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DOCKET NO. 47178

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APPLICATION OF RICHARD
SULLIVAN AND MICHAEL & HEIDI
FENSTERBUSH FOR SALE, TRANSFER,
OR MERGER OF FACILITIES AND
CERTIFICATE RIGHTS IN LUBBOCK
COUNTY (VALLEY ESTATES)

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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK

OF TEXAS

COMMISSION STAFF'S SECOND ADMINISTRATIVE COMPLETENESS RECOMMENDATION

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 2, Staff's Second Administrative Completeness Recommendation. Staff recommends that the application be found administratively complete. In support thereof, Staff shows the following:

I. BACKGROUND

On May 17, 2017, Richard Sullivan (Seller) and Michael & Heidi Fensterbush (Purchasers) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Lubbock County, Texas pursuant to Tex. Water Code §§ 13.301-.242 (TWC) and 16 Tex. Admin. Code §§ 24.109-.112 (TAC). Specifically, Purchasers seek approval to acquire all water system assets and the associated service area currently held by Seller under water certificate of convenience and necessity (CCN) No. 12490. The total area being requested is approximately 15 acres with 35 affected customers.

On June 21, 2017, the Commission administrative law judge (ALJ) issued Order No. 2, finding the application deficient and requiring the Applicants to address the identified deficiencies. The Applicants filed supplemental information responding to the identified deficiencies on July 19, 2017. Order No. 2 also required Staff to file a supplemental recommendation on administrative completeness by August 11, 2017. Therefore, this pleading is timely filed.

II. APPLICATION SUFFICIENCY RECOMMENDATION

As detailed in the attached memorandum of Greg Charles and Kristy Nguyen of the Water Utility Regulation Division, Attachment A, Staff has reviewed the Applicants' supplemental information filed on July 19, 2017. The materials provided satisfactorily address

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the previously identified deficiencies and the application is accordingly sufficient. Therefore, Staff recommends that the application be found administratively complete.

III. ISSUANCE OF NOTICE

In accordance with Staff's notice sufficiency recommendation in Staff's First Administrative Completeness Recommendation,¹ Staff recommends that the Applicants be ordered to provide notice to (1) any districts, groundwater conservation districts, counties, utilities, cities, and cities with an extraterritorial jurisdiction within two miles of the proposed service areas; (2) any city with an extraterritorial jurisdiction which overlaps with the proposed service areas; and (3) any customers transferred or other affected parties in the requested area. The Applicants should also issue notice to the entities listed in the attached Staff memorandum. Proposed notice is provided herein for the Applicants' use as Attachment B. After sending such notice, the Applicants should file a copy of the actual notices sent, including a copy of the map, and a signed affidavit affirming that the notices were sent. A blank affidavit for such purposes is attached to this pleading as Attachment C.

IV. PROPOSED PROCEDURAL SCHEDULE

In accordance with Staff's administrative completeness recommendation, Staff proposes the following procedural schedule:

Event	Date
Deadline for the Applicants to file proof of notice	September 11, 2017
Deadline for Staff to file a recommendation on sufficiency of notice	Within 10 days of the Applicants' filing proof of completed notice
Deadline to intervene ²	30 days after notice is issued

V. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the application be found administratively complete, that the above proposed procedural schedule be adopted, and that the Applicants be ordered to issue notice and file proof thereof.

¹ Commission Staff's First Administrative Completeness Recommendation at 2 (June 16, 2017).

Dated: August 11, 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 August 11, 2017 in accordance with 16 Tex. Admin. Code § 22.74.


Matthew A. Arth

² See 16 Texas Administrative Code § 24.109(b) (requiring the intervention period to be no less than 30 days for STM proceedings, absent good cause shown).

