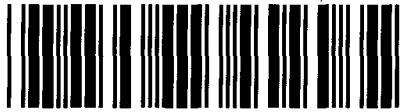


Control Number: 46441



Item Number: 5

Addendum StartPage: 0

RECEIVED

APPLICATION OF TERRA §  
SOUTHWEST, INC. TO AMEND A §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN DENTON §  
COUNTY §

PUBLIC UTILITY COMMISSION  
2016 NOV 14 PM 2:05  
OF TEXAS PUBLIC UTILITY COMMISSION  
FILING CLERK

**STAFF'S COMMENTS ON ADMINISTRATIVE COMPLETENESS  
AND PROPOSED NOTICE**

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 would show the following:

**I. Background**

On October 14, 2016, the Terra Southwest, Inc. (Terra) filed an application to amend its water certificate of convenience (CCN) No. 11608 in Denton County, Texas. On October 19, 2016, the Administrative Law Judge (ALJ) issued Order No. 1 requiring Staff to file comments on the application's administrative completeness and proposed notice by November 14, 2016. Therefore, this response is timely.

**II. Administrative Completeness**

Staff has reviewed Terra's application and, as supported by the attached memorandum of Jonathan Ramirez and Kristi Nguyen of the Water Utilities Division, recommends that it is administratively complete in accordance with Tex. Water Code Ann. § 13.246 (West 2016) and 16 Tex. Admin. Code § 24.106 (TAC).

**III. Notice**

The Commission's notice requirements for CCN applications are specified in 16 TAC § 24.106. Staff has reviewed Terra's proposed notice and recommends that it meets the requirements of the rule. Additionally, Staff recommends Terra file its notice in accordance with the recommendations contained in the attached memorandum of Jonathan Ramirez and Kristi Nguyen.

#### **IV. Procedural Schedule**

Staff proposes the following procedural schedule:

| <b>Event</b>                                                         | <b>Date</b>                                                                      |
|----------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Deadline for Terra to complete required notice                       | December 30, 2016                                                                |
| Deadline for Staff to file a recommendation on sufficiency of notice | Within 10 days of Applicant filing proof of completed notice with the Commission |
| Deadline to intervene                                                | 30 days after issuance of notice                                                 |

#### **V. Conclusion**

Staff recommends that Terra's application be deemed administratively complete. Additionally, Staff recommends that Staff's proposed procedural schedule be adopted.

PUBLIC UTILITY COMMISSION  
LEGAL DIVISION

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney

Handwritten signature of Landon J. Lill, with "for LL" written below it.

Landon J. Lill  
State Bar No. 24092700  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7228  
(512) 936-7268 (facsimile)

**P.U.C. DOCKET NO. 46441**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 14, 2016, in accordance with P.U.C. Procedural Rule 22.74.

Handwritten signature of Landon J. Lill, with "for LL" written below it.

Landon J. Lill

## PUC Interoffice Memorandum

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**To:** Landon Lill, Attorney  
Legal Division

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

**From:** Jonathan Ramirez, Financial Analyst  
Kristy Nguyen, GIS Specialist  
Water Utilities Division

**Date:** November 10, 2016

**Subject:** **Docket No. 46441:** *Application of Terra Southwest, Inc. To Amend a Certificate of Convenience and Necessity in Denton County*

On October 14, 2016, Terra Southwest (Applicant), filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11608 in Denton County, Texas. The application is being reviewed under Texas Water Code (TWC) §§13.242-.250 and 16 Tex. Admin Code (TAC) §§ 24.101-.107.

A Staff review of the information filed by the Applicant found that it is sufficient in the required application and mapping information. Therefore, Staff recommends that the application be deemed sufficient for filing and found administratively complete. Staff further recommends the following:

- 1) The Applicant provide notice of the application to the following:
  - a) any districts, utilities, and cities within two (2) miles of the proposed area;
  - b) the county judge of each county and each groundwater conservation district that is wholly or partly included in the proposed area to be certified;
  - c) each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the proposed area to be certified;
  - d) landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the proposed area to be certified. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN is located; and
  - e) publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Denton County.
  
- 2) The Applicant should provide correct 2 mile notice list of neighboring entities as follows:
  - Town of Little Elm (11202)
  - City of Oak Point
  - City of Lakewood Village (10201)
  - Aqua Texas, Inc. (13201)
  - Knob Hill Water System (11414)
  - Mustang SUD (11856)
  - City of Hackberry (12015)
  - Monarch Utilities I LP (12983)
  - Denton County FWSD 8A (13018)

- Denton County FWSD 1 1B
  - Valencia on the Lake WCID (13138)
  - Oak Point WCID 1
  - Oak Point WCID 2
  - Oak Point WCID 3
  - Oak Point WCID 4
  - Upper Trinity Regional Water District
  - Denton County Mud 5
  - North Texas GCD
  - Honorable Denton County Judge Mary Horn
- 3) The Applicant be ordered to include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained from the TCEQ's web site located at <http://www14.tceq.texas.gov/iwud/>.
- 4) The Applicant file within 30 days of the Commission order, a copy of the actual notice and map issued, along with signed affidavits indicating that the notice was given. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

*Notice for Publication*

NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE  
AND NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN DENTON  
COUNTY, TEXAS

Terra Southwest, Inc., has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity No. 11608 for the provision of water utility service in Denton County.

The proposed utility service area is located approximately 10 miles east/southwest of downtown Denton, Texas, and is generally bounded on the north by Cedar Lane; on the east by Spring Branch Drive; on the south by Lewisville Lane; and on the west by Shorewood Drive.

The total area being requested includes approximately 35 acres and 98 current customers.

A copy of the proposed service area map is available at: P.O. Box 140, Alvord, TX 76225-140 Phone No. 940-427-7444

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 area, you may request to be excluded from the proposed 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



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

**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN DENTON COUNTY, TEXAS**

To: \_\_\_\_\_  
(Neighboring System or City)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

Date Notice Mailed: \_\_\_\_\_, 2016

Terra Southwest, Inc., has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity No. 11608 for the provision of water utility service in Denton County.

The proposed utility service area is located approximately 10 mile(s) east/southwest of downtown Denton, Texas, and is generally bounded on the north by Cedar Lane; on the east by Spring Branch Drive; on the south by Lewisville Lane; and on the west by Shorewood Drive.

See enclosed map of the proposed service area.

The total area being requested includes approximately 35 acres and 98 current customers.

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.

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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, the 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.

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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.

# PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, LANDOWNERS AND CITIES  
DOCKET NO. 46441

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 of 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 for  
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 \_\_\_\_\_, 20\_\_\_\_, 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 \_\_\_\_\_

# PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 46441

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_

who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
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 \_\_\_\_\_