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

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

REPLY BRIEF OF CITY OF CIBOLO

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## REPLY BRIEF OF CITY OF CIBOLO

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### Exhibits

- Exhibit 1      TCEQ-certified copies of the City's compliance history
- Exhibit 2      Notice of Compliance Letter from TCEQ

SOAH DOCKET NO. 473-16-5296.WS  
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APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
CIBOLO FOR SINGLE	§	
CERTIFICATION IN INCORPORATED	§	
AREA AND TO DECERTIFY PORTIONS	§	OF
OF GREEN VALLEY SPECIAL UTILITY	§	
DISTRICT'S SEWER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
GUADALUPE COUNTY	§	ADMINISTRATIVE HEARINGS

**REPLY BRIEF OF THE CITY OF CIBOLO**

**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:**

The City of Cibolo (the “City”) files this, its Reply Brief (“Reply”) to the Initial Briefs of Green Valley Special Utility District (“GVSUD”) and Public Utility Commission (“Commission”) Staff regarding the City’s application (the “Application”) to decertify portions of GVSUD’s sewer certificate of convenience and necessity (“CCN”) within the corporate limits of the City (the “Decertified Area”) under Texas Water Code (“TWC”) § 13.255, in accordance with the Administrative Law Judge’s (“ALJ”) Order No. 13 in this matter. This Reply Brief is timely filed.

**I. INTRODUCTION AND SUMMARY OF ARGUMENT**

The City respectfully requests that the ALJ issue a proposal for decision finding that with respect to the non-stipulated remaining issues in this matter, (1) the City complied with the 180-day notice to GVSUD of its intent to decertify portions of GVSUD’s sewer CCN, and, thus, the Application is administratively complete (Referred Issue Nos. 2, 3, and 4); and (2) that the City has demonstrated compliance with the Texas Commission on Environmental Quality’s (“TCEQ’s”) minimum requirements for public drinking water systems (Referred Issue No. 5).<sup>1</sup>

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<sup>1</sup> Preliminary Order at 5-6 (identifying the referred issues in this matter, collectively referred to herein as the “Referred Issues”).

GVSUD has wholly failed to provide any meaningful basis to challenge the adequacy of the City's August 18, 2015 notice of the City's intent to provide retail wastewater service (the "Notice") under TWC § 13.255(b) or 16 Texas Administrative Code ("TAC") § 24.120. Not only were these statutory and regulatory requirements met, but GVSUD's assertions of confusion about the area to be decertified is belied by the fact that GVSUD never sought clarification on the specific tracts referenced therein, and proceeded to seek compensation during the first phase of this proceeding for a precise, undisputed amount of acreage. GVSUD has also failed to provide any evidence that the City is non-compliant with the TCEQ's minimum requirements for public drinking water systems. For these reasons, the ALJ should recommend that the remaining issues be resolved in favor of the City.

## II. REPLY

**A. Referred Issue Nos. 2, 3, and 4: The City's Notice to GVSUD met all applicable requirements and accurately notified GVSUD of the tracts to be decertified, thus a determination of administrative completeness is appropriate.**

The City has met its burden of proof that its Notice<sup>2</sup> to GVSUD met all applicable requirements for an application under TWC § 13.255 and 16 TAC § 24.120, and, consequently, the Commission Staff's recommendation that the Application is administratively complete is appropriate. GVSUD's sole objection to the determination of administrative completeness is that GVSUD was somehow confused or misled by the Notice that was timely provided to GVSUD 180 days prior to the submission of the Application. Yet, GVSUD failed to demonstrate that the Notice did not meet the applicable statutory and regulatory requirements; and, fatal to GVSUD's contention, GVSUD has already implicitly acknowledged that the Notice was sufficient to convey to GVSUD what tracts the City intended to be subject to the Application. As such, GVSUD's assertions should be rejected and there should be findings that the Notice was

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<sup>2</sup> The City's Notice is already admitted into the evidentiary record through Cibola Exhibit 1, Exhibit B, at pages 42-44 (Direct Testimony of Rudolph "Rudy" F. Klein, IV, P.F.).

property and that such Notice supports the Commission Staff's recommendation that the Application is administratively complete.

