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DOCKET NO. 46170

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APPLICATION OF VISTA VERDE §
WATER SYSTEMS INC. AND SIMPLY §
AQUATICS, INC. FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN MONTGOMERY COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION FINDING NOTICE
SUFFICIENT AND CLARIFICATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 6, Supplemental Recommendation Finding Notice Sufficient and Clarification. In support thereof, Staff shows the following:

I. Background

On July 14, 2016, Vista Verde Water Systems, Inc. (Vista Verde) and Simply Aquatics, Inc. (Simply Aquatics) (collectively the Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Montgomery County. Specifically, Simply Aquatics seeks approval to acquire all of the water system assets of Vista Verde held under water certificate of convenience and necessity (CCN) No. 13034, and the certificate itself. The total area being requested includes approximately 346 acres and serves 45 current customers.

On January 30, 2017, Order No. 6 was issued requiring the Applicants to clarify the date that notice was provided and submit a supplemental affidavit reflecting the correct date, if appropriate, by March 31, 2017. The notice forms provided by Staff and then actually used by Simply Aquatics indicate that approximately 346 acres with 45 current customers will be affected by this application, as opposed to only 25 acres as identified in the application. On March 3, 2017, Stanley Lake Municipal Utility District (Stanley Lake) filed a protest and request for hearing, claiming that the Applicants are requesting the transfer of area that is not located within Vista Verde's certificated service area, and suggesting that the application could be "adjusted" to include the transfer of only land that is currently within Vista Verde's certificated service area and that is currently in CCN No. 13034.

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On March 22, 2017 and April 4, 2017, the Applicants clarified the date that notice was provided and submit a supplemental affidavit reflecting the correct date of February 15, 2017. Order No. 6 also required Staff to file a supplemental recommendation on the sufficiency of notice within 10 working days of the Applicants filing proof of completed notice and clarifying the date notice was provided, as well as clarification of the change from 25 to 346 acres on the notice form provided to the Applicant by Staff and a comment on Stanley Lake's request for hearing and proposed "adjustment.". Accordingly, this pleading is timely filed.

II. Recommendation on Notice and Clarification

Staff has reviewed the proof of notice in accordance with Tex. Water Code Ann. § 13.301 (TWC) and 16 Tex. Admin. Code § 24.109 (TAC) and, as supported by the attached memorandum of Patricia Garcia, Engineering Specialist in the Commission's Water Utilities Division, recommends that notice is sufficient. Simply Aquatics provided the corrected affidavit to the Commission on April 4, 2017. The filed affidavit states notices were provided to customers, neighboring systems, and affected parties in Montgomery County on February 15, 2017.

Staff notes that the original notice provided with the application stated the acreage to be transferred was approximately 25 acres. Upon review of the application, the acreage for the area to be transferred was verified by Staff and the correct acreage of 346 acres was provided on the notice form provided to the Applicants on January 27, 2017. The Applicants used this notice form with the correct acreage when providing actual notice to affected parties on February 15, 2017, as verified in their affidavit. The Applicants used the same incorrect 25 acre input on their applications in PUC Docket Nos. 46168 and 46169 as well, also corrected in those dockets.

In response to the public notice, Stanley Lake submitted a request for hearing and "Proposed Adjustment" due to the description of the service area being larger than the actual CCN area. The description of the service area provided in the notice names only the streets located to the north, east, south and west of the CCN area to be transferred. The description of the service area does not describe the outer boundary of the CCN area. The intent of the application is to transfer only the current area under CCN No. 13034 to Simply Aquatics, namely land that is currently within Vista Verde's certificated service area. Therefore no "adjustment" to the application is needed.

III. Proposed Procedural Schedule

Staff proposes the following procedural schedule:

Event	Date
Notice completed	<i>February 15, 2017</i>
Deadline for intervention	<i>March 17, 2017¹</i>
Deadline for Staff to request a hearing or file a recommendation on the approval of the sale and on the CCN amendment	<i>May 5, 2017</i>
Deadline for parties to file a response to Staff's recommendation	<i>May 22, 2017</i>
120 day deadline for the Commission to approve the sale or require a hearing	<i>June 15, 2017²</i>

IV. Conclusion

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

¹ Pursuant to 16 TAC § 24.106(a)(3), the intervention deadline is 30 days after the mailing or publication of notice, whichever occurs later. Notice was mailed on February 15, 2017. Therefore, 30 days after February 15, 2017 is March 17, 2017.

² Pursuant to 16 TAC § 24.109, the deadline for Commission action is 120 days after the later of either when the application is filed, when notice was mailed, or when notice is published. One hundred and twenty days after February 15, 2017 is June 15, 2017.


Dated: April 5, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on April 5, 2017, in accordance with 16 TAC § 22.74.



Ralph J. Daigneault

PUC Interoffice Memorandum

To: Ralph Daigneault
Legal Division

Thru: Tammy Benter, Director
Heidi Graham, Manager
Lisa Fuentes, Manager
Water Utilities Division

From: Patricia Garcia, Engineering Specialist
Water Utilities Division

Date: April 5, 2017

Subject: *Docket 46170, Application of Vista Verde Water Systems, Inc. and Simply Aquatics, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Montgomery County*

On July 14, 2016, Simply Aquatics, Inc., (Simply Aquatics or Purchaser) and Vista Verde Water Systems, Inc. (Vista Verde or Seller), (collectively Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Montgomery 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 Vista Verde's Certificate of Convenience and Necessity (CCN) No. 13034. If approved, Simply Aquatics will be issued a water CCN to serve the area formerly covered by CCN No. 13034 and CCN No. 13034 will be cancelled.

In response to Order No. 5, the Applicant provided public notice to customers, neighboring systems, and affected parties in Montgomery County. An affidavit stating that the notice was provided to all affected parties was filed with the PUC on February 28, 2016. Staff reviewed the notice submitted along with the affidavit and needed some clarification. The affidavit provided states notice was provided to the districts and cities within 2 miles, customers, county offices and judges on January 17, 2017, however the copies of the notices provided were dated February 15, 2017. Staff recommended the Applicant file an affidavit with the correct date the notices were provided to the utilities, districts and cities within 2 miles, customers, county offices and judges.

Order No. 6 required that Simply Aquatics file a clarification of notice and corrected affidavit. Order No. 6 also required Staff to clarify the acreage listed on the notice provided with the application and the notice Staff provided to Simply Aquatics as well as clarification on what is being transferred in response to the request for hearing submitted by Stanley Lake.

Simply Aquatics provided the corrected affidavit to the Commission on April 4, 2017. The filed affidavit states notices were provided to customers, neighboring systems, and affected parties in Montgomery County on February 15, 2017. Therefore, Staff finds the notice is sufficient.

Staff notes that the original notice provided with the application stated the acreage to be transferred was approximately 25 acres. Upon review of the application, the acreage for the area to be transferred was verified by Staff and the correct acreage of 346 acres was provided on the notice form provided to the Applicant on January 27, 2017. The Applicant used this notice form with the correct acreage when providing actual notice to affected parties on February 15, 2017. The Applicants used the same incorrect 25 acre input on their applications in PUC Docket Nos. 46168 and 46169 as well, also corrected in those dockets.

In response to the public notice, Stanley Lake submitted a request for hearing and "Proposed Adjustment" due to the description of the service area being larger than the actual CCN area. The description of the service area provided in the notice names only the streets located to the north, east, south and west of the CCN area to be transferred. The description of the service area does not describe the outer boundary of the CCN area. The intent of the application is to transfer only the current area under CCN No. 13034 to Simply Aquatics, namely land that is currently within Vista Verde's certificated service area. Therefore no "adjustment" to the application is needed.