



Control Number: 49871



Item Number: 12

Addendum StartPage: 0

Garcia, Desiree

From: Journeay, Stephen
Sent: Monday, November 4, 2019 3:52 PM
To: agency_req_rep@oag.texas.gov
Cc: Hubenak, Priscilla; Billings-Ray, Kellie (Kellie.Billings-Ray@oag.texas.gov); Secord, Linda; Hulme, John; Journeay, Stephen; Garcia, Desiree
Subject: Request representation related to Rocket SUD v PUC Commissioners, No. 19-cv-1007-RP, W.D. Tex.
Attachments: Petition and Summons.pdf; Petition and Summons 2.pdf

Mr. Darren L. McCarty, Deputy, Attorney General for Civil Litigation

Re: Rocket Special Utility District v. Commissioners of the PUC and Red Oak Development Co., No. 19-cv-1007, W. Dist. Tex.

Dear Mr. McCarty:

Rocket SUD has filed suit to seeking a declaration that provision of chapter 13 of the Texas Water Code are preempted by federal law and to enjoin the Commissioners from continuing a proceeding currently at the Commission.

Attached are the summons received by the Commission. I have discussed this matter with Mr. John Hulme of your office, who has a copy of the petition, motion, and attachments.

This e-mail is to request representation by the Attorney General in this matter.

If you need further information, please call me at 512-936-7215

Stephen Journeay
Commission Counsel

Office of Policy and Docket Management
Public Utility Commission of Texas

stephen.journeay@puc.texas.gov

Phone: 512-936-7215
Fax: 512-936-7208

UNITED STATES DISTRICT COURT

FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DELIVERED: 10/29/19
by: TM
Assured Civil Process Agency

ROCKETT SPECIAL UTILITY DISTRICT,
a political subdivision of the State of Texas

Plaintiff,

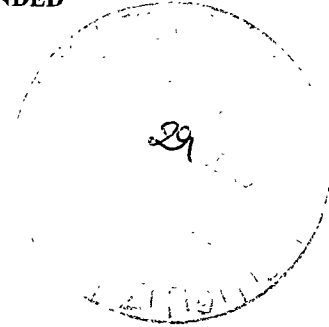
vs.

SHELLY BOTKIN, DEANN T. WALKER,
and ARTHUR C. D'ANDREA, in their official
capacities as Commissioners of the PUBLIC
UTILITY COMMISSION OF TEXAS; JOHN PAUL
URBAN, in his official capacity as Executive
Director of the PUBLIC UTILITY COMMISSION
OF TEXAS; ALAMO MISSION LLC, a Delaware
limited liability Company; and RED OAK
INDUSTRIAL DEVELOPMENT CORPORATION,
a Texas non-profit corporation,

Defendants.

Civil Action No. 19-CV-1007-RP

JURY TRIAL DEMANDED



SUMMONS IN A CIVIL ACTION

TO: JOHN PAUL URBAN
EXECUTIVE DIRECTOR OF THE TEXAS PUBLIC UTILITY COMMISSION
WILLIAM B. TRAVIS BLDG.
1701 N. CONGRESS AVENUE, 7TH FLOOR
AUSTIN, TX 78701

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Will W. Allensworth
wwa@aaplaw.com
Matthew C. Ryan
mcr@aaplaw.com
ALLENSWORTH & PORTER
100 Congress Avenue, Suite 700
Austin, Texas 78701
(512) 708-1250

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court

JEANNETTE J. CLACK

CLERK OF COURT

Date: 10/29/19



Signature of Clerk or Deputy Clerk

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

ROCKETT SPECIAL UTILITY DISTRICT, a political subdivision of the State of Texas,

(b) County of Residence of First Listed Plaintiff **ELLIS**

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Will W. Allensworth, Matthew C. Ryan
ALLENSWORTH & PORTER, 100 Congress Avenue, Suite 700
Austin, Texas 78701 (512) 708-1250

DEFENDANTS

SHELLY BOTKIN, DEANN T. WALKER, and ARTHUR C. D'ANDREA,
JOHN PAUL URBAN, ALAMO MISSION LLC, and CITY OF RED
OAK INDUSTRIAL DEVELOPMENT CORPORATION,

County of Residence of First Listed Defendant **TRAVIS**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability			<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability				<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine				<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability				<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle				<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability				<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury				<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice				<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 195 Contract Product Liability					<input type="checkbox"/> 850 Securities/Commodities Exchange	
<input type="checkbox"/> 196 Franchise					<input type="checkbox"/> 890 Other Statutory Actions	
					<input type="checkbox"/> 891 Agricultural Acts	
					<input type="checkbox"/> 893 Environmental Matters	
					<input type="checkbox"/> 895 Freedom of Information Act	
					<input type="checkbox"/> 896 Arbitration	
					<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	
					<input checked="" type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 2201 and 2202; 7 U.S.C. 1926(b)

Brief description of cause:

Injunctive relief to prevent state from enforcing preempted statutes in violation of federal law.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

0.00

CHECK YES only if demanded in complaint

JURY DEMAND:

☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

10/16/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Will W. Allensworth

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DELIVERED: 10/29/19
by: [Signature]
Assured Civil Process Agency

ROCKETT SPECIAL UTILITY DISTRICT,
a political subdivision of the State of Texas

Plaintiff,

vs.

SHELLY BOTKIN, DEANN T. WALKER,
and ARTHUR C. D'ANDREA, in their official
capacities as Commissioners of the PUBLIC
UTILITY COMMISSION OF TEXAS; JOHN PAUL
URBAN, in his official capacity as Executive
Director of the PUBLIC UTILITY COMMISSION
OF TEXAS; ALAMO MISSION LLC, a Delaware
limited liability Company; and RED OAK
INDUSTRIAL DEVELOPMENT CORPORATION,
a Texas non-profit corporation,

Defendants.

Civil Action No. 19-CV-1007-RP

JURY TRIAL DEMANDED

SUMMONS IN A CIVIL ACTION

TO: ARTHUR C. D'ANDREA
COMMISSIONER OF THE PUBLIC UTILITY COMMISSION OF TEXAS
WILLIAM B. TRAVIS BLDG.
1701 N. CONGRESS AVENUE, 7TH FLOOR
AUSTIN, TX 78701

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Will W. Allensworth
wwa@aapl原因.com
Matthew C. Ryan
mcr@aapl原因.com
ALLENSWORTH & PORTER
100 Congress Avenue, Suite 700
Austin, Texas 78701
(512) 708-1250

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JEANNETTE J. CLACK
CLERK OF COURT

Date: 10/29/19



[Signature]
Signature of Clerk or Deputy Clerk

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

ROCKETT SPECIAL UTILITY DISTRICT, a political subdivision of the State of Texas,

(b) County of Residence of First Listed Plaintiff ELLIS
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Will W. Allensworth, Matthew C. Ryan
ALLENSWORTH & PORTER, 100 Congress Avenue, Suite 700
Austin, Texas 78701 (512) 708-1250

DEFENDANTS

SHELLY BOTKIN, DEANN T. WALKER, and ARTHUR C. D'ANDREA,
JOHN PAUL URBAN, ALAMO MISSION LLC, and CITY OF RED
OAK INDUSTRIAL DEVELOPMENT CORPORATION,

County of Residence of First Listed Defendant TRAVIS
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities Exchange	
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions	
				<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts	
					<input type="checkbox"/> 893 Environmental Matters	
					<input type="checkbox"/> 895 Freedom of Information Act	
					<input type="checkbox"/> 896 Arbitration	
					<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	
					<input checked="" type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
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- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 2201 and 2202; 7 U.S.C. 1926(b)

Brief description of cause:

Injunctive relief to prevent state from enforcing preempted statutes in violation of federal law.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
0.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/16/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Will W. Allensworth

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

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 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
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 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
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 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

10/29/19

JM

UNITED STATES DISTRICT COURT

FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ROCKETT SPECIAL UTILITY DISTRICT,
a political subdivision of the State of Texas

Plaintiff,

vs

SHELLY BOTKIN, DEANN T. WALKER,
and ARTHUR C. D'ANDREA, in their official
capacities as Commissioners of the PUBLIC
UTILITY COMMISSION OF TEXAS; JOHN PAUL
URBAN, in his official capacity as Executive
Director of the PUBLIC UTILITY COMMISSION
OF TEXAS; ALAMO MISSION LLC, a Delaware
limited liability Company; and RED OAK
INDUSTRIAL DEVELOPMENT CORPORATION,
a Texas non-profit corporation,

Defendants.

Civil Action No. 19-CV-1007-RP
JURY TRIAL DEMANDED



SUMMONS IN A CIVIL ACTION

TO: SHELLY BOTKIN
COMMISSIONER OF THE PUBLIC UTILITY COMMISSION OF TEXAS
WILLIAM B. TRAVIS BLDG.
1701 N. CONGRESS AVENUE, 7TH FLOOR
AUSTIN, TX 78701

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Will W. Allensworth
wwa@aaplaw.com
Matthew C. Ryan
mcr@aaplaw.com
ALLENSWORTH & PORTER
100 Congress Avenue, Suite 700
Austin, Texas 78701
(512) 708-1250

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JEANNETTE J. CLACK

CLERK OF COURT

Signature of Clerk or Deputy Clerk

Date: 10/29/19



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

ROCKETT SPECIAL UTILITY DISTRICT, a political subdivision of the State of Texas,

(b) County of Residence of First Listed Plaintiff ELLIS
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Will W. Allensworth, Matthew C. Ryan
ALLENSWORTH & PORTER, 100 Congress Avenue, Suite 700
Austin, Texas 78701 (512) 708-1250

DEFENDANTS

SHELLY BOTKIN, DEANN T. WALKER, and ARTHUR C. D'ANDREA,
JOHN PAUL URBAN, ALAMO MISSION LLC, and CITY OF RED
OAK INDUSTRIAL DEVELOPMENT CORPORATION,

County of Residence of First Listed Defendant TRAVIS
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes
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V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 2201 and 2202; 7 U.S.C. 1926(b)
 Brief description of cause:
Injunctive relief to prevent state from enforcing preempted statutes in violation of federal law.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 0.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

10/16/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Will W. Allensworth

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DELIVERED: 10/29/19
by: JM
Assured Civil Process Agency

ROCKETT SPECIAL UTILITY DISTRICT,
a political subdivision of the State of Texas

Plaintiff,

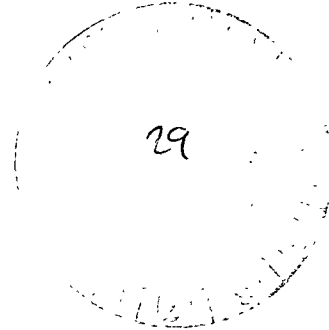
vs.

SHELLY BOTKIN, DEANN T. WALKER,
and ARTHUR C. D'ANDREA, in their official
capacities as Commissioners of the PUBLIC
UTILITY COMMISSION OF TEXAS; JOHN PAUL
URBAN, in his official capacity as Executive
Director of the PUBLIC UTILITY COMMISSION
OF TEXAS; ALAMO MISSION LLC, a Delaware
limited liability Company; and RED OAK
INDUSTRIAL DEVELOPMENT CORPORATION,
a Texas non-profit corporation,

Defendants.

Civil Action No. 19-CV-1007 -RP

JURY TRIAL DEMANDED



SUMMONS IN A CIVIL ACTION

TO: DEANN T. WALKER
COMMISSIONER OF THE PUBLIC UTILITY COMMISSION OF TEXAS
WILLIAM B. TRAVIS BLDG.
1701 N. CONGRESS AVENUE, 7TH FLOOR
AUSTIN, TX 78701

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Will W. Allensworth
wwa@aaplaw.com
Matthew C. Ryan
mcr@aaplaw.com
ALLENSWORTH & PORTER
100 Congress Avenue, Suite 700
Austin, Texas 78701
(512) 708-1250

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JEANNETTE J. CLACK
CLERK OF COURT

Date: 10/29/19



Signature of Clerk or Deputy Clerk

CIVIL COVER SHEET

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I. (a) PLAINTIFFS

ROCKETT SPECIAL UTILITY DISTRICT, a political subdivision of the State of Texas,

(b) County of Residence of First Listed Plaintiff **ELLIS**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Will W. Allensworth, Matthew C. Ryan
ALLENSWORTH & PORTER, 100 Congress Avenue, Suite 700
Austin, Texas 78701 (512) 708-1250

DEFENDANTS

SHELLY BOTKIN, DEANN T. WALKER, and ARTHUR C. D'ANDREA,
JOHN PAUL URBAN, ALAMO MISSION LLC, and CITY OF RED
OAK INDUSTRIAL DEVELOPMENT CORPORATION,

County of Residence of First Listed Defendant **TRAVIS**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

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V. ORIGIN (Place an "X" in One Box Only)

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VI. CAUSE OF ACTION

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28 U.S.C. §§ 2201 and 2202; 7 U.S.C. 1926(b)

Brief description of cause.