**1. The Notice meets the requirements of TWC § 13.255 and 16 TAC § 24.120.**

As the City and Commission Staff explained in their respective Initial Briefs, TWC § 13.255 and the Commission rule in place at the time required only that the municipality, "in writing, notif[y] the retail public utility of its intent to provide service to the incorporated or annexed area. . . ."<sup>3</sup> Neither provision further outlines the specific elements of the notice or what is required in order for the notice to be deemed sufficient by the Commission.<sup>4</sup> Fundamentally, the purpose of a notice is to alert the person receiving the notice that their interests may be impacted.<sup>5</sup> The City has accomplished that purpose. Not only did the City provide a narrative description clearly explaining which tracts for which it was seeking single certification, but it also provided a map separately identifying those tracts, as well as a metes and bounds description of the general area to be decertified.<sup>6</sup> Such detail should not be considered misleading or confusing. Pursuant to TWC § 13.255 and 16 TAC § 24.120, such additional information was not required.

Moreover, once the new notice requirements under 16 TAC § 24.120 were adopted by the Commission- which occurred after the Proposal for Decision for the first phase on this matter was issued- the City voluntarily supplemented the administrative record with additional notice

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<sup>3</sup> TWC § 13.255(b); 16 TAC § 24.120(b) (2014).

<sup>4</sup> *Id.* Neither TWC § 13.255, 16 TAC § 24.120 (2014), nor an order interpreting the same detail the degree of specificity the notice of intent to serve must contain with respect to the tracts subject to single certification.

<sup>5</sup> *Chocolate Bayou Water Co. & Sand Supply v. Tex. Nat. Res. Conservation Comm'n*, 124 S.W.3d 844, 851 (Tex. App.—Austin 2003, pet. denied) (with respect to a TCEQ regulation requiring notice, explaining that "[i]t is clear from the limited amount of information that must be included in a notice statement that the notice itself is not intended to fully apprise potentially affected parties of the specifics of the proposed permit. Those specifics are found in the Application and its supplemental materials, all of which are available to the public.").

<sup>6</sup> City's Initial Brief, at 6-8, Attachment A.

information required under the new rule.<sup>7</sup> Specifically, on August 24, 2017, the City filed a second supplement to the Application, whereby the City provided certified copies of the City's ordinances annexing those properties that are sought to be singly certified by the Application.<sup>8</sup> Aside from this information, which was not required at the time that the Notice was sent, the Notice contains all of the information required under the new rule as well.

Rather than explain how the wealth of information provided by the City to GVSUD could somehow amount to failing to meet this broad, unspecific notice requirement, GVSUD instead confuses the notice requirements under the law, suggesting that the City twice failed to provide adequate notice. In both its Initial Brief and August 31, 2017 Response to Staff's Recommendation on Administrative Completeness, GVSUD states—without substantiation—that the Application is also not administratively complete because the City used the same map in a separate notice to GVSUD indicating that the City had filed the Application after the requisite 180-day Notice.<sup>9</sup> However, notice of the Application being filed is not required under either TWC § 13.255 or Commission rules.<sup>10</sup> Thus, for GVSUD to suggest that the City has perpetually failed to provide notice is simply an incorrect statement of law and fact.

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<sup>7</sup> 16 TAC § 24.120(c) (2017).

<sup>8</sup> *Id.* at 7, Attachment B.

<sup>9</sup> GVSUD Initial Brief, at 2; GVSUD Response to Staff's Recommendation on Administrative Completeness, at 2-3.

<sup>10</sup> Although not required by law, the City provided GVSUD notice of its filing of the Application at the request of Commission Staff on April, 12, 2016, which is reflected in the City's Response to Order No. 2, PUC Interchange Item No. 13. To the extent the ALJ believes this notice is relevant, the City moves for the ALJ to take Official Notice under 16 TAC § 22.222 that the City satisfactorily notified GVSUD that the Application had been filed on April 12, 2016, a fact that is not subject to reasonable dispute and is generally known within the jurisdiction of the Commission and capable of accurate and ready determination by resort to the Commission's online and written records, including: [http://interchange.puc.texas.gov/WebApp/Interchange/application/dbapps/filings/pgSearch\\_Results.asp?TXT\\_CNT R\\_NO=45702&TXT\\_ITEM\\_NO=13](http://interchange.puc.texas.gov/WebApp/Interchange/application/dbapps/filings/pgSearch_Results.asp?TXT_CNT R_NO=45702&TXT_ITEM_NO=13).

