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

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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
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 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 January 30, 2017, Order No. 5 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 March 28, 2017. Among other deficiencies, Staff requested that the Applicants provide an agreement for sale from the listed owner. On February 27, 2017, the Applicants filed supplemental application materials, including a fully executed seller's oath. Order No. 5 also required Staff to file a supplemental recommendation regarding the administrative completeness of the amended application and propose additional deadline as appropriate with 10 working days of the Applicants' filing. Accordingly, this pleading is timely filed.

II. Recommendation on Administrative Sufficiency

Staff has reviewed the application 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. A preliminary agreement reflecting the purchase of El Pinon by Simply Aquatics.
2. Total capacity of the well(s), ground storage tank(s), service pump(s) and pressure tank(s).

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 April 14, 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: March 13, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 13, 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, Manager
Water Utilities Division

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

Date: March 10, 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. (Simply Aquatics or Purchaser) and El Pinon Water Supply (El Pinon or 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 seeks approval to acquire facilities, customers and service area under CCN No. 12206. If approved, Simply Aquatics will be issued a water CCN to serve the area formerly covered by CCN No. 12206 and CCN No. 12206 will be cancelled.

In response to Order No. 5, the Applicant filed requested information on February 27, 2017. , Staff recommends that the application be deemed insufficient for filing and found administratively incomplete due to the deficiencies detailed below. Staff requests the Applicants provide:

1. A preliminary agreement reflecting the purchase of El Pinon by Simply Aquatics.
2. Total capacity of the well(s), ground storage tank(s), service pump(s) and pressure tank(s).