Injunctive relief to prevent state from enforcing preempted statutes in violation of federal law.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
0.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions).

JUDGE

DOCKET NUMBER

DATE

10/16/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Will W. Allensworth

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

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 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ROCKETT SPECIAL UTILITY DISTRICT,
a political subdivision of the State of Texas

Plaintiff,

VS.

SHELLY BOTKIN, DEANN T. WALKER, and ARTHUR C. D'ANDREA, in their official capacities as Commissioners of the PUBLIC UTILITY COMMISSION OF TEXAS; JOHN PAUL URBAN, in his official capacity as Executive Director of the PUBLIC UTILITY COMMISSION OF TEXAS; ALAMO MISSION LLC, a Delaware limited liability Company; and CITY OF RED OAK INDUSTRIAL DEVELOPMENT CORPORATION, a Texas non-profit corporation,

Defendants.

Civil Action No.:
19-CV-1007

Jury Trial Demanded

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW Rockett Special Utility District, and for its Original Complaint against Defendants Shelly Botkin, Deann T. Walker and Arthur C. D'Andrea, in their official capacities as Commissioners of the Public Utility Commission of Texas; John Paul Urban in his official capacity as Executive Director of the Public Utility Commission of Texas; Alamo Mission LLC; and City of Red Oak Industrial Development Corporation, respectfully states and alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 1331, as this case is based on a federal question claim brought under 7 U.S.C. § 1926(b) (“1926(b)”), 42 U.S.C. § 1983 (“1983”), and U.S. Const. art. VI, cl. 2, otherwise known as the Supremacy Clause. This Court has jurisdiction over Plaintiff’s claims for declaratory judgment under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure.

2. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(1) and (2) because at least one Defendant resides in this judicial district, and a substantial part of the events giving rise to Plaintiff’s claims occurred, and continues to occur, in this judicial district.

PARTIES

3. Rockett Special Utility District (“Rockett”) is a political subdivision of the State of Texas and is a retail public utility operating under Chapter 65 of the Texas Water Code furnishing water to areas in Ellis and Dallas Counties. Rockett is an “association” as that term is used in 7 U.S.C. § 1926(a). Rockett is indebted on a loan guaranteed by the United States Department of Agriculture (“USDA”). Rockett holds the federal right to be the exclusive water service provider within any area for which Rockett has the legal right to provide water service and has provided or made service available (can provide water service within a reasonable period of time),

which includes the land described in the “Petitions” referenced in paragraphs 10 and 11 below (“Land at Issue”). (Rockett moves the District Court to take judicial notice of said Petitions pursuant to Fed. R. Evid. 201.)¹

4. Defendants Shelly Botkin, Deann T. Walker and Arthur C. D’Andrea, (collectively referred to as the “Commissioners”) are commissioners for the Public Utility Commission of Texas, a state agency (“PUC”). The Commissioners are named as Defendants solely in their official capacities as commissioners of the PUC. The Commissioners are charged with the primary responsibility for regulating, and implementing the state’s laws concerning, electric, telecommunication, and water and sewer utilities. The Commissioners may be served with process by serving each at the William B. Travis Building, 1701 North Congress Avenue, 7th Floor, Austin, TX 78701.

Rockett seeks only prospective injunctive relief against the Commissioners.

“To ensure the enforcement of federal law ... the Eleventh Amendment permits suits for prospective injunctive relief against state officials acting in violation of federal law.”

Frew v. Hawkins, 540 U.S. 431, 437 (2004). *See also Pzifer, Inc. v. Texas Health & Human Servs. Comm’n*, No. 1:16-CV-1228-LY, 2017 WL 11068849, at *2 (W.D. Tex. Sept. 29, 2017); *Nelson v. Univ. of Tex. At Dallas*, 535 F.3d 318, 322 (5th Cir. 2008).

¹ The Public Utilities Commission filings are public records available online here: <http://interchange.puc.texas.gov/>. Rockett asks the Court to take judicial notice of the following filings: Control Number 49871, Item Number 1 (Petition by City of Red Oak for Expedited Release); Control Number 49871, Item Number 10 (Commission’s Staff Recommendation on Final Disposition of Red Oak Petition); Control Number 49863, Item Number 1 (Petition by Alamo for Expedited Release); Control Number 49863, Item Number 2 (Commission’s Staff Response to Order No. 4 in Alamo Petition). Copies of these orders are attached to this motion as Exhibits A through D respectively.

5. Defendant John Paul Urban (“Urban”), in his official capacity as Executive Director of the Texas Public Utility Commission, is named as a Defendant solely with respect to his official capacity as Executive Director of the PUC. Urban may be served with process at the William B. Travis Building, 1701 North Congress Avenue, 7th Floor, Austin, TX 78701.

Rockett seeks only prospective injunctive relief against Urban.

6. Defendant Alamo Mission LLC (“Alamo”) is a Delaware limited liability company, authorized to conduct business in the State of Texas. Alamo may be served with process by serving its registered service agent: Corporation Service Company dba CSC – Lawyers Incorporating Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

7. Defendant City of Red Oak Industrial Development Corporation (“Red Oak”) is a Texas nonprofit corporation incorporated under the Development Corporation Act of 1979 (Chapter 504, Texas Local Government Code). Red Oak may be served with process on its registered service agent: Todd Fuller, 200 Lakeview Parkway, Red Oak, Texas 75154.

DEFENDANTS’ VIOLATIONS OF 7 U.S.C. § 1926(b)

8. On March 27, 2019 this Court entered the following judgment against the Commissioners and ordered:

“The court **ORDERS AND DECLARES:**

(1) PUC Officials' Final Order of September 28, 2016, in the matter titled Tex. Pub. Util. Comm'n, *Petition of Las Colinas San Marcos Phase I LLC*, Docket No. 46148 **was entered in violation of 7 U.S.C. § 1926(b)** and is void.

(2) **7 U.S.C. § 1926 preempts and voids** the following section of Tex. Water Code § 13.254(a-6): “The utility commission may not deny a petition received under Subsection (a-5) based on the fact that a certificate holder is a borrower under a federal loan program.”

(3) To the extent that Tex. Water Code § 13.254(a-5) directs PUC Officials to grant a petition for decertification that meets the requirements of that provision without regard to whether the utility holding the certification is federally indebted and otherwise entitled to the protections of 7 U.S.C. § 1926(b), **the statute is preempted and is void.**

IT IS FURTHER ORDERED that the PUC, its officers, employees, and agents **are permanently enjoined** from enforcing in any manner the order of September 28, 2016, in the matter titled Tex. Pub. Util. Comm'n, *Petition of Las Colinas San Marcos Phase I LLC*, Docket No. 46148 (Final Order).”

Crystal Clear Special Util. Dist. v. Walker, No. 1:17-CV-254-LY, 2019 WL 2453777, at *2 (W.D. Tex. Mar. 27, 2019). (Emphasis added.)

9. Prior to this Court entering judgment against the Commissioners and declaring Tex. Water Code §§ 13.254(a-5) and (a-6) void (relative to entities that enjoy the protection of 1926(b)) the Commissioners suggested that they had no choice but to follow state law despite that law being directly contradictory to federal law. U.S. Magistrate Judge Andrew Austin (Western District) stated in his recommendation to this Court:

“Thus, regardless of whether § 13.254(a-5) explicitly directs the PUC to consider the provisions of 7 U.S.C. § 1926(b), the PUC has no choice in the matter, as the Constitution compels it to consider that applicable federal law. The fact that the PUC suggests otherwise is troubling. Generally, a court should be as circumscribed as possible when it determines the scope of a ruling invalidating a statute, and this is particularly true when there are both separation of powers and federalism issues implicated, as there are here. **But the PUC Officials’ suggestion that they have no choice but to follow state law even in the face of a directly contrary federal law—despite the fact that the agency has a general counsel and a staff full of attorneys—**supports Crystal Clear’s argument that the Court should go further than simply enjoining enforcement of § 13.254(a-6).⁴ Accordingly, the Court has added in its recommended relief, a declaration regarding § 13.254(a-5) as well.”

Crystal Clear Spec. Util. Dist. v. Walker, No. A-17-CV-00254-LY, 2018 WL 6242370, at *4 (W.D. Tex. Nov. 29, 2018), *report and recommendation adopted as modified sub nom. Crystal Clear Special Util. Dist. v. Walker*, No. 1:17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019). (Emphasis added.)

The Commissioners have willfully and intentionally disregarded (if not repudiated) the judgment of this Court and have persisted in ignoring the protections afforded by 1926(b) to qualifying associations such as Rockett. The Commissioners have persisted in considering actions such as those filed by Defendants Alamo and Red Oak, to enforce Tex. Water Code § 13.254(a-5) (“(a-5)”) and Tex. Water Code § 13.254(a-6) (“(a-6)”) despite the fact that (a-5) and (a-6) have been adjudicated void by this Court, under the circumstances and subject to the limitations described above by U.S. District Judge Lee Yeakel (when the object of the enforcement is an entity which qualifies for 1926(b) protections) and despite the fact that Rockett is entitled to the protections of 1926(b).

10. On August 16, 2019, more than 4 months after judgment was entered in *Crystal Clear*, Defendant Alamo filed its Petition with the PUC (case number 49863) seeking a decertification of property situated within Rockett's Certificate of Convenience and Necessity ("CCN") purportedly owned by Defendant Alamo, pursuant to Tex. Water Code § 13.254(a-5). After Alamo was notified that Rockett was indebted on a loan guaranteed by the USDA and qualified for the protections of 1926(b), Alamo ignored this notice and intensified its efforts to diminish and alter the territory for which Rockett holds the legal right to provide water service under Rockett's CCN. This form of interference with Rockett's federal rights under 1926(b) is a violation of 1926(b), as Alamo is seeking to reduce the customer pool for Rockett within Rockett's protected service area.

"Indeed, the type of encroachment contemplated by § 1926(b) is not limited to the traditional guise of an annexation followed by the city's initiation of water service. **It also encompasses other forms of direct action that effectively reduce a water district's customer pool within its protected area.** See *id.* at 716 ("[T]he question becomes whether McAlester's sales to customers ... purport to take away from Pitt 7's § 1926 protected sales territory.").

Rural Water Dist. No. 4, Douglas Cty., Kan. v. City of Eudora, Kan., 659 F.3d 969, 985 (10th Cir. 2011) (Emphasis added.)

All land that Alamo seeks to decertify is situated within Rockett's CCN 10099.

11. On August 19, 2019, more than 4 months after judgment was entered in *Crystal Clear*, Defendant Red Oak filed its Petition with the PUC (case number 49871) seeking a decertification of Rockett's CCN regarding property purportedly

owned by Defendant Red Oak, pursuant to Tex. Water Code § 13.254(a-5). After Red Oak was notified that Rockett was indebted on a loan guaranteed by the USDA and qualified for the protections of 1926(b), Red Oak ignored this notice and continued its efforts to diminish and alter the territory for which Rockett holds the legal right to provide water service. This form of interference with Rockett's federal rights under 1926(b) is a violation of 1926(b) as Red Oak is seeking to reduce the customer pool for Rockett within Rockett's protected service area. All land Red Oak seeks to decertify is situated within Rockett's CCN 10099.

12. Defendants Alamo and Red Oak have been placed on formal written notice that the Texas statutes on which their Petitions for Decertification depend, namely (a-5) and (a-6), have been adjudged unconstitutional and void under circumstances identical to those present here. Despite notice provided to Alamo and Red Oak, that Rockett qualifies for 1926(b) protection, and the judgment entered in *Crystal Clear*, Alamo and Red Oak have persisted in pursuing their Petitions to Decertify the Land at Issue.

