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DOCKET NO. 45702

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2016 JUN 23 PM 2:45
PUBLIC UTILITY COMMISSION
FILING CLERK

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

OF TEXAS

CITY OF CIBOLO'S APPRAISAL

COMES NOW, the City of Cibolo and files this its Appraisal pursuant to Tex. Water Code §13.255(l), 16 Tex. Admin. Code § 24.120(m), and the Administrative Law Judge's Order No. 7 Establishing Deadlines. This Appraisal is timely filed.

Respectfully submitted,

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

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Austin, Texas 78701
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ATTORNEYS FOR THE CITY OF CIBOLO

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by e-mail, fax, hand-delivery and/or regular, first class mail on this 28th day of June, 2016 to the parties of record.


David J. Klein

June 28, 2016

Mr. David Klein
Lloyd Gosselink
816 Congress Ave., Suite 1900
Austin, Texas 78701

Subject: Appraisal of Green Valley Special Utility District (GVSUD) in support of the City of Cibolo's Application under 13.255 for Single Certification

Dear Mr. Klein:

I have completed my review of the area, which is the subject of the City of Cibolo's Certificate of Convenience and Necessity (CCN) application under Chapter 13.255 of the Texas Water Code for wastewater single certification, Public Utility Commission Docket No. 45702. Based on our understanding, per Public Utility Commission (PUC) Substantive Rule § 24.120 (formally TCEQ Rule 291.120 which was migrated to the PUC with the change in jurisdiction), the City of Cibolo (City) must make a determination of the monetary amount of compensation due to Green Valley Special Utility District (GVSUD) for the decertified area now that the City has applied for single certification in City's incorporated area and to decertify portions of GVSUD's sewer CCN in said area.

Specifically, Substantive Rule § 24.120, Paragraph c states:

"The commission shall grant single certification to the municipality. The Commission shall also determine whether single certification as requested by the municipality would result in property of a retail public utility **being rendered useless or valueless** to the retail public utility, and shall determine in its order the monetary amount that is adequate and just to compensate the retail public utility for such property." (emphasis added)

In performing this analysis, I must first determine if there is any property that has been rendered useless and valueless as a result of the decertification in PUC Docket No. 45702. In the event this determination finds such property, then compensation must be determined under Substantive Rule § 24.120(g).

As part of my analysis I have reviewed and relied on the GVSUD responses to Admissions and Interrogatories, as well as GVSUD's responses to the City's discovery requests.

Based on my review of the available documentation, I present the following findings:

- Based on available documentation, there does not appear to be any facilities and/or customers within the area in question (See GVSUD's responses to City's RFA 1-1 and RFA 1-4). In fact, GVSUD's response to RFA 1-1 shows that GVSUD **does not have any wastewater customers throughout their CCN**;
- Based on the review of available documentation, I have found no evidence of plans in place and/or funding committed related to GVSUD's provision of service to the area in question. GVSUD maintains that the subject area is incorporated in the historic Wastewater Master Plan as well as the current wastewater system design contract, both of which are based upon GVSUD's total CCN area which encompasses 76,000 (+) acres. The area subject to the City's application is only approximately 1,694 acres which, if excluded, would have no or little impact and would not render these planning/design

documents “useless or valueless”. While GVSUD has argued that their outstanding water related debt issues to the TWDB and USDA constitute debt outstanding against the “to be built” wastewater system. The USDA’s responses to lien request verification letters submitted by GVSUD clearly demonstrate that these agencies have no lien on the non-existent wastewater revenues of GVSUD.

- My analysis has also discovered that the wastewater property owned at this time by GVSUD only includes a parcel of land (approximately 65 acres) purchased to serve as the site of the yet to be built wastewater treatment plant.
- My review has also established that GVSUD has not obtained the Commission’s approved final TPDES discharge permit, and the permit application is currently being contested.

Conclusion

Based upon the above findings, and in compliance with PUC Substantive Rule § 24.120(c), it is my conclusion that there is no property that will be rendered useless and valueless as a result of decertification by the PUC and the provision of service by the City to the area in question. As such, no determination of monetary compensation is necessary under the rules.

However, if a monetary compensation determination were to be made, it is my opinion that the compensation to be provided is \$0.00 based on the following:

- There are no facilities in the area in question;
- There is no debt that has been used to fund facilities to serve the area in question;
- GVSUD has not demonstrated the expenditure of any funds associated with planning, designing, or constructing facilities specifically associated with the area in question;
- To my knowledge, GVSUD has no contractual obligations associated with the area in question;
- Given that GVSUD does not currently incur cost associated with the area, have facilities within the area, and off-site assets consist only of a 65 acre of land to be used for the wastewater treatment plant, assuming a discharge permit is issued and a plant is constructed, there is no demonstrated impairment or foreseeable cost increases to customers since there are NO existing wastewater customers;
- I would also note that the Cibolo Creek Municipal Authority (CCMA) has been designated as the governmental entity to provide the regional sewer treatment service in the Cibolo Creek watershed, in the vicinity of the cities of Cibolo, Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base under TAC 30 Part 1 Chapter 351 Subchapter F, Rule 351.62 (Attachment A page 1). Further under Rule 351.65 of this statute any permits and/or amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area shall be issued only to the Authority (Attachment A page 2). Therefore, even if GVSUD were able to survive the challenges to its pending permit application no costs of the to be built treatment plant should be allocable to the City of Cibolo which is currently receiving wastewater treatment service from the CCMA.
- Given that there are no customers in the area in question or within the GVSUD CCN for that matter, GVSUD will not experience a loss in revenues associated with the loss of the area in question; and,
- I am not aware, of any legal or professional fees incurred by GVSUD associated with the decertification of the area in question. In response the City’s Request for Information RFI 1-21, GVSUD responded that the requested information would not be available until June 28, 2016 at such time their selected

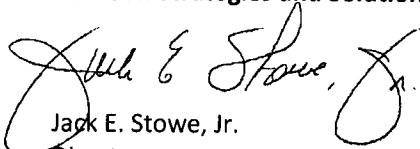
Mr. David Klein
June 28, 2016
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appraiser issues his report. I would merely point out that Rule 24.120 (g) provides for the reimbursement of **reasonable legal and professional fees**.

After review of this Letter Report, if you have any questions or require additional information, please feel free to contact Mr. Jack Stowe at jstowe@newgenstrategies.net or call 512.479.7900.

Sincerely,

NewGen Strategies and Solutions, LLC



Jack E. Stowe, Jr.
Director

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Texas Administrative Code

TITLE 30	ENVIRONMENTAL QUALITY
PART 1	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHAPTER 351	REGIONALIZATION
SUBCHAPTER F	CIBOLO CREEK
RULE §351.62	Designation of Regional Entity

The Cibolo Creek Municipal Authority is designated the governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base.

Source Note: The provisions of this §351.62 adopted to be effective February 24, 1978, 3 TexReg 595.

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Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 351</u>	REGIONALIZATION
<u>SUBCHAPTER F</u>	CIBOLO CREEK
<u>RULE §351.65</u>	Issuance of Permits

All future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area shall be issued only to the authority.

Source Note: The provisions of this §351.65 adopted to be effective February 24, 1978, 3 TexReg 595.

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