

Control Number: 46986



Item Number: 14

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RECEIVED

APPLICATION OF LIL §  
COUNTRYSIDE WSC TO OBTAIN A §  
WATER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY §  
IN HUNT COUNTY §

PUBLIC UTILITY COMMISSION  
OF TEXAS

APR 25 2017 PM 3:00  
PUBLIC UTILITY COMMISSION  
CLERK

**COMMISSION STAFF'S SECOND RECOMMENDATION ON NOTICE**

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Second Recommendation on Notice in response to Order No. 5 and would show the following:

**I. BACKGROUND**

On March 23, 2017, Lil Countryside WSC (Lil Countryside) filed an application to obtain a new water certificate of convenience and necessity (CCN). Lil Countryside seeks this CCN to operate a system that has been abandoned.

On June 20, 2017, Order No. 5 was issued, deeming Lil Countryside's notice deficient, directing Lil Countryside to correct the deficiencies identified by Staff, and establishing a deadline of 10 days from the filing of proof of notice documentation for Staff to file a recommendation on the sufficiency of notice. On July 18, 2017, Lil Countryside filed a request that the requirement to provide published notice be waived. Ten days from July 18 is July 28, 2017. This pleading is therefore timely filed. On July 21, 2017, Lil Countryside filed proof of mailed notice.

**II. PUBLISHED NOTICE WAIVER REQUEST RECOMMENDATION**

Staff recommends that Lil Countryside's request for an exception to the requirement to provide published notice be approved. Pursuant to 16 Texas Administrative Code § 24.2(b) (TAC), a good cause exception to any portion of 16 TAC Chapter 24 may be granted, including the notice requirements of 16 TAC § 24.106(c). Staff has reviewed the waiver request and, as detailed in the attached memorandum of Andrew Novak of the Commission's Water Utility Regulation Division, recommends that a good cause exception be granted. Due to Lil Countryside's small size, general financial condition, and its provision of notice to all required

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entities by mail, Staff believes that published notice in this particular instance would be unduly burdensome.

### **III. NOTICE DEFICIENCY RECOMMENDATION**

Staff also notes that even if Lil Countryside's request for waiver of the published notice requirement is granted, there remain unresolved deficiencies with notice.<sup>1</sup> Specifically, Lil Countryside has not provided a signed, notarized affidavit affirming that notice was provided to the Sabine River Authority. Staff further notes that the copy of mailed notice to the Sabine River Authority provided in Lil Countryside's July 21, 2017 filing does not contain a complete date indicating when that notice was mailed. Staff recommends that Lil Countryside indicate on the signed, notarized affidavit which month, day, and year the mailed notice previously filed was mailed to the Sabine River Authority. For these reasons, Staff recommends that Lil Countryside's notice continue to be found deficient and that Lil Countryside be directed to remedy these deficiencies.

### **IV. PROCEDURAL SCHEDULE**

Regardless of whether Lil Countryside's request for a good cause exception to the notice publication requirement is granted, Staff recommends the notice remains deficient. Staff therefore recommends that a deadline of August 31, 2017 be established for Lil Countryside to file information correcting the deficiencies identified by Staff. Staff further recommends that a deadline of 10 days from the filing of supplemental notice documents be established for Staff to file a supplemental recommendation on proof of notice and propose a procedural schedule, if appropriate.

### **V. CONCLUSION**

For the reasons detailed above, Staff recommends approval of Lil Countryside's request for a good cause waiver to the notice publication requirements of 16 TAC § 24.106(c). Staff further recommends that Lil Countryside's notice remain deficient and that Lil Countryside be ordered to address the identified deficiencies by August 31, 2017.

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<sup>1</sup> See Commission Staff's Recommendation on Notice (Jun. 15, 2017).

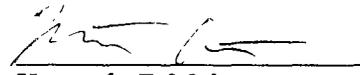
Dated: July 28, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney

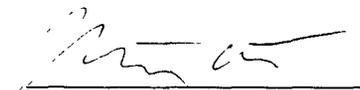
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**DOCKET NO. 46986**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 28<sup>th</sup> of July, 2017 in accordance with 16 Tex. Admin. Code § 22.74.

 w/ permission  
Kennedy R. Meier

## PUC Interoffice Memorandum

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**To:** Kennedy Meier, Attorney  
Legal Division

**Through:** Lisa Fuentes, Manager  
Water Utilities Division

**From:** Andrew Novak, Financial Analyst  
Water Utilities Division

**Date:** July 28, 2017

**Subject:** **Docket No. 46986:** *Application of the Lil Countryside WSC to obtain a Water Certificate of Convenience and Necessity in Hunt County*

On March 23, 2017, Lil Countryside WSC (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain a water Certificate of Convenience and Necessity (CCN) in Hunt County, Texas pursuant to Texas Water Code §§ 13.242 to 13.250 (TWC) and the 16 Tex. Admin Code §§ 24.101 to 24.107 (TAC). The requested area includes approximately 573 acres and 15 current customers.

After reviewing the filings submitted by the Applicant, Staff recommends that the notice continue to be found insufficient. The Applicant filed a copy of the mailed notice to the Sabine River Authority on July 21, 2017, but failed to include a new signed, notarized affidavit affirming that such notice was mailed and on what date that notice was mailed. In order to correct this deficiency, Staff recommends that the Applicant be ordered to file such an affidavit attesting that the notice to the Sabine River Authority was sent and affirming the date it was sent.

After reviewing the Lil Countryside WSC's request to waive the published notice requirement of 16 TAC § 24.106(c), Staff recommends that the requirements for published notice be waived. This is due to the current financial standing of the utility and difficulty finding an acceptable price for publishing notice in a newspaper with general circulation in Hunt County in combination with the fact that the required entities have received mailed notice.