13. Defendant Commissioners knew, after judgment was entered in *Crystal Clear*, that any new Petition filed with the PUC pursuant to (a-5), against an entity such as Rockett, that was and is entitled to the protections of 1926(b), was premised on a statute that was void and unenforceable.

14. Despite Rockett notifying the PUC and documenting for the PUC Rockett's federally guaranteed loan that remains outstanding and requesting that the PUC dismiss the Alamo and Red Oak Petitions for Decertification which sought relief under (a-5), the PUC has failed and refused to dismiss the Alamo and Red Oak Petitions for Decertification.

15. Staff for the Commissioners has warned the Commissioners in writing regarding this matter, namely that the Commissioners should "alternatively" consider abating any consideration of the Alamo Petition for Decertification of portions of Rockett's territory "until the courts resolve this issue", but as of the date of the filing of this Complaint, the Commissioners have not respected nor observed the prior rulings of this Court in *Crystal Clear* or warnings from the Commissioners' staff.²

16. Rockett is indebted on a loan guaranteed by the USDA ("Guaranteed Loan"). A USDA guaranteed loan qualifies Rockett for 1926(b) protection.

"Under Section 1926(a), "such loans" include loans the government makes or insures, *see id.* § 1926(a)(1), and loans the government guarantees, *see id.* § 1926(a)(24). Therefore, under § 1926(b), the federal guarantee of [a] private loan may be considered one "such loan" for purposes of meeting the requirements of § 1926(b)."

Rural Water Dist. No. 4, Douglas Cty., Kan. v. City of Eudora, Kan., 659 F.3d 969, 976 (10th Cir. 2011). (Emphasis added.)

² PUC staff made the same suggestion—for abatement of the two proceedings—pending resolution by "the courts". See Exhibit B at p. 4; Exhibit D at p. 2.

17. The Petitions for Decertification filed by Alamo and Red Oak with the PUC, specifically allege that the property for which decertification is sought is within the CCN granted to Rockett by the State of Texas.

18. Rockett is entitled to 1926(b) protection because (1) Rockett is indebted on a loan guaranteed by the USDA, and (2) Rockett has “made service available” because of its legal obligation to provide water service pursuant to its CCN.

“Under § 1926(b), the service area of utility association may not be curtailed or limited so long as (1) the association has an outstanding loan under § 1926; and (2) the association has “made available” service. *N. Alamo Water Supply Corp. v. City of San Juan, Tex.*, 90 F.3d 910, 915 (5th Cir. 1996) (per curiam); see also *Green Valley Special Util. Dist. v. City of Cibolo, Tex.*, 866 F.3d 339, 341 (5th Cir. 2017).”

Green Valley Special Util. Dist. v. Walker, 351 F. Supp. 3d 992, 1002 (W.D. Tex. 2018).

“On appeal, the Fifth Circuit explicitly held **“that the Utility's state law duty to provide service is the legal equivalent” of making service available under § 1926(b).** *Id.* It then affirmed “on the strength of [the lower court's] alternative legal and factual determinations.” *Id.*”

Id. at 1003 (citing *N. Alamo*, 90 F.3d at 916) (emphasis added).

Independent of the fact that Rockett has satisfied the “made service available” element of 1926(b) under 5th Circuit law, because Rockett holds a CCN with respect to the Land at Issue, Rockett has also satisfied the “made service available” element of 1926(b) as that phrase is interpreted by other Federal Circuit Courts of Appeals, by reason of the fact that Rockett has “pipes in the ground” within or adjacent to the

property Alamo and Red Oak seek to decertify, and Rockett has the physical ability to satisfy the *legitimate* domestic water needs for the Land at Issue or can provide water service within a reasonable period of time.

19. Rockett's "territory" for which it has the *legal right* to provide water service under Texas law, which includes land identified in the Petitions that Defendants Alamo and Red Oak have filed with the PUC (referenced above in numbered paragraphs 10 and 11), cannot be diminished or altered after Rockett became indebted on a loan guaranteed by the USDA.

"In addition to these principles defining the protection § 1926(b) affords rural water districts from competition, **state law cannot change the service area to which the protection applies, after that federal protection has attached.** See *Pittsburg County*, 358 F.3d at 715. For instance, "where the federal § 1926 protections have attached, § 1926 preempts local or state law that can be used to justify a municipality's encroachment upon disputed area in which an indebted association is legally providing service under state law." *Pittsburg County*, 358 F.3d at 715 (quotation, alteration omitted)."

Rural Water Sewer & Solid Waste Mgmt. v. City of Guthrie, 344 F. App'x 462, 465 (10th Cir. 2009), *certified question answered sub nom. Rural Water Sewer & Solid Waste Mgmt., Dist. No. 1, Logan Cty., Oklahoma v. City of Guthrie*, 2010 OK 51, 253 P.3d 38. (Emphasis added.)

Defendants Alamo and Red Oak are engaged in an attempt to diminish or alter the territory of Rockett, through their Petitions filed with the PUC in violation of 1926(b).

20. Any doubts regarding whether Rockett is entitled to the protections of 1926(b) must be resolved in Rockett's favor. Rockett's territory is sacrosanct.

“In order to achieve both of these stated purposes, “[d]oubts about whether a water association is entitled to protection from competition under § 1926(b) should be resolved in favor of the F[M]HA-indebted party seeking protection for its territory.” Sequoyah Cnty. Rural Water Dist. No. 7, 191 F.3d at 1197 (citing *North Alamo Water Supply Corp.*, 90 F.3d at 913 and *Jennings Water, Inc.*, 895 F.2d at 315(citing five federal courts which have held that § 1926 should be liberally interpreted to protect FmHA-indebted rural water associations from municipal encroachment)).

In addition to interpreting § 1926(b) broadly to “indicate a congressional mandate” that local governments not encroach upon the services provided by federally indebted water associations, regardless of the method of encroachment, the Fifth Circuit has gone so far as to designate “the service area of a federally indebted water association” as “sacrosanct”, emphasizing the virtually unassailable right of an indebted association to protection from municipal encroachment. *North Alamo Water Supply Corp.*, 90 F.3d at 915; see also *Bear Creek Water Ass'n, Inc.*, 816 F.2d at 1059 (affirming that one dollar of debt would be enough to afford the statute's protection because Congress “literally proscribed interference by competing facilities ... ‘during the term of said loan’ ”).

El Oso Water Supply Corp. v. City of Karnes City, Tex., No. SA-10-CA-0819-OLG, 2011 WL 9155609, at *6 (W.D. Tex. Aug. 30, 2011), report and recommendation adopted, No. CIV. SA-10-CA-819-OG, 2012 WL 4483877 (W.D. Tex. Mar. 19, 2012), judgment entered, No. SA10CA0819-OG, 2012 WL 4747680 (W.D. Tex. Apr. 11, 2012). (Emphasis added.)

21. The Commissioners are precluded from re-litigating the issues decided in *Crystal Clear*.

“Collateral estoppel, or issue preclusion, may be applied to bar relitigation of an issue previously decided by a court of competent jurisdiction where: (1) the issue under consideration is identical to that litigated in the prior action; (2) the issue was fully and vigorously litigated in the prior action; (3) the issue was necessary to support the judgment in the prior case; and (4) there is no special circumstance that

would make it unfair to apply the doctrine. *Winters v. Diamond Shamrock Chem. Co.*, 149 F.3d 387, 391 (5th Cir. 1998) (quoting *Copeland, et al. v. Merrill Lynch & Co., et al.*, 47 F.3d 1415, 1422 (5th Cir. 1995)). “ ‘**Complete identity of parties in the two suits is not required.**’ ” *Robin Singh Educ. Servs. Inc. v. Excel Test Prep Inc.*, 274 F. App'x 399, 404 (5th Cir. 2008) (quoting *Terrell v. DeConna*, 877 F.2d 1267, 1270 (5th Cir. 1989)). In *Parklane Hosiery Co. v. Shore*, 439 U.S. 322 (1979), the seminal Supreme Court case setting out the parameters of the *offensive* use of collateral estoppel—the type at issue here—the Court observed that “[t]he general rule should be that in cases ... [where] the application of offensive estoppel would be unfair to a defendant, a trial judge should not allow the use of offensive collateral estoppel.” *Id.* at 330–31. **The Court emphasized, however, that the trial court has broad discretion to determine whether collateral estoppel is appropriately employed offensively to preclude issue relitigation.** *Id.* at 331; *see also Winters*, 149 F.3d at 392 (highlighting the Supreme Court's grant of broad discretion to trial court's determination of whether offensive collateral estoppel is appropriate).”

Taylor v. Vaughn, No. A-15-CV-648-LY-ML, 2016 WL 11588707, at *5 (W.D. Tex. July 25, 2016). (Emphasis added.)

Count 1

Violation of 42 U.S.C. § 1983 – Commissioners and Urban

22. Rockett incorporates all allegations above.

23. In order to state a cause of action under 42 U.S.C. § 1983, Rockett must allege only that some person has deprived it of a federal right and that such person acted under color of state or territorial law. *Gomez v. Toledo*, 446 U.S. 635, 640 (1980).

24. Rockett has a federal right under 1926(b) to be protected from any curtailment or limitation of its right to sell water within Rockett's territory.

25. Actions of the Commissioners and Urban constitute an attempt to deprive Rockett of its 1926(b) federal rights.

26. The actions of the Commissioners and Urban are conducted under color of state law, by virtue of their statutory power to decertify land situated within the boundaries of Rockett's CCN, after Rockett became indebted on a loan which qualified Rockett for 1926(b) protection, and for which Rockett has made water service available, as the term "made water service available" has been interpreted by the 5th Circuit and other Federal Circuit Courts of Appeals.

27. Rockett has suffered or is in immediate jeopardy of suffering loss and damage as a result of the wrongful acts of the Commissioners and Urban in connection with the Alamo and Red Oak Petitions for Decertification.

Count 2

Declaratory Judgment – 7 U.S.C. § 1926(b) – All Defendants

28. Rockett incorporates by reference all allegations above.

29. This claim is brought pursuant to and in accordance with 28 U.S.C. §§ 2201 and 2202, seeking a declaration of the rights and other legal relations of the Parties under 1926(b).

30. There exists an actual case or controversy between Rockett and all of the Defendants concerning the Commissioners or Urban's authority to decertify a portion of Rockett's CCN, namely to remove the Land at Issue, from Rockett's

territory (its CCN) to allow Alamo and Red Oak to obtain water service from another entity (presumably the City of Red Oak), and/or whether such decertifications, if not directly prohibited, will negatively affect Rockett's rights under 1926(b) to be the exclusive water service provider to the Land at Issue.

31. 1926(b) prohibits decertification of any portion of Rockett's CCN if the decertification would function to limit or curtail the water service provided or made available by Rockett or would otherwise allow competition with Rockett within Rockett's CCN, or function to impair the collateral pledged to secure the federally guaranteed loan referenced above or deprive the lender (CoBank) and guarantor (USDA) of their rights in the collateral. Decertification of Rockett's territory/CCN is prohibited. The threatened decertification violates Rockett's 1926(b) rights and any order issued by the PUC or Commissioners, if issued, shall be a nullity and of no force or effect.

32. (a-6) states in pertinent part: "The utility commission may not deny a petition received under Subsection (a-5) based on the fact that a certificate holder is a borrower under a federal loan program." This portion of (a-6) has been expressly declared void because it violates the Supremacy Clause. The Commissioners were parties to *Crystal Clear*, and are bound by the judgment entered in that case. (See *Crystal Clear Special Util. Dist. v. Walker*, No. 1:17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019).) The Commissioners and Urban cannot

disregard the judgment entered in *Crystal Clear*, relative to the Petitions for Decertification filed by Alamo and Red Oak, once notified of Rockett's 1926(b) rights.

33. Regardless of whether (a-5) or (a-6) explicitly directs the PUC to disregard the provisions of 1926(b), the PUC has no choice in the matter, as the Constitution compels it to consider and comply with applicable federal law. (See *Crystal Clear Spec. Util. Dist. v. Walker*, No. A-17-CV-00254-LY, 2018 WL 6242370, at *4 (W.D. Tex. Nov. 29, 2018), report and recommendation adopted as modified sub nom. *Crystal Clear Special Util. Dist. v. Walker*, No. 1:17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019).)

