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RATEPAYERS' APPEAL OF THE
DECISION BY LAGUNA MADRE
WATER DISTRICT TO CHANGE
RATES

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PUBLIC UTILITY COMMISSION
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OF TEXAS

RATEPAYER SOUTH PADRE ISLAND GOLF COURSE'S REPLY TO LAGUNA
MADRE WATER DISTRICT'S RESPONSE TO BRIEFS REGARDING THE
APPLICABILITY OF SECTION 49.2122 TO THIS PROCEEDING

TO THE HONORABLE JUDGE SIANO AND JUDGE SOTO:

COMES NOW, **South Padre Island Golf Course ("SPI")**, and in reply to Laguna Madre Water District's Response to Briefs regarding the applicability of section 49.2122 to this proceeding would respectfully show the following:

1. **Laguna Madre Water District has confused the standard for a water district when setting water rates with the standard for setting water rates pursuant to a petition for review under Section 12.013.**

Section 11.036(b) of the Texas Water Code—which is cited in SPI's petition—provides that a water district having in possession and control any conserved or stored water may contract to supply the water to any person, association, or corporation. It further provides that the price and terms of the contract shall be ***just and reasonable and without discrimination***, and the contract is subject to the same revision and control as provided in the Texas Water Code for other water rates and charges.

Section 11.036(b) of the Texas Water Code—which is also cited in SPI's petition—provides for a complaint in the event of a denial of water or the demand of a price or rental for the available water that is ***not reasonable and just, or is discriminatory***.

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As all parties agree, SPI brings this petition for a review of the rates charged to it by Laguna Madre Water District pursuant to Section 12.013 of the Texas Water Code. Section 12.013 of the Texas Water Code states that, "the utility commission shall fix reasonable rates for the furnishing of raw or treated water for any purpose mentioned in Chapter 11 or 12 of this code."

There is a difference between the standard for a water district when setting water rates, and the standard by which the commission (or in this case the Administrative Law Judges) shall set the rates.

2. Laguna Madre Water District bears the burden of proving their rates are just, reasonable, and without discrimination.

The Public Utility Commission accepted SPI's petition and referred the petition for review pursuant to 12.013 of the Texas Water Code to the State Office of Administrative Hearings. Therefore, the decision as to setting the water rate shall be made by the Administrative Law Judges. If Laguna Madre Water District wants the rates they set to remain, they bear the burden of proof that the rates they have been charging are just, reasonable, and without discrimination.

Similarly, SPI has proven, and will continue to do so through the final hearing, that Laguna Madre Water District's rates are unjust, unreasonable, and discriminatory. Further, SPI has shown, and will continue to show through the final hearing, that a reasonable rate for furnishing raw water to SPI is far lower than the rate charged to it by Laguna Madre Water District.

Whether or not Laguna Madre Water District chooses to defend its rates as just, reasonable, and without discrimination, the Administrative Law Judges shall fix a reasonable rate as provided for by Section 12.013 of the Texas Water Code. Whether

that ends up being Laguna Madre Water District's rate or another rate shall be determined by this action.

3. Prayer.

SPI requests an order finding that its petition has been brought pursuant to Section 12.013 of the Texas Water Code; that the Administrative Law Judges will hear evidence from all parties regarding whether the rates set by Laguna Madre Water District are or are not reasonable, just, and/or without discrimination; and that the Administrative Law Judge shall "fix reasonable rates" as required by Section 12.013 of the Texas Water Code.

Respectfully submitted,

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

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PETITIONER/RATEPAYERS**

Certificate of Service

I hereby certify, that a true and correct copy of the above and foregoing document was served via facsimile, certified mail/regular U.S. first class mail, and/or e-mail upon the following counsel of record on this the 4th day of February 2020.

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