility District SOAH Docket Nos. 582-02-2413 and 582-02-2414 TNRCC Docket Nos. 2002-0310-UCR and 2002-0335-UCR

John O. Houchins 13738 Kingsride Houston, Texas 77079 Ph: 713/464-3205 Fax: 713/461-8711

Les Romo Law Offices of Les Romo 307 Shannon Lane Georgetown, Texas 78628 Ph: 512/868-5600 Fax: 512/863-0452

Phillip Haag Winstead Sechrest & Minick, P.C. 100 Congress Avenue, Ste. 800 Austin, Texas 78701-4042 Ph: 512/370-2862 Fax: 512/370-2850

Todd Burkey, Staff Attorney Legal Services Division - MC 175 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087 Ph: 512/239-3400 Fax: 512/239-3434

Blas Coy Public Interest Counsel - MC-103 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087 Ph: 512/239-6363 Fax: 512/239-6377

Michael J. O'Malley, Administrative Law Judge State Office of Administrative Hearings 300 W. 15th, Ste 502 PO Box 13025 Austin, Texas 78711-3025 Ph: 512/475-4993 Fax: 512/936-0770

Representing: Canyon Lake Water Supply Corp.

Representing: Rebecca Creek Municipal Utility

Representing: SRS Properties and Austex Enterprises No. 3, L.P.

Representing: the Executive Director of the Texas Natural Resource Conservation Commission SOAH Docket Nos. 582-02-2413 & 582-02-2414 TNRCC Docket Nos. 2002-0310-UCR & 2002-0335-UCR

Mailing List

Page 2

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

*Wilfred Lucko Spring Branch Indian Hills Water Supply Corporation P. O. Box 486 Spring Branch, Texas 78070

TNRCC Docket Clerk*Courtesy Copy

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0310-UCR

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APPLICATION OF CANYON LAKE WATER SUPPLY CORPORATION TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 10692 IN COMAL COUNTY, TEXAS **BEFORE THE STATE OFFICE**

OF

ADMINISTRATIVE HEARINGS

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0335-UCR

APPLICATION OF REBECCA CREEK MUNICIPAL UTILITY DISTRICT TO OBTAIN CERTIFICATE OF CONVENIENCE AND NECESSITY IN COMAL COUNTY, TEXAS

OF

BEFORE THE STATE OFFICE

ADMINISTRATIVE HEARINGS

REBECCA CREEK MUNICIPAL UTILITY DISTRICT STATUS REPORT

TO the Honorable Administrative Law Judge MICHAEL J. O'MALLEY, comes now REBECCA CREEK MUNICIPAL UTILITY DISTRICT (the "DISTRICT"), by and through counsel and pursuant to Order No. 2 in this case files this status report.

1. On September 10, 2002 the parties filed an agreement to suspend the procedural

schedule in this case while the parties pursued settlement negotiations. Whereupon the Honorable Administrative Law Judge issued Order No. 2 suspending the schedule and requiring a periodic status

report from the DISTRICT's counsel.

2. Apologies are made for the tardiness of this first status report, however, the

DISTRICT's counsel has been out of town and this caused the delay.

3. The DISTRICT wishes to advise the Honorable Administrative Law Judge that the parties are still pursuing settlement discussions, and it is believed have verbally reached an agreement between the DISTRICT, CANYON LAKE WATER SUPPLY CORPORATION and SRS PROPERTIES, L.L.C./AUSTEX ENTERPRISES NO. 3, L.P.

TO:9360770

P:2/3

4. The DISTRICT's counsel has drafted a written settlement agreement and has provided it pursuant to the representatives of the other parties and is awaiting their comments and suggested changes, if any.

5. Upon hearing from the other parties, the DISTRICT's counsel will put the settlement agreement in final form and will provide it to the parties for execution. It is anticipated that this will occur within the next week, and the agreement will be provided to the Honorable Administrative Law Judge for approval and/or will take the appropriate action in relation to the case with the Honorable Administrative Law Judge's approval.

6. The DISTRICT's counsel is available if the Honorable Administrative Law Judge has any questions or needs additional information.

Respectfully submitted this 11th day of October, 2002

(م

Law Office of Les Romo 307 Shannon Lane Georgetown, Texas 78628 (512) 868-5600 Fax: (512) 863-0452 State Bar No. 17225800

ATTORNEY FOR REBECCA CREEK MUNICIPAL UTILITY DISTRICT

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that on October 11, 2002 a true and correct copy of the above Rebecca Creek Municipal Utility District's Status Report was served on the following by telefax and by U.S. mail:

Todd Burkey, Attorney Legal Services Division- MC-175 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 512-512-239-3400 Fax: 512-239-3434

Blas Coy Office of the Public Interest Counsel Texas Commission on Environmental Quality TCEQ MC-103 P.O. Box 13087 Austin, Texas 78711-3087 512-512-239-6363 Fax: 512-239-6377

John O. Houchins 13738 Kingsride Houston, Texas 77079 713-464-3205 Fax: 713-461-8711

Phillip Haag Winstead Sechrest & Minick, P.C. Austex Enterprises No. 3, L.P. 100 Congress Avenue, Suite 800 Austin, Texas 78701-4042 512-370-2862 Fax: 512-370-2882

Docket Clerk Office of the Chief Clerk-MC-105 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

Texas Commission on Environmental Quality

Representing the Executive Director of the

Representing Canyon Lake Water Supply Corporation

Representing SRS Properties and Austex Enterprises No. 3, L.P.

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0310-UCR

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APPLICATION OF CANYON LAKE WATER SUPPLY CORPORATION TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 10692 IN COMAL COUNTY, TEXAS **BEFORE THE STATE OFFICE**

OF

ADMINISTRATIVE HEARINGS

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0335-UCR

APPLICATION OF REBECCA CREEK MUNICIPAL UTILITY DISTRICT TO OBTAIN CERTIFICATE OF CONVENIENCE AND NECESSITY IN COMAL COUNTY, TEXAS BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

REBECCA CREEK MUNICIPAL UTILITY DISTRICT STATUS REPORT

TO the Honorable Administrative Law Judge MICHAEL J. O'MALLEY, comes now REBECCA CREEK MUNICIPAL UTILITY DISTRICT (the "DISTRICT"), by and through counsel and pursuant to Order No. 2 in this case files this status report.

- 1. On September 10, 2002 the parties filed an agreement to suspend the procedural schedule in this case while the parties pursued settlement negotiations. Whereupon the Honorable Administrative Law Judge issued Order No. 2 suspending the schedule and requiring a periodic status report from the DISTRICT's counsel.
- 2. Apologies are made for the tardiness of this first status report, however, the DISTRICT's counsel has been out of town and this caused the delay.

3. The DISTRICT wishes to advise the Honorable Administrative Law Judge that the parties are still pursuing settlement discussions, and it is believed have verbally reached an agreement between the DISTRICT, CANYON LAKE WATER SUPPLY CORPORATION and SRS PROPERTIES, L.L.C./AUSTEX ENTERPRISES NO. 3, L.P.



4. The DISTRICT's counsel has drafted a written settlement agreement and has provided it pursuant to the representatives of the other parties and is awaiting their comments and suggested changes, if any.

5. Upon hearing from the other parties, the DISTRICT's counsel will put the settlement agreement in final form and will provide it to the parties for execution. It is anticipated that this will occur within the next week, and the agreement will be provided to the Honorable Administrative Law Judge for approval and/or will take the appropriate action in relation to the case with the Honorable Administrative Law Judge's approval.

6. The DISTRICT's counsel is available if the Honorable Administrative Law Judge has any questions or needs additional information.

Respectfully submitted this 11th day of October, 2002.

M

Law Office of Les Romo 307 Shannon Lane Georgetown, Texas 78628 (512) 868-5600 Fax: (512) 863-0452 State Bar No. 17225800

ATTORNEY FOR REBECCA CREEK MUNICIPAL UTILITY DISTRICT

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that on October 11, 2002 a true and correct copy of the above Rebecca Creek Municipal Utility District's Status Report was served on the following by telefax and by U.S. mail:

Todd Burkey, Attorney Legal Services Division- MC-175 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 512-512-239-3400 Fax: 512-239-3434 Representing the Executive Director of the Texas Commission on Environmental Quality

Blas Coy Office of the Public Interest Counsel Texas Commission on Environmental Quality TCEQ MC-103 P.O. Box 13087 Austin, Texas 78711-3087 512-512-239-6363 Fax: 512-239-6377

John O. Houchins 13738 Kingsride Houston, Texas 77079 713-464-3205 Fax: 713-461-8711

Phillip Haag Winstead Sechrest & Minick, P.C. Austex Enterprises No. 3, L.P. 100 Congress Avenue, Suite 800 Austin, Texas 78701-4042 512-370-2862 Fax: 512-370-2882

Docket Clerk Office of the Chief Clerk-MC-105 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 Representing Canyon Lake Water Supply Corporation

Representing SRS Properties and Austex Enterprises No. 3, L.P.

SOAH DOCKET NO. 582-02-2413 TCEQ DOCKET NO. 2002-0310-UCR

APPLICATION OF CANYON LAKE	§	BEFORE THE STATE OFFICE
WATER SUPPLY CORPORATION TO	§	
AMEND CERTIFICATE OF	§	OF
CONVENIENCE AND NECESSITY NO.	§	
10692 IN COMAL COUNTY, TEXAS	§	ADMINISTRATIVE HEARINGS

ORDER NO. 2

SUSPENDING PROCEDURAL SCHEDULE AND CANCELING HEARING

SOAH DOCKET NO. 582-02-2414 TCEQ DOCKET NO. 2002-0335-UCR

§	BEFORE THE STATE OFFICE
§	
§	OF
§	
§	ADMINISTRATIVE HEARINGS
	\$ \$ \$ \$ \$

ORDER NO. 2 SUSPENDING PROCEDURAL SCHEDULE AND CANCELING HEARING

On September 10, 2002, the parties filed an agreement to suspend the procedural schedule in this proceeding while the parties pursue settlement negotiations. The Administrative Law Judge (ALJ) approves of the parties agreement and suspends the procedural schedule set forth in Order No. 1. The hearing on the merits scheduled for 9:00 a.m., Tuesday, November 5, 2002, is canceled. If the parties do not reach an agreement, resolving all issues in this proceeding, the ALJ will reschedule the hearing and set other procedural deadlines. Rebecca Creek Municipal Utility, through its attorney Les Romo, shall file status report on the following dates to update the ALJ on the progress of settlement discussions: October 4, 2002, October 25, 2002, and November 8, 2002.

Issued September 11, 2002.

STATE OFFICE OF ADMINISTRATIVE HEARINGS

MICHAEL J. O'MALLEY Administrative Law Judge



Law Offices of LES ROMO Counselor and Attorney at Law

307 Shannon Lane Georgetown, Texas 78626 (512) 868-5600 Fax: (512) 863-0452 Idrlaw@thegateway.net

September 10, 2002

Judge Michael J. O'Malley, Administrative Law Judge State Office of Administrative Hearings 300 West 15th Street, Suite 502 P.O. Box 13025 Austin, Texas 78711-3025

> Re: Application of Canyon Lake Water Supply Corporation to Amend CCN No. 10692 in Comal County, Texas; Application of Rebecca Creek Municipal Utility District to Obtain a CCN in Comal, County, Texas; SOAH Docket Nos. 582-02-2413 and 582-02-2414

Dear Judge O'Malley:

Please find enclosed a Rule 11 agreement whereby the parties have agreed to modify the hearing schedule set forth in your Order No. 1, subject to your approval. 1 spoke with Todd Burkey, and he agrees to the modification as well, however, I have not received his signature yet on the Rule 11 agreement. Essentially, the Rule 11 agreement provides that the hearing schedule as set forth in Order No. 1 is continued while the parties pursue settlement negotiations, and a settlement agreement and/or order will be submitted for your approval after the parties have either reached a settlement, or a revised hearing schedule will be submitted for your approval if there are any issues that are not resolved by the parties.

It is hoped by all parties that a settlement will be reached in the near future and a proposed settlement agreement and/or order will be ready to be submitted for your approval. The parties request that you approve the Rule 11 agreement so that the schedule set forth in Order No. 1 will be suspended pending either an agreement or the submitted of a revised hearing schedule. Please let me know if you have any questions. Thank you for your attention.

LDR/slcr

George R. Legg, Board President, Rebecca Creek Municipal Utility District
 Philip S. Haag, attorney for SRS Properties, L.L.C.
 John O. Houchins, attorney for Canyon Lake Water Supply Corporation
 Todd Burkey, attorney for the Executive Director of the Texas Commission on Environmental Quality
 Blas Coy, Office of the Public Interest Counsel

Enclosure



Law Offices of LES ROMO Counselor and Autorney at Law

307 Shannon Lane Georgetown, Texas 78626 (512) 868-5600 Fax: (512) 863-0452 Idrlaw@thegaleway.net

September 9, 2002

Mr. John O. Houchins 13738 Kingsride Lane Houston, Texas 77079 Mr. Philip S. Haag Winstead Sechrest & Minick, P.C. 100 Congress Avenue, Suite 800 Austin, Texas 78701

Mr. Todd Burkey Todd Burkley, Attorney Legal Services Division- MC-175 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087

> Re: Rebecca Creek Municipal Utility District: Canyon Lake Water Supply Corporation; SRS Properties, L.L.C.; Rayner Ranch Subdivision

Dear Gentlemen:

I spoke with Todd Burkey today about the status of this case. Obviously, from discussions between my client, the District, and SRS there appears to be an agreement on the golf course easement, and from my previous discussions with Phil and John, the District agrees to drop from its CCN Application the Rayner Ranch area, and Canyon Lake Water Supply Corporation and SRS will drop their opposition to the District removing its boundaries from its CCN Application and retaining the small portion just south of the District's boundaries. I received the proposed golf course casement from Phil and have orally given him my client's suggested changes. To date, however, we do not have anything in writing concerning the settlement between our clients. I request your input concerning what documents we should have our clients execute regarding this matter.

Due to the time involved in the settlement negotiations, we have passed several time deadlines set forth in Order No. 1. In order to preserver our respective positions, I request that you sign this letter as a Rule 11 agreement to the effect that we agree to modify the time deadlines set forth in Order No. 1 to the degree that any portion of the case remain contested. It is my understanding that the District, Canyon Lake W.S.C. and SRS have reached an agreement concerning the issues between them, however, the District plans to exclude its boundaries from its CCN Application and the TCEQ staff has not made a decision on whether this is agreeable or not. If not, this issue may remain unsettled in the settlement between our clients. Therefore, I request that you sign this Rule 11 agreement and return it to me by telefax and U.S. mail so I can file it with the Judge. By executing this Rule 11 agreement you agree to modify the time deadlines set forth in Order No. 1. If we reach a full settlement of the case, then we can advise the Judge. If any portion remains unsettled, we can submit a revised hearing schedule for the Judge's consideration and decision.

Please let me know if you have any questions. Thank you for your prompt attention to this matter.

SEP-10-2002 02:48P FROM: 09/10/02 THE 13:40 FAX 713461 SEP-9-2982 12:47P FROM:

T0-17134619711

TQ:9360770

P:4/5 P:3/3

Mr John O. Houchins, Mr. Philip S. Hang, & Mr. Todd Burkey September 9, 2002 Page 2

P. 16

LDR/sler

George R. Lege, Board President, Rebecca Creek Municipal Utility District CLÉ: Patrick C. King, P.G.M.S., Inc., General Manager, Rebacea Crock Municipal Utility District

My signature below evidences my agreement with this Rule 11 agreement.

Dan= 9/10/07

John O Harchen

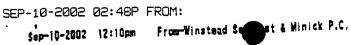
Water Supply Corporation

Date:

Philip S. Haag, attorney for SRS Properties and Anstex Enterprises No. 3, L.P.

Date:

Todd Burkey, Attorney for the Executive Director Texas Commission on Environmental Quality



5124514200

TO:9360770

P:5/5

Mr. John O. Houchins, Mr. Philip S. Hang, & Mr. Todd Burkey September 9, 2002 Page 2

LDR/slar

cc. Guarge R. Legg, Boant Provident, Rebecca Crock Municipal Utility District Patrick C. King, P.G.M.S., Inc., General Manager, Rebecca Crock Municipal Utility District

My signature below evidences my agreement with this Rule [1 agreement.

Date: _____

John O Houchins, attorney for Canyon Lake Water Supply Corporation

Dare 9/10/02

Philip S Hear, anormy for SRS Properties and Auster Enterprises No 3, L.P.

Date.

Todd Burkey, Automey for the Exercitive Director Todas Commission on Environmental Quality



Law Offices of LES ROMO Counselor and Attorney at Law

307 Shannon Lane Georgetown, Texas 78626

(512) 868-5600 Fax: (512) 863-0452 ldrlaw@thegateway.net

J

September 10, 2002

Judge Michael J. O'Malley, Administrative Law Judge State Office of Administrative Hearings 300 West 15th Street, Suite 502 P.O. Box 13025 Austin, Texas 78711-3025

> Re: Application of Canyon Lake Water Supply Corporation to Amend CCN No. 10692 in Comal County, Texas; Application of Rebecca Creek Municipal Utility District to Obtain a CCN in Comal, County, Texas; SOAH Docket Nos. 582-02-2413 and 582-02-2414

Dear Judge O'Malley:

Please find enclosed a Rule 11 agreement whereby the parties have agreed to modify the hearing schedule set forth in your Order No. 1, subject to your approval. I spoke with Todd Burkey, and he agrees to the modification as well, however, I have not received his signature yet on the Rule 11 agreement. Essentially, the Rule 11 agreement provides that the hearing schedule as set forth in Order No. 1 is continued while the parties pursue settlement negotiations, and a settlement agreement and/or order will be submitted for your approval after the parties have either reached a settlement, or a revised hearing schedule will be submitted for your approval if there are any issues that are not resolved by the parties.

It is hoped by all parties that a settlement will be reached in the near future and a proposed settlement agreement and/or order will be ready to be submitted for your approval. The parties request that you approve the Rule 11 agreement so that the schedule set forth in Order No. 1 will be suspended pending either an agreement or the submittal of a revised hearing schedule. Please let me know if you have any questions. Thank you for your attention.

LDR/slcr

cc: George R. Legg, Board President, Rebecca Creek Municipal Utility District
 Philip S. Haag, attorney for SRS Properties, L.L.C.
 John O. Houchins, attorney for Canyon Lake Water Supply Corporation
 Todd Burkey, attorney for the Executive Director of the Texas Commission on Environmental Quality
 Blas Coy, Office of the Public Interest Counsel

Enclosure

Law Offices of LES ROMO Counselor and Attorney at Law

307 Shannon Lane Georgetown, Texas 78626 (512) 868-5600 Fax: (512) 863-0452 Idrlaw@thegateway.net

September 9, 2002

Mr. John O. Houchins 13738 Kingsride Lane Houston, Texas 77079 Mr. Philip S. Haag Winstead Sechrest & Minick, P.C. 100 Congress Avenue, Suite 800 Austin, Texas 78701

Mr. Todd Burkey Todd Burkley, Attorney Legal Services Division- MC-175 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087

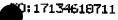
> Re: Rebecca Creek Municipal Utility District; Canyon Lake Water Supply Corporation; SRS Properties, L.L.C.; Rayner Ranch Subdivision

Dear Gentlemen:

I spoke with Todd Burkey today about the status of this case. Obviously, from discussions between my client, the District, and SRS there appears to be an agreement on the golf course easement, and from my previous discussions with Phil and John, the District agrees to drop from its CCN Application the Rayner Ranch area, and Canyon Lake Water Supply Corporation and SRS will drop their opposition to the District removing its boundaries from its CCN Application and retaining the small portion just south of the District's boundaries. I received the proposed golf course easement from Phil and have orally given him my client's suggested changes. To date, however, we do not have anything in writing concerning the settlement between our clients. I request your input concerning what documents we should have our clients execute regarding this matter.

Due to the time involved in the settlement negotiations, we have passed several time deadlines set forth in Order No. 1. In order to preserver our respective positions, I request that you sign this letter as a Rule 11 agreement to the effect that we agree to modify the time deadlines set forth in Order No. 1 to the degree that any portion of the case remain contested. It is my understanding that the District, Canyon Lake W.S.C. and SRS have reached an agreement concerning the issues between them, however, the District plans to exclude its boundaries from its CCN Application and the TCEQ staff has not made a decision on whether this is agreeable or not. If not, this issue may remain unsettled in the settlement between our clients. Therefore, I request that you sign this Rule 11 agreement and return it to me by telefax and U.S. mail so I can file it with the Judge. By executing this Rule 11 agreement you agree to modify the time deadlines set forth in Order No. 1. If we reach a full settlement of the case, then we can advise the Judge. If any portion remains unsettled, we can submit a revised hearing schedule for the Judge's consideration and decision.

Please let me know if you have any questions. Thank you for your prompt attention to this matter.



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Mr John O. Houchins, Mr. Philip S. Hang, & Mr. Todd Burkey September 9, 2002 Page 2

LDR/slcr

George R. Legg, Board President, Rebecca Creek Municipal Utility District CC: Patrick C. King, P.G.M.S., Inc., General Manager, Rebecca Creek Municipal Utility District

My signature below evidences my agreement with this Rule 11 agreement.

Date: 9/10/07

Ales O. Houchins, attorney for Canyon Lake

Water Supply Corporation

Date:

Philip S. Haag, attorney for SRS Properties and Austex Enterprises No. 3, L.P.

Date:

Todd Burkey, Attorney for the Executive Director Texas Commission on Environmental Quality

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Mr. John O. Houchins, Mr. Philip S. Haag, & Mr. Todd Burkey September 9, 2002 Page 2

Sincereh

LDR/slcr

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cc. George R. Legg, Board President, Rebecca Creek Municipal Utility District Patrick C. King, P.G.M.S., Inc., General Manager, Rebecca Creek Municipal Utility District

My signature below evidences my agreement with this Rule 11 agreement.

Date: _____

John O Houchins, attorney for Canyon Lake Water Supply Corporation

Date 9100

Philip S Haag, attorney for SRS Properties and Austex Enterprises No 3, L.P.

Date.

Todd Burkey, Attorney for the Executive Director Texas Commission on Environmental Quality JOHN O. HOUCHINS Attorney at Law 13738 Kingsride Houston, Texas 77079 TEL. (713) 464-3205 • FAX (713) 461-8711

August 5, 2002

Judge Michael J. O'Malley State Office of Administrative Hearings P.O. Box 13025 Austin, Texas 78711-3025

Re: Canyon Lake Water Supply Corporation; SOAH Docket No. 582-02-2413; TNRCC Docket No. 2002-0310-UCR Rebecca Creek Municipal Utility District; SOAH Docket No. 582-02-2414; TNRCC Docket No. 2002-0335-UCR

Dear Judge O'Malley:

Pursuant to your order dated May 7, 2002, and the Rule 11 agreement of the parties dated July 26, 2002, please allow this letter to serve as Canyon Lake Water Supply Corporation's designation of witnesses that it intends to call in the above-referenced matter. The Corporation designates the following witnesses:

Dale R. Yates, General Manager, Canyon Lake Water Supply Corporation Larry Fuson, P.E., Hogan Engineering Co. Tom Hornseth, P.E., Comal County Engineer

Please do not hesitate to contact me if you have any questions or concerns regarding this matter. Thank you.

Very truly yours,

Jóhn O. Houchins, Attorney Canyon Lake Water Supply Corporation

cc: Service List

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of August, 2002, a true and correct copy of the foregoing document has been sent by electronic facsimile transmission to all persons on the attached mailing list.

John O. Houchins Attorney At Law

Les Romo Law Office of Les Romo 307 Shannon Lane Georgetown, Texas 78628 Tel: 512-868-5600 Fax: 512-863-0452

Phillip Haag Winstead Sechrest & Minick, P.C. 100 Congress Avenue, Suite 800 Austin, Texas 78701-4042 Tel: 512-370-2862 Fax: 512-370-2882

Blas Coy Office of the Public Interest Counsel—MC-103 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087 Tel: 512-239-6363 Fax: 512-239-6377 Representing Rebecca Creek Municipal Utility District

Representing SRS Properties and Austex Enterprises No. 3, L.P.

. . .

Docket Clerk Office of the Chief Clerk—MC-105 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087 Fax: 512-239-3311 Robert J. Huston, *Chairman* R. B. "Ralph" Marquez, *Commissioner* Kathleen Hartnett White, *Commissioner* Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

August 5, 2002

<u>Via Facsimile: 512-936-0770</u> <u>And First Class Mail</u> Judge Michael J. O'Malley State Office of Administrative Hearings P.O. Box 13025 Austin, Texas 78711-3025

RE: Canyon Lake Water Supply Corporation; SOAH Docket No. 582-02-2413; TNRCC Docket No. 2002-0310-UCR Rebecca Creek Municipal Utility District; SOAH Docket No. 582-02-2414; TNRCC Docket No. 2002-0335-UCR.

Dear Judge O'Malley:

Pursuant to your order dated May 7, 2002, and the Rule 11 agreement of the parties dated July 26, 2002, please allow this letter to serve as the Executive Director's designation of witnesses that it intends to call in the above-referenced matter. The Executive Director designates the following witnesses:

Brian Dickey, TNRCC; and Dan Smith, TNRCC.

Please do not hesitate to contact me if you have an questions or concerns regarding this matter. Thank you.

Sincerely,

Toll C. Buckey

Todd C. Burkey, Staff Attorney Texas Natural Resource Conservation Commission

cc: service list

Judge Michael J. O'Malley State Office of Administrative Hearings August 5, 2002 Page 2

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been sent as specified below on this the 5th day of August, 2002 to:

Les Romo, Esq.	Representing Rebecca Creek Municipal Utility District
Law Offices Of Les Romo	
307 Shannon Lane	U.S. Mail
Georgetown, Texas 78628	Hand Delivered
Tel: (512) 868-5600; Fax: (512) 863-0452	Overnight Mail
	K Facsimile
	Certified Mail RRR#
John O. Houchins, Esq.	Representing Canyon Lake Water Supply Corporation
	U.S. Mail
13738 Kingsride	Hand Delivered
Houston, Texas 77079	Overnight Mail
Tel: (713) 464-3205; Fax: (713) 461-8711	Kacsimile
	Certified Mail RRR#
Phil Haag, Esq.	Representing SRS Properties and Austex Enterprises
Winstead Sechrest & Minick, P.C.	No. 3, L.P.
100 Congress Avenue, Suite 800	U.S. Mail
Austin, Texas 78701	Hand Delivered
Tel: (512) 370-2862; Fax: (512) 370-2882	Overnight Mail
	Facsimile
	Certified Mail RRR#
Office of Public Interest Counsel	Inter-Agency Mail
Texas Natural Resource Conservation Comm	
12100 Park 35 Circle, Building F, Rm. 528	Hand Delivery
P.O. Box 13087, MC103	Overnight Mail
Austin, Texas 78711-3087	Facsimile
Tel: 512/239-6363; Fax: 512/239-6377	Certified Mail RRR#

Judge Michael J. O'Malley	
State Office of Administrative Hearings	
August 5, 2002	
Page 3	
Docket Clerk	_X_Inter-Agency Mail
Texas Natural Resource Conservation Commission	U.S. Mail
12100 Park 35 Circle	Hand Delivery
P.O. Box 13087, MC105	Overnight Mail
Austin, Texas 78711-3087	Facsimile
	Certified Mail RRR#

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Jul-26-2002 03:54pm From-Winstead Sechrest & Minick P.C.

5124574206



July 26, 2002

direct dial: 512 370.2862 phaag@winstead.com

VIA FAX AND FIRST CLASS MAIL Michael J. O'Malley, Administrative Law Judge STATE OFFICE OF ADMINISTRATIVE HEARINGS P. O. Box 13025 Austin, TX 78711-3025

> Re: SOAH Docket Nos. 582-02-2413 and 582-02-2414; TNRCC Docket Nos. 2002-0310-UCR and 2002-0335-UCR Application of Canyon Lake WSC to Amend CCN No. 10692 in Comal County, Texas; Application of Rebecca Creek MUD for CCN No. 33572-C, Comal County, Texas

Dear Judge O'Malley:

SRS Properties, LLC, hereby designates the following witnesses that it intends to call in the above-referenced proceeding.

Richard L. Hubble, President, SRS Properties, LLC Thomas W. Paul, Vice President, SRS Properties, LLC Robert Felton, former Vice President, SRS Properties, LLC

Yours truly,

? hil Hang

Philip S. Haag

IM

PH 512 474 4330 FAX 512 370 2850 WINSTEAD COM WINSTEAD SECHNEST & MINICK Assocracys and Counselors A Professional Corporation Dullas, Huuston, Aussin, Fort World, Mexice City Mailing List

Canyon Lake Water Supply Corporation/Rebecca Creek Municipal Utility District SOAH Docket Nos. 582-02-2413 and 582-02-2414 TNRCC Docket Nos. 2002-0310-UCR and 2002-0335-UCR

Michael J. O'Malley, Administrative Law Judge State Office of Administrative Hearings 300 W. 15th, Suite 502 P. O. Box 13025 Austin, TX 78711-3025 Ph: 512/475-4993 Fax: 512/936-0770

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

John O Houchins 13738 Kingsride Houston, TX 77079 Ph: 713/464-3205 Fax: 713/461-8711

Les Romo Law Offices of Les Romo 307 Shannon Lane Georgetown, TX 78628 Ph: 512/868-5600 Fax: 512/863-0452

Todd Eurkey, Staff Attorney Legal Services Division – MC-175 TNRCC P.O. Box 13087 Austin, TX 78711-3087 Ph: 512/239-3400 Fax: 512/239-3434

Blas Coy Public Interest Counsel – MC-103 TNRCC P.O. Box 13087 Austin, TX 78711-3087 Ph: 512/239-6363 Fax: 512/239-6377

Wilfred Lucko Spring Branch Indian Hills Water Supply Corporation P.O. Box 486 Spring Branch, TX 78070 Representing Canyon Lake Water Supply Corp.

Representing: Rebecca Creek MUD

Representing: Executive Director of the TNRCC

SOAH DOCKET NO. 582-02-2413 TNRCC DOCKET NO. 2002-0310-UCR

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APPLICATION OF CANYON LAKE WATER SUPPLY CORPORATION TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 10692 IN COMAL COUNTY, TEXAS

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORDER NO. 1

SETTING OUT SCHEDULE AND PROCEDURES AND SCHEDULING PREHEARING CONFERENCE AND HEARING ON THE MERITS

SOAH DOCKET NO. 582-02-2414 TNRCC DOCKET NO. 2002-0335-UCR

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APPLICATION OF REBECCA CREEK MUNICIPAL UTILITY DISTRICT TO OBTAIN CERTIFICATE OF CONVENIENCE AND NECESSITY IN COMAL COUNTY, TEXAS **BEFORE THE STATE OFFICE**

OF

ADMINISTRATIVE HEARINGS

ORDER NO.1

SETTING OUT SCHEDULE AND PROCEDURES AND SCHEDULING PREHEARING CONFERENCE AND HEARING ON THE MERITS

I. PARTIES

On May 7, 2002, a preliminary hearing was held in these cases. At the preliminary hearing, the Administrative Law Judge (ALJ) consolidated the cases for all purposes. Because these cases involve two Applicants, the ALJ will maintain both docket numbers. The following were designated as parties:

ORDER NO. 1

PARTY	REPRESENTATIVE	
Executive Director (ED)	Mr. Todd Burkey	
Canyon Lake Water Supply Corporation	Mr. John O. Houchins	
Rebecca Creek Municipal Utility District	Mr. Les Romo	
SRS Properties and Austex Enterprises No. 3, L.P.	Mr. Philip S. Haag	

II. SCHEDULE

The parties agreed on the following schedule for prehearing activities and the hearing on the merits, which schedule shall govern this proceeding:

DEADLINE/DATE	ACTIVITY
May 20, 2002	Discovery Begins
July 26, 2002	All parties designate witnesses they intend to call (parties may designate other witnesses at a later date upon a showing of good cause)
July 26, 2002	Discovery Ends
August 30, 2002	Applicants to prefile direct case in writing, including all testimony and exhibits
September 13, 2002	Other parties, except Applicants and ED, to prefile direct case in writing, including all testimony and exhibits
October 4, 2002	ED to prefile direct case in writing, including all testimony and exhibits
October 14, 2002	Objections to any prefiled evidence are filed
October 21, 2002	Replies to objections to any prefiled evidence

DEADLINE/DATE	ACTIVITY	
October 28, 2002	Telephonic prehearing conference to set time limits for case	
	presentations and to rule on objections to prefiled evidence	
November 5, 2002	Hearing on the merits (HOM) of application begins	
November 6, 2002	Estimated end of HOM	

III. HEARING AND PREHEARING DATES AND LOCATION

The hearing on the merits will convene at 9:00 a.m., Tuesday, November 5, 2002, in the William P. Clements Building, 300 West 15th Street, 4th floor, Austin, Texas. Unless the parties are notified otherwise, the hearing will continue from day to day thereafter until it is concluded. Given the complexity and anticipated length, appearing at the hearing on the merits by telephone is not practical and will not be allowed.

The October 28, 2002, telephone prehearing conference will convene at 9:00 a.m. unless the ALJ concludes that he can rule on the evidentiary objections without hearing oral argument and that case presentation time limits are unnecessary. Unless notified in advance that the prehearing conference is canceled, counsel for the parties should be available at the scheduled time at their telephone number of record or at another number that they have previously supplied to the ALJ's assistant, Ms. Lisa Serrano at (512) 936-0724.

IV. PROCEDURAL RULES

Except as otherwise provided herein, this case shall be conducted in accordance with the procedural rules of the Texas Natural Resource Conservation Commission (TNRCC) and the State Office of Administrative Hearings (SOAH). 30 TEX. ADMIN. CODE (TAC) Chapter 80 and 1 TAC Chapter 155. In the event of conflict, the TNRCC's rules apply. 1 TAC § 155.1 (b).

V. DISCOVERY

Discovery shall be conducted according to Texas Rules of Civil Procedure (TRCP), as supplemented by SOAH's discovery rules, 1 TAC § 155.31. The TCRP shall be interpreted consistently with chapter 80 of the TNRCC's rules, the Texas Water Code, the Texas Health and Safety Code, and the Administrative Procedure Act. 30 TAC § 80.151. Pursuant to SOAH Procedural Rule Section 155.23(3), discovery documents shall be served on the other parties but shall not be filed with the ALJ unless such materials are the subject of a discovery dispute and only those portions relevant to the dispute shall be attached to any pertinent motion.

The parties are expected to attempt to resolve discovery disputes; however, significant disputes which cannot be resolved should be brought to the ALJ's attention in a motion to compel. Any request for relief should include a copy of any discovery correspondence necessary for an informed ruling on the dispute.

The total time for each Applicant, the Protestant, and the ED for oral depositions may not exceed 50 hours each and the total number of written interrogatories that any party may serve on any other party may not exceed 25. If one side designates more than two experts, the opposing side may have an additional six hours of total deposition time for each additional expert designated. Additionally, parties may obtain disclosure of information and material as provided in TRCP 194. The parties are encouraged to cooperate and reach agreements regarding discovery matters. However, in the absence of a filed written agreement, responses to discovery requests are due on the deadline date.

The parties have agreed that they will file objections to written discovery within ten days of its receipt and a motion to compel, if any, within seven days of receiving such an objection.

If a motion to compel is filed, the party asserting a privilege from discovery shall produce

the documents in question to the ALJ for an in camera inspection within three (3) working days after receiving the motion under the procedures set out at 1 TAC § 155.23(2). *In camera* documents will be returned only to the party that provided them regardless of the ruling. If the ruling is against the producing party, production shall follow on either the 20th working day after receipt of the request or if this date has passed, then within two (2) working days of the ALJ's order. To the extent discovery requests involve confidential materials having a limited privilege (e.g., TRE 507 trade secrets), the parties should file a motion seeking a protective order to facilitate discovery. Additionally, if it would facilitate orderly and efficient discovery, any party, after conferring with all other parties, may seek the issuance of a general protective order.

Responses to written discovery requests shall identify the preparer(s) and witness sponsor(s) of that response.

VI. PLEADINGS

Unless specified or agreed otherwise, to be considered filed on a particular day, filings must be received by the ALJ and the parties by 5:00 p.m. on that date. When something is due by a certain date or time, it is not sufficient to merely mail the filing on that day. Receipt is required.

Unless one party seeks additional oral argument and the motion is granted, the ALJ will rule on motions based on the written pleadings. If oral argument is granted, it shall be conducted by telephone conference, unless the ALJ specifies otherwise. The party requesting oral argument shall make arrangements for the telephone conference in a manner so as not to delay a ruling on the motion.

Motions or other correspondence may be FAXED if the original is sent by mail. Filings should be sent to all parties contemporaneously (*i.e.*, that same day) with any filing to the ALJ. If over 20 pages long, it may be sent by express mail for delivery on the next business day. This is

ORDER NO. 1

particularly important when deadlines for responses are involved since it will be assumed that all parties received a filing the same day the ALJ did and their time is running for responses.

If a deadline is approaching and a party cannot get a fax through for reasons beyond its control [*e.g.* both SOAH fax numbers (Natural Resources 512/936-0730 and SOAH Main Docket 512/475-4994) have been busy since 4:00 p.m.], call and tell the ALJ's assistant, Ms. Lisa Serrano at (512) 936-0726, or the SOAH Docket Division (512) 475-3445 of the problem.

Parties shall use the ALJ's service list and this list should be attached to all filings.

VII. PREFILED EVIDENCE

All parties shall prefile their direct-case evidence in writing. One copy shall be served on the representative of every other party, and one copy shall be filed with the ALJ. Rebuttal evidence and documents used for impeachment or rebuttal purposes need not be prefiled. The prefiled evidence should include all testimony and other evidence necessary to support a party's direct case.

Evidence that is not prefiled may not be introduced as part of a party's direct case absent a showing of good cause. Good cause will be considered on a case-by-case basis upon a showing of need, the reasonableness of not having anticipated its use, and that the other parties will not be prejudiced by its late entry into the record. Therefore, evidence even considered for use in a direct case should be prefiled, although a party later may choose not to introduce every item it prefiles.

The Applicants are hereby warned against trying to obtain a tactical advantage by saving evidence for rebuttal that is more reasonably part of a direct case. Such evidence will not be admitted as "rebuttal" absent a showing of good cause, particularly that the need for such "rebuttal" evidence could not have been reasonably anticipated and prefiled with the direct case.

ORDER NO. 1

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PAGE 7
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Prefiled testimony should be written as if the questions were asked by the party's lawyer and answered by the witness. The witness must be called to testify and adopt the prefiled testimony under oath, the testimony must be offered as an exhibit, and the witness must be passed for crossexamination by the other parties. When no party wishes to cross-examine a witness, the parties should agree to the admission of the witness' testimony so that the witness need not come to the hearing for no purpose.

Since the purpose of prefiling evidence is to shorten the length and minimize the cost of the hearing, the ALJ will discourage non-substantive evidentiary objections to pre-filed evidence that seem to have little purpose other than lengthening the hearing and leaving evidentiary gaps, *e.g.* form-of-the-question and leading-the-witness objections. Counsel to all parties are expected to confer and reach agreements on ways to minimize all evidentiary objections.

An order of witnesses shall be prefiled with the testimony. If there is a necessity to deviate from the established order, this should be raised with the ALJ and the other parties as soon as it becomes known.

Every page of every prefiled document shall be appropriately numbered to allow easy identification and reference.

On the day they will be offered, two copies of every exhibit, which will be referred to as the "Record Set" and the "Appeal Set," shall be provided to the court reporter before the hearing starts, so that the court reporter can mark them and not delay the hearing.

VIII. OPEN GOVERNMENT

The ALJ intends to strictly limit admission of evidence under seal and closing of the hearing on the merits to the public. Texas law frowns on secret governmental proceedings or decisions of any kind.¹ The parties shall negotiate prior to the hearing to agree on redacted versions of the confidential documents that can be admitted or to stipulate to facts to which they pertain. The ALJ is confident that the parties can reach such agreements. Gamesmanship on this point will not be tolerated. If the parties are legitimately unable to reach an agreement, the ALJ will resolve the dispute at the hearing in a session closed to the public.

IX. TRANSCRIPT

For any proceeding in a docket set to last longer than one day, a court reporter is generally required. 1 TAC § 155.43(b). Upon his or her own motion, the ALJ may request a verbatim record and an original and two copies of a transcript of a proceeding. 30 TAC § 80.23 (b)(4).

In that the parties estimate that the hearing on the merits will take more than one day, a court reporter will be needed at the hearing on the merits to transcribe the hearing and to deliver the original and one copy of that transcript to the ALJ and one copy to the ED. The Applicants shall work with the TNRCC Chief Clerk's Office to ensure that a court reporter attends the hearing. The Applicants shall pay the cost of that recording and transcription subject to an allocation of those costs among all the parties at the end of the case. 30 TAC § 80.23.

X. ORDER OF HEARING

Unless otherwise ordered, the parties will present their cases in the following order: Applicants, Protestant (SRS Property), and ED. The Applicants will have the opportunity to

See TEX. GOV'T CODE ANN. § 551.001 et seq. and § 552.001 et seq.

introduce rebuttal evidence, which they need not prefile.

Issued May 7, 2002.

STATE OFFICE OF ADMINISTRATIVE HEARINGS

le MICHAEL J. O'MALLEY

Administrative Law Judge

Mailing List Canyon Lake Water Supply Corporation/Rebecca Creek Municipal Utility District SOAH Docket Nos. 582-02-2413 and 582-02-2414 TNRCC Docket Nos. 2002-0310-UCR and 2002-0335-UCR

John O. Houchins 13738 Kingsride Houston, Texas 77079 Ph: 713/464-3205 Fax: 713/461-8711

Les Romo Law Offices of Les Romo 307 Shannon Lane Georgetown, Texas 78628 Ph: 512/868-5600 Fax: 512/863-0452

Phillip Haag
Winstead Sechrest & Minick, P.C.
100 Congress Avenue, Ste. 800
Austin, Texas 78701-4042
Ph: 512/370-2862
Fax: 512/370-2882

Todd Burkey, Staff Attorney Legal Services Division - MC 175 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087 Ph: 512/239-3400 Fax: 512/239-3434

Blas Coy Public Interest Counsel - MC-103 Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087 Ph: 512/239-6363 Fax: 512/239-6377

Michael J. O'Malley, Administrative Law Judge State Office of Administrative Hearings 300 W. 15th, Ste 502 PO Box 13025 Austin, Texas 78711-3025 Ph: 512/475-4993 Fax: 512/936-0770

Representing: Canyon Lake Water Supply Corp.

Representing: Rebecca Creek Municipal Utility

Representing: SRS Properties and Austex Enterprises No. 3, L.P.

Representing: the Executive Director of the Texas Natural Resource Conservation Commission SOAH Docket Nos. 582-02-2413 & 582-02-2414 TNRCC Docket Nos. 2002-0310-UCR & 2002-0335-UCR Mailing List

Page 2

Docket Clerk

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

*Wilfred Lucko Spring Branch Indian Hills Water Supply Corporation P. O. Box 486 Spring Branch, Texas 78070

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TNRCC Docket Clerk*Courtesy Copy

STATE OF TEXAS

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COUNTY OF TRAVIS §

I, LaDonna Castañuela, Chief Clerk of the Texas Natural Resource Conservation Commission, do hereby certify that the attached lists persons to whom the attached notice of the public hearing for Rebecca Creek Municipal Utility District, SOAH Docket No. 582-02-2414,TNRCC Docket No. 2002-0335-UCR, was mailed on April 9, 2002.

Given under my hand and the seal of the Texas Natural Resource Conservation Commission, this the 10th day of April, 2002.

DN

LaDonna Castañuela, Chief Clerk Texas Natural Resource Conservation Commission

(SEAL)

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TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



NOTICE OF HEARING

SOAH Docket No. 582-02-2414 TNRCC Docket No. 2002-0335-UCR

APPLICATION. Rebecca Creek Municipal Utility District has applied with the Texas Natural Resource Conservation Commission (TNRCC) to obtain a water Certificate of Convenience and Necessity (CCN) in Comal County, Texas; Application No. 33572-C.

CONTESTED CASE HEARING. The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing on this application at:

10:00 a.m. - May 7, 2002 William P. Clements Building 300 West 15th Street, 4th Floor Austin, Texas 78701

The hearing will be a legal proceeding similar to a civil trial in state district court. The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 13, Texas Water Code; TNRCC rules including 30 Texas Administrative Code (TAC) Chapter 291; and the procedural rules of the TNRCC and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. To participate in the hearing as a party, you must attend the hearing and show you would be affected by the petition in a way not common to members of the general public.

INFORMATION. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For additional information, contact the Water Utilities Division, MC 153, P.O. Box 13087, Austin, TX 78711-3087, telephone 512-239-6960. General information regarding the TNRCC can be found at our web site at www.tnrcc.state.tx.us.

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD), at least one week prior to the hearing.

Issued: April 9, 2002

LaDonna Gastañuela, Chief Clerk Texas Natural Resource Conservation Commission

MAILING LIST Rebecca Creek Municipal Utility District SOAH Docket No. 582-02-2414 TNRCC Docket No. 2002-0335-UCR

Les Romo Law Offices of Les Romo 307 Shannon Lane Georgetown, Texas 78628

Phillip Haag Winstead Sechrest & Minick P.C. 100 Congress Avenue, Ste. 800 Austin, Texas 78701-4042 Representing: Rebecca Creek Municipal Utility

Representing: SRS Properties

Representing: Canyon Lake Water Supply Corporation

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Wilfred Lucko Spring Branch Indian Hills Water Supply Corporation P.O. Box 486 Spring Branch, Texas 78070

Mayes Fuller and Associates Certified Public Accountants P.O. Box 19848 Houston, Texas 77224-9848

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

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Representing: Canyon Lake Estates WSC

Representing: Spring Branch Indian Hills WSC

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