34. (a-5) and (a-6) are unconstitutional for the reason that these statutes interfere with Rockett's rights under 1926(b). Any action by the Commissioners or Urban in reliance on or pursuant to (a-5) or (a-6) would frustrate an important federal statutory scheme intended to promote rural development as codified in 7 U.S.C. § 1926.

35. (a-5) and (a-6), which are applicable to the Petitions for Decertification filed by Alamo and Red Oak (because those Petitions were filed before September 1, 2019), must be declared preempted, void, and unconstitutional because such statutes are in direct conflict with the purposes and objective of 1926(b). As a result, the Commissioners and Urban have no authority to act upon the Petitions filed by

Alamo and Red Oak relative to Rockett's territory or CCN, and Alamo and Red Oak have no lawful right to pursue said Petitions.

Count 3

Injunctive Relief – All Defendants

36. Rockett incorporates by reference all allegations above.

37. Rockett does not have a proper and adequate remedy at law and injunctive relief is a proper remedy for violation of 1983 as well as for violations of 1926(b).

Jury Demand – Rockett demands a jury trial as to all issues triable by jury.

Prayer

Rockett prays the Court grant the following relief:

1. The Court enter a declaration that Texas Water Code § 13.254(a-5) and (a-6) are preempted to the same extent and in the same manner as that specified in *Crystal Clear*.

2. The Court enter a permanent injunction against all of the Defendants precluding any further presentation, prosecution, consideration, or granting relief under the pending Petitions for Decertification filed by Alamo and Red Oak.

3. The Court award attorney fees and costs of this action in the form of a judgment in favor of Rockett and against Defendants Alamo and Red Oak.

4. The Court grant such other and additional relief as Rockett demonstrates it is entitled.

Respectfully submitted,

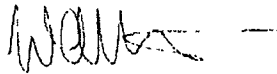
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ATTORNEYS FOR PLAINTIFF

EXHIBIT "A"



Control Number: 49871



Item Number: 1

Addendum StartPage: 0

49871

DOCKET NO. _____

PETITION BY CITY OF RED OAK
INDUSTRIAL DEVELOPMENT
CORPORATION FOR
STREAMLINED EXPEDITED
RELEASE FROM ROCKETT
SPECIAL UTILITY DISTRICT'S
CCN NO. 10099 PURSUANT TO
TEXAS WATER CODE § 13.254(a-5)
AND 16 TAC § 24.254(l)

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BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS

**PETITION BY CITY OF RED OAK INDUSTRIAL DEVELOPMENT CORPORATION
FOR STREAMLINED EXPEDITED RELEASE FROM
ROCKETT SPECIAL UTILITY DISTRICT'S CCN NO. 10099
PURSUANT TO TEXAS WATER CODE § 13.254(a-5), AND 16 TAC §24.245(l)**

COMES NOW City of Red Oak Industrial Development Corporation (Petitioner), and files this Petition with the Public Utility Commission of Texas (Commission) for Streamlined Expedited Release from Rockett Special Utility District's Water Certificate of Convenience and Necessity (CCN) No. 10099 pursuant to Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(l), and in support thereof would show as follows:

I. LEGAL AUTHORITY

Petitioner files this petition seeking the streamlined expedited release of property owned by Petitioner in Ellis and Dallas Counties, Texas, from water CCN No. 10099 currently held by Rockett Special Utility District (Rockett). Pursuant to TWC § 13.254(a-5) and 16 TAC § 24.245(l), the owner of a tract of land that is at least 25 acres and that is not receiving service may petition the Commission for a streamlined expedited release of the area from water and sewer CCNs and is entitled to release if the property is located in qualifying counties. Under TWC § 13.254(a-6), the Commission shall grant a petition received pursuant to Subsection (a-5) no later than the 60th day after the date the landowner files the petition. The Commission's rule at 16 TAC § 24.245(l)(6) provides that the petition shall be granted no later than the 60th calendar day after the petition is declared administratively complete.

As fully set out herein, Petitioner meets the legal criteria supporting the requested release.

II. PETITIONER INFORMATION

Petitioner has no assumed names; it conducts business only under its own name.

Petitioner is a nonprofit corporation incorporated under the Development Corporation Act of 1979, Vernon's Ann. Civ. Stat., Article 5190.6, Section 4A (now contained in Chapter 504, Texas Local Government Code). The Articles of Incorporation of Petitioner were filed with the Secretary of State and approved on February 7, 1994. Petitioner holds Charter No. 1302287-1. As noted in its Articles of Incorporation, Petitioner is organized solely for the purposes of promoting and developing commercial, industrial, manufacturing and medical research enterprises to promote and encourage employment, public health and public welfare, as the duly constituted authority of the City of Red Oak, Texas. Copies of the Charter and the Articles of Incorporation are attached to this Petition as Exhibit A.

Petitioner does not have a parent company, and operates pursuant to the provisions of Chapter 504, Texas Local Government Code.

III. DECERTIFICATION REQUEST

Petitioner owns approximately 384 acres in Ellis and Dallas Counties (together referred to as the Property). The Property is made up of four tracts of land:

Tract One is composed of approximately 110 acres;
Tract Two is composed of approximately 90 acres;
Tract Three is composed of approximately 99 acres; and
Tract Four is composed of approximately 85 acres.

All of the tracts are within the boundary of Water CCN No. 10099 held by Rockett in Ellis and Dallas Counties, Texas.

None of the Property currently receives, or has ever received, water service from Rockett or from any other retail public utility. Rockett has no facilities in place that would be impacted by

the removal of the Property from its CCN, and no property of Rockett will be rendered useless or valueless, and therefore no compensation is due to Rockett.

All of the criteria set forth in the Texas Water Code and Commission rules entitling Petitioner to a release of the Property from CCN No. 10099 have been met. The Property, and each of the four tracts therein:

- a. is owned by Petitioner;
- b. is more than 25 acres in size;
- c. is not receiving water service;
- d. is within water CCN No. 10099 held by Rockett; and
- e. is located in Ellis or Dallas Counties, which are qualifying counties under the criteria set forth in TWC § 13.254(a-5) and 16 TAC § 24.245(l)(2)(D).

In support of the Petition, Petitioner has attached the following documents:

- Exhibit A - Charter and Articles of Incorporation for Petitioner.
- Exhibit B - Affidavit of Ben Goodwyn, President of the City of Red Oak Industrial Development Corporation.
- Exhibit C - General location map identifying the Property in reference to the nearest county boundary, city, or town. 16 TAC § 24.245(m)(1)(A).
- Exhibit D - Detailed map identifying the Property, and the four tracts that make up the Property, in reference to verifiable man-made and natural landmarks, such as roads, rivers, and railroads. 16 TAC § 24.245(m)(1)(B).
- Exhibits E-1 through E-4 - Deeds containing metes and bounds descriptions of Property, demonstrating ownership of Property by Petitioner.
- Exhibit F - Digital mapping data for the four tracts comprising the Property.
- Exhibit G - Proof that copy of the Petition was sent to Rockett, the current CCN holder.

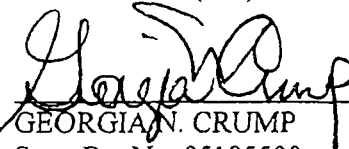
Pursuant to TWC § 13.254 and 16 TAC § 24.245(l)(4)A)(vi), a true and correct copy of this Petition has been sent via certified mail to Rockett, the current holder of CCN No. 10099.

IV. CONCLUSION AND PRAYER

Petitioner is entitled to the streamlined expedited release of the Property described herein because it meets all of the criteria in TWC § 13.254(a-5) and 16 TAC § 24.245(l). The Property is greater than 25 acres, is not receiving water service, and is in Ellis and Dallas Counties. Petitioner respectfully requests that the Commission grant this Petition and issue an order under the authority of TWC § 13.254(a-5) releasing the Property from CCN No. 10099 held by Rockett Special Utility District.

Respectfully submitted,

LLOYD GOSSELINK
ROCHELLE & TOWNSEND, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532



GEORGIA N. CRUMP
State Bar No. 05185500
gcrump@lglawfirm.com

ATTORNEYS FOR CITY OF RED OAK
INDUSTRIAL DEVELOPMENT CORPORATION

EXHIBIT A

**CHARTER AND ARTICLES OF INCORPORATION FOR CITY OF RED OAK
INDUSTRIAL DEVELOPMENT CORPORATION**

EXHIBIT A



The State of Texas

SECRETARY OF STATE

CERTIFICATE OF INCORPORATION

OF

CITY OF RED OAK INDUSTRIAL DEVELOPMENT CORPORATION

CHARTER NO. 1302287-1

The undersigned, as Secretary of State of the State of Texas, hereby certifies that Articles of Incorporation for the above corporation duly signed pursuant to the provisions of the Development Corporation Act of 1979, have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as such Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation and attaches hereto a copy of the Articles of Incorporation.

Dated February 7, 19 94.



John Hannah Jr.
Secretary of State

pac

EXHIBIT A
FILED
In the Office of the
Secretary of State of Texas

FEB 7 1994

ARTICLES OF INCORPORATION
OF
CITY OF RED OAK INDUSTRIAL DEVELOPMENT CORPORATION
Corporations Section

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age, a citizen of the State of Texas, and a qualified elector of the City of Red Oak, Texas, as incorporators under the Development Corporation Act of 1979, Vernon's Ann. Civ. St., Article 5190.6, Sec. 4A, do hereby adopt the following Articles of Incorporation for such Corporation:

ARTICLE I.

The name of the Corporation is CITY OF RED OAK INDUSTRIAL DEVELOPMENT CORPORATION.

ARTICLE II.

The Corporation is a nonprofit corporation.

ARTICLE III.

The duration of the Corporation is perpetual.

ARTICLE IV.

The Corporation is organized solely for the purposes of promoting and developing commercial, industrial, manufacturing and medical research enterprises to promote and encourage employment, public health and public welfare, all to be done as the duly constituted authority of the City of Red Oak, Texas, and the Corporation may issue bonds on behalf of said City for said purposes and in accordance with the powers granted under the Development Corporation Act of 1979.

V.

The Corporation shall have no members and is a non-stock corporation.

ARTICLE VI.

The street address of the initial registered office of the Corporation is 411 West Red Oak Road, Red Oak, Texas, and the name of its initial registered agent at such address is Chip VanSteenberg.

ARTICLE VII.

All powers of the Corporation shall be vested in a Board of Directors consisting of any number of directors, but not less than five (5) as may be fixed by the bylaws of the Corporation, each of whom shall be appointed by written resolution of the governing

EXHIBIT A

body of the City of Red Oak, Texas, and each of whom shall be a qualified elector of such City. Each director shall serve for a term of three (3) years or until his or her successor is appointed by the governing body of such City; provided, however, that if any director shall at any time be also a member of the governing body of such City, then the term of such director shall never exceed the period for which such director is a member of such governing body. Any director may be removed from office at any time, with or without cause, by written resolution of the governing body of the City. All vacancies, from whatever cause, shall be filled by the governing body of the City.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the bylaws of the Corporation, so long as such bylaws are not inconsistent with these Articles of Incorporation, the Development Corporation Act of 1979, Sec.4A, or any other law of the State of Texas.

ARTICLE VIII.

The number of directors constituting the initial Board of Directors of the Corporation is five (5). The names and addresses of the initial directors, each of whom is a qualified elector of the City of Red Oak, Texas, are:

<u>Name</u>	<u>Address</u>
Bobby Goodloe	P.O. Box 125
Charles Daubitz	P.O. Box 171
Pat DeViney	323 Meadow Lane
Dennis Brown	316 Crestview
Betty Klepper	108 Hidden Lane

ARTICLE IX.

The names and street addresses of the incorporators, each of whom resides within the City of Red Oak, Texas, are:

<u>Name</u>	<u>Address</u>
Debra L. Griswold	207 Pecan Creek
Margie Hawkins	102 Hidden Lane
Troy Jennings	112 S. Summit, Apt. #8

EXHIBIT A

ARTICLE X.

On September 28, 1993, the governing body of the City of Red Oak, Texas, duly adopted a resolution approving the form of these Articles of Incorporation, approving the creation of the Corporation and authorizing the Corporation to act on its behalf to further the public purposes stated in said resolution and in Article IV of these Articles of Incorporation.

ARTICLE XI.

