

Control Number: 45702



Item Number: 159

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

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PUBLIC UTILITY COMMISSION
CLERK

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

JOINT AGREED STIPULATIONS CONCERNING REMAINING REFERRED ISSUES

The City of Cibolo (the "City"), files this, its Joint Agreed Stipulations Concerning Remaining Referred Issues ("Stipulations") with Green Valley Special Utility District (the "District") and the Public Utility Commission ("Commission") Staff, concerning the City's above-referenced application for single sewer certificate of convenience and necessity ("CCN") certification (the "Application") in accordance with the Administrative Law Judge's ("ALJ") Order No. 12 in this matter.

I. INTRODUCTION

At the prehearing conference held on August 10, 2017, the Parties provided the ALJ with an agreed proposed procedural schedule for this matter, which was memorialized by the ALJ in her Order No. 12. In particular, the parties agreed to jointly submit a stipulation concerning each of the remaining referred issues in this matter by September 8, 2017, which are identified as Preliminary Order Issues 1-8 of the Commission's July 1, 2016 Preliminary Order, and provide additional evidence concerning such issues. That deadline was extended to September 15, 2017. These Stipulations are timely filed.

II. BACKGROUND

Counsel for the City has conducted phone conferences with counsel for the District and with Counsel for Commission Staff on September 15, 2017 to determine whether these parties could stipulate to any of the Preliminary Order Issue Nos. 1-8 in this matter. The joint, agreed stipulations amongst these three entities (the “Parties”) are provided in Section III, *infra*.

III. STIPULATIONS

Preliminary Order Issue No. 1: Is the area for which the City of Cibolo seeks single certification currently within the certified service area of a retail public utility?

STIPULATION: The Parties stipulate that the area for which the City seeks single sewer certification in the Application is currently within the boundaries of the District’s sewer CCN No. 20973, a retail public utility.

Preliminary Order Issue No. 2: If so, did Cibolo provide written notice to the retail public utility of Cibolo’s intent to provide service to the area for which Cibolo seeks certification?

STIPULATION: The Parties stipulate that the City did provide a written notice letter to the District on August 18, 2015 of the City’s intent to provide service, a copy of which is attached hereto as Attachment A. While the City and Commission Staff contend that such notice letter demonstrated the City’s intent to provide sewer service to the area for which the City seeks certification in this Application, the Parties cannot stipulate to such contention, and this issue will be addressed through subsequent briefing pursuant to the ALJ’s Order No. 12.

Preliminary Order Issue No. 3: If so, did Cibolo wait more than 180 days after providing the written notice before Cibolo filed its application with the Commission?

STIPULATION: The Parties stipulate that the City waited more than 180 days after providing a written notice letter to the District on August 18, 2015 before the City submitted the Application to the Commission. The City submitted its Application to the Commission on March 8, 2016. The start date of the 180 days will be determined by the outcome of the subsequent briefing on Preliminary Order Issue No. 2.

Preliminary Order Issue No. 4: Is Cibolo's application administratively complete pursuant to 16 TAC § 24.8? In making this determination, the following questions should be addressed:

- a. Has Cibolo demonstrated that no retail public utility facilities will be rendered useless or valueless to the retail public utility? If not, has Cibolo included in its application all appraisals required under TWC § 13.255(1) and 16 TAC § 24.120(m)?
- b. Is Cibolo requesting the transfer of specified property of a retail public utility? If so, has Cibolo included in its application all appraisals required under TWC § 13.255(1) and 16 TAC § 24.120(m)?

STIPULATION: The Parties stipulate that the Commission Staff recommended the Application be deemed administratively complete pursuant to 16 TAC § 24.8 on August 24, 2017. The Parties further stipulate that the Commission already determined Issue Nos. 4.a. and 4.b. in its Interim Order, dated June 29, 2017, concerning Supplemental Preliminary Order Issue Nos. 9-11. While the City and Commission Staff contend that the City's application should be deemed administratively complete pursuant to 16 TAC § 24.8, the District disagrees. This sub-issue will be addressed through subsequent briefing pursuant to the ALJ's Order No. 12.

