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PUBLIC UTILITY COMMISSION
FILING CLERK

APPLICATION OF EL PINION WATER §
SUPPLY AND SIMPLY AQUATICS, §
INC. FOR SALE, TRANSFER, OR §
MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN SAN §
AUGUSTINE COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION FINDING
APPLICATION ADMINISTRATIVELY INCOMPLETE**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 3 and Supplemental Recommendation Finding Application Administratively Incomplete. In support thereof, Staff shows the following:

I. Background

On July 14, 2016, El Pinion Water Supply (El Pinion) and Simply Aquatics, Inc. (Simply Aquatics) (collectively the Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in San Augustine County. Specifically, Simply Aquatics seeks approval to acquire all of the water system assets of El Pinion held under water certificate of convenience and necessity (CCN) No. 12206, and the certificate itself. The total area being requested includes approximately 25 acres and serves 76 current customers.

On October 3, 2016, Order No. 3 was issued requiring the Applicants to amend the application to cure the deficiencies identified by Staff in Staff's August 15, 2016 filing by October 14, 2016. On October 10, 2016, the Applicants amended their application in an attempt to cure the identified deficiencies. Order No. 3 also required Staff to file supplemental comments on the administrative completeness of the application and proposed notice and propose a procedural schedule by November 18, 2016. Accordingly, this pleading is timely filed.

II. Recommendation on Administrative Sufficiency

Staff has reviewed the application and notice in accordance with Tex. Water Code Ann. § 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.8, 24.109 and 24.112 (TAC) and, as supported by the attached memorandum from Patricia Garcia, Engineer and Tracy Montes, GIS Specialist with the Water Utilities Division, Staff recommends that the application be deemed administratively

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incomplete and deficient. Pursuant to 16 TAC § 24.8(a), applications are not considered filed until a determination of administrative completeness is made. In order to continue processing the application, Staff recommends the Applicants provide the following requested information:

Mapping Content

- 1) A revised small scale (general location) map showing only the proposed area with enough detail to be accurately located in the vicinity of the nearest town, city, or county.
- 2) A revised large scale (detailed) map showing only the proposed area with enough detail to be accurately located in reference to verifiable man-made and/or natural landmarks such as roads, railroads, and rivers.
- 3) File a complete list of entities located within a two (2) mile buffer of the proposed area who are required to notice.

Application Content

- 1) Provide the oath from the Seller signed and notarized. Oath is provided, but it appears to have been signed by the Purchaser, not the Seller.
- 2) Provide a copy of the Seller's approved tariff for current and future customers.
- 3) Provide a copy of the most recent Texas Commission on Environmental Quality (TCEQ) inspection report for El Pinon.
- 4) Provide a copy of the "Certification of Account Status" for Simply Aquatics. This "Certification of Account Status" can be obtained from:

Texas Comptroller of Public Accounts
P.O. Box 13528, Capitol Station
Austin, Texas 78711
1-800-252-5555

Staff's review of STM applications is a meticulous, time intensive practice, and Staff has limited resources to process this kind of application. The Applicants have the burden of providing the required information with its application in a timely manner. Processing of the application cannot proceed until the requested items are received and reviewed. In order to afford Staff the opportunity to provide a thorough analysis of this application, Staff respectfully recommends that

the Applicants cure the deficiencies in its application by December 30, 2016 and that Staff be required to provide a supplemental recommendation by January 27, 2017.

III. Proposed Procedural Schedule

Due to the deficiencies in the application, Staff does not recommend a procedural schedule for the evaluation of the merits at this time. Staff recommends that the Applicants cure the deficiencies in its application by December 30, 2016 and that Staff be required to provide a supplemental recommendation by January 27, 2017.

IV. Conclusion

Staff respectfully requests that an order be issued consistent with this Recommendation.

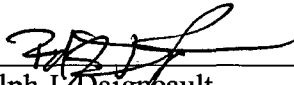
Dated: November 18, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

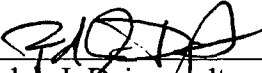


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DOCKET NO. 46169

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 18, 2016, in accordance with 16 TAC § 22.74.



Ralph J. Daigneault

II. Recommendation on Administrative Sufficiency

Staff has reviewed the application and notice in accordance with Tex. Water Code Ann. § 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.8, 24.109 and 24.112 (TAC) and, as supported by the attached memorandum from Patricia Garcia, Engineer and Tracy Montes, GIS Specialist with the Water Utilities Division, Staff recommends that the application be deemed administratively incomplete and deficient. Pursuant to 16 TAC § 24.8(a), applications are not considered filed until a determination of administrative completeness is made. In order to continue processing the application, Staff recommends the Applicants provide the following requested information:

Mapping Content

- 1) A revised small scale (general location) map showing only the proposed area with enough detail to be accurately located in the vicinity of the nearest town, city, or county.
- 2) A revised large scale (detailed) map showing only the proposed area with enough detail to be accurately located in reference to verifiable man-made and/or natural landmarks such as roads, railroads, and rivers.
- 3) A complete list of entities located within a two (2) mile buffer of the proposed area who are required to receive notice.

Application Content

- 1) A revised application page No. 2 of 23 reflecting the correct CCN No. 11707.
- 2) A copy of the most recent Texas Commission on Environmental Quality (TCEQ) inspection report for La Playa Subdivision Water System, TCEQ Public Water System ID No. 2030015.
- 3) A copy of the "Certification of Account Status" for Simply Aquatics. This "Certification of Account Status" can be obtained from:

Texas Comptroller of Public Accounts
P.O. Box 13528, Capitol Station
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1-800-252-5555

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Staff respectfully requests that an order be issued consistent with this Recommendation.


Dated: November 18, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
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Ralph J. Daigault

PUC Interoffice Memorandum

To: Ralph Daigneault
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Work Lead
Water Utilities Division

From: Patricia Garcia, Staff Engineer
Tracy Montes, GIS Specialist
Water Utilities Division

Date: November 18, 2016

Subject: **Docket 46168**, *Application of La Playa Subdivision Water System and Simply Aquatics, Inc. for Sale, Transfer or Merger of Facilities and Certificate Rights in San Augustine County*

On July 14, 2016, Simply Aquatics, Inc. (Simply Aquatics or Purchaser) and Don Johnson (Seller), owner of the La Playa Subdivision, filed an application for the sale, transfer, or merger of facilities and certificate rights in San Augustine County, Texas pursuant to Texas Water Code Ann. § 13.301 (TWC) and the 16 Tex. Admin. Code §§ 24.109 and 24.112 (TAC). Specifically, Simply Aquatics seeks approval to acquire the water system assets, customers and service area of the La Playa Subdivision, Public Water System (PWS) No. 2030015. The La Playa subdivision is a part of the Sam Rayburn Water utility which holds Certificate of Convenience and Necessity (CCN) No. 11707. If approved, Simply Aquatics will be issued a water CCN to serve the area formerly covered by CCN No. 11707 and Sam Rayburn Water's CCN No. 11707 will be amended.

Staff has reviewed the application and recommends that the application be found administratively incomplete and insufficient for filing. Staff recommends the Applicants provide the items listed below in order to proceed with the application process.

Mapping Content

- 1) A revised small scale (general location) map showing only the proposed area with enough detail to be accurately located in the vicinity of the nearest town, city, or county.
- 2) A revised large scale (detailed) map showing only the proposed area with enough detail to be accurately located in reference to verifiable man-made and/or natural landmarks such as roads, railroads, and rivers.
- 3) A complete list of entities located within a two (2) mile buffer of the proposed area who are required to receive notice.

Application Content

- 1) A revised application page No. 2 of 23 reflecting the correct CCN No. 11707.
- 2) A copy of the most recent Texas Commission on Environmental Quality (TCEQ) inspection report for La Playa Subdivision Water System, TCEQ Public Water System ID No. 2030015.
- 3) A copy of the "Certification of Account Status" for Simply Aquatics. This "Certification of Account Status" can be obtained from:

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P.O. Box 13528, Capitol Station
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The above referenced deficiencies were noted in Staff's previously filed memo, but were not provided or addressed in the Applicant's subsequent filings.