These Articles of Incorporation may at any time and from time to time be amended by either of the following methods: (1) the members of the Board of Directors of the Corporation may file with the governing body of the City an application in writing seeking permission to amend the Articles of Incorporation, specifying in such application the amendment proposed to be made, and if said governing body by appropriate resolution shall duly find and determine that it is advisable that the proposed amendment be made and shall approve the form of the same and authorize it to be made, then the Board of Directors of the Corporation may amend the Articles of Incorporation by adopting such amendment at a meeting of the Board of Directors and delivering the articles of amendment to the Secretary of State, or (2) the governing body of the City may, in its sole discretion, and at any time, alter or change the structure, organization, programs, or activities of the Corporation (including the power to terminate the Corporation), subject to any limitation on the impairment of contracts entered into by the Corporation, by adopting an amendment to these Articles of Incorporation and delivering articles of amendment to the Secretary of State.

ARTICLE XII.

No dividends shall ever be paid by the Corporation and no part of its net earnings (beyond that necessary for retirement of the indebtedness of the Corporation or to implement the public purposes of the City for which the Corporation has been created) shall be distributed to or inure to the benefit of its directors or officers or any private person, firm, corporation, or association except in reasonable amounts for services rendered. No substantial part of the Corporation's activities shall be carrying on propaganda, or otherwise attempting to influence legislation, and it shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

XIII.

If the Corporation ever should be dissolved when it has, or is entitled to, any interest in any funds or property of any kind, real, personal or mixed, such funds or property or rights thereto

EXHIBIT A

shall not be transferred to private ownership, but shall be transferred and delivered to the City, after satisfaction or provision for satisfaction of debts and claims have been made.

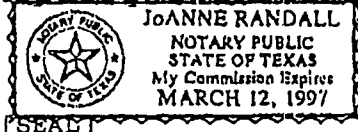
IN WITNESS WHEREOF, we have hereunto set our hands this 19th day of October, 1993.

Debra L. Griswold
Ang D. Lee
Margie Newkirk

THE STATE OF TEXAS
COUNTY OF ELLIS

I, the undersigned, a Notary Public, do hereby certify that on this the 19th day of October, 1993, personally appeared before me Debra L. Griswold who being by me first duly sworn, declared that he is the person who signed the foregoing instrument as an incorporator, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.

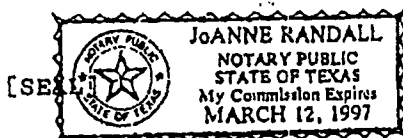


JoAnne Randall
Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF ELLIS

I, the undersigned, a Notary Public, do hereby certify that on this the 22nd day of October, 1993, personally appeared before me Troy G. Jennings who being by me first duly sworn, declared that he is the person who signed the foregoing instrument as an incorporator, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.



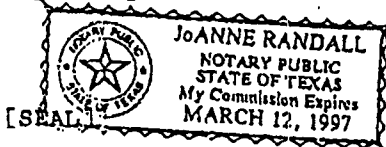
JoAnne Randall
Notary Public, State of Texas

EXHIBIT A

THE STATE OF TEXAS
COUNTY OF ELLIS

I, the undersigned, a Notary Public, do hereby certify that on this the 26th day of October, 1993, personally appeared before me Margie Hawkins who being by me first duly sworn, declared that he is the person who signed the foregoing instrument as an incorporator, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.



JoAnne Randall
Notary Public, State of Texas

EXHIBIT B

AFFIDAVIT OF BEN GOODWYN, PRESIDENT OF CITY OF RED OAK
INDUSTRIAL DEVELOPMENT CORPORATION

EXHIBIT B

DOCKET NO. _____

PETITION BY CITY OF RED OAK	§	BEFORE THE
INDUSTRIAL DEVELOPMENT	§	
CORPORATION FOR	§	
STREAMLINED EXPEDITED	§	
RELEASE FROM ROCKETT	§	PUBLIC UTILITY COMMISSION
SPECIAL UTILITY DISTRICT'S	§	
CCN NO. 10099 PURSUANT TO	§	
TEXAS WATER CODE §13.254(a-5)	§	
AND 16 TAC § 24.254(l)	§	OF TEXAS

AFFIDAVIT OF BEN GOODWYN

STATE OF TEXAS §
 §
 COUNTY OF ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared Ben Goodwyn, the affiant, who is known to me. After administering an oath, the affiant testified that:

1. My name is Ben Goodwyn. I am over the age of 18 years, of sound mind, and am competent to make this Affidavit. The facts stated herein are within my personal knowledge and are true and correct.
2. I am President of the City of Red Oak Industrial Development Corporation (ROIDC), the Petitioner in the above-captioned matter. Exhibit A to the Petition contains true and correct copies of the Charter and Articles of Incorporation of the ROIDC.
3. The ROIDC owns approximately 384 acres of land (the Property), which is located within the boundaries of water CCN No. 10099 issued to the Rockett Special Utility District (Rockett). The Property is comprised of four tracts of land, each of which contains more than 25 acres. The property is located in Ellis and Dallas Counties, Texas. Exhibits C and D attached to this Petition are true and correct copies of maps identifying the Property, its location, and area of the CCN.

EXHIBIT B

4. The Property is not receiving water service from Rockett, or any other water provider. ROIDC has not requested water service from Rockett or paid any fees or charges to initiate or maintain water service, and there are no billing records or other documents indicating an existing account for the Property.

5. Exhibit E is a true and correct copy of the metes and bounds description of the Property.

6. Exhibit F contains the digital mapping data for the four tracts.

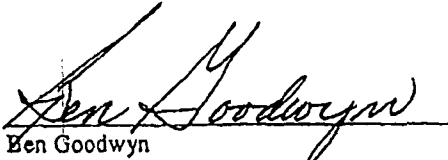
7. Exhibits G-1 through G-4 contain true and correct copies of deeds demonstrating ROIDC's ownership of the Property.

8. Exhibit H is a true and correct copy of the notice provided to Rockett of the filing of this Petition, along with the mailing receipt.

9. On behalf of the City of Red Oak Industrial Development Corporation, I request that the Public Utility Commission of Texas release this Property from water CCN No. 10099.

FURTHER AFFIANT SAYETH NOT.

SIGNED this 12th day of August, 2019.


Ben Goodwyn

SWORN TO AND SUBSCRIBED BEFORE ME by Ben Goodwyn on August 12th, 2019.

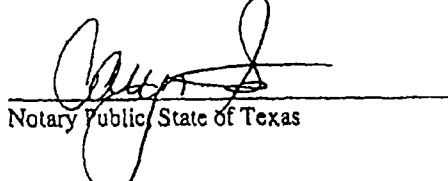

Notary Public, State of Texas

EXHIBIT C

**GENERAL LOCATION MAP
IDENTIFYING THE PROPERTY IN REFERENCE TO THE NEAREST COUNTY
BOUNDARY, CITY, OR TOWN.**

EXHIBIT C

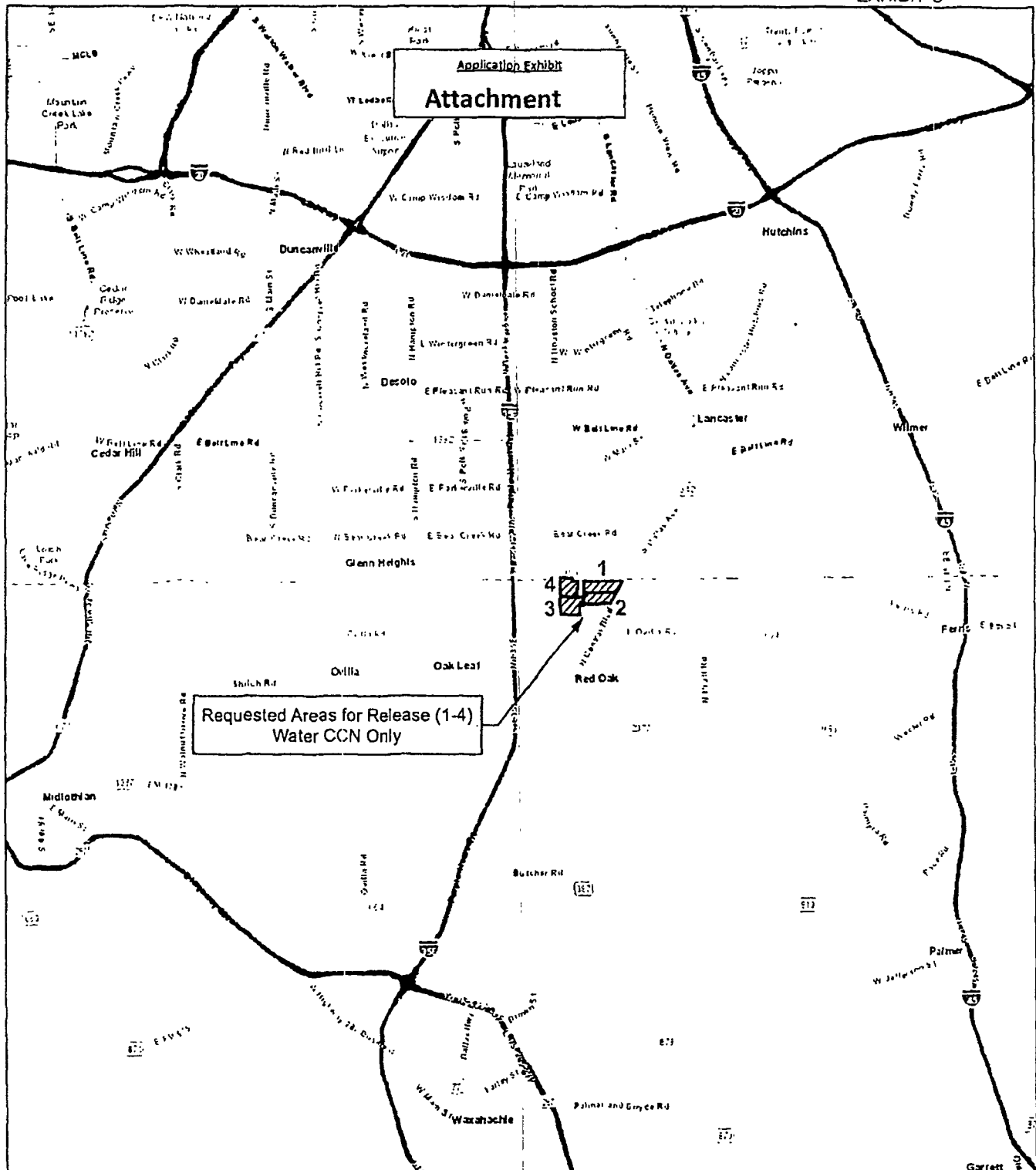
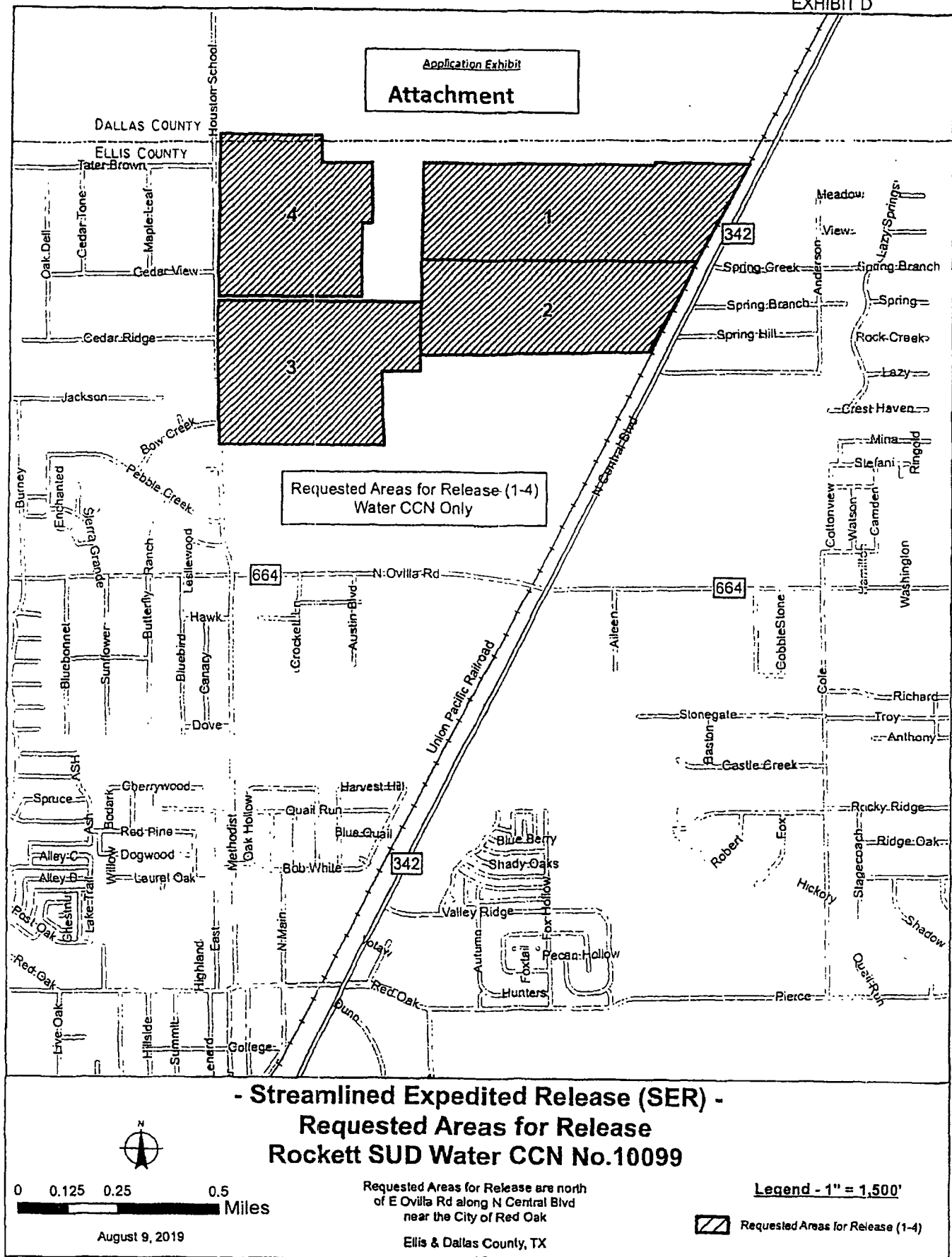


