



Control Number: 46381



Item Number: 14

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APPLICATION OF SHERMAN'S MILL §  
WATER SUPPLY CORPORATION TO §  
OBTAIN A WATER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
KERR COUNTY §

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PUBLIC UTILITY COMMISSION  
OF TEXAS  
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**COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY OF NOTICE**

Comes now the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files its Recommendation on Sufficiency of Notice in response to Order No. 4. In support thereof, Staff would show the following:

**I. Background**

On September 19, 2016, Sherman's Mill Water Supply Corporation ("Sherman's Mill" or "Applicant") filed an application to obtain a new water certificate of convenience and necessity (CCN) in Kerr County. The proposed total area being requested includes approximately 53.65 acres and 15 current customers. On December 1, 2016, the Administrative Law Judge (the "ALJ") issued Order No. 4, requiring Staff to file a recommendation on the sufficiency of notice within 10 days of Sherman's Mill filing proof of completed notice with the Commission. Sherman's Mill filed its affidavit of notice on January 9, 2017. This pleading is therefore timely filed.

**II. Staff's Recommendation**

Staff has reviewed Sherman Mill's proof of notice and, and as detailed by the attached memorandum of Debbie Reyes Tamayo of the Water Utilities Division, Staff recommends that notice be deemed insufficient and, therefore, incomplete. In particular, Sherman's Mill failed to provide notice to Gillespie County WCID 1. Staff recommends that Sherman's Mill be required to provide notice to Gillespie County WCID 1, and once it has done so, file the completed attached affidavit that notice was given, a copy of the actual notice sent, and the map that was sent with the individual notice. In addition, the property description on Exhibit A to Sherman's Mill's affidavit does not match the property description provided by the Commission (and purportedly listed in the actual notice sent to neighboring systems, cities, and landowners). Staff recommends that

Sherman's Mill explain why the description in Exhibit A differs from the description contained in the actual notice sent.

Further, Staff has identified multiple issues that will need to be addressed during the financial review process. Therefore, Staff recommends that Applicant provide the following information.

- Monthly bank statements for calendar year 2015.
- A written response detailing the Applicant's outstanding debt or debt service obligations. The Applicant should provide copies of all debt agreement(s) including terms and related amortization schedule if applicable.
- A written response detailing the Applicant's plan to increase expenses over the next five years, including how the Applicant plans to address the increase, and projected income and expenses, if applicable.

### **III. Conclusion**

For the reasons stated above, Staff respectfully recommends that an order be issued finding Sherman's Mill's notice insufficient and ordering Sherman's Mill to cure the deficiency by February 15, 2017, and that Staff be given 10 days from Sherman's Mill filing proof of completed notice to file a supplemental recommendation on sufficiency of notice.

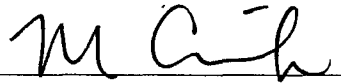
Dated: January 19, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney

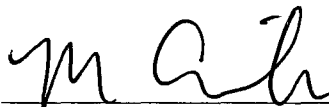


Michael Crnich  
State Bar No. 24059626  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7255  
(512) 936-7268 (facsimile)  
Mike.Crnich@puc.texas.gov

**DOCKET NO. 46381**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on January 19, 2017, in accordance with 16 TAC § 22.74.



Michael Crnich

## PUC Interoffice Memorandum

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**To:** Mike Crnich, Attorney  
Legal Division

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

**From:** Debbie Reyes Tamayo, Program Specialist  
Kristi Nguyen – GIS Specialist  
Fred Bednarski III, Financial & Managerial Review Specialist  
Ricky Herrera, Engineering Specialist  
Water Utilities Division

**Date:** January 10, 2017.

**Subject:** **Docket No. 46381:** *Petition by Sherman's Mill Water Supply Corporation (WSC) to obtain a Certificate of Convenience and Necessity in Kerr County*

On September 19, 2016, Sherman's Mill WSC (Applicant) filed with the Public Utility Commission of Texas (Commission) an application requesting to obtain a water Certificate of Convenience and Necessity (CCN) in Kerr County, Texas. The application is being reviewed under Texas Water Code §13.254(d) (TWC) and Title 16 Tex. Admin. Code §§24.115 and 24.102(a)(1) (TAC). The proposed total area being requested includes approximately 48 acres and 15 current customers.

Staff reviewed the notice documents filed by the Applicant on January 9, 2017, and found the following deficiencies:

- The Applicant failed to provide notice to Gillespie County WCID 1. The Applicant will need to file a copy of the actual notice sent, the map that was sent with the individual notice, and the attached signed affidavit that the notice was given. It is recommended that the Applicant use the attached notice and affidavits to meet these requirements.
- Exhibit A contains a notice description that conflicts with the description of the proposed area in the notices provided to the Applicant by the Commission. The Applicant should clarify the purpose of the notice description contained in Exhibit A.

### **Financial Review**

The following items must be submitted by the Applicant in order for Staff to complete the financial review of the application. Staff recommends the Applicant provide the items listed below within 21 days from the date of the Commission's order.

- 1) Monthly bank statements for calendar year 2015.
- 2) A written response detailing the Applicant's outstanding debt or debt service obligations. The Applicant should provide copies of all debt agreement(s) including terms and related amortization schedule if applicable.

- 3) A written response detailing the Applicant's plan to increase expenses over the next five years, including how the Applicant plans to address the increase, and projected income and expenses, if applicable.

All voluminous data should be provided electronically, especially the general ledgers and financial statements which should be provided in excel format.

## ***Notice to Neighboring Systems, Cities and Landowners***

### **NOTICE OF APPLICATION TO OBTAIN A CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) FOR THE PROVISION OF WATER SERVICE IN KERR COUNTY, TEXAS**

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_, 2017  
(Name of neighboring systems, cities and landowners)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

The Sherman's Mill WSC has submitted an application with the Public Utility Commission of Texas to obtain a CCN to provide water service in Kerr County.

The proposed utility area is located within approximately 4 miles West from downtown Ingram, Texas, and is generally Bounded on the north by the Guadalupe River; on the east by Kelly Creek Road; Bounded on the south by Kelly Creek Rd & Huntleigh Rd; and on the west by .2 miles west of Kelly Creek Rd

The proposed total area being requested includes approximately 48 acres and serves 15 current customers.

**See enclosed map of the proposed service area.**

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed service area, you may request to be excluded from the proposed service area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a large scale map and a metes and bounds description of the tract of land:

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221

Mark Zeppa (512) 346-4011  
**Utility Representative**

Sherman's Mill WSC: 830-367-2986  
**Utility Name**



PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, LANDOWNERS AND CITIES  
DOCKET NO. 46381

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual  
notice to the following entities and landowners:

DATE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OATH

I, \_\_\_\_\_, being duly sworn, file this form  
as

\_\_\_\_\_ (indicate relationship to applicant, that is owner,  
member or partnership, title of officer of corporation, or other authorized representative of  
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am  
personally familiar with the notices given with this application, and have complied with all notice  
requirements in the application and application acceptance letter; and that all such statements made  
and matters set forth therein are true and correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,  
or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to certify  
which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_