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PUBLIC UTILITY COMMISSION
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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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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY AND EXHIBITS

OF

DAVID "PAT" ALLEN

ON BEHALF OF

GREEN VALLEY SPECIAL UTILITY DISTRICT

November 2, 2016

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DIRECT TESTIMONY AND EXHIBITS OF

DAVID “PAT” ALLEN

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ATTACHMENTS:

GVSUD-1	Green Valley Special Utility District’s June 28, 2016 Appraisal Report and Addenda
GVSUD-3	Green Valley Special Utility District’s CCN No. 20973

1 **DIRECT TESTIMONY OF DAVID “PAT” ALLEN**

2 **ON BEHALF OF**

3 **GREEN VALLEY SPECIAL UTILITY DISTRICT**

4 **I. BACKGROUND AND QUALIFICATIONS**

5 **Q. Please state your name and business address.**

6 **A. My name is David “Pat” Allen. My business address is 529 S Center St. Marion,**
7 **TX 78124.**

9 **Q. By whom are you employed and in what position?**

10 **A. I am employed by the Green Valley Special Utility District (“Green Valley”) as the**
11 **General Manager, a position I have held since January 1, 2007.**

13 **Q. On whose behalf are you testifying in this proceeding?**

14 **A. I am providing this testimony on behalf of Green Valley.**

16 **Q. Please describe your responsibilities as General Manager of the District.**

17 **A. In my role as General Manager, I am responsible to the District’s Board of Directors**
18 **for all operations and functions of the District, including planning and operation of the**
19 **water and wastewater system, oversight of the financial operations of the District,**
20 **communication with the District’s members, development and supervision of office**
21 **and field staff, retention of consultants with relevant expertise, maintenance of strong**

1 working relationships with local governmental entities, and compliance with local, state
2 and federal regulatory requirements.

3
4 **Q. Have you held other positions with Green Valley prior to your appointment as**
5 **General Manager?**

6 **A.** Yes, I have. I was initially hired in December 1996 to serve as Green Valley's
7 Operations Manager. Beginning in 2003, and until the board of directors
8 appointed me as General Manager in 2007, I simultaneously held the position of
9 Assistant General Manager.

10
11 **Q. Please describe your responsibilities as Operations Manager and Assistant**
12 **General Manager.**

13 **A.** As Operations Manager, I oversaw the daily activities of all Green Valley field
14 personnel in their performance of repair, maintenance and construction. I ensured
15 that all utility operations were performed in compliance with TCEQ, EPA and other
16 agency guidelines. I worked closely with engineers, developer contractors and
17 customers on all project planning and design. I also developed and maintained a
18 system for scheduling line maintenance, meter replacement, repair of pumps,
19 motors, and structures and conducted employee training. I obtained a Class C
20 Water Operator license while serving as Operations Manager and continue to hold
21 that license today.

1 As Assistant General Manager, I worked closely with the prior General Manager to
2 fulfill the functions of her role and responsibilities as I have described above.

3
4 **Q. Do you belong to any professional or civic organization?**

5 **A.** Yes. I have been a member of the Texas Rural Water Association since 2000,
6 where I serve as a member of the Executive Board and am the current President as
7 of March 2016. Since 1996, I have served as a member of the Canyon Regional
8 Water Authority, where I currently serve on the Board of Managers. I serve as a
9 director of the Hays-Caldwell Public Utility Agency, a member of the board of the
10 Regional Water Development Group and chairman of the Regional Water Alliance.
11 I am also a member of the Texas Water Utility Association.

12
13 **Q. Please describe your professional and educational experience prior to joining**
14 **Green Valley.**

15 **A.** Beginning in the early 1970s, I spent nearly two decades working and managing a
16 family business involved in fabricating and machining oil field services equipment
17 and trenching equipment for water and wastewater systems. Beginning in 1988, I
18 served as a property manager for Centurion Properties, a manager of private and
19 public housing. I held a similar position with the Houston Housing Authority
20 between 1992 and 1994. Beginning in 1994 and until I was hired by Green Valley
21 in 1996, I was an appraiser for the Guadalupe County Appraisal District.

1 Throughout this period, I took a number of core business management courses at
2 Blinn College, Victoria College and Texas Lutheran College.

3
4 **Q. Have you previously testified in regulatory proceedings?**

5 **A.** No, I have not.

6
7 **Q. How does your background relate to the issues in this case?**

8 **A.** As a nearly 20-year employee of Green Valley and having served as General
9 Manager for almost 10 years, I have been intimately involved in each of the steps
10 Green Valley has undertaken to provide sorely needed wastewater service to the
11 District's member customers. I directed most of these undertakings and have
12 provided the vast majority of documentation to Green Valley's certified
13 independent appraiser utilized to identify property that will be rendered useless or
14 valueless upon decertification.

15 **II. OVERVIEW OF TESTIMONY**

16 **Q. What is the purpose of your testimony?**

17 **A.** I have reviewed the July 20, 2016 Public Utility Commission of Texas' ("PUC")
18 Supplemental Preliminary Order and the State Office of Administrative Hearings
19 ("SOAH") Order No. 2. The primary purpose of my testimony is to provide
20 testimony and information so that the Administrative Law Judge ("ALJ") and

Commission can make a determination regarding the issues identified in the above orders, which are as follows:

9. What property, if any, will be rendered useless or valueless to Green Valley by the decertification sought by Cibolo in this proceeding?

10. What property of Green Valley, if any, has Cibolo requested be transferred to it?

11. Are the existing appraisals limited to valuing the property that has been determined to have been rendered useless or valueless by decertification and the property that Cibolo has requested be transferred?

To assist the Commission in answering these questions, my testimony provides the Commission and ALJ with an overview of Green Valley's history, including its undertakings and significant investment in planning, developing and implementing a wastewater system to serve its customers in Green Valley's certificated area. I further provide an overview of the other witnesses whose testimony is being submitted to support Green Valley's position in answering the Commission's issues to be addressed.

Q. Would you please summarize your testimony?

A. Green Valley has undertaken significant investment toward the provision of wastewater service in all of its certificated service area, including the portions for which Cibolo seeks decertification and single certification in its TWC § 13.255 application ("Application"). In the event Cibolo is ultimately successful in its efforts, Green Valley's property investments and interests as to that portion of its

1 certificated area would be rendered useless and valueless. While I understand that
2 the Commission will, in a later phase of this proceeding, take up valuation of the
3 property decertification will render useless or valueless if the Commission
4 ultimately grants Cibolo's Application, I believe that the appraisal report submitted
5 to the Commission on June 28, 2016, properly identifies property that should be the
6 basis for compensation under TWC §13.255.

7
8 **Q. You previously stated that you provided a number of documents to Green**
9 **Valley's independent appraiser to assist with its identification of property**
10 **subject to this phase of the proceeding. Please identify those documents.**

11 **A.** I provided the following documents, some of which are co-sponsored and provided
12 by Green Valley witness Garry Montgomery, P.E., which I understand were
13 attached as addenda to the KOR Group appraisal submitted to the Commission on
14 June 28, 2016, and all of which are attached to the direct testimony of Green Valley
15 witness Joshua Korman and marked as follows:

- 16 • **GVSUD-1** at GVSUD 100041-100139: Excerpts from Green Valley SUD's
17 Wastewater Master Plan 2006 (January 16, 2007)
- 18 • **GVSUD-1** at GVSUD 100140-100254: Green Valley SUD Water Master
19 Plan 2014 (November 19, 2014)
- 20 • **GVSUD-1** at GVSUD 100256-100342: Texas Commission on
21 Environmental Quality Preliminary Decision on TPDES Permit Application
22 (October 12, 2015)

- 1 • **GVSUD-1** at GVSUD 100343-100368: Green Valley SUD's Wastewater
- 2 Treatment Plant TCEQ Domestic Wastewater Permit Application (March
- 3 2015)
- 4 • **GVSUD-1** at GVSUD 100369-100418: Green Valley SUD's Supplemental
- 5 Application Information
- 6 • **GVSUD-1** at GVSUD 100432-100454: Warranty Deeds for 65 acres of Land
- 7 • **GVSUD-1** at GVSUD 100459-100461: Wastewater Invoices (2009-2016)
- 8 • **GVSUD-1** at GVSUD 100455: Summary of Legal Costs (June 27, 2016)
- 9

10 **Q. Have you attached other documents to your testimony?**

11 **A. Yes. I have also attached a copy of Green Valley SUD's CCN No. 20973**
12 **as GVSUD-3.**

13

14 **Q. Are the documents contained in GVSUD-1 (listed above and referenced by**
15 **page number) and GVSUD-3 business records of Green Valley?**

16 **A. Yes.**

17

18 **Q. As an employee of Green Valley, are you familiar with the manner in which**
19 **Green Valley's records are created and maintained?**

20 **A. Yes.**

21

1 **Q. Based on Green Valley’s regular practices were the records made at or near**
2 **the time of each act, event, condition, opinion, or diagnosis set forth in the**
3 **records, made by, or from information transmitted by, persons with knowledge**
4 **of the matters set forth, and kept in the course of regularly conducted business**
5 **activity?**

6 **A. Yes.**

7
8 **Q. Are the business records that you have identified above and provided to KOR**
9 **Group and Green Valley witness Joshua Korman exact duplicates of Green**
10 **Valley’s original records?**

11 **A. Yes.**

12
13 **Q. Is Green Valley submitting additional testimony in support of its identification**
14 **of property that will be rendered useless or valueless if Cibolo’s application is**
15 **eventually granted?**

16 **A. Yes, Green Valley is submitting the testimony of Garry Montgomery, P.E., CFE,**
17 **Joshua M. Korman, and Stephen H. Blackhurst, P.E. to assist the ALJ and**
18 **Commission in determining its property interests that will be rendered useless and**
19 **valueless on decertification.**

20

1 **Q. Please explain each expert witness' assignment or role regarding Green**
2 **Valley's identification of property that will be rendered useless or valueless if**
3 **Cibolo obtains decertification of portions of your certificated service area.**

4
5 **A.** Mr. Montgomery is a licensed and professional engineer and project manager with
6 River City Engineering ("RCE"). Mr. Montgomery and others at RCE have
7 worked hand-in-hand with Green Valley for nearly fifteen (15) years on numerous
8 important design, planning and construction projects as well as master plans
9 pertaining to Green Valley's provision of water and wastewater service to its
10 customers. As it pertains to this phase of the proceeding, Mr. Montgomery and
11 RCE have been directly involved in the years-long certification, planning, design
12 and permitting process at the center of Green Valley's implementation of its master
13 plan to provide wastewater service in its certificated area, including those portions
14 that Cibolo seeks to decertify. Further, RCE assisted Green Valley in identifying
15 and purchasing the real property on which Green Valley's new wastewater plant
16 will be constructed. RCE has worked closely with Green Valley on its pending
17 Texas Pollutant Discharge Elimination System ("TD PES") permit application
18 before the TCEQ, which will authorize construction of the new wastewater plant
19 when granted. Mr. Montgomery identifies many of the property interests that will
20 be affected by Cibolo's application.

21 Mr. Korman is a certified appraiser with KOR Group, which was retained by
22 Green Valley for the purpose of providing the Commission with the independent

1 appraisal that I understand is required by TWC § 13.255. Mr. Korman presents
2 and supports the appraisal that identifies property that will be rendered useless or
3 valueless if Cibolo's application is ultimately granted.

4 Mr. Blackhurst is an independent consultant and licensed, professional
5 engineer with many years of experience, including both at the PUC and the
6 predecessor of the Texas Commission on Environmental Quality. Mr. Blackhurst
7 testifies regarding the development of the decertification and compensation
8 processes implemented under the TWC in order to assist the Commission in
9 determining what property should be considered useless or valueless and
10 compensable by Cibolo should they obtain decertification in this proceeding.

11 **III. GREEN VALLEY INVESTMENTS AND INFORMATION PROVIDED TO**
12 **GREEN VALLEY APPRAISER FOR PROPERTY DETERMINATIONS**

13 **Q. Please describe Green Valley.**

14 **A.** Green Valley Special Utility District has been in existence for over 50 years, having
15 been founded as a rural water supply corporation in 1963. Since 1992, Green Valley
16 has been designated as a Special Utility District created under Article XVI, Section
17 59 of the Texas Constitution and TWC Chapter 65. Green Valley is governed by
18 a seven-member board of directors duly elected by Green Valley's membership
19 under requirements of state election law and the TWC.

20 Green Valley has experienced consistent growth in customers and usage over
21 the course of its history, and that growth has accelerated greatly over the past two

1 decades. As of the summer of 2016, Green Valley surpassed 11,000 customer
2 connections representing an estimated 33,000 individuals. This number is
3 currently expected to more than double by the year 2030 based on Green Valley's
4 2014 Master Water Plan (GVSUD-1 at GVSUD 100140-100254), a projection that
5 was developed working in conjunction with RCE. The vast majority of Green
6 Valley's customers are residential and light commercial customers, with some
7 industrial customers as well.

8
9 **Q. What is Green Valley's purpose?**

10 **A.** Green Valley's organizational purposes are set forth in its bylaws. As it pertains to
11 this proceeding, the bylaws state as follows:

12 Section 1.02 – The purpose of this organization shall be:

13 ...
14 2) to purchase, own, hold, lease, and otherwise acquire a source
15 of wastewater treatment and disposal, to build, operate, and maintain
16 facilities for the collection, transportation, treatment and disposal of
17 water borne waste; to sell to any/all customers as well as towns, cities,
18 and other political subdivisions of this state and to private business
19 entities sewer utility services;

20 **Q. In your mind, what is the significance of this provision?**

21 **A.** I believe this provision of the bylaws, which was first added to Green Valley's
22 bylaws in 2003; shows that it has been the stated intent and purpose of Green Valley
23 SUD to provide wastewater service since its earliest days. As I explain below, and
24 as Mr. Montgomery testifies in detail, Green Valley's significant investments
25 toward fulfilling its purpose of providing wastewater to its customers/constituents

1 are reflective of its authorized mission. Those significant investments are now at
2 risk of being rendered useless or valueless as to the portions of Green Valley's
3 wastewater service area that Cibolo seeks to decertify, which will result in increased
4 costs for its remaining customers should Cibolo not reimburse those investments to
5 Green Valley.
6

7 **Q. What are the steps that Green Valley has taken toward providing customers**
8 **with wastewater service?**

9 **A.** Green Valley, through its duly elected Board of Directors, has actively pursued the
10 opportunity and capability to provide current and future customers with wastewater
11 service since the late 1990s. I will provide here a broad overview of the
12 investments Green Valley has made to provide wastewater service in its certificated
13 area over the past 15 years. Green Valley witness Garry Montgomery of RCE
14 provides additional detail regarding the specific investments made and he sponsors
15 or co-sponsors much of the underlying documentation that was provided to Green
16 Valley's independent appraiser, Mr. Korman of KOR Group.

17 In 2002, Green Valley's Board of Directors determined that, having gained
18 significant experience managing and servicing its rapidly-growing base of
19 customers, the time was appropriate to begin serious exploration of implementing
20 wastewater service. To that end, Green Valley entered into a General Services
21 Engineering Agreement with RCE solely for the purpose of determining how best
22 to proceed to achieve its goal of providing wastewater service to its current and

1 future customers. At this time, Green Valley created a wastewater team, consisting
2 of members of the board of directors, Green Valley personnel, RCE engineers, legal
3 counsel, financial advisers, and members of the real estate development community.
4 I participated as a member of the wastewater team.

5
6 **Q. What was the first step taken to provide wastewater service?**

7 **A.** The first step was to apply for and obtain a Wastewater Certificate of Convenience
8 and Necessity ("CCN") from the TCEQ, a step that required close collaboration
9 with RCE and Green Valley's legal counsel. Green Valley obtained sewer utility
10 service CCN No. 20973 in 2005. A copy of Green Valley's CCN is attached as
11 **GVSUD-3.**

12
13 **Q. Please describe Green Valley's certificate wastewater service area.**

14 **A.** In general terms, Green Valley's wastewater CCN is bounded by Interstate Highway
15 35 on the North, Cibolo Creek on the South, the City of Cibolo on the West and the
16 Guadalupe River to the East, encompassing a total of about 76,000 acres in portions
17 of Guadalupe and Bexar Counties and including portions of the extraterritorial
18 jurisdictions of the Cities of New Braunfels, Cibolo, Marion, and Santa Clara.

19
20 **Q. What was the next step taken toward the goal of providing wastewater**
21 **collection and treatment?**

1 **A.** While working to obtain its wastewater CCN, Green Valley's wastewater team
2 continued to work with RCE to develop goals for its wastewater services and, in
3 early 2006, authorized RCE to create a detailed plan. The result was Green
4 Valley's 2006 Wastewater Master Plan, which I co-sponsor with Green Valley
5 witness Garry Montgomery, and which Mr. Montgomery and I provided to Green
6 Valley witness Mr. Korman for the purposes of this proceeding. (**GVSUD-1** at
7 GVSUD 100041-100139). Mr. Montgomery provides further detail regarding the
8 process of developing the Wastewater Master Plan.

9
10 **Q.** **Did Green Valley receive customer inquiries during this period of time?**

11 **A.** Yes, the areas within Green Valley's service area experienced a spike in potential
12 development projects during this time. However, as with all development-related
13 plans and projects, there appeared to be a correlation between the number of service
14 inquiries, with related negotiations, and the state of the economy. In other words,
15 there was very little interest for a number of years beginning in 2008 thru 2011,
16 which delayed Green Valley's plans to implement its 2006 Wastewater Master Plan.
17 In the past four years, there has been a steady stream of inquiries and related
18 discussions with developers and other water and wastewater service providers.
19 Consequently, Green Valley has resumed actively making investments necessary to
20 begin wastewater service in its CCN area.

1 **Q. Please describe those investments.**

2 **A:** As the economy improved, Green Valley resumed its collaboration with RCE to
3 develop specific system requirements. Chief among those requirements was the
4 development and siting for a new wastewater treatment system and the process of
5 obtaining the applicable permitting to construct the system. RCE assisted Green
6 Valley in identifying suitable real property on which to construct a wastewater
7 treatment plant. Green Valley, again assisted by RCE, consummated the purchase
8 of approximately 65 acres of land in 2014. I have provided the sales contract and
9 warranty deeds for the two parcels of land that Green Valley purchased to Green
10 Valley witness Mr. Korman, and they are attached as addenda to the KOR Group
11 appraisal. (GVSUD-1 at GVSUD 100432-100454).

12
13 **Q. You mentioned permitting investments. Please describe those investments**
14 **and their current status.**

15 **A.** In March 2015, having closed on the real property acquisition for the new
16 wastewater plant, Green Valley submitted its Application to the Texas Commission
17 on Environmental Quality ("TCEQ") for TPDES Permit No. WQ0015360001.
18 That permit would authorize the discharge of treated domestic wastewater from the
19 new wastewater plant. I have provided, in conjunction with RCE, copies of
20 relevant documentation related to this permit to Mr. Korman and those documents
21 are attached as addenda to the KOR Group independent appraisal. (GVSUD-1 at
22 GVSUD 100256-100418)

1 The TCEQ Executive Director has recently recommended that the TCEQ
2 grant Green Valley's application. However, the permitting process has taken
3 longer than I anticipated at least in part because Cibolo and others have opposed the
4 permit.

5
6 **Q. Are there any other expenditures that Green Valley has incurred to provide**
7 **wastewater collection and treatment in its certificated area?**

8 **A.** Yes, there are. Green Valley has incurred significant fees for consultants and legal
9 representation in connection with: (1) defending its pending TCEQ permit
10 application against Cibolo and others; and (2) responding to Cibolo's Application
11 at issue here, including costs associated with RCE, KOR Group, and legal counsel.
12 I have provided or directed RCE and Green Valley's legal counsel to provide
13 preliminary estimates of those costs to the KOR Group, and those costs and
14 estimates are included as addenda to the independent appraisal attached to the direct
15 testimony of Green Valley's independent appraiser, Mr. Korman. (**GVSUD-1** at
16 GVSUD 100455). However, specific amounts are beyond the scope of the referred
17 issues in this initial hearing.

18
19 **Q. Why has Green Valley made investments to provide wastewater service in its**
20 **certificated area?**

21 **A.** For a number of reasons. First, it is wise from an environmental stewardship
22 perspective to minimize, and eventually replace, the septic systems upon which

1 Green Valley's current and future customers have or will rely to treat sewage.
2 When not maintained or sited correctly, septic systems are widely known to
3 contribute to contamination of both surface and groundwater, which in turn can lead
4 to pollution and public health issues.

5 From a purely customer service perspective, there are a number of
6 advantages to having a single water and wastewater provider. Customers only
7 receive one bill rather than multiple bills. Also, if a customer does not pay a
8 wastewater bill and has separate water and wastewater providers, service cannot be
9 discontinued absent an agreement between the two separate providers.
10 Overlapping service areas for water and wastewater also can cause customer
11 confusion and difficulty identifying the correct provider in the event of a leak in an
12 area of overlapping lines. Economic inefficiencies are also caused when two
13 separate providers are required to obtain easements to provide their respective
14 service to the same parcel of real property.

15 Finally, Green Valley has encountered a marked steady increase in the
16 number of developers and other potential customers who are seeking both water and
17 wastewater service. Green Valley seeks to fulfill both needs.

18
19 **Q. To this point, your testimony has been limited to the Commission's Preliminary**
20 **Issue Nos. 9 and 11. Do you have an opinion regarding whether Cibolo has**
21 **requested that any property be transferred to it as contemplated by**
22 **Preliminary Issue No. 10?**

1 **A.** Not at this time. While I do not believe and am unaware that Cibolo has requested
2 the transfer of physical facilities in association with its decertification request, I do
3 not have an opinion at this time whether decertification of portions of Green
4 Valley's certificated area and subsequent single certification of that area by Cibolo
5 involves a legal transfer of property interest. I believe that may be a legal issue
6 beyond the scope of my qualifications to address.

7
8 **Q.** **Does this conclude your prefiled direct testimony?**

9 **A.** Yes, it does, but I reserve the right to supplement my testimony as additional
10 information becomes available.



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

Green Valley Special Utility District

having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 20973

to provide continuous and adequate sewer utility service to that service area or those service areas in Comal, and Guadalupe and Bexar Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 34518-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Green Valley Special Utility District to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this OCT 10 2005


For the Commission