EXHIBIT D

DETAILED MAP
IDENTIFYING THE PROPERTY IN REFERENCE TO VERIFIABLE MAN-MADE AND
NATURAL LANDMARKS

EXHIBIT D



EXHIBITS E-1 THROUGH E-4

DEEDS CONTAINING METES AND BOUNDS DESCRIPTIONS OF PROPERTY
DEMONSTRATING OWNERSHIP OF PROPERTY BY PETITIONER

EXHIBIT E-1

TRACT ONE

EXHIBIT E-1

GP#1509137W

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Revised 09/2014

TEXAS WARRANTY DEED
(Long Form)

Date: January 5, 2016

Grantor: **RON RIEKE;**
WILLIAM BARRY OWENS, Individually and as Devisee of Sara Owens, Deceased;
LINDSAY MEGGS OWENS and MADELYN EDENE RIEKE, as Devisees of Sara Owens,
Deceased

Grantor's Mailing Address (including county):

P. O. Box 645
Meridian, Bosque County, TX 76665-0645

Grantee: **RED OAK INDUSTRIAL DEVELOPMENT CORPORATION**

Grantee's Mailing Address (including county):

P. O. Box 393
Red Oak, Ellis County, TX 75154

Consideration: Ten and No/100 (\$10.00) and other good and valuable consideration

Property (including any improvements):

BEING a tract or parcel of land situated in the City of Red Oak, Ellis County, Texas, and being part of the Edward Shirley Survey Abstract 1013 and being part of the 137.5 acre tract of land conveyed to Ron Rieke, et al by deed recorded in Volume 809 Page 303 the Deed Records of Ellis County and being more particularly described as follows;

BEGINNING at a point for corner at a 1/2" Iron rod found at the intersection of the westerly line of the BNSF Railroad right-of-way and the southerly line of said 137.5 acre tract said point also being the northeasterly corner of the 92.0039 acre tract conveyed to Red Oak Industrial Development Corporation by deed recorded October 19, 2015, with County Clerk's Number 1526548 of the Official Public Records of Ellis County;

THENCE due West (record bearing) along the southerly line of said 137.5 acre tract and the northerly line of said 92.0039 acre tract a distance of 3579.98 feet to a point for corner at a 1" iron pipe found;

THENCE North 0° 34' 32" West along the westerly line of said 137.5 acre tract and the easterly line

FILED FOR RECORD - ELLIS COUNTY, TEXAS
INST NO. 1603715 FILING DATE/TIME: Jan 11, 2016 at 10:19:00 AM

EXHIBIT E-1

of those tracts of land conveyed to James Murray Scott and James M. Scott et ux, by deeds recorded in Volume 937 Page 96 and Volume 1548 Page 377 of the Official Public Records of Ellis County a distance of 1227.36 feet to a point for corner at a 1/2" iron rod set;

THENCE South 89° 50' 36" East along the general line of a fence a distance of 2221.83 feet to an angle point at a 5/8" iron rod found;

THENCE South 89° 46' 14" East along the general line of a fence a distance of 386.95 feet to an angle point at a 1/2" iron rod found;

THENCE South 89° 47' 59" East along the general line of a fence a distance of 387.94 feet to a point for corner at a corner post;

THENCE North 0° 52' 27" West along an offset in a fence a distance of 37.9 feet to a point for corner at a corner post;

THENCE South 89° 21' 53" East along the general line of a fence a distance of 1245.7 feet to a point for corner at a 1" iron pipe found in the westerly line of the BNSF Railroad right-of-way;

THENCE South 28° 29' West along the westerly line of the BNSF Railroad right-of-way a distance of 1413.51 feet to THE PLACE OF BEGINNING and containing 110.4113 acres.

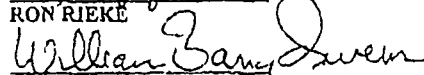
Reservations from and Exceptions to Conveyance and Warranty:

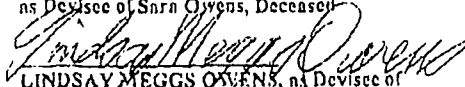
SUBJECT, however, to all valid outstanding easements, rights-of-way, mineral and/or ground leases, mineral reservations, mineral conveyances, restrictive covenants of record, and to zoning laws, regulations and ordinances of municipal and other governmental authorities, if any.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.


RON RIEKE


WILLIAM BARRY OWENS, Individually and
as Devisee of Sara Owens, Deceased


LINDSAY MEGGS OWENS, as Devisee of
Sara Owens, Deceased

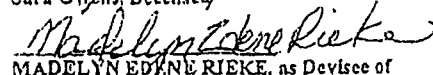
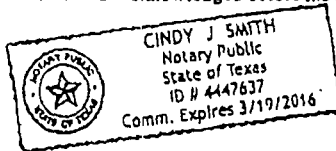

MADELYN EDENE RIEKE, as Devisee of
Sara Owens, Deceased

EXHIBIT E-1

(Acknowledgment)

STATE OF TEXAS
COUNTY OF Ellis

This instrument was acknowledged before me on the 8th day of January, 2016, by RON RIEKE

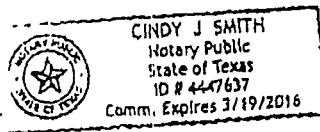


Cindy J. Smith
Notary Public, State of Texas
Notary's name (printed):
Notary's commission expires:

(Acknowledgment)

STATE OF TEXAS
COUNTY OF Ellis

This instrument was acknowledged before me on the 6th day of January, 2016, by WILLIAM BARRY OWENS, Individually and as Devisee of Sara Owens, Deceased..

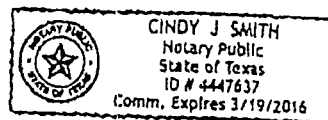


Cindy J. Smith
Notary Public, State of Texas
Notary's name (printed):
Notary's commission expires:

(Acknowledgment)

STATE OF TEXAS
COUNTY OF Ellis

This instrument was acknowledged before me on the 8th day of January, 2016, by LINDSAY MEGGS OWENS, as Devisee of Sara Owens, Deceased.



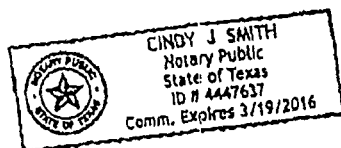
Cindy J. Smith
Notary Public, State of Texas
Notary's name (printed):
Notary's commission expires:

EXHIBIT E-1

(Acknowledgment)

STATE OF TEXAS
COUNTY OF Ellis

This instrument was acknowledged before me on the 8th day of January, 2016, by MADELYN EDENE RIEKE, as Devisee of Sam Owens, Deceased.



Cindy J. Smith
Notary Public, State of Texas
Notary's name (printed):
Notary's commission expires:

AFTER RECORDING RETURN TO:

RED OAK IDC
P. O. Box 393
Red Oak, TX 75154

PREPARED IN THE LAW OFFICE OF:

James R. Pitts
Attorney at Law
P. O. Box 561
Waxahachie, TX 75168

EXHIBIT E-2

TRACT 2

EXHIBIT E-2

#30-
GR#1507191W

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Revised 09/2014

TEXAS WARRANTY DEED
(Long Form)

Date: October 14, 2015

Grantor: ROBERT L. GOODLOE JR. and DOROTHY JEAN GOODLOE

Grantor's Mailing Address (including county):

204 E. Pierce Road
Red Oak, Ellis County, TX 75154

Grantee: RED OAK INDUSTRIAL DEVELOPMENT CORPORATION

Grantee's Mailing Address (including county):

P. O. Box 393
Red Oak, Ellis County, TX 75154

Consideration: Ten and No/100 (\$10.00) and other good and valuable consideration

Property (including any improvements):

Being a tract or parcel of land situated in the City of Red Oak, Ellis County, Texas, and being part of the Edward Shirley Survey Abstract 1013 and being the 92.129 acre First Tract of the land conveyed to Robert L. Goodloe, Jr. by deed recorded in Volume 648 Page 928 the Deed Records of Ellis County and being more particularly described as follows:

BEGINNING at a point for a corner at a 1/2" iron rod set in the westerly line of the BNSF Railroad right-of-way at the southeasterly corner of said First Tract said point also being the northeasterly corner of the 164.58 acre Tract II conveyed to Walton Red Oak Crossing, L.P., by deed recorded in Volume 2606 Page 1744 of the Official Public Records of Ellis County;

THENCE South 89° 59' 34" West (North 89° 57' 10" West, deed) along the southerly line of said 92.129 acre tract and the northerly line of said 164.58 acre tract a distance of 2931.45 feet to a point for corner at a 3" steel post found;

THENCE North 0° 53' 50" East (record bearing) along the westerly line of said 92.129 acre tract and the easterly line of that tract of land conveyed to PSD Land Investment by deed recorded in Volume 2186 Page 2236 and the easterly line of that tract of land conveyed to James Murray Scott by deed recorded in Volume 1548 Page 377 of the Official Public Records of Ellis County a distance of

FILED FOR RECORD - ELLIS COUNTY, TEXAS
INST NO. 1526648 FILING DATETIME: Oct 19, 2015 at 09:48:00 AM

EXHIBIT E-2

1231.32 feet to a point for corner at a 1" iron pipe found;

THENCE due East (deed bearing) along the northerly line of said 92.129 acre tract and the southerly line of that 137.5 acre tract conveyed to Ron Rieke by deed recorded in Volume 809 Page 303 of the Deed Records of Ellis County a distance of 3579.98 feet to a point for corner at a 1/2" iron rod set;

THENCE South 28° 29' West (South 28° 32' West, deed) along the easterly line of said 92.129 acre tract and the westerly line of the BNSF Railroad right-of-way a distance of 1400.31 feet to THE PLACE OF BEGINNING and containing 92.0039 acres.

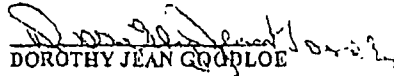
Reservations from and Exceptions to Conveyance and Warranty:

SUBJECT, however, to all valid outstanding easements, rights-of-way, mineral and/or ground leases, mineral reservations, mineral conveyances, restrictive covenants of record, and to zoning laws, regulations and ordinances of municipal and other governmental authorities, if any.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

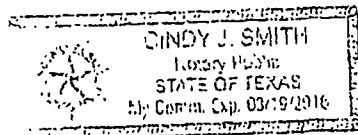

ROBERT L. GOODLOE JR.