**2. GVSUD's allegations that the Notice is inaccurate and misleading is suspect given GVSUD's use of such maps to seek compensation from the City in the first phase of this proceeding.**

GVSUD has failed to show how the Notice precluded GVSUD from understanding what tracts the City was seeking to decertify from GVSUD pursuant to TWC § 13.255. Instead, GVSUD plainly concludes—without explanation—that the maps attached to the Notice are somehow inaccurate or misleading. Yet, GVSUD has not explained *how* it has determined that the map contains inaccuracies. GVSUD has not asserted that the map is somehow inconsistent from the narrative description or the metes and bounds. GVSUD does not claim that it does not understand the narrative in the Notice letter, the metes and bounds, or the ordinances that have been provided. GVSUD does not indicate (nor can it) that GVSUD reached out to the City for clarification on what was intended in the map. GVSUD has not explained anything that would suggest that GVSUD truly did not understand the map or how the map was so difficult to discern that it rendered the Notice letter and the metes and bounds useless. In short, GVSUD has provided no facts whatsoever that reflect that GVSUD did not understand what the Notice was intended to convey.

In fact, GVSUD's assertions of inaccuracies and misleading information are repudiated by GVSUD itself. The first phase of this proceeding was premised on GVSUD's appraisal of property rendered useless or valueless as a result of the decertification of 1,694 acres of GVSUD's sewer CCN.<sup>11</sup> That precise acreage was undisputed. GVSUD built an entire case in the first phase around those 1,694 acres and never once questioned where those acres were located or whether those 1,694 acres were different than what was reflected in the Notice.<sup>12</sup> If GVSUD did not have an issue in identifying the property subject to the Application for purposes

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<sup>11</sup> Interim Order, Finding of Fact Nos. 2, 36.

<sup>12</sup> See GVSUD Exhibit GVSUD-1, at 100000 (containing Joshua Korman's "Appraisal Report", which is entirely based upon 1,694 acres of land being decertified from GVSUD's sewer CCN).



of determining how much compensation it would seek from the City, then it certainly cannot now claim an issue identifying such property. To do so would be an express admission that the case GVSUD presented under oath during the first phase of this proceeding was knowingly false.

GVSUD has provided nothing to substantiate that the Notice is deficient. It is clear that GVSUD is maintaining these assertions and requesting that this year and a half-long process be restarted in a last-ditch effort to delay the implementation of the determinations in the first phase, which are not favorable to GVSUD because they do not result in GVSUD receiving compensation for the decertification from the City. For all of these reasons, as well as the reasons in the City's Initial Brief, the City respectfully requests that the ALJ recommend that the Notice is sufficient, was timely provided to GVSUD, and that the Application is administratively complete.

**B. Referred Issue No. 5: The City has continuously maintained compliance with TCEQ's minimum drinking water requirements, which has been demonstrated throughout the duration of this docket.**

GVSUD's Initial Brief fails to challenge that the City has maintained compliance with the TCEQ's minimum requirements for drinking water systems, merely stating that nothing has been provided. The documents provided in the City's Initial Brief, as well as other filings in this matter, demonstrate that the City's superior public drinking water system is in compliance with TCEQ's minimum drinking water requirements. Simply put, the City has:

- a public drinking water system authorization from the TCEQ;<sup>13</sup>

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<sup>13</sup> The City offers into evidence Attachments B-E of its Initial Brief, which contain documents previously filed in this matter, from the TCEQ and the City demonstrating that the City has a public drinking water system authorization from the TCEQ. In the alternative, the City moves for the Administrative Law Judge to take Official Notice under 16 TAC § 22.222 that the TCEQ has granted the City public drinking water system no. TX0940018, a fact that is not subject to reasonable dispute and is generally known within the jurisdiction of the Commission and capable of accurate and ready determination by resort to the TCEQ's online and written records, including: [http://dww2.tceq.texas.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys\\_is\\_number=2101&tinwsys\\_st\\_code=TX&wssystem=TX0940018&DWWState=TX](http://dww2.tceq.texas.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys_is_number=2101&tinwsys_st_code=TX&wssystem=TX0940018&DWWState=TX) (last visited September 29, 2017), whose accuracy cannot reasonably be questioned.