Preliminary Order Issue No. 5: Has Cibolo demonstrated that its public-drinking-water systems comply with TCEQ's minimum requirements for public-drinking-water system?

STIPULATION: The Parties cannot stipulate that the City has demonstrated that its public-drinking-water systems comply with TCEQ's minimum requirements for public-drinking-water system. This issue will be addressed through subsequent briefing pursuant to the ALJ's Order No. 12, which will include supporting documentation.

Preliminary Order Issue No. 6: Has the retail public utility submitted to the Commission a written list with the names and addresses of any lienholders and the amount of the retail public utility's debt, if any?

STIPULATION: The Parties stipulate that the District has submitted to the Commission a written list with the names and addresses of any lienholders and the amount of the retail public utility's debt on April 29, 2016. A copy of such submittal is attached hereto as Attachment B.

Preliminary Order Issue No. 7: If any lienholders exist, has the retail public utility notified the lienholders of this decertification process consistent with 16 TAC § 24.120(b)(2)?

STIPULATION: The Parties stipulate that the District notified the lienholders of this decertification process consistent with 16 TAC § 24.120(b)(2). A copy of the letters to such lienholders are attached hereto as Attachment C.

Preliminary Order Issue No. 8: What is the adequate and just compensation to be paid to the retail public utility for any of its facilities that will be useless or valueless to it or that Cibolo requests be transferred?

STIPULATION: The Parties stipulate that the Commission's determinations concerning Supplemental Preliminary Order Issue Nos. 9-11 in its Interim Order, dated June 29, 2017, render Issue No. 8 moot.

IV. CONCLUSION AND PRAYER

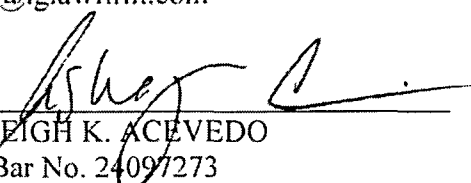
The City of Cibolo requests that the Administrative Law Judge adopt these Joint Agreed Stipulations Concerning Remaining Referred Issues.

Respectfully submitted,

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

816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)

DAVID J. KLEIN
State Bar No. 24041257
dklein@lglawfirm.com

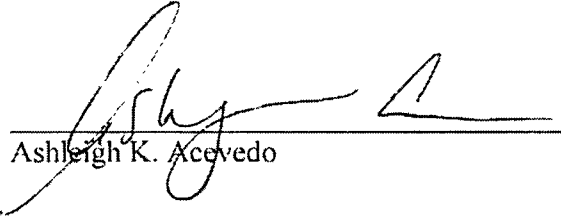


ASHLEIGH K. ACEVEDO
State Bar No. 24097273
aacevedo@lglawfirm.com

ATTORNEYS FOR THE CITY OF CIBOLO

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 15th day of September, 2017 to the parties of record, in accordance with 16 Tex. Admin. Code § 22.74.



Ashleigh K. Acevedo



From the Office of Robert T. Herrera, City Manager
City of Cibolo 200 S. Main / PO BOX 826 Cibolo, Texas 78108 (210) 658-9900 www.cibolotx.gov

August 18, 2015

Green Valley Special Utility District
Attn: Pat Allen, General Manager
529 South Center Street
Marion, TX 78124

VIA HAND DELIVERY & USPS REGULAR MAIL

Re: Notice of Intent by the City of Cibolo to Provide Sewer Service in Corporate Limits

Dear Mr. Allen:

The City of Cibolo ("City") currently provides retail sewer service to customers located within certain portions of the City's corporate limits and extra-territorial jurisdiction ("ETJ"). However, other portions of the City's corporate limits overlap with Green Valley Special Utility District's ("Green Valley SUD") sewer certificate of convenience and necessity ("CCN") No. 20973.

In accordance with Texas Water Code § 13.255, the City hereby provides Green Valley SUD with notice that the City intends to provide retail sewer service to the areas within its corporate limits that overlap with Green Valley SUD's sewer CCN service area ("Transition Areas"), which are more specifically depicted in light blue on the attached map, attached hereto as Attachment A. The yellow areas on Attachment A are additional tracts that are currently subject to annexation agreements with the City, and the City anticipates annexing these tracts in the near future. For your convenience, attached hereto as Attachment B, are field notes for the entire light blue and yellow shaded areas, which are bounded on the south by U.S. Interstate Highway 10; on the west by Cibolo Creek, on the north by Lower Seguin Road, Haeckerville Road, and Arizpe Road; and on the east by the Court Decreed ETJ Boundary of the City and the City of Marion, as well as the boundaries of GCAD Parcel Nos. 70979 and 71064.

We look forward to discussing the terms of an agreement between the City and Green Valley SUD, which will detail the arrangement between the parties for the City's provision of retail sewer service to these Transition Areas. If you have any questions, please contact me at (210) 658-9900.

Sincerely,

A handwritten signature in cursive script that reads 'Robert T. Herrera'.

Robert T. Herrera
City Manager

CC: Mayor Jackson | City Council | Peggy Cimics, City Secretary | Rudy Klein, Director of Planning & Engineering

Enclosure(s)

ATTACHMENT B

COPY

Field Notes for a 5,882 Acre area of land to be Certified into the City of Cibolo's Certificate of Convenience and Necessity (CCN) area; said 5,882 Acres of land is in the existing City Limits or ETJ of the City of Cibolo, Guadalupe County, Texas.

Beginning at the intersection of Haekerville Road and Arizpe Road, said intersection being 7,515 feet south of the intersection of Haekerville Road and Farm to Market Road 78, said pint of beginning also being in the Extra Territorial Jurisdictional (ETJ) area for the City of Cibolo, Guadalupe County, Texas.

Thence in and easterly direction with Arizpe Road, approximately 2,304 feet to the intersection and crossing of Town Creek, an intermittent tributary to the Cibolo Creek;

Thence in an easterly direction with the meanders of Town Creek, approximately 6,860 feet to the intersection of Pfannstiel Lane and the Court Decreed ETJ Boundary between the City of Cibolo and the City of Marion;

Thence in a southerly direction with the Court Decreed ETJ Boundary between the City of Cibolo and the City of Marion, approximately 25,565 feet to the northeast corner of a 124.75 acre tract of land identified by the Guadalupe County Appraisal District as Parcel # 70979;

Thence in a southerly direction with the east line of said 124.75 acre tract, approximately 1,630 feet to the southeast corner of said tract, also being the north east corner of a 7.658 acres tract of land identified by the Guadalupe County Appraisal District as Parcel # 71064;

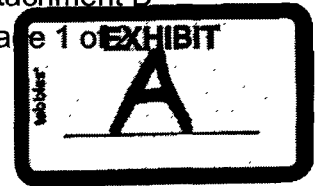
Thence in a southerly direction with the east line of said 7.658 acre tract, approximately 330 feet to the southeast corner of said tract, also being on the north right-of-way line of Interstate Highway 10;

Thence in a southwesterly direction with the north right-of-way line of Interstate Highway 10, approximately 20,900 feet to the intersection and crossing of the Cibolo Creek, the centerline of said Cibolo Creek also being the western limit of the ETJ of the City of Cibolo;

Thence in a northerly direction with the meanders of Cibolo Creek, approximately 21,350 feet to the intersection and crossing of Lower Seguin Road;

Thence in an easterly direction with Lower Seguin Road, approximately 7,005 feet to the intersection with Haekerville Road;

Thence in a northerly direction with Haekerville Road, approximately 4,003 feet to the point of beginning and containing 5,882 acres more or less.

**DOCKET NO. 45702**

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

AFFIDAVIT OF PAT ALLEN

1. My name is Pat Allen. I am of sound mind, over the age of twenty-one years, have never been convicted of a felony or other crime involving moral turpitude, and am capable of making this Affidavit. I am fully competent to testify to the matters stated herein. I have personal knowledge of each of the matters stated herein, and they are true and correct.

2. I am currently employed as the General Manager of Green Valley Special Utility District ("Green Valley SUD") which is a position that I have held since 2007.

3. I have read P.U.C. SUBST. R. 24.120(b)(1) and I am making a good faith effort to provide the list in the manner described in that rule regarding outstanding Green Valley SUD debt after a review of Green Valley SUD records. Green Valley SUD has outstanding debt with the lienholders listed below in the amounts shown. The mailing addresses I have located for those lienholders are also provided.

- a. Green Valley Special Utility District Water System Revenue Bonds, Series 2003; \$500,000 outstanding debt amount at end of fiscal year 9/30/2015; Lienholder Name (purchaser of these bonds): United States of America; Lienholder Address: United States of America Department of Agriculture (USDA) Rural Development--Rural Utilities Service (RUS), Attn: Gilberto Menendez, Assistant Area Manager, USDA-Seguin Local Office, 3251 N Highway 123 Bypass, Seguin, TX 78155
- b. Green Valley Special Utility District Water System Revenue Bonds, Series 2010 - TWDB Reserve Fund; \$2,725,000.00 outstanding debt balance; Series

Paying Agent/Registrar Bank: Wells Fargo. Account GREL410WSR. Loan L100057; Balance \$2,725,000.00; Lienholder Name (purchaser of these bonds): Texas Water Development Board; Lienholder Address: Texas Water Development Board, Attn: Kevin Patteson, Executive Administrator, 1700 North Congress Avenue, Austin, TX 78701

- c. Green Valley Special Utility District Water System Revenue Bonds, Series 2011 – TWDB: Paying Agent/Registrar Bank: Bank of Texas. Account GREE1211WSR. Loan 600024642; \$6,040,000.00 outstanding debt balance; Lienholder Name (purchaser of these bonds): Texas Water Development Board; Lienholder Address: Texas Water Development Board, Attn: Kevin Patteson, Executive Administrator, 1700 North Congress Avenue, Austin, TX 78701.

4. I declare under penalty of perjury that the foregoing is true and correct.

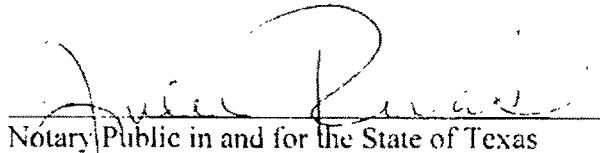
Executed on the 29th day of April, 2016.



Pat Allen

SWORN TO and SUBSCRIBED before me by Pat Allen on April 29th, 2016.




Notary Public in and for the State of Texas

My commission expires: 2018

TERRILL & WALDROP

ATTORNEYS and COUNSELORS

810 West 10th Street
Austin, Texas 78701
Tel (512) 474-9100
Fax (512) 474-9888

April 29, 2016

Kevin Patteson
Executive Administrator
Texas Water Development Board
1700 North Congress Avenue
Austin, TX 78701

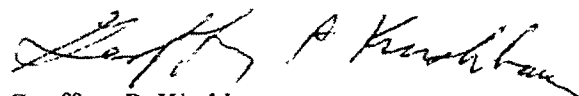
Re: PUC Docket No. 45702; Green Valley Special Utility District Water System Revenue Bonds, Series 2011 – TWDB; Paying Agent/Registrar Bank: Bank of Texas, Account GREE1211WSR, Loan 600024642.

Dear Mr. Patteson:

I am writing to you on behalf of Green Valley Special Utility District ("Green Valley SUD") because Texas Water Development Board ("TWDB") is a lienholder of a Green Valley SUD outstanding debt obligation. Pursuant to Public Utility Commission of Texas ("PUC") SUBST. R. 24.120(b)(2), the PUC has directed that Green Valley SUD notify TWDB that the City of Cibolo ("City") has commenced a Texas Water Code § 13.255 CCN decertification proceeding against Green Valley SUD before the PUC. This matter is assigned PUC Docket No. 45702. PUC SUBST. R. 24.120(b)(2) further directs Green Valley SUD to "request that the lienholder provide information to the commission sufficient to establish the amount of compensation necessary to avoid impairment of any debt allocable to the area in question." The decertification proceeding involves an application seeking single certification to the City for a portion of Green Valley SUD's sewer CCN No. 20973 service area.

Green Valley SUD is not aware what specific information the Commission may require from TWDB with respect to this proceeding. For more detail, please contact the Public Utility Commission directly through its Legal Department at (512) 936-7260. Alternatively, the assigned PUC Staff Attorney for this matter is Landon Lill, and he may be contacted via his direct phone number at (512) 936-7228.

Sincerely,



Geoffrey P. Kirshbaum
For the Firm

cc: Les Trobman
TWDB General Counsel
Carleton Wilkes
TWDB Team Lead for Financial Compliance

TERRILL & WALDROP

ATTORNEYS and COUNSELORS

810 West 10th Street
Austin, Texas 78701
Tel (512) 474-9100
Fax (512) 474-9888

April 29, 2016

Kevin Patteson
Executive Administrator
Texas Water Development Board
1700 North Congress Avenue
Austin, TX 78701

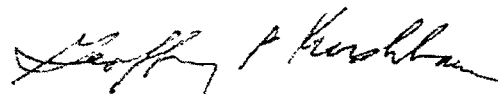
Re: PUC Docket No. 45702; Green Valley Special Utility District Water System
Revenue Bonds, Series 2010 - TWDB Reserve Fund; Account GREE410WSR,
Loan L100057.

Dear Mr. Patteson:

I am writing to you on behalf of Green Valley Special Utility District ("Green Valley SUD") because Texas Water Development Board ("TWDB") is a lienholder of a Green Valley SUD outstanding debt obligation. Pursuant to Public Utility Commission of Texas ("PUC") SUBST. R. 24.120(b)(2), the PUC has directed that Green Valley SUD notify TWDB that the City of Cibolo ("City") has commenced a Texas Water Code § 13.255 CCN decertification proceeding against Green Valley SUD before the PUC. This matter is assigned PUC Docket No. 45702. PUC SUBST. R. 24.120(b)(2) further directs Green Valley SUD to "request that the lienholder provide information to the commission sufficient to establish the amount of compensation necessary to avoid impairment of any debt allocable to the area in question." The decertification proceeding involves an application seeking single certification to the City for a portion of Green Valley SUD's sewer CCN No. 20973 service area.

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Sincerely,



Geoffrey P. Kirshbaum
For the Firm

cc: Les Trobman
TWDB General Counsel
Carleton Wilkes
TWDB Team Lead for Financial Compliance

TERRILL & WALDROP

ATTORNEYS and COUNSELORS

810 West 10th Street
Austin, Texas 78701
Tel (512) 474-9100
Fax (512) 474-9888

April 29, 2016

Gilberto Menendez
Assistant Area Manager
USDA-Seguin Local Office
3251 N Highway 123 Bypass
Seguin, TX 78155

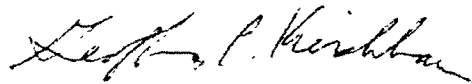
Re: PUC Docket No. 45702; Green Valley Special Utility District Water System
Revenue Bonds, Series 2003.

Dear Mr. Menendez:

I am writing to you on behalf of Green Valley Special Utility District ("Green Valley SUD") because the United States of America ("USA") is a lienholder of a Green Valley SUD outstanding debt obligation. Pursuant to Public Utility Commission of Texas ("PUC") SUBST. R. 24.120(b)(2), the PUC has directed that Green Valley SUD notify the USA that the City of Cibolo ("City") has commenced a Texas Water Code § 13.255 CCN decertification proceeding against Green Valley SUD before the PUC. This matter is assigned PUC Docket No. 45702. PUC SUBST. R. 24.120(b)(2) further directs Green Valley SUD to "request that the lienholder provide information to the commission sufficient to establish the amount of compensation necessary to avoid impairment of any debt allocable to the area in question." The decertification proceeding involves an application seeking single certification to the City for a portion of Green Valley SUD's sewer CCN No. 20973 service area.

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Sincerely,



Geoffrey P. Kirshbaum
For the Firm