

Control Number: 45208



Item Number: 11

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DOCKET NO. 45208

**JOINT APPLICATION OF CITY OF
EDINBURG AND NORTH ALAMO
WATER SUPPLY CORPORATION
TO AMEND WATER
CERTIFICATES OF
CONVENIENCE AND NECESSITY
IN HIDALGO COUNTY**

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TEXAS
FILING CLERK

APPLICANT'S SUPPLEMENTAL RESPONSE TO ORDER NO. 3

COMES NOW, North Alamo Water Supply Corporation ("North Alamo") a co-applicant in the above-entitled and numbered Docket, and files this Supplemental Response to Order No. 3. In support thereof, North Alamo shows the following:

I. BACKGROUND

On September 30, 2015, the City of Edinburg ("Edinburg") and North Alamo (collectively "Applicants") filed an application to amend Certificate of Convenience and Necessity ("CCN") No. 12106 with the Public Utility Commission of Texas ("Commission") and to decertify a portion of North Alamo's service area under CCN No. 10553. The area involved in the proceeding currently contains zero customer accounts and approximately 40.00 undeveloped acres in Hidalgo County. The proposed amendment will enable provision of retail water and fire protection in the area by Edinburg. The area to which Edinburg seeks single certification is entirely within the incorporated boundaries of Edinburg¹ and is currently certified to North Alamo. The parties have agreed in writing that the area sought may be served by Edinburg and the Application filed with the Commission included the executed Agreement.²

On October 5, 2015, the Commission issued Order No. 1, which required Commission Staff and Edinburg to file comments/recommendations regarding how this petition should be processed and whether or not the Application was sufficient for filing by November 5, 2015. On November 5, 2015, Commission Staff filed its response to Order No. 1 finding the application

¹ Application at Attachment 12

² Application at Attachment 6

incomplete and requesting that the Applicants be allowed time to cure the noted deficiencies. Commission Staff's response indicated that the noted deficiencies in the Application would be cured by Applicants' submission of: 1) a small scale (general location) map only showing the location of the proposed service area in the vicinity of the nearest town, city, or county with the proposed service area in reference to the current corporate boundaries of Edinburg, verifiable man-made and natural landmarks such as roads, railroads or rivers clearly marked and labeled; and 2) a large scale map showing the proposed service area with enough detail to accurately locate the service area subject to be transferred in the vicinity of nearby roads, streets, and rivers with the proposed service area in reference to the current corporate boundaries of Edinburg, verifiable man-made and natural landmarks such as roads, railroads or rivers clearly marked and labeled; and 3) documentation from the USDA showing that it has approved the transfer from North Alamo to Edinburg, as the USDA currently holds a lien against North Alamo's property.

On November 9, 2015, the Commission issued Order No. 2, which set a deadline of December 8, 2015 for the Applicants to amend the Application by submitting: 1) a small scale (general location) map only showing the location of the proposed service area in the vicinity of the nearest town, city, or county with the proposed service area in reference to the current corporate boundaries of Edinburg, verifiable man-made and natural landmarks such as roads, railroads or rivers clearly marked and labeled; and 2) a large scale map showing the proposed service area with enough detail to accurately locate the service area subject to be transferred in the vicinity of nearby roads, streets, and rivers with the proposed service area in reference to the current corporate boundaries of Edinburg, verifiable man-made and natural landmarks such as roads, railroads or rivers clearly marked and labeled; and 3) documentation from the USDA showing that it has approved the transfer from North Alamo to Edinburg.

On December 8, 2015, based on North Alamo's communications with USDA-RD, an extension was requested from the Commission to allow North Alamo an additional 30 days in which to acquire the Consent from USDA-RD and the mapping data was filed with the Commission. On December 9, 2015, record was made of the filing of the mapping data with the Commission. On December 16, 2015, the Commission issued Order No. 3 which set a deadline of January 8, 2016 for the Applicants to amend the Application by submitting documentation from the USDA showing that it has approved the transfer from North Alamo to Edinburg.

On January 6, 2016, North Alamo filed an extension was requested from the Commission to allow North Alamo an additional 30 days in which to acquire the Consent from USDA-RD based on communications with USDA. Since the January 6, 2016 filing, USDA granted its consent and the original and ten (10) copies are filed herewith

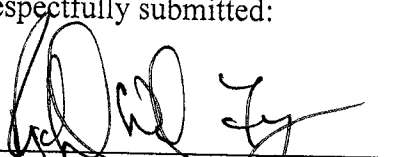
II. CONCLUSION

Applicant North Alamo respectfully requests that the ALJ file the enclosed USDA consent among the papers of this Docket and enter its Order extending the deadline for Commission Staff to file its supplemental recommendation to March 8, 2016 to find the application sufficient for filing.

Dated:

January 8, 2016

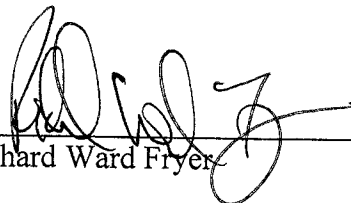
Respectfully submitted:



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ATTORNEY FOR
NORTH ALAMO WATER SUPPLY
CORPORATION

DOCKET NO. 45208
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 8th day of January, 2016 in accordance with 16 TAC § 22.74.



Richard Ward Fryer



United States Department of Agriculture

Rural Development

January 7, 2016

Edinburg Area Office

2514 S. Veterans Blvd.
Suite 4
Edinburg, Texas 78539

Voice: 956.383.4928
Fax 844.496.7917

Steven P. Sanchez, General Manager
North Alamo Water Supply Corporation
420 S. Doolittle Road
Edinburg, TX 78539

RE: North Alamo WSC – Partial Release of CCN

Dear Mr. Sanchez:

We are responding to your request for consent to decertify a portion of the Certificate of Convenience and Necessity (CNN) Number 10553 to the City of Edinburg in exchange for \$125,856.

In accordance with RUS Staff Instruction 1782, §1782.12, this approval is given with the understanding that the proceeds will be used to install 12,960 linear feet of 8-inch waterline to provide adequate water service to customers. Furthermore, we understand that this transaction will not affect the financial ability of the WSC to meet its debt obligations. A signed approved Form RD 465-1, "Application for Partial Release, Subordination, or Consent is attached.

Should you have any questions or need additional information, please contact this office.

Sincerely,

for Elena Silva
ROEL R. GOMEZ
Area Director

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

FORM APPROVED
OMB NO. 0560-0168

TYPE OF LOAN
(SPECIFY)

APPLICATION FOR PARTIAL RELEASE,
SUBORDINATION, OR CONSENT

STATE
COUNTY
CASE NO.

The undersigned North Alamo Water Supply Corporation

(Names of Borrower and Co-Borrower)

420 S. Doolittle Road, Edinburg, Texas 78542

whose address (including ZIP Code) is 420 S. Doolittle Road, Edinburg, Texas 78542
in accordance with the terms of the security instruments held by Rural Development or the Farm Service Agency (hereafter referred to as "Agency") on their property, apply for release or subordination of the liens of said security instruments or consent to the following transaction.

Application for release of lien on all internal water lines and individual meters, within the buyout area, other than those necessary for the service of water to North Alamo WSC's customers within its remaining CCN area, if any, and consent to the transaction.

1. Plot of Property:

2. Prior lienholders listed in order:

N	
See Attachment '1' -	
W	E
S	

3. The prior lien to which subordination is requested is to be held by:

4. The property to be leased or conveyed to:

City of Edinburg, Texas
P. O. Box 1079
Edinburg, Texas 78540

5. Description of property to be covered by the release, subordination, or consent:
See Attachment 1

6. The use to be made of the property covered by this application is:
Use will remain the same, future water service will be provided by City of Edinburg, TX

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0168. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

7. The anticipated proceeds from this transaction are:

Initial payment \$ 125,856.00
Subsequent payment(s) \$ 0.00

Other considerations:

If the borrower obtains a loan from another lender as a result of any subordination covered by this application, the lender must incorporate in the borrower's note a statement that the loan will be in default should any proceeds of the loan funds obtained as a result of this subordination be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

8. Subject to the provisions of Paragraph 7 it is proposed to use the proceeds as follows:

debt reduction and normal water supply operations

9. Have you or any member, stockholder, partner or joint operator of the entity borrower been convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance since December 23, 1985?

☐ Yes ☒ No

If yes, provide date of conviction and details on a separate sheet.

10. If this application is approved, the undersigned borrower(s) agree to comply with such terms as may be prescribed by Agency and to disposition of the proceeds as required by Agency pursuant to its regulations, including the method of applying payments to the borrower(s) loan accounts. It is expressly understood that unless a separate written instrument of subordination or partial release is executed and delivered by Agency pursuant to this application, approval by Agency of this application will merely constitute and evidence its consent, as lienholder, to the proposed transaction without in any way subordinating its lien, releasing any of its security, modifying the payment terms of the loan, or otherwise affecting any rights of Agency.

The borrower(s) agrees that none of the funds obtained as a result of any subordination covered by this application will be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as explained in Exhibit M of Subpart G of Part 1940 of Title 7 of the Code of Federal Regulations.

North Alamo Water Supply Corporation

Date

11-17-15

Signed By:

[Signature]

Title General Manager

(Borrower)

(Co-Borrower)

1. The proposed transaction:
- ☐ WILL ☒ WILL NOT prevent or make more difficult the successful operation of this property.
- ☐ WILL ☒ WILL NOT reduce the efficiency of the property.
2. The proposed transaction will affect the value of this property as security for the loan as follows:

(a) Value of Real Estate Before _____
 (b) Value of Real Estate After _____
 (c) Value of Real Estate Disposed of _____

3. The following ☐ damages ☐ benefits will result to this property from the transaction:

N/A

I hereby recommend that this application be approved and that the proceeds be applied or released as follows:

INITIAL PAYMENT		SUBSEQUENT PAYMENTS:	
\$ _____	To extra payment on Agency loan	\$ _____	or _____ % To extra payment on Agency loan
\$ _____	To regular payment on Agency loan	\$ _____	or _____ % To regular payment on Agency loan
\$ _____	To borrower as regular income	\$ _____	or _____ % To borrower as regular income
\$ _____	To prior lien(s)	\$ _____	or _____ % To prior lien(s)
\$ <u>125,856.00</u>	Other (specify) <u>Improvements</u>	\$ _____	Other (specify) _____

I recommend approval of the release of CCN to the City of Edinburg. Action will not have an effect on the current successful operation of the WSC.

I also recommend the Corporation be allowed to use the proceeds for the installation of 12,960 L.F. of 8 inch waterline (refer to cost estimate attached).

Attachment #1

Date 1/4/16

Recommended by [Signature]
AAD

Date 1/7/16 ☒ Approved

☐ Disapproved by [Signature]

Director, Community Program

UNITED STATES DEPARTMENT OF AGRICULTURE

DOCKET NO. 45208

**APPLICATION OF CITY OF
EDINBURG AND NORTH ALAMO
WATER SUPPLY CORPORATION
TO AMEND WATER CERTIFICATES
OF CONVENIENCE AND
NECESSITY IN HIDALGO COUNTY**

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**PUBLIC UTILITY COMMISSION OF
TEXAS**

**ORDER NO. 5
GRANTING EXTENSION AND REVISING PROCEDURAL SCHEDULE**

North Alamo Water Supply Corporation ("North Alamo"), a joint applicant herein, hereby requests that the United States Department of Agriculture - Rural Development's ("USDA-RD") consent to the buyout transaction from the USDA be filed among the papers of this Docket and that Commission Staff provide its final recommendation declaring the application be deemed sufficient for filing.

For the preceding reasons, North Alamo Water Supply Corporation's request for extension is granted and the following revised procedural schedule is adopted.

Deadline for Applicants to cure deficiencies and submit USDA consent for review	February 8, 2016
Deadline for Commission Staff to file its supplemental recommendation	March 8, 2016

SIGNED AT AUSTIN, TEXAS the ____ day of _____, 2015.

PUBLIC UTILITY COMMISSION OF TEXAS

STEPHANIE FRAZZELL
ADMINISTRATIVE LAW JUDGE