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PETITION OF T.J. BRADSHAW §
 CONSTRUCTION, LTD. TO AMEND §
 JONAH SPECIAL UTILITY §
 DISTRICT'S CERTIFICATES OF §
 CONVENIENCE AND NECESSITY IN §
 WILLIAMSON COUNTY BY §
 EXPEDITED RELEASE §

2019 JUL 26 PM 2:31
 PUBLIC UTILITY COMMISSION
 PUBLIC UTILITY COMMISSION
 OF TEXAS
 FILING CLERK

**JONAH WATER SPECIAL UTILITY DISTRICT'S REPLY TO
 COMMISSION STAFF'S RESPONSE TO JONAH'S MOTION TO DISMISS**

COMES NOW Jonah Water Special Utility District ("Jonah"), and files this Reply to Commission Staff's Response to Jonah's Motion to Dismiss for Lack of Subject Matter Jurisdiction and, in the alternative, Response to Public Utility Commission Order No. 4. In support thereof, Jonah respectfully shows as follows:

I. Procedural History

T.J. Bradshaw Construction Ltd. ("Bradshaw") filed a Petition for Streamlined Expedited Release on October 18, 2018 ("Petition"), which sought the expedited release, pursuant to Texas Water Code § 13.254(a-5), of 256.33 acres of land located within the boundaries of Jonah's certificate of convenience and necessity ("CCN") number 10970 and sewer CCN number 21053. Jonah filed a Motion to Intervene on November 16, 2018, which was granted per Commission Order No. 3 on November 27, 2018. Commission Staff recommended the Petition be found administratively complete on November 16, 2018,¹. On November 26, 2018, the Commission entered Order No. 2 Finding the Petition Administratively Complete and Notice Sufficient; and

¹ See Commission Staff's Recommendation on Administrative Completeness and Proposed Notice (November 16, 2018).

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Establishing a Procedural Schedule and set the deadline for the 60-day administrative approval period at January 25, 2019. The Petition was not administratively approved by that deadline.

On May 24, 2019, the Commission entered Order No. 4 Requesting Information. In response to that Order, Jonah filed its Motion to Dismiss for Lack of Subject Matter Jurisdiction and Response to Commission Order No. 4 on June 7, 2019 (“Motion to Dismiss”). Commission Staff responded to the Motion to Dismiss on July 12, 2019,² as permitted by Commission Order No. 7.³ Jonah now files its Reply to Commission Staff’s Response to its Motion to Dismiss, and as authorized by Commission Order No. 6, Jonah’s Reply is timely filed.⁴

II. Reply to Staff’s Response

In response to Jonah’s Motion to Dismiss, Commission Staff argues that Texas Water Code §13.254(a-5) is not preempted by federal law.⁵ However, Commission Staff acknowledges and agrees that the Commission cannot interfere with the District’s exclusive right to provide service because Jonah’s service area is protected by 7 USC §1926 and the holdings in *Green Valley Special Utility District v Walker, D’Andrea, Botking, et.al.*,⁶

The Petitioner in this case, T.J. Bradshaw Construction, Ltd., did not file any response.

² See Commission Staff’s Response to Jonah Water Special Utility District’s Motion to Dismiss (July 12, 2019).

³ See Order No. 7 Granting Extension (June 20, 2019).


⁴ See Order No. 6 Granting Extension (June 18, 2019).

⁵ See Commission Staff’s Response at 2.

⁶ *Green Valley Special Utility District v Walker, D’Andrea, Botking, et.al.*, Case No. AU-17-CA-00819-SS (W.D. Tex.), Nov. 29, 2018.

WHEREFORE, Jonah Water Special Utility District asks that the Commission dismiss the Petition dismiss the Petition because Texas Water Code §13.254(a-6) is preempted by federal law or, at a minimum, is prohibited under *Green Valley* from acting on the Petition, and for such other and further relief, general or special, at law or in equity, to which Jonah may be justly entitled.

Respectfully submitted,

By: 

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ATTORNEY FOR JONAH WATER SPECIAL
UTILITY DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 26th day of July, 2019.



John Carlton