- a satisfactory compliance history rating from the TCEQ;<sup>14</sup>
- been noted as a superior water system by the TCEQ; and<sup>15</sup>
- has no current notices of violation from the TCEQ.<sup>16</sup>

TWC § 13.255(m) provides that “[t]he utility commission shall deny an application for single certification by a municipality that fails to demonstrate compliance with the commission’s minimum requirements for public drinking water systems.” However, TWC § 13.255 does not elaborate with specificity on what all “compliance with the commission’s minimum requirements for public drinking water systems” entails, nor does the Commission’s rules.<sup>17</sup> Thus, a determination from TCEQ—the agency with the regulatory authority and expertise over

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<sup>14</sup> The City offers into evidence Attachments B-E of its Initial Brief, which contain documents previously filed in this matter, from the TCEQ and the City demonstrating that the City has a satisfactory compliance history rating with the TCEQ. In the alternative, the City moves for the Administrative Law Judge to take Official Notice under 16 TAC § 22.222 that the TCEQ has identified that the City has a satisfactory compliance history rating, a fact that is not subject to reasonable dispute and is generally known within the jurisdiction of the Commission and capable of accurate and ready determination by resort to the TCEQ’s online and written records, including: [http://www2.tceq.texas.gov/oce/ch/index.cfm?fuseaction=main.SearchCN&formid\\_recn&cnid=600705719&doit=Submit](http://www2.tceq.texas.gov/oce/ch/index.cfm?fuseaction=main.SearchCN&formid_recn&cnid=600705719&doit=Submit) (last visited September 29, 2017), whose accuracy cannot reasonably be questioned.

<sup>15</sup> The City offers into evidence Attachments B-E of its Initial Brief, which contain documents previously filed in this matter from the TCEQ and the City, demonstrating that the City has a public drinking water system authorization from the TCEQ. Additionally, the City offers into evidence TCEQ-certified copies of the City’s compliance history, attached hereto as Exhibit 1. In the alternative, the City moves for the Administrative Law Judge to take Official Notice under 16 TAC § 22.222 that the TCEQ has recognized the City’s public drinking water system as a “superior water system”, a fact that is not subject to reasonable dispute and is generally known within the jurisdiction of the Commission and capable of accurate and ready determination by resort to the TCEQ’s online and written records, including: [http://dww2.tceq.texas.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys\\_is\\_number=2101&tinwsys\\_st\\_cod e=TX&wsnumber=TX0940018 &DWWState=TX](http://dww2.tceq.texas.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys_is_number=2101&tinwsys_st_cod e=TX&wsnumber=TX0940018 &DWWState=TX) (last visited September 29, 2017), whose accuracy cannot reasonably be questioned.

<sup>16</sup> The City offers into evidence a Notice of Compliance letter the City received from the TCEQ today, attached hereto as Exhibit 2. In the alternative, the City moves for the Administrative Law Judge to take Official Notice under 16 TAC § 22.222 that the according to the TCEQ’s records, the City does not have any active violations, a fact that is not subject to reasonable dispute and is generally known within the jurisdiction of the Commission and capable of accurate and ready determination by resort to the TCEQ’s online records at: [http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.novdetail&addn\\_id=871584622002136&re\\_id=695492702002009](http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.novdetail&addn_id=871584622002136&re_id=695492702002009) (last visited September 29, 2017), whose accuracy cannot reasonably be questioned.

<sup>17</sup> The then-effective Commission rule related to the public drinking water requirement required: “The commission shall deny an application for single certification by a municipality that fails to obtain a finding from TCEQ that it is will demonstrate compliance with the TCEQ’s minimum requirements for public drinking water systems, pursuant to 30 TAC Chapter 290. Subchapter D (relating to Rules and Regulations for Public Water Systems.”

drinking water matters—that the City’s water system is authorized to operate in Texas, that it is a superior water system, and that it has a satisfactory compliance history rating all *independently* demonstrate that they are in compliance with the TCEQ’s minimum requirements for public drinking water systems under TWC § 13.255(m). The fact that the City has no pending violations is “icing on the cake.”

