



Control Number: 45702



Item Number: 108

Addendum StartPage: 0

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APPLICATION OF THE CITY OF  
CIBOLO FOR SINGLE  
CERTIFICATION IN  
INCORPORATED AREA AND TO  
DECERTIFY PORTIONS OF GREEN  
VALLEY SPECIAL UTILITY  
DISTRICT'S SEWER CERTIFICATE  
OF CONVENIENCE AND  
NECESSITY IN GUADALUPE  
COUNTY

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PUBLIC UTILITY COMMISSION  
BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

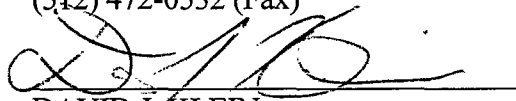
**CITY OF CIBOLO'S RESPONSE TO GREEN VALLEY SPECIAL UTILITY  
DISTRICT'S THIRD REQUEST FOR INFORMATION**

Pursuant to 16 Tex. Admin. Code ("TAC") § 22.144, comes now the City of Cibolo (the "City"), by and through its undersigned attorneys of records, and files its Response to Green Valley Special Utility District's ("GVSUD" or "District") Third Request for Information ("RFI"). This Response may be treated by all parties as if it was filed under oath.

Respectfully submitted,

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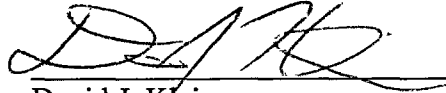
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ATTORNEYS FOR CITY OF CIBOLO

108

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 21st day of December, 2016 to the parties of record.

  
\_\_\_\_\_  
David J. Klein

**CITY OF CIBOLO'S RESPONSE TO  
GREEN VALLEY SPECIAL UTILITY DISTRICT'S THIRD RFI**

GVSUD 3-1            Referring to the Direct Testimony of Rudy Klein at page 8, lines 4-5 please identify the agency and docket numbers in which the cost analyses for compensation were performed by Mr. Klein on behalf of East Medina SUD and Burton WSC. For each identified proceeding, provide an explanation of the purpose(s) for which these cost analyses were performed.

RESPONSE:            The Benton City WSC cost analysis was performed to estimate the value of property of the Bigfoot WSC, including real property, wells, tanks, and the distribution system. Bigfoot WSC had requested Benton City take over its provision of service. At that time, Bigfoot had an outstanding loan with the USDA. To release the loan, the USDA required a cost analysis of Bigfoot's property. After a diligent search, a docket number was not found. However, this case was before the TCEQ in 2004-2005.

                            Upon further review, it appears that East Medina SUD matter did not reach the stage of requiring cost analysis for the valuation of property belonging to the smaller water systems East Medina SUD was acquiring.

Prepared by:            Rudolph "Rudy" F. Klein, IV, P.E.  
Sponsored by:          Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-2

Referring to the Direct Testimony of Rudy Klein at page 8, lines 14-17, provide all communications, including all documents regarding communications, between Mr. Klein and Mr. Herrera or Mr. Fousse regarding the Application.

RESPONSE:

After a diligent search, no responsive documents were found.

Prepared by:

Rudolph "Rudy" F. Klein, IV, P.E.

Sponsored by:

Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-3

Please provide all agreements and all communications between the City and Jack Stowe.

RESPONSE:

The parties have discussed this request, and it is the City's understanding from such discussion that this request has been limited to all agreements and all communications between the City and Jack Stowe relating to Cibolo's Appraisal filed in this docket.

In response to this RFI, as limited, see the Bates Log, attached hereto as Attachment A.

Prepared by:

Jack Stowe

Sponsored by:

Jack Stowe

GVSUD 3-4

Please provide a copy of all water and wastewater CCN compensation reports filed by Jack Stowe and/or NewGen Strategies and Solutions, LLC, and provide the identity of the Commission or TCEQ dockets in which such CCN compensation reports were filed.

RESPONSE:

The parties have discussed this request, and it is the City's understanding from such discussion that this request has been limited to CCN reports filed since 2005 by Jack Stowe and/or NewGen Strategies and Solutions, LLC, relating to Texas Water Code § 13.254 or § 13.255.

In response to this RFI, as limited, the City reasserts the objections to GVSUD RFI 3-4 as made in its December 12, 2016 *Objections to Green Valley Special Utility District's Third Requests for Information*.

Subject to the foregoing objections, after a diligent search, see the Bates Log, attached hereto as Attachment A, for the identification of the agency and docket numbers associated with compensation reports filed by Jack Stowe within the last five years. Pursuant to 16 Tex. Admin. Code § 22.144(c)(2)(D), copies of these reports will not be produced.

Prepared by:  
Sponsored by:

Jack Stowe  
Jack Stowe

GVSUD 3-5

Please provide a copy of all workpapers compiled or reviewed by Mr. Stowe in the preparation of Exhibit C to the Direct Testimony of Rudy Klein.

RESPONSE:

Mr. Stowe reviewed the *Notice of Intent by the City of Cibolo to Provide Sewer Service in Corporate Limits* provided to GVSUD on August 18, 2015; the City's *Application to Obtain or Amend a Certificate of Convenience and Necessity (CCN) Under Water Code 13.255* filed with the Commission on April 20, 2016; Texas Water Code § 13.255; Texas Local Government Code Chapter 395; 30 Tex. Admin. Code §§ 24.116 and 24.120; 30 Tex. Admin. Code chapter 293, subchapter N; *Cibolo's First Requests for Admission and Requests for Information*, provided to GVSUD on May 31, 2016; and *GVSUD's Response to Cibolo's First Requests for Admission and Requests for Information*, provided by GVSUD to the City on June 20, 2016. These documents have already been provided to GVSUD or are otherwise available and will not be produced pursuant to 16 Tex. Admin. Code § 22.144(c)(2)(D).

Prepared by:

Jack Stowe

Sponsored by:

Jack Stowe



GVSUD 3-6

Referring to the Direct Testimony of Rudy Klein at page 17, lines 3-6, please identify the TPDES permit applications referenced in this portion of Mr. Klein's testimony. For each identified permit application, provide a detailed description of how the TCEQ's policy on regionalization was an issue in the application proceeding.

RESPONSE:

The following applications for both new TPDES permit and TPDES permit renewals are as follows:

- Harvest Hill WWTP (WQ0014037001)
- Encinal WSC (WQ0013943001)
- City of La Coste (TX0107743 M)
- City of Runge (WQ0010266001)
- City of Charlotte (TX0033375 M)
- City of Bandera (TX0022390 M)
- Flying L PUD (WQ0011291001)
- City of Pleasanton (TX0022594 M)
- City of Jourdanton (TX0082589 M)
- City of Natalia (TX0068632 M)
- City of Falls City (TX0054771 M)

In Mr. Klein's representation of the applicant for the new TPDES permit for the Harvest Hill WWTP, which was issued in 2003, regionalization was a contested issue addressed through a contested case hearing for which Mr. Klein was a testifying witness. In that case, protestants asserted that regionalization precluded the issuance of the TPDES given the location of the proposed facility to existing facilities. However, because the facility in close proximity (but beyond the standard 3-mile requirement) was unable and unwilling to expand its capacity, the permit was issued.

Mr. Klein's representation of the applicant for the new TPDES permit for Encinal WSC involved the regionalization to the extent that it is required to be evaluated per the TPDES permit application and applicable regulations. However, for loan purposes, the USDA also required the applicant, and thus Mr. Klein, to evaluate alternatives to the new wastewater treatment facility in a regionalization-type analysis. Specifically, the applicant was required to evaluate the possibility of transporting wastewater to Laredo, which ultimately was determined to be cost prohibitive.

Regionalization was involved in the remaining TPDES permit renewal applications to the extent that it is required to be evaluated per the TPDES permit application and applicable regulations.

Prepared by: Rudolph "Rudy" F. Klein, IV, P.E.  
Sponsored by: Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-7

Does the City contend that the Commission has jurisdiction under Texas Water Code Chapter 26 to decide Texas Pollution Discharge Elimination System permit issues? Please explain your answer.

RESPONSE:

The parties have discussed this request, and it is the City's understanding from such discussion that this request has been limited to the following:

Does the City contend that the Commission has jurisdiction under Texas Water Code Chapter 26 to decide whether to approve a Texas Pollution Discharge Elimination System permit based on the concept of regionalization or otherwise?

In response to this RFI, as limited, the City reasserts the objections to GVSUD RFI 3-7 it made in its December 12, 2016 *Objections to Green Valley Special Utility District's Third Requests for Information*.

Subject to the foregoing objections, the City contends that the Commission does not have jurisdiction under Texas Water Code Chapter 26 to decide whether to approve a Texas Pollution Discharge Elimination System permit based on the concept of regionalization.

Prepared by:  
Sponsored by:

Rudolph "Rudy" F. Klein, IV, P.E.  
Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-8

Referring to the Direct Testimony of Rudy Klein at pages 17-18, does the City contend that the eight (8) TCEQ-authorized regional entities are authorized to provide retail water or sewer service? Please explain your answer.

RESPONSE:

Mr. Klein's testimony at pages 17-18 does not assert a contention as to whether any of the eight (8) TCEQ-designated regional entities listed in 30 Tex. Admin. Code Chapter 351 are authorized under such regulations to provide retail water or sewer service. Mr. Klein contends that the eight (8) TCEQ-authorized regional entities may be authorized under 30 Tex. Admin. Code Chapter 351, other laws or regulations, or other governmental permits to provide retail water or sewer service, to the extent they need to be authorized to provide retail water or sewer service. However, Mr. Klein has not conducted any research on that issue for the eight (8) TCEQ-authorized entities designated under 30 Tex. Admin. Code Chapter 351 to be the regional wastewater entity to their respective regional area.

Prepared by:  
Sponsored by:

Rudolph "Rudy" F. Klein, IV, P.E.  
Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-9                      Please provide all communications between CCMA and the City from January 1, 2013 to present.

RESPONSE:                      The parties have discussed this request, and it is the City's understanding from such discussion that this request has been limited to the following:

                                        Please provide all communications between CCMA and the City from January 1, 2013 to present regarding Cibolo's Application.

                                        In response to this RFI, as limited, see the Bates Log, attached hereto as Attachment A.

Prepared by:                      Timothy Fousse  
Sponsored by:                      Timothy Fousse

GVSUD 3-10 Please provide all written agreements between the City and CCMA.

RESPONSE: The parties have discussed this request, and it is the City's understanding from such discussion that this request has been limited to the following:

Please provide all written agreements between the City and CCMA relating to the provision of wastewater service.

In response to this RFI, as limited, see the Bates Log, attached hereto as Attachment A.

Prepared by: Timothy Fousse  
Sponsored by: Timothy Fousse

GVSUD 3-11            Please provide all resolutions and ordinances of the City regarding water and/or wastewater service from January 1, 2013 to the present.

RESPONSE:            The parties have discussed this request, and it is the City's understanding from such discussion that this request has been limited to the following:

                         Please provide all resolutions and ordinances of the City regarding wastewater service from January 1, 2013 to present.

                         In response to this RFI, as limited, the City reasserts the objections to GVSUD RFI 3-11 it made in its December 12, 2016 *Objections to Green Valley Special Utility District's Third Requests for Information*.

Prepared by:            Rudolph "Rudy" F. Klein, IV, P.E.

Sponsored by:          Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-12            Please provide all communications and all written agreements between the City and the City of Schertz from January 1, 2013 to the present regarding water and/or wastewater service.

RESPONSE:            In response to this RFI, see the Bates Log, attached hereto as Attachment A.

Prepared by:           Timothy Fousse  
Sponsored by:          Timothy Fousse



GVSUD 3-13

Please identify any City funds provided to CCMA, including the amounts, the dates of payment and a detailed description of the reason for the payment.

RESPONSE:

The parties have discussed this request, and it is the City's understanding from such discussion that this request has been limited to the following:

Please identify any City funds provided to CCMA relating to wholesale wastewater service, including the amounts, the dates of payment and a detailed description of the reason for the payment.

In response to this RFI, as limited, see the Bates Log, attached hereto as Attachment A.

Prepared by:

Timothy Fousse

Sponsored by:

Timothy Fousse

GVSUD 3-14

Please identify and describe any voting and/or economic interest the City has in CCMA and provide all documents regarding such interest(s).

RESPONSE:

The City is not aware of having any voting interest in CCMA. The City withdraws its objection to this RFI, and in response to this RFI, see the Bates Log, attached hereto as Attachment A.

Prepared by:

Rudolph "Rudy" F. Klein, IV, P.E.

Sponsored by:

Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-15

Referring to the Direct Testimony of Rudy Klein at page 23, lines 1-3, please explain the basis for Mr. Klein's definition of "personal property" and provide a copy of all documents upon which Mr. Klein relied in forming his opinion.

RESPONSE:

Mr. Klein's testimony relating to what constitutes personal property in a wastewater system context is based on his experiences as an engineer in the wastewater utility business for over 35 years and his rôle as the Director of Planning and Engineering for the City. With the City, Mr. Klein is involved in a multitude of transactions involving real and personal property on a routine basis. After a diligent search, the City has not identified any documents responsive to this request.

Prepared by:

Rudolph "Rudy" F. Klein, IV, P.E.

Sponsored by:

Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-16

Referring to the Direct Testimony of Rudy Klein at page 29, line 23 thru line 1, please explain the basis for Mr. Klein's opinion that future costs and future lost revenues "are simply not property" and provide a copy of all documents upon which Mr. Klein relied in forming his opinion.

RESPONSE:

The City assumes for the purposes of this response that GVSUD intended this RFI to mean page 29, line 23 through page 30, line 1. For further clarification of this RFI, Mr. Klein's testimony opines that future costs and future lost revenues from *potential* customers are simply not property because GVSUD does not currently have any vested interest in those future costs and future revenues and the only interest GVSUD does have is purely speculative and not substantiated by any evidence produced by GVSUD. The basis for this opinion is Mr. Klein's experience in the wastewater utility business for over 35 years. Also, in his role as the Director of Planning and Engineering for the City, he is knowledgeable of lost revenues as he engages with developers on behalf of the City. After a diligent search, the city has not identified any documents responsive to this request.

Prepared by:

Rudolph "Rudy" F. Klein, IV, P.E.

Sponsored by:

Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-17            For each tract that Cibolo seeks to decertify in the Application, please identify and provide all documents that Cibolo contends establishes that Cibolo has annexed the tract.

RESPONSE:            The City reasserts the objections to GVSUD RFI 3-17 it made in its December 12, 2016 *Objections to Green Valley Special Utility District's Third Requests for Information*.

Prepared by:           Rudolph "Rudy" F. Klein, IV, P.E.  
Sponsored by:        Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-18

Please explain why the “City of Cibolo Request Decertification from GVSUD Sanitary Sewer CCN” area identified in the Application, Attachment A map does not match the City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN” area identified in the Application, Attachment B.1 and B.2 maps.

RESPONSE:

The parties have discussed this request, and it is the City’s understanding from such discussion that this request has been revised as follows:

Please explain why the “City of Cibolo Request Decertification from GVSUD Sanitary Sewer CCN” area identified in the Application, Attachment A map does not match the City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN” area identified in the Application, Attachment B.1 and B.2 maps, unless Cibolo contends the maps match one another.

In response to this RFI, as revised, the City contends that the boundaries of the areas to be decertified in the Application in these maps are the same; the only differences among the maps are the scale, color, the areas to be decertified are shaded, and level of detail of other features within the area depicted.

Prepared by:  
Sponsored by:

Rudolph “Rudy” F. Klein, IV, P.E.  
Rudolph “Rudy” F. Klein, IV, P.E.

GVSUD 3-19      Please identify which map shows the correct "City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN" area for purposes of the pending Application.

RESPONSE:      The parties have discussed this request, and it is the City's understanding from such discussion that this request has been revised as follows:

Please identify which map shows the correct "City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN" area for purposes of the pending Application, unless Cibolo contends the maps match one another.

In response to this RFI, as revised, the City contends that the boundaries of the area it will be decertifying are the same in all of the above-referenced maps and all are correct.

Prepared by:      Rudolph "Rudy" F. Klein, IV, P.E.  
Sponsored by:      Rudolph "Rudy" F. Klein, IV, P.E.

GVSUD 3-20

Please provide any annexation agreements for tracts located within the “City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN” area as identified in the Application, Attachment A map.

RESPONSE:

The City reasserts the objections to GVSUD RFI 3-20 it made in its December 12, 2016 *Objections to Green Valley Special Utility District’s Third Requests for Information*.

Prepared by:

Rudolph “Rudy” F. Klein, IV, P.E.

Sponsored by:

Rudolph “Rudy” F. Klein, IV, P.E.



GVSUD 3-21

Please provide a means of matching each annexation agreement or proof of annexation document with each tract included in the “City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN” area as identified in the Application, Attachment A map.

RESPONSE:

The City reasserts the objections to GVSUD RFI 3-21 it made in its December 12, 2016 *Objections to Green Valley Special Utility District's Third Requests for Information*.

Prepared by:

Rudolph “Rudy” F. Klein, IV, P.E.

Sponsored by:

Rudolph “Rudy” F. Klein, IV, P.E.

**ATTACHMENT A**

**SOAH DOCKET NO. 473-16-5296.WS  
PUC DOCKET NO. 45702**

<b>APPLICATION OF THE CITY OF</b>	§	
<b>CIBOLO FOR SINGLE</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>CERTIFICATION IN</b>	§	
<b>INCORPORATED AREA AND TO</b>	§	
<b>DECERTIFY PORTIONS OF GREEN</b>	§	
<b>VALLEY SPECIAL UTILITY</b>	§	<b>OF</b>
<b>DISTRICT'S SEWER CERTIFICATE</b>	§	
<b>OF CONVENIENCE AND</b>	§	
<b>NECESSITY IN GUADALUPE</b>	§	<b>ADMINISTRATIVE HEARINGS</b>
<b>COUNTY</b>	§	

**CITY OF CIBOLO'S RESPONSE TO GREEN VALLEY SPECIAL UTILITY  
DISTRICT'S THIRD REQUEST FOR INFORMATION**

**BATES LOG**

<b>BATES RANGE</b>	<b>RESPONSE TO RFI</b>
CIBOLO00000054-CIBOLO00000056 CIBOLO000000124-CIBOLO000000127 CIBOLO000000341-CIBOLO000000342 CIBOLO000000474-CIBOLO00000050	3-3
CIBOLO000000479-CIBOLO000000495 CIBOLO000000500-CIBOLO000000502	3-5
CIBOLO000000057 CIBOLO000000203-CIBOLO000000214 CIBOLO000000218-CIBOLO000000219 CIBOLO000000252-CIBOLO000000253 CIBOLO000000331-CIBOLO000000332	3-9
CIBOLO000000001-CIBOLO000000023 CIBOLO000000030-CIBOLO000000041 CIBOLO000000413-CIBOLO000000435	3-10

BATES RANGE	RESPONSE TO RFI
CIBOLO000000001-CIBOLO000000029 CIBOLO000000058-CIBOLO000000081 CIBOLO000000085-CIBOLO000000123 CIBOLO000000128-CIBOLO000000199 CIBOLO000000215-CIBOLO000000217 CIBOLO000000220-CIBOLO000000222 CIBOLO000000226-CIBOLO000000251 CIBOLO000000254-CIBOLO000000291 CIBOLO000000297-CIBOLO000000326 CIBOLO000000329-CIBOLO000000330 CIBOLO000000333-CIBOLO000000340 CIBOLO000000343-CIBOLO000000374 CIBOLO000000377-CIBOLO000000473	3-12
CIBOLO000000042-CIBOLO000000050	3-13
CIBOLO000000051-CIBOLO000000053 CIBOLO000000082-CIBOLO000000084 CIBOLO000000128-CIBOLO000000151 CIBOLO000000153-CIBOLO000000156 CIBOLO000000200-CIBOLO000000202 CIBOLO000000224-CIBOLO000000225 CIBOLO000000292-CIBOLO000000328 CIBOLO000000338-CIBOLO000000339 CIBOLO000000343-CIBOLO000000344 CIBOLO000000377-CIBOLO000000383 CIBOLO000000390 CIBOLO000000404-CIBOLO000000437	3-14