DOROTHY JEAN GOODLOE

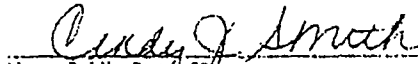
(Acknowledgment)

STATE OF TEXAS
COUNTY OF ELLIS

This instrument was acknowledged before me on the 16th day of October, 2015, by ROBERT L. GOODLOE, JR. and DOROTHY JEAN GOODLOE.



AFTER RECORDING RETURN TO:
RED OAK IDC
P. O. Box 393
Red Oak, TX 75154


Notary Public, State of Texas
Notary's name (printed):
Notary's commission expires:

PREPARED IN THE LAW OFFICE OF:
James R. Pitts
Attorney at Law
P. O. Box 561
Waxahatche, TX 75168

EXHIBIT E-3

TRACT 3

EXHIBIT E-3

\$30.00

30
2

GF#1508207W

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Revised 09/2014

TEXAS WARRANTY DEED
(Long Form)

Date: January 7, 2016

Grantor: PSD LAND INVESTMENTS, also known as PSD LAND INVESTMENT, a Texas Partnership

Grantor's Mailing Address (including county): 677 Shild Road, Frost, Navarro County, TX 76641

Grantee: RED OAK INDUSTRIAL DEVELOPMENT CORPORATION

Grantee's Mailing Address (including county): P. O. Box 393, Red Oak, Ellis County, TX 75154

Consideration: Ten and No/100 (\$10.00) and other good and valuable consideration

Property (including any improvements):

BEGINNING a tract or parcel of land situated in the City of Red Oak, Ellis County, Texas, and being part of the A. J. Parks Survey Abstract 850 and the John Spoon Survey Abstract 1014 and being the 100.415 acre tract of land conveyed to PSD Land Investment by deed recorded in Volume 2186 Page 2236 of the Deed Records of Ellis County and being more particularly described as follows;

BEGINNING at a point for corner at a 1/4" iron rod set at the southwesterly corner of said 100.415 acre tract and being in the center of Houston School Road and also being the northwesterly corner of that 57.214 acre tract of land conveyed to First Baptist Church, Red Oak by deed recorded in Volume 1593 Page 850 of the Official Public Records of Ellis County;

THENCE North 1° 28' West (deed bearing) along the westerly line of said 100.415 acre tract and the center of Houston School Road a distance of 963.75 feet to an angle point at a 1/4" iron rod set;

THENCE North 0° 22' 01" East (North 0° 22' East, deed) along the westerly line of said 100.415 acre tract and the center of Houston School Road a distance of 863.5 feet to a point for corner at a 1/4" iron rod set;

THENCE due East (record bearing) along the northerly line of said 100.415 acre tract and the southerly line of that 14.9925 acre tract conveyed to James Murray by deed recorded in Volume 1548 Page 377 of the Official Public Records of Ellis County a distance of 2654.1 feet to a point for corner at a 3" iron pipe found;

THENCE South 0° 49' West (deed bearing) along the easterly line of said 100.415 acre tract and a

FILED FOR RECORD - ELLIS COUNTY, TEXAS
INST NO. 1600711 FILING DATE/TIME: Jan 13, 2016 at 10:19:00 AM

EXHIBIT E-3

westerly line of Tract II conveyed to Walton Red Oak Crossing, LP, by deed recorded in Volume 2606 Page 1744 of the Official Public Records of Ellis County a distance of 897.5 feet to a point for corner at a 1/4" iron rod set;

THENCE South 1° 27' 11" East along an easterly line of said 100.415 acre tract and the westerly line of said Tract II a distance of 936.14 feet to a point for corner at a 1/4" iron rod found;

THENCE North 89° 16' 15" West (deed bearing) along a southerly line of said 100.415 acre tract a northerly line of said Tract II a distance of 497.61 feet to a point for corner at a 1/4" iron rod found;

THENCE due West (deed bearing) along the southerly line of said 100.415 acre tract and the northerly line of said First Baptist Church Red Oak 57.214 acre tract a distance of 2148.34 feet to THE PLACE OF BEGINNING and containing 100.4145 acres.

Reservations from and Exceptions to Conveyance and Warranty:

SUBJECT, however, to all valid outstanding easements, rights-of-way, mineral and/or ground leases, mineral reservations, mineral conveyances, restrictive covenants of record, and to zoning laws, regulations and ordinances of municipal and other governmental authorities, if any.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

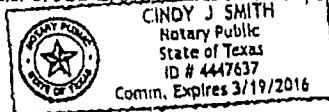
PSD LAND INVESTMENTS, a Texas
Partnership

By: R. Wayne Beason
R. Wayne Beason, Managing Partner

(Acknowledgment)

STATE OF TEXAS
COUNTY OF ELLIS

This instrument was acknowledged before me on the 7th day of January, 2016, by R. WAYNE BEASON, Managing Partner of PSD LAND INVESTMENTS, a Texas Partnership, by and on behalf of said partnership.



Cindy J. Smith
Notary Public, State of Texas
Notary's name (printed):
Notary's commission expires:

AFTER RECORDING RETURN TO:
RED OAK IDC
P. O. Box 393
Red Oak, TX 75154

PREPARED IN THE LAW OFFICE OF:
James R. Pitts, Attorney at Law
P. O. Box 561
Waxahatchie, TX 75168

EXHIBIT E-4

TRACT 4

(TWO DEEDS)

EXHIBIT E-4

GF#1808081

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

TEXAS GENERAL WARRANTY DEED

Date: October 18, 2018

Grantor: ERAZMO NAVA and ESTELA NAVA

Grantor's Mailing Address (including county):

159 CORNELLSTONE CIRCLE
RED OAK, ELLIS COUNTY, TX 75154

Grantee: RED OAK INDUSTRIAL DEVELOPMENT CORPORATION, INC.

Grantee's Mailing Address (including county):

P. O. BOX 393
RED OAK, ELLIS COUNTY, TX 75154

Consideration: Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements):

BEING a 74.917 acre tract of land situated in the A.J. PARKS SURVEY, ABSTRACT NO. 850, ELLIS County, Texas and being a portion of a called 89.9156 acre tract of land deeded to Houston Road, Inc. by Warranty Deed recorded in Volume 799, Page 385 of the Deed Records of Ellis County, Texas, and being more particularly described by notes and bounds as follows:

BEGINNING at a PK nail with shloer stamped "LANDATA" set for corner in the centerline of Houston School Road (60.0' right-of-way) and being in the west line of said Houston Road, Inc. tract of land and being the most westerly northwest corner of a tract of land deeded to James Murray Scott by Warranty Deeds recorded in Volume 1548, Page 377 and Volume 937, Page 96, Deed Records, Ellis County, Texas, said PK nail being in the west line of said A.J. Parks Survey and the east line of the John C. McCommas Survey, Abstract No. 722, from which a 1/2 inch iron rod found for the southwest corner of a tract of land deeded to PSD Land Investment by Warranty Deed recorded in Volume 1590, Page 908, Deed Records, Ellis county, Texas bears South 00 degrees 44 minutes 25 seconds East, a distance of 1887.00 feet;

THENCE North 00 degrees 22 minutes 00 seconds East, with the west line of said Houston Road, Inc. tract of land and the centerline of said Houston School Road, a distance of 1708.25 feet to a 1/2 inch iron rod with cap stamped "LANDATA" set for the northwest corner of said Houston Road, Inc. tract of land and the northwest corner of said J. Parks Survey, said 1/2 inch iron rod being the

EXHIBIT E-4

southwest corner of a tract of land deeded to A.C. Dunn by Warranty Deed recorded in Volume 68045, Page 1410 of the Deed Records of Dallas County, Texas and being the southwest corner of the Major W. Spencer Survey, Abstract No. 1367;

THENCE North 90 degrees 00 minutes 00 seconds East, with the north line of said Houston Road, Inc. tract of land and the common line between said Parks and Spencer Surveys, a distance of 1982.26 feet to a 1/2 inch iron rod with cap stamped "LANDATA" set for the most northerly northwest corner of said Scott tract of land;

THENCE South 00 degrees 00 minutes 00 seconds East, departing the north line of said Houston Road, Inc. and with the west line of said Scott tract of land, a distance of 761.58 feet to a 1/2 inch iron rod with cap stamped "LANDATA" set for corner;

THENCE South 89 degrees 30 minutes 44 seconds West, with the west line of said Scott tract of land, a distance of 130.0 feet to a 1/2 inch iron rod with cap stamped "LANDATA" set for corner;

THENCE South 00 degrees 29 minutes 16 seconds West, with the west line of said Scott tract of land, a distance of 939.86 feet to a 1/2 inch iron rod with cap stamped "LANDATA" set for corner, from which a 1 1/2 inch iron pipe found for the southeast corner of said Houston Road, Inc. and Scott tracts of land, bears South 85 degrees 52 minutes 43 seconds East, a distance of 800.58 feet;

THENCE South 89 degrees 49 minutes 25 seconds West, with the north line of said Scott tract of land, a distance of 1835.30 feet to the point of beginning and containing within these metes and bounds 74.917 acres or 3,263,385 square feet of land, more or less.

Reservations from Conveyance:

NONE

Exceptions to Conveyance and Warranty:

Liens described as part of the Consideration and any other liens described in this deed as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interest, and water interests outstanding in persons other than Grantor, and other instruments, other than conveyances of the surface fee estate, that affect the Property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; zoning laws, regulations and ordinances of municipal and other governmental authorities, if any; and taxes for 2018, which Grantee assumes and agrees to pay, and subsequent assessment for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

EXHIBIT E-4

When the context requires, singular nouns and pronouns include the plural.

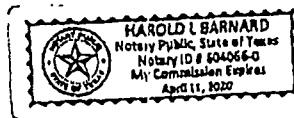

ERASMO NAVA

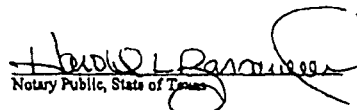

ESTELA NAVA

(Acknowledgment)

STATE OF TEXAS
COUNTY OF ELLIS

This instrument was acknowledged before me on the 19 day of October, 2018, by ERASMO NAVA and ESTELA NAVA.




Notary Public, State of Texas
Notary's commission expires:

AFTER RECORDING RETURN TO:

RED OAK INDUSTRIAL DEVELOPMENT
CORPORATION, INC.
P. O. BOX 393
RED OAK, TX 75154

PREPARED IN THE LAW OFFICE OF:

James R. Fitts, Attorney at Law
P. O. Box 561
Waxahatche, TX 75168

EXHIBIT E-4

GF#1905068

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

TEXAS GENERAL WARRANTY DEED

Date: July 8, 2019

Grantor: PABLO ARMENDARIZ and GLORIA ARMENDARIZ

Grantor's Mailing Address (including county): 600 HOUSTON SCHOOL ROAD, RED OAK, ELLIS COUNTY, TX 75154

Grantee: RED OAK INDUSTRIAL DEVELOPMENT CORPORATION

Grantee's Mailing Address (including county): P. O. BOX 393, RED OAK, ELLIS COUNTY, TX 75154

Consideration: Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements):

BEING 10.39 acres out of the M. W. SPENCER SURVEY, Abstract No. 1288, and also being part of an 80-acre tract of land conveyed to O. L. Worley and C. N. Worley by Deed dated 01/11/1939, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for corner in the East line of Houston School Road. Said iron rod being located East 30 feet from the Southwest corner of a said M. W. Spencer Survey and the Southwest corner of said 80.00 acre tract;

THENCE N 00 degrees 05 minutes 25 seconds (called North with the East line of said Houston School Road and parallel to the West line of said M. W. Spencer Survey and 80.00 acre tract a distance of 352.64 feet to a 1/2" iron rod found for corner in the Common County line of Dallas and Ellis County;

THENCE South 89 degrees 30 minutes East with said County line a distance of 1305.05 feet to a 1/2" iron rod found for corner in the East line of said 80.00 acre tract;

THENCE S 00 degrees 05 minutes 36 seconds W (Deed South) with said East line of 80.00 acre tract and parallel to said survey line and Houston School road a distance of 341.23 feet to a 1/2" iron rod found for corner at the Southwest corner of said 80.00 acre tract and said iron rod also being in the South line of said M. W. Spencer Survey;

THENCE S 89 degrees 59 minutes 57 seconds W (Deed West) with said survey line and South line of said 80.00 acre tract a distance of 1305.00 feet to the PLACE OF BEGINNING and Containing 10.38 acres of land.