As explained at length in the City’s Initial Brief, the City has continuously provided updated information related to its public drinking water system, authorization number TX0940018, in this docket.<sup>18</sup> In addition to its prior filings, attached as Attachments B-D to the Initial Brief, the City again updated that information with the Initial Brief (Attachment E), ensuring that the most recent information is available to the ALJ and the parties, further demonstrating continuous compliance;<sup>19</sup>

GVSUD suggests—again, without substantiation or any explanation thereof—that three outstanding violations listed under the City’s public drinking water authorization somehow cast doubt on the City’s “compliance with the commission’s minimum requirements for public drinking water systems”. First, these violations did not exist at the time that the Application was filed, so it was impossible to provide record evidence of them. Second, the City has subsequently acknowledged these violations and provided evidence demonstrating that the City took the actions—recognized by TCEQ Regional Staff—to address those violations; and, Exhibit 1 to this Reply provides even further evidence from the TCEQ that such efforts of the City indeed resolved those violations and that the City is in compliance with the TCEQ’s public drinking water regulations.

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<sup>18</sup> City’s Initial Brief, at 12-14.

<sup>19</sup> *Id.* Attachment E.

Because the City has provided all documents that exist reflecting its compliance with TCEQ's minimum public drinking water requirements and because those documents indicate that the City is well within the requirements of TCEQ's drinking water rules, the City respectfully requests that the ALJ determine that the City has sufficiently demonstrated that it meets TCEQ's minimum drinking water requirements.

### **III. PROPOSED FINDINGS OF FACT**

#### ***Procedural***

1. On June 29, 2017, the Commission issued the Interim Order, which addressed Referred Issue Nos. 9, 10, and 11, and referred the remaining issues to SOAH for a contested case hearing
2. On August 10, 2017, the parties convened a prehearing conference.
3. At the prehearing conference, the parties agreed to stipulate to the remaining issues to the extent to which they could and to address the non-stipulated issues through briefing.
4. On September 15, 2017, the parties filed a Joint Agreed Stipulations Concerning Remaining Referred Issues, stipulating as to Issue Nos. 1, 4.a, 4.b., 6, 7, and 8.
5. On September 22, 2017, the parties filed Initial Briefs on the non-stipulated issues, which were Issue Nos. 2, 3, 4 (excluding 4.a. and 4.b.), and 5.
6. On September 29, 2017, the parties filed Reply Briefs on the non-stipulated issues, which were Issue Nos. 2, 3, 4 (excluding 4.a. and 4.b.), and 5.

#### ***Referred Issue No. 1 – Is the area for which the City of Cibola seeks single certification currently within the certified service area of a retail public utility?***

7. The Parties have stipulated that the area for which the City seeks single certification is 1,694 acres within GVSUD's sewer CCN No. 20973.
8. GVSUD is a special utility district.

#### ***Referred Issue No. 2 – If so, did Cibola provide written notice to the retail public utility of Cibola's intent to provide service to the area for which Cibola seeks certification?***

9. On August 18, 2015, the City provided notice to GVSUD of its intent to provide sewer service to portions of land that were within the corporate limits of the City (the "Notice") and within GVSUD's sewer CCN.

10. The Notice stated that the City intended to provide retail sewer service to the areas within its corporate limits that overlap with GVSUD's sewer CCN service area.
11. The Notice additionally included a map of the tracts to be decertified and a general metes and bounds description of the tracts to be decertified.
12. The Notice identified the land that is both within the corporate limits of the City and within GVSUD's sewer CCN that the City intends to provide retail water service to and would be decertificated from GVSUD's sewer CCN by an application under TWC § 13.255.
13. GVSUD did not seek clarification from the City on which tracts the City intends to decertify.
14. The tracts to be decertified from GVSUD constitute 1.694 acres of land.

***Referred 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?***

15. On March 8, 2016, the City submitted an application under Texas Water Code § 13.255 for single sewer certificate of convenience and necessity ("CCN") certification with the Commission (the "Application"), decertifying such portions of GVSUD's sewer CCN No. 20973, which is 1.694 acres of land, and granting a sewer CCN to the City for such land.
16. The Application was submitted more than 180 days after the City provided the Notice.

***Referred 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)?***

17. There are no outstanding deficiencies in the Application.
18. On August 24, 2017, Staff recommended that the Application be deemed administratively complete.
19. As stated in the agreed stipulations, Issues 4.a. and 4.b were determined in the Commission's Interim Order, dated June 29, 2017.

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

20. The City's is authorized to operate a public drinking water system under authorization number TX0940018.

21. The City's public drinking water system has a compliance history classification of "satisfactory".
22. The City's public drinking water system is recognized by the TCEQ as a "Superior Water System."
23. The TCEQ has not revoked the City's public drinking water authorization number TX0940018.
24. The City has provided information to the Commission of its compliance with TCEQ minimum drinking water system requirements.
25. The City has no active notices of violations with the TCEQ concerning its public drinking water system.
26. Commission Staff recommended that the submissions by the City related to its public drinking water system are sufficient to demonstrate compliance with TCEQ's minimum requirements for public drinking water systems.

***Referred 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?***

27. As stated in the agreed stipulations, GVSUD has submitted to the Commission a written list of the names and addresses of any lienholders and the amount of GVSUD's debt on April 29, 2016.

***Referred 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)?***

28. As stated in the agreed stipulations, GVSUD notified the lienholders of this decertification process consistent with 16 TAC § 24.120(b)(2).

***Referred 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?***

29. As stated in the Agreed Stipulations, the Commission's determinations concerning compensation to be paid to GVSUD for any of its facilities that will be rendered useless or valueless or that the City requests be transferred to it were determined in the Commission's Interim Order, dated June 29, 2017.

#### **IV. PROPOSED CONCLUSIONS OF LAW**

1. The area for which the City seeks single certification is within the service area of the GVSUD sewer CCN No. 20973.
2. GVSUD is a retail public utility under TWC § 13.002(19).

3. The Notice provided by the City on August 18, 2015, meets the requirements of TWC § 13.255 and 16 TAC § 24.120.
4. The Application was timely filed at the Commission under TWC § 13.255, as more than 180 days had passed since the City provided GVSUD with notice of its intent to serve the area to be decertified under the Application.
5. The City's Application is administratively completed pursuant to 16 TAC § 24.8.
6. The City has demonstrated that no facilities of GVSUD will be rendered useless or valueless to the GVSUD.
7. The City is not requesting transfer of specified property of GVSUD.
8. TCEQ's requirements for public drinking water system requirements are codified at 30 TAC Chapter 290.
9. The City has a public drinking water system authorization number TX0940018, which subjects the City to the TCEQ's requirements for public drinking water systems in 30 TAC Chapter 290.
10. The City has demonstrated compliance with TCEQ's minimum requirements for public drinking water systems.
11. GVSUD notified the lienholders of this decertification process consistent with 16 TAC § 24.120(b)(2).

## **V. CONCLUSION AND PRAYER**

The City of Cibolo has met its burden of proof in this matter for the Referred Issues, demonstrating that it met the notice requirements under Texas Water Code § 13.255 and 16 Texas Administrative Code § 24.120, thus the Application is administratively complete, and the City of Cibolo meets the Texas Commission on Environmental Quality's minimum requirements for its public drinking water system. The City of Cibolo respectfully requests that the Administrative Law Judge issue a proposal for decision consistent with the City of Cibolo's request in Section III of its Initial Brief and grant any other relief to the City of Cibolo to which it may be entitled.

Respectfully submitted,

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**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 29<sup>th</sup> day of September, 2017 to the parties of record.

