



Control Number' 46169



Item Number' 5

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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

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**COMMISSION STAFF'S 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. 1 and 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) 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 July 18, 2016, Order No. 1 was issued requiring Staff to file comments on the administrative completeness of the application and proposed notice and propose a procedural schedule by August 15, 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 incomplete and deficient in mapping content. 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 Simply Aquatics provide the following requested information:

**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

**Mapping Content:**

- 1) Provide a 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) Provide a 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 within a two (2) mile buffer of the proposed area.

Staff's review of STM applications is a meticulous, time intensive practice, and Staff has limited resources to process this kind of application. Simply Aquatics has 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 Simply Aquatics cure the deficiencies in its application by September 15, 2016 and that Staff be required to provide a supplemental recommendation by October 17, 2016.

**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 Simply Aquatics cure the

deficiencies in its application by September 15, 2016 and that Staff be required to provide a supplemental recommendation by October 17, 2016:

**IV Conclusion**

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

**Dated: August 15, 2016**

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 August 15, 2016, in accordance with 16 TAC § 22.74.



Ralph J. Daigneault

## PUC Interoffice Memorandum

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**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:** August 15, 2016

**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 all of the water system assets, 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.

A Staff review of the above referenced application found deficiencies in the required application and mapping information; therefore, Staff recommends that the application be deemed insufficient for filing and thus found administratively incomplete. Further, Staff recommends the Applicants address the following:

### **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:

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### **Mapping Content**

- 1) Provide a 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) Provide a 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 within a two (2) mile buffer of the proposed area.

Staff recommends the Applicant contact Tracy Montes for guidance resolving these mapping deficiencies.