Attachment A

Staff Memorandum

PUC Interoffice Memorandum

To: Matt Arth, Attorney
Legal Division

Thru: Tammy Benter, Director
Heidi Graham, Manager
Water Utility Regulation Division

From: Greg Charles, Staff Engineer
Kristy Nguyen, GIS Specialist
Water Utility Regulation Division

Date: August 7, 2017

Subject: **Docket No. 47178**, *Application of Richard Sullivan and Michael & Heidi Fensterbush for sale, transfer, or merger of facilities and certificate rights in Lubbock County (Valley Estates)*

On May 17, 2017, Richard Sullivan (Seller) and Michael & Heidi Fensterbush (Purchasers), (Collectively, Applicants), filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Lubbock County, Texas, pursuant to Texas Water Code § 13.301 (TWC) and the 16 Tex. Admin. Code § 24.109 (TAC). Specifically, the Purchasers seek approval to acquire facilities and to transfer the water service area from Seller under water Certificate of Convenience and Necessity (CCN) No. 12490. The requested area includes approximately 45 acres and 35 connections.

A Staff review of the additional information filed by the applicant on July 19, 2017 found that the application and mapping information addressed the deficiencies previously identified by Staff and are now sufficient. Therefore, Staff recommends that the application be deemed sufficient for filing and found administratively complete. Staff further recommends the Applicants be ordered to do the following:

- 1) Provide notice of the application to the following:
 - a) any districts, utilities, and cities within two (2) miles of the requested area;
 - b) the county judge of each county and each groundwater conservation district that is wholly or partly included in the requested area to be certified;
 - c) each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the requested area to be certified; and
 - d) existing customers
- 2) The Applicant be ordered to provide correct notice to the following:
 - City of Shallowater (10610)
 - Smith Management Services (11168)
 - Brazos River Authority
 - High Plains UWCD No. 1
 - Honorable Judge Tom Head of Lubbock County

The Applicant must file a copy of the actual notice issued along with a signed affidavit indicating that the notice was given. It is recommended that the Applicant use the attached notice and affidavit to meet these requirements.

Attachment B

Proposed Notice

Notice to Current Customers, Neighboring Systems, and Cities

**MICHAEL & HEIDI FENSTERBUSH NOTICE OF INTENT TO PURCHASE
WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER
CCN NO. 12490 FROM RICHARD SULLIVAN DBA COUNTRY VIEW WATER
SYSTEM IN LUBBOCK COUNTY, TEXAS**

To: _____ Date Notice Mailed: _____, 2017
(Name of Customer, Neighboring System, or City)

(Address)

(City State Zip)

Michael and Heidi Fensterbush 7506 N County Road 1540 Unit #16 Shallowater, TX 79363
(Purchaser's or Transferee's Name) (Address) (City) (State) (Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase all water facilities and to transfer water service area under CCN No. 12490, in Lubbock County, TX from:

Richard Sullivan dba

Country View Water System 7506 N County Road 1540 Unit #23 Shallowater, TX 79363
(Seller's or Transferor's Name) (Address) (City) (State) (Zip Code)

The sale is scheduled to take place as approved by the Commission (V.T.C.A., Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivisions: Valley Estates and Country View MHP

The area subject to this transaction is located approximately 2 miles Southeast of downtown Shallowater, Texas, and is generally bounded on the north by Hwy 84; on the east by eastern alley of N Venita Drive; on the south by fenceline of Country View MHP; and on the west by County Road 1540.

The total proposed area for the water CCN being requested includes approximately 45 acres and 35 current water customers.

This transaction will have the following effect on the current customers' rates and services: Customers will be charged the same rates as currently charged by Country View Water System.

You may request a public hearing. A request for a public hearing must be in writing and include: (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, docket 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 which would satisfy your concerns and cause you to withdraw your request for a hearing.

Hearing requests, comments or requests to intervene should be filed with the:

Public Utility Commission of Texas
Central Records
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 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 will receive notice if a hearing is scheduled.

If a valid public hearing is requested, the Commission 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. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

Si desea informacion en Espanol, puede llamar al 1-888-782-8477

Utility Representative

Utility Name

Attachment C

Proof of Notice Affidavit

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, NEIGHBORING UTILITIES, AND
AFFECTED PARTIES
DOCKET NO. **47178**

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual notice
to the following entities and customers:

DATE OF NOTICE

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 _____