EXHIBIT E-4

SAVE & EXCEPT: 0.3321 acres of land conveyed to the State of Texas and being more fully described in Deed filed August 30, 2018, recorded under Instrument No. 1825221 and corrected under Instrument No. 1827103, Official Public Records of Ellis County, Texas.

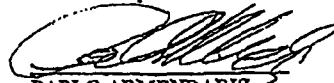

Reservations from Conveyance: NONE

Exceptions to Conveyance and Warranty:

Liens described as part of the Consideration and any other liens described in this deed as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interest, and water interests outstanding in persons other than Grantor, and other instruments, other than conveyances of the surface fee estate, that affect the Property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; zoning laws, regulations and ordinances of municipal and other governmental authorities, if any; and taxes for 2019, which Grantee assumes and agrees to pay, and subsequent assessment for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

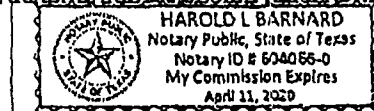
When the context requires, singular nouns and pronouns include the plural.


PABLO ARMENDARIZ

GLORIA ARMENDARIZ

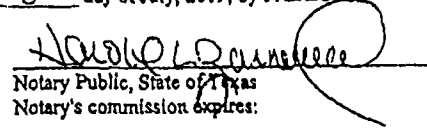
(Acknowledgment)

STATE OF TEXAS
COUNTY OF ELLIS

This instrument was acknowledged before me on the 8th day of July, 2019, by PABLO ARMENDARIZ and GLORIA ARMENDARIZ.

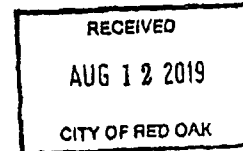


AFTER RECORDING RETURN TO:
RED OAK INDUSTRIAL DEVELOPMENT
CORPORATION
P. O. BOX 393
RED OAK, TX 75154


Notary Public, State of Texas
Notary's commission expires:

PREPARED IN THE LAW OFFICE OF:
James R. Pitts, Attorney at Law
P. O. Box 561
Waxahachie, TX 75168

EXHIBIT E-4



August 8, 2019

Red Oak Industrial Development Corporation
P.O. Box 393
Red Oak, Texas 75154

RE: 10.39 acres, M.W. Spencer Survey, Abstract No. 1233, Ellis County, Texas

To Whom It May Concern:

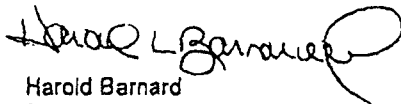
Ellis County Title Company wanted to notify you that we have filed a correction instrument to the Texas General Warranty Deed dated July 8, 2019 recorded July 10, 2019 regarding 10.39 acres, M.W. Spencer Survey, Abstract No. 1233, Ellis County, Texas. The Texas General Warranty Deed was inadvertently recorded with the incorrect Abstract Number in the legal description on Page 1. The Abstract Number was listed as 1288, when in fact it should have been 1233. The correction instrument corrects the errors.

In accordance with §5.028 (d)(2) of the Texas Property Code, we are required to give notice to each party of the correction of this original instrument by sending a copy of the Correction Affidavit to you.

A copy of the Correction Affidavit is attached for your records.

Please feel free to contact me if you have any questions.

Sincerely,



Harold Barnard
President

WAXAHACHIE NORTH
1795 North Highway 77,
Suite 101, Waxahachie, TX 75165
P: (469) 517-0150 | F: 469-517-0151

WAXAHACHIE
408 Ferris Avenue,
Waxahachie, TX, 75165
P: (972) 938-2601 | F: 972-938-8341

MIDLOTHIAN
109 North 8th Street,
Midlothian, TX, 76065
P: (972) 723-7971 | F: 972-723-9618

EXHIBIT E-4

GF#1905068

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

CORRECTION INSTRUMENT

Non-material correction pursuant to §5.028, Texas Property Code

Date: August 8, 2019

Title Company: Ellis County Title Company

Person Executing Correction Instrument: Harold L. Barnard

Mailing Address of Person Executing Correction Instrument: 408 Ferris Avenue
Waxahatche, Ellis County, Texas 75165

Description of Original Instrument ("Original Instrument")

Date: July 8, 2019

Grantor: Pablo Armendariz and Gloria Armendariz

Grantee: Red Oak Industrial Development Corporation

Recording Information: Texas General Warranty Deed recorded July 10, 2019 as Instrument
Number 1919198, Official Public Records, Ellis County, Texas.

This Correction Instrument is filed pursuant to Section 5.028 of the Texas Property Code.

1. My full name is Harold L. Barnard. I am over the age of eighteen (18) and am qualified to make these corrections based on my person knowledge of facts relative to the correction.
2. I am President and an Escrow Officer at Ellis County Title Company, and I have personal knowledge of the facts relevant to the correction of the above referenced Original Instrument in that I closed the transaction.
3. I am making this correction of the Original Instrument, with regard to the following clerical error:

The Original Instrument was inadvertently recorded with the incorrect abstract number in the legal description on Page 1. The abstract number was listed as 1288, when in fact it should have been 1233.

4. The Original Instrument should be corrected as follows with respect to the errors described above, this being a non-material change to the Original Instrument:

Property (including any improvements):

BEING 10.39 acres out of the M. W. SPENCER SURVEY, ABSTRACT NO. 1233, and also being part of an 80-acre tract of land conveyed to O. L. Worley and C. N. Worley by Deed dated 01/11/1939, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for corner in the East line of Houston School Road. Said iron rod being located East 30 feet from the Southwest corner of a said M. W. Spencer Survey and the Southwest corner of said 80.00 acre tract;

EXHIBIT E-4

GF#1905068

THENCE N 00 degrees 05 minutes 25 seconds (called North with the East line of said Houston School Road and parallel to the West line of said M. W. Spencer Survey and 80.00 acre tract a distance of 352.64 feet to a 1/2" iron rod found for corner in the Common County line of Dallas and Ellis County;

THENCE South 89 degrees 30 minutes East with said County line a distance of 1305.05 feet to a 1/2" iron rod found for corner in the East line of said 80.00 acre tract;

THENCE S 00 degrees 05 minutes 36 seconds W (Dead South) with said East line of 30.00 acre tract and parallel to said survey line and Houston School road a distance of 341.23 feet to a 1/2" iron rod found for corner at the Southwest corner of said 80.00 acre tract and said iron rod also being in the South line of said M. W. Spencer Survey;

THENCE S 89 degrees 59 minutes 57 seconds W (Dead West) with said survey line and South line of said 80.00 acre tract a distance of 1305.00 feet to the PLACE OF BEGINNING and Containing 10.38 acres of land.

SAVE & EXCEPT:

Being a 0.3321 acre (14,468 square foot) tract of land situated in the M. W. Spencer Survey, Abstract No. 1367, in the City of Red Oak, Ellis County, Texas, and being a portion of a called 10.38 acre tract of land described in a General Warranty Deed with Vendor's Lien to Pablo Armendariz and spouse, Gloria Armendariz, recorded in Volume 2742, Page 1357, of the Official Public Records of Ellis County, Texas (O.P.R.E.C.T.), and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found (Controlling Monument (CM)) at the common northeast corner of said Armendariz tract and the southeast corner of the remainder (approximately 10.823 acres) of a called 34.689 acre tract of land described in a General Warranty Deed to the R. W. and K. A. Olsen Revocable Living Trust, dated June 3, 1999, recorded in County Clerk's Instrument No. 201500274445, Official Public Records of Dallas County, Texas (O.P.R.D.C.T.), and being on the west line of a called 33.983 acre tract of land described in a General Warranty Deed to James Moffett and Marilyn Moffett, husband and wife, recorded in recorded in County Clerk's Instrument No. 201300386413, O.P.R.D.C.T., with said point also being on the Dallas-Ellis County Line;

THENCE South 89 degrees 23 minutes 58 seconds West, along said County Line and along the common north line of said Armendariz tract and south line of said Olsen tract, passing at a distance OF 511.93 feet, the southeast corner of the remainder (approximately 2.369 acres) of a called 34.689 tract of land as described in a Warranty Deed to Larry Harwell, recorded in County Clerk's Instrument No. 200501400655, O.P.R.D.C.T., and continuing along said County line and along the common north line of said Armendariz tract and the south line of said Harwell tract, in all, a total distance of 1,131.09 feet to a set 5/8 inch iron rod with a 1 3/4 inch pink plastic cap stamped "TXDOT SURVEY MARKER RIGHT OF WAY MONUMENT" (hereinafter referred to as "with pink plastic ROW cap") on the new southerly Right-of-Way (ROW) line of State loop 9, for the POINT OF BEGINNING at Station 1098+24.39, 270.00 feet right, and having a Texas Coordinate System, NAD83 (2011), North Central Zone (4202), surface coordinate of North 6,887,148.23, East 2,491,176.38, same being the beginning of a non tangent curve to the right, with the radius point situated North 24 degrees 14 minutes 43 seconds West, a distance of 4,820.00 feet;

THENCE along said non-tangent curve to the right and departing said common line and across said Armendariz tract and along the new southerly ROW line of said State Loop 9, in a southwesterly direction, having a central angle of 00 degrees 59 minutes 35 seconds, a radius of 4,820.00 feet, a chord bearing of South 66 degrees 15 minutes 05 seconds West, a distance of 83.55 feet, and an arc distance of 83.55 feet, to a set 5/8 inch iron rod with pink plastic ROW cap;

THENCE South 32 degrees 49 minutes 04 seconds West, continuing across said Armendariz tract and along the new southerly ROW line of said State Loop 9, a distance of 98.11 feet to a set 5/8 inch iron rod with pink plastic ROW cap;

EXHIBIT E-4

GF#1905068

THENCE South 05 degrees 51 minutes 12 seconds West, continuing across said Armendariz tract and along the new southerly ROW line of said State Loop 9, a distance of 236.34 feet to a set 5/8 inch iron rod with pink plastic ROW cap;

THENCE South 88 degrees 34 minutes 46 seconds West, continuing across said Armendariz tract and along the new southerly ROW line of said State Loop 9, a distance of 7.40 feet to a set 5/8 inch iron rod with pink plastic ROW cap at Station 1095+63.54, 532.58 feet right, on the west line of said Armendariz tract and the apparent east ROW line of Houston School Road (a variable width ROW - no recording information found), from which a 3/8 inch iron rod found at the southwest corner of said Armendariz tract bears South 01 degrees 01 minutes 34 seconds East, a distance of 2.72 feet (CM);

THENCE North 01 degrees 01 minutes 34 seconds West, along the west line of said Armendariz tract and the apparent east ROW line of said Houston School Road, a distance of 349.70 feet to the northwest corner of said Armendariz tract, said point being on the south line of said Harwell tract, and from which a 3/8 inch iron rod found for a Point of Reference (P.O.R.) bears North 85 degrees 16 minutes 18 seconds West, a distance of 4.52 feet and also from which a cotton gin spindle found in Houston School Road bears South 89 degrees 23 minutes 58 seconds West, a distance of 28.47 feet (CM);

THENCE North 89 degrees 23 minutes 58 seconds East, departing the apparent east ROW line of said Houston School Road and along the common north line of said Armendariz tract and the south line of said Harwell tract, a distance of 167.42 feet to the POINT OF BEGINNING and containing 0.3321 acres (14,468 Square Feet) of land, more or less.

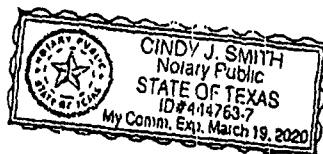
5. I have given notice of this correction of the Original Instrument by sending a copy of this Correction Instrument by regular mail delivery to each party to the Original Instrument pursuant to the requirements in Section 5.028 (d)(2) of the Texas Property Code.
6. This Correction Instrument will be recorded in all counties where the Original Instrument was recorded.

Person with Personal Knowledge of Correction:

Harold L. Barnard
Harold L. Barnard

STATE OF TEXAS
COUNTