

ANSWER:

INTERROGATORY NO. 6.

Please explain how the District's proposed sewer service facilities will be financed.

ANSWER:

INTERROGATORY NO. 7.

How long would it take the Districts to provide sewer service to someone requesting service within their corporate boundaries? Please explain how long each step would take, what the costs would be and who would pay the costs.

ANSWER:

INTERROGATORY NO. 8.

Please provide the reasons why Westlake's application for Sewer CCN should be denied for that portion of the Application that encompasses the Districts and Circle T MUD 1.

ANSWER:

INTERROGATORY NO. 9.

How will the Districts calculate, bill, and collect for the sewer services they propose to provide for their residents?

ANSWER:

INTERROGATORY NO. 10.

How will the Districts terminate sewer service for customers who do not pay their sewer service bill or otherwise violate the terms of any sewer service tariff that may be adopted by the Districts?

ANSWER:

INTERROGATORY NO. 11.

Please identify the source of wastewater treatment and/or disposal services the Districts would utilize if the Districts provided retail sewer services to their residents.

ANSWER:

INTERROGATORY NO. 12.

Please identify the following with respect to the area that is the subject of the Sewer CCN applications of the Districts.

- (a) Please state the understanding, if any, of the Districts as to the date that any and all undeveloped property located therein will be developed or will require sewer service.
- (b) Please identify the projected number of customers and type of customers (residential, commercial, or industrial) to which the Districts intend to provide sewer service;
- (c) Please identify the facilities that will be used by the Districts to provide sewer services to all areas that are included in their Sewer CCN applications;

- (d) Please identify the projected costs of the facilities that will be used by the Districts to provide service to all areas that are included in their Sewer CCN applications;
- (e) Please state which facilities will be financed by the Districts and which facilities will be financed by other parties; and
- (f) Please identify the expected costs of sewer service to proposed District customers (residential, commercial, or industrial).

ANSWER:

INTERROGATORY NO. 13.

Please state whether the Districts intend to require developers or owners of property within their corporate boundaries to pay for any portion of the costs of making sewer service available to such property and if so, please identify which costs.

ANSWER:

INTERROGATORY NO. 14.

Please identify all owners of land (or representatives or agents thereof), and the location of their property, that is within the area that is the subject of the applications by the Districts that have requested service from or otherwise communicated with the Districts regarding sewer service, and with respect to such requests or communications please describe in detail the nature of such requests or communications.

ANSWER:

INTERROGATORY NO. 15.

Please describe the resources, including qualified personnel, their training and experience including academic and/or field experience, of the Districts and their personnel that establish their managerial capability to provide continuous and adequate sewer service to the areas described in the Districts' Sewer CCN applications.

ANSWER:

INTERROGATORY NO. 16.

Please identify the resources and personnel that demonstrate that the Districts have the technical capability to provide continuous and adequate service to the area described in the Districts' Sewer CCN applications.

ANSWER:

E. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1.

Produce all Documents identified in your answers to Westlake's interrogatories.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2.

Produce all exhibits including reports, documents, and correspondence that you may seek to introduce in evidence at the hearing.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3.

For each expert you expect to call to testify and for each consulting expert whose opinions or observations a testifying expert will review or has reviewed, produce a curriculum vitae, a list of all cases in which the expert has testified either by deposition or live at trial or hearing, and a list of all articles or publications by the expert.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4.

Produce all Documents and tangible things, including but not limited to all reports, plans, working papers, notes, calculations, diagrams, photographs, physical models, exhibits, compilations of data, drafts, treatises, rules, regulations, guidelines, statutes, policies, procedures, authoritative materials, or other materials prepared by you or for you, submitted by you, for you, or to you, or reviewed by you or for you concerning the Application or the Sewer CCN applications of the Districts.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5.

Please produce copies of all correspondence between the Districts and the persons identified in response to Interrogatory No. 14.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6.

Please provide a copy of the most recent financial reports or audits of the Districts which provide information on the financial stability of the Districts, including debt-equity ratio (if applicable).

RESPONSE:

REQUEST FOR PRODUCTION NO. 7.

Please provide all Documents and any written applications, communications, agreements, discussions, or negotiations concerning the matters referred to in Interrogatories No. 3, 5, 6, 7, 8, 11, 12, 13 and 14.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8.

Please provide a list of all proposed connection fees, rates, and tariffs for the Districts' sewer customers.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9

Please provide any cost of service study and/or rate study performed by or on behalf of the Districts or by any third party concerning the Districts' proposal to provide sewer service within their boundaries.

RESPONSE:

Respectfully submitted,

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

111 Congress Avenue
Suite 1800
Austin, Texas 78701
(512) 322-5830
Fax: (512) 472-0532

A handwritten signature in dark ink, appearing to read "Martin C. Rochelle", is written over a horizontal line.

Martin C. Rochelle
State Bar No. 17126500

**ATTORNEY FOR THE TOWN OF WESTLAKE,
TEXAS**

CERTIFICATE OF SERVICE

I hereby certify that on this the 19th day of October, 1999, a true and correct copy of the foregoing was sent by First-Class mail to the following persons.

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816 Congress Avenue
Austin, Texas 78701

Mr. Mike Booth
Booth, Ahrens & Werkenthin
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Ms. Lara Nehman (MC 173)
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State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78711-3025


Martin C. Rochelle

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

October 18, 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

19 OCT 19 1999
10:50 AM
10:50 AM

Re: Applications of Town of Westlake and Circle T MUDs Nos. 2 and 3 for Certificates of Convenience and Necessity SOAH Docket Nos. 582-97-0134 (Sewer CCN) and 582-97-0175 (Water CCN) (140300:1.2)

Dear Judge Broyles:

Please consider this letter as the formal stipulation of the Town of Westlake ("Westlake") that its application for water and sewer Certificates of Convenience and Necessity ("CCNs") in the above-referenced dockets does not include a small area within Westlake's corporate boundaries that is currently served by Trophy Club MUD No. 1 ("Trophy Club"). As we discussed at the September 7, 1999 jurisdictional hearing in these matters, Trophy Club currently provides retail water and sewer utility services to a 44.759-acre tract of land within Westlake's corporate boundaries. In 1986, Westlake consented to the annexation of this tract by Trophy Club, for the provision of retail water and sewer utility services within the area. Westlake has no intention of providing water and sewer services within this area, nor will it seek CCNs in order to provide those services to this area.

I hereby certify that I have forwarded copies of this correspondence to the parties of record in the above-referenced dockets.

Sincerely,



Martin C. Rochelle

The Honorable Tommy L. Broyles
October 18, 1999
Page 2

MCR/ldp

1403\00\ltr991018mcr2

cc: Mayor Scott Bradley
Mr. James Morris
Mr. Larry Fuson, P.E.
Attached Mailing List

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TB ✓

ANDREW N. BARRETT

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FAX (512) 472-6463

WRITER'S E-MAIL ADDRESS ANB@BARRETLAW.NET

October 11, 1999

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

Re: SOAH Docket Nos. 582-97-0134 and 582-97-0175

Dear Judge Broyles:

This letter is to offer my understanding of the agreements and rulings from the September 7, 1999 prehearing conference. As you recall, Circle T MUD's dismissed their application for water Certificates of Convenience and Necessity and dismissed their protest against the Town of Westlake's application. At that time, the only protestants to Westlake's application were the City of Keller and Trophy Club MUD.

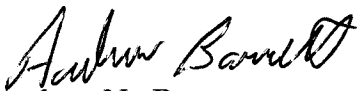
However, Circle T MUD's 2 and 3 continued with their applications for sewer CCN's, to which the Town of Westlake was the sole protestant. The Town of Westlake likewise continued with its sewer CCN application, which was protested by Circle T MUD's 1, 2 & 3.

The Town of Westlake then moved to sever the proceeding so that the water CCN application would be considered separately from the sewer application. Other than the statutory parties, my understanding of the parties in the sewer CCN proceedings are Town of Westlake protesting Circle T MUD's 2 & 3 application. Circle T MUD's 1, 2 & 3 are protesting the Town of Westlake's application.

After reviewing Orders No. 7 and 9 in the above-referenced matters, it was not clear to me that Circle T MUD's 1, 2 & 3 were included as protesting parties to the Town of Westlake's sewer CCN application. Further, I do not believe that Trophy Club MUD requested party status for either CCN sewer application.

I appreciate your time and consideration on this. I have discussed this letter with Martin Rochelle, counsel for the Town of Westlake who concurs. If this does not reflect what the transcripts show, then perhaps the parties should meet.

Very truly yours,


Andrew N. Barrett

SOAH DOCKET NO. 582-97-0134

APPLICATIONS OF LAKE TURNER	§	STATE OFFICE
	§	
MUD NOS. 2 & 3 (CIRCLE T)	§	OF
	§	
FOR SEWER AND WATER CCNs	§	ADMINISTRATIVE HEARINGS

ORDER NO. 7

NAMING PARTIES; GRANTING REQUEST TO SEVER AND DISMISS WATER CCN APPLICATION; AND SETTING HEARING SCHEDULE

On September 7, 1999, a prehearing conference was held concerning the application of Circle T Municipal Utility Districts' No. 2 and No. 3 (Circle T)(formerly Lake Turner) application. Evidence of notice was presented and accepted without objection. Parties to this matter are: Circle T, Applicant (represented by Andrew N. Barrett, Attorney); Town of Westlake, Protestant (represented by Martin C. Rochelle, Attorney); Trophy Club (represented by Mike Booth) (named a party to the sewer application in Docket No. 582-97-0175 which is consolidated into this docket below); the Executive Director of the Commission (ED)(represented by Lara Nehman, Attorney); and the Public Interest Counsel (Blas J. Coy, Jr.).

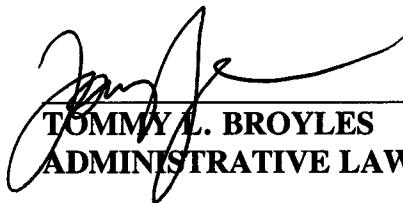
During the hearing, Circle T requested that the Water CCN portion of its application be severed and dismissed. No party objected to the request. Accordingly, the Water CCN application of Circle T is dismissed without prejudice.

As explained further in Order No. 9 of Docket No. 582-97-0175, the sewer portion of that docket is consolidated into this docket. If this was not the intent of the parties during the preliminary hearing, please advise.

The following prehearing and hearing schedule was adopted by agreement of the parties:

October 19, 1999	Discovery served
November 19, 1999	Responses served
December 10, 1999	Depositions end
January 10-11, 2000	Hearing on Merits

Signed this 30th day of September, 1999.



TOMMY L. BROYLES
ADMINISTRATIVE LAW JUDGE

MAILING LIST
Application of Lake Turner MUD Nos. 2 & 3
SOAH Docket No. 582-97-0134

Mr. 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

Mr. Frank R. Booth
Mr. Mike Booth
Booth, Ahrens & Werkenthin, P.C.
Nations Bank Tower, Suite 1212
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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
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TNRCC
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STATE OFFICE OF ADMINISTRATIVE HEARINGS

William P. Clements Building
300 West Fifteenth Street
Room 502
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Phone (512) 475-4993
Facsimile (512) 936-0730

DATE:

September 30, 1999

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

5

SOAH DOCKET NO.:

582-97-0134 & 582-97-0175

FROM:

Judge Tommy L. Broyles

FAX TO:	FAX NO.:
Andrew N. Barrett (Attorney at Law)	472-6463
Martin Rochelle (Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C.)	472-0532
Timothy G. Green (Coats, Ros, Yale, Holm, Ryman & Lee)	713/651-0220
Dwight A. Shupe (Hughes & Luce, L.L.P.)	214/939-6100
Lyle H. Drescher	817/431-5867
Skip Newsom (Fisher & Newsom, P.C.)	477-2860
Frank R. Booth (Booth, Ahrens & Werkenthin, P.C.)	473-2609
Robert G. West (Michener, Larimore, Swindle, et al.)	817/335-6935
R. L. Guinn	No Fax #
Tom Allen (Maguire Thomas Partners)	No Fax #
Hal L. Sanders (Strasburger & Price, L.L.P.)	499-3660
Rick Frederick	No Fax #
Lara Nehman (TNRCC - Legal Services Division)	239-0606
Blas J. Coy, Jr. (TNRCC - Public Interest Counsel)	239-6377

MESSAGE: ORDER NO. 7 AND ORDER NO. 9

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT LISA SERRANO AT 512/936-0724.

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TX/RX NO. 5748

INCOMPLETE TX/RX 9p8173356935

TRANSACTION OK 9p4726463

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9p2396377

ERROR

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

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CONNECTION TEL 9p8173356935
CONNECTION ID
START TIME 09/30 16:13
USAGE TIME 00'00
PAGES 0
RESULT NG 0 #018

STATE OFFICE OF ADMINISTRATIVE HEARINGS

William P. Clements Building
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DATE:

September 30, 1999

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

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SOAH DOCKET NO.:

582-97-0134 & 582-97-0175

FROM:

Judge Tommy L. Broyles

FAX TO:	FAX NO.:
Andrew N. Barrett (Attorney at Law)	472-6463
Martin Rochelle (Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C.)	472-0532
Timothy G. Green (Coats, Ros, Yale, Holm, Ryman & Lee)	713/651-0220
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Frank R. Booth (Booth, Ahrens & Werkenthin, P.C.)	473-2609
Robert G. West (Michener, Larimore, Swindle, et al.)	817/335-6935
R. L. Guinn	No Fax #
Tom Allen (Maguire Thomas Partners)	No Fax #

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Lake Turner MUD Nos. 2 & 3
Town of Westlake

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Mr. Rick Frederick
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Blas J. Coy, Jr., Attorney
Public Interest Counsel MC-103
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P. O. Box 13087
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Austin Tx 78701

Mr. Andrew N. Barrett
Attorney at Law
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Tommy L. Broyles
Administrative Law Judge
State Office of Administrative Hearings
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BALDWIN & TOWNSEND, P. C.
ATTORNEYS AT LAW

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mrochelle@lglawfirm.com

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TELEPHONE (512) 930-1317
*BY APPOINTMENT ONLY

September 2, 1999

The Honorable Tommy 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: Applications of the Town of Westlake and Lake Turner MUD
Nos. 2 and 3 for Certificates of Convenience and Necessity:
SOAH Docket No. 582-97-0175 and No. 582-97-0134
(140300:1.2)

Dear Judge Broyles:

Enclosed please find the original and one copy of my client, the Town of Westlake's, Motion to Sever in the above-referenced matter. Please file-stamp the extra copy and return it to me via our messenger.

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

Sincerely,



Martin C. Rochelle

MCR/ldp
1403\00\ltr990902mcr11

ENCLOSURE

cc: Mayor Scott Bradley
Mr. James Morris
Mr. Larry Fuson, P.E.
Attached Service List

-2 SEP 99 16 27

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

APPLICATIONS OF THE TOWN	§	
OF WESTLAKE AND	§	BEFORE THE
LAKE TURNER MUD NOS. 2 & 3	§	STATE OFFICE
FOR WATER AND SEWER	§	OF
CERTIFICATES OF CONVENIENCE	§	ADMINISTRATIVE HEARINGS
AND NECESSITY	§	

-2 SEP 99 15 27

MOTION TO SEVER

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, The Town of Westlake, Texas ("Town" or "Westlake") and files this Motion to Sever the applications of the Town and Lake Turner MUDs No. 2 and No. 3 ("Lake Turner MUDs") for a water Certificate of Convenience and Necessity ("CCN") from the applications of the Town and Lake Turner MUDs for a sewer CCN, and for cause would respectfully show the Administrative Law Judge the following:

I.

Westlake filed its application for water and sewer CCNs with the Texas Natural Resource Conservation Commission ("TNRCC") on or about May 28, 1996. The Town's application seeks water and sewer CCNs for retail services within its corporate boundaries. By letter of October 29, 1996 to TNRCC, the Town amended its application to exclude from the area to be certificated that portion of the Town's corporate boundaries currently served by Trophy Club MUD No. 1 ("Trophy Club").

Lake Turner MUDs are located wholly within the corporate boundaries of Westlake. Lake Turner MUDs filed applications for water and sewer CCNs with TNRCC on or about August 29, 1996. By letter of August 30, 1999, Lake Turner MUDs withdrew their applications for water CCNs, and expressed support for Westlake's application for water CCN.

II.

With regard to the water CCN Westlake seeks through its application, as amended, such application was originally protested by Lake Turner MUDs, the City of Keller ("Keller"), which currently serves areas within Westlake's corporate boundaries, and Trophy Club, which currently serves an area within Westlake's corporate boundaries. As noted above, Westlake has amended its application to exclude the area currently served by Trophy Club. Westlake expects to stipulate into the record of this proceeding that its water and sewer CCN applications do not now seek to authorize a certificated service area for water or sewer service to the area currently served by Trophy Club within Westlake's corporate boundaries. Lake Turner MUDs have now withdrawn their protests to Westlake's water CCN application, and have withdrawn their own competing applications for water CCNs. Therefore, Westlake expects that only Keller will participate in Westlake's application for a water CCN. Westlake is currently engaged in negotiations with Keller to resolve Keller's concerns with Westlake's application for water CCN.

With regard to the sewer CCNs at issue, Westlake and Lake Turner MUDs have competing applications for common service areas within Westlake's corporate boundaries. As noted, Westlake has amended its application to exclude from its sewer CCN the area currently served by Trophy Club within Westlake's corporate boundaries. Keller has not protested Westlake's sewer CCN application, inasmuch as Keller affords no sewer service and has no sewer facilities within Westlake's corporate boundaries.

III.

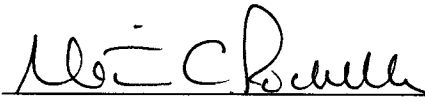
Based on the foregoing, Westlake believes it would be much more efficient to distinguish, factually and legally, the water-related CCN issues that will be considered by Westlake and Keller in these proceedings from the sewer-related CCN issues that will be considered by Westlake and Lake Turner MUDs. Westlake believes it would be in the interest of all parties that these two matters be severed for the purpose of discovery and hearing on the merits. This proposed severance will be cost efficient for the parties, inasmuch as the discovery necessary to each of the matters will be more focused, and the issues to be considered in each matter will be clarified.

WHEREFORE, PREMISES CONSIDERED, the Town of Westlake moves that the application of the Town for a water CCN, and the application of the Town and Lake Turner MUDs for a sewer CCN be severed for the purposes of discovery and hearing, and for such other and further relief to which the Town may be entitled.

Respectfully submitted,

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

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(512) 322-5810
FAX: (512) 472-0532

By: 
Martin C. Rochelle
State Bar No. 17126500

ATTORNEY FOR THE TOWN OF WESTLAKE

CERTIFICATE OF SERVICE

I hereby certify that on this the 2nd day of September, 1999, a true and correct copy of the foregoing was sent by First Class mail, by facsimile, or by hand-delivery to the following persons.

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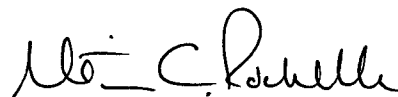
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A handwritten signature in black ink, appearing to read "Martin C. Rochelle", written over a horizontal line.

Martin C. Rochelle