

Control Number: 46169



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RECEIVED

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

PUBLIC UTILITY COMMISSION

2017 JAN 27 AM 11:41

OF TEXAS PUBLIC UTILITY COMMISSION
FILING CLERK

**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 Pinon Water Supply (El Pinon) 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 Pinon held under water certificate of convenience and necessity (CCN) No. 12206, and the certificate itself. The total area being requested includes approximately 69 acres and serves 76 current customers.

On November 21, 2016, Order No. 4 was issued finding the application administratively incomplete and deficient and requiring the Applicants to amend the application to cure the deficiencies identified by Staff by December 30, 2016. On December 12 and 29, 2016 the Applicants filed supplemental application materials, including updated mapping content. Order No. 4 also required Staff to file a supplemental recommendation regarding the administrative completeness of the amended application and propose additional deadline as appropriate by January 27, 2017. 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 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:

- 1) Provide the Seller's Oath signed by the seller;
- 2) Provide an Agreement for Sale from the listed owner; or
- 3) If the Seller cannot be located, provide documentation of the efforts made to locate the Seller.

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 March 28, 2017 and that Staff be required to provide a supplemental recommendation within 10 working days of the Applicants' filing.

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 March 28, 2017 and that Staff be required to provide a supplemental recommendation within 10 working days of the Applicants' filing.

IV. Conclusion

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

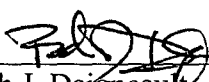
Dated: January 27, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
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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 January 27, 2017, in accordance with 16 TAC § 22.74.



Ralph J. Daigneault

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: January 27, 2017

Subject: **Docket 46169**, *Application of El Pinon Water Supply 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. (Purchaser) and El Pinon Water Supply (Seller), Certificate of Convenience and Necessity (CCN) No. 12206, 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, Inc. seeks approval to acquire all of the water system assets, customers and service area under CCN No. 12206. If approved, Simply Aquatics, Inc. will be issued a water CCN to serve the area formerly covered by CCN No. 12206 and CCN No. 12206 will be cancelled.

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.

Application Content

- 1) Provide the Seller's Oath signed by the seller;
- 2) Provide an Agreement for Sale from the listed owner; or
- 3) If the owner of the water system facilities is not located provide documentation of the efforts made to contact the water system facilities owner.