  
David J. Klein



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## Compliance History Report

Compliance History Report for CN600705719, RN101278455, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600705719, City of Cibola	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	22.50
<b>Regulated Entity:</b>	RN101278455, CITY OF CIBOLA	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	FM 78.4 MILES E OF FM1604 GUADALUPE, TX, GUADALUPE COUNTY				
<b>TCEQ Region:</b>	REGION 13 - SAN ANTONIO				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION WATER LICENSING LICENSE 0940018				
<b>Compliance History Period:</b>	September 01, 2012 to August 31, 2017	<b>Rating Year:</b>	2017	<b>Rating Date:</b>	09/01/2017
<b>Date Compliance History Report Prepared:</b>	September 29, 2017				
<b>Agency Decision Requiring Compliance History:</b>	Information Request				
<b>Component Period Selected:</b>	September 01, 2012 to August 31, 2017				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Enforcement Division		<b>Phone:</b>	(512) 239-2545	

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

### Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:  
N/A

B. Criminal convictions:  
N/A

C. Chronic excessive emissions events:  
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):  
Item 1 June 14, 2014 (1171605)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 04/27/2017 (1407603)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(1)  
30 TAC Chapter 290, SubChapter D 290.46(n)(3)  
Description: Failure to provide as-built plans or record drawings and specifications and well completion data for the public water supply  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)  
Description: Failure to provide an adequate purchase water contract.

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## N/A

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N/A

## N/A

N/A

SEP 29 2017

The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## Compliance History Report

Compliance History Report for CN600705719, RN101278455, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600705719, City of Cibolo	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 24.50
<b>Regulated Entity:</b>	RN101278455, CITY OF CIBOLO	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	FM 78 4 MILES E OF FM1604 GUADALUPE, TX, GUADALUPE COUNTY		
<b>TCEQ Region:</b>	REGION 13 - SAN ANTONIO		
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION WATER LICENSING LICENSE 0940018		
<b>Compliance History Period:</b>	September 01, 2011 to August 31, 2016	<b>Rating Year:</b> 2016	<b>Rating Date:</b> 09/01/2016
<b>Date Compliance History Report Prepared:</b>	August 23, 2017		
<b>Agency Decision Requiring Compliance History:</b>	Information Request		
<b>Component Period Selected:</b>	September 01, 2011 to August 31, 2016		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Enforcement Division	<b>Phone:</b>	(512) 239-2545

### Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |

### Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:  
N/A

B. Criminal convictions:  
N/A

C. Chronic excessive emissions events:  
N/A

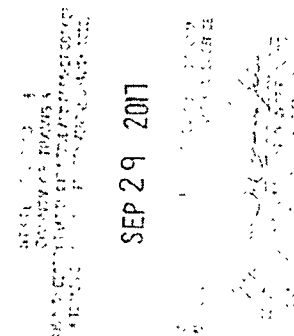
D. The approval dates of investigations (CCEDS Inv. Track. No.):  
Item 1 June 14, 2014 (1171605)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):  
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.  
N/A

F. Environmental audits:  
N/A

G. Type of environmental management systems (EMSs):  
N/A

H. Voluntary on-site compliance assessment dates:



N/A

I. Participation in a voluntary pollution reduction program:  
N/A

J. Early compliance:  
N/A

Sites Outside of Texas:  
N/A

SEP 29 2017

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 29, 2017

The Honorable Allen Dunn, Mayor  
City of Cibolo  
PO Box 826  
Cibolo, Texas 78108

Re: Notice of Compliance with Notice of Violation (NOV) dated April 27, 2017;  
City of Cibolo, Cibolo Valley Road, Guadalupe County, Texas  
Regulated Entity No.: RN101278455, TCEQ PWS ID No.: 09-10018  
Investigation No.: 1439207

Dear Mayor Dunn:

This letter is to inform you that the Texas Commission on Environmental Quality (TCEQ) San Antonio Region Office has received adequate compliance documentation on September 22, and 26, 2017 to resolve the alleged violation documented during the investigation of the above-referenced regulated entity conducted on March 7, 2017. Based on the information submitted, no further action is required.

The TCEQ appreciates your assistance in this matter and your compliance efforts to ensure protection of the State's environment. If you or members of your staff have any questions, please feel free to contact Mrs. Stacy Anderson at the San Antonio Region Office at 210-403-4078.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Bumgardner", written over a horizontal line.

Lynn Bumgardner, Water Section Manager  
San Antonio Region Office  
Texas Commission on Environmental Quality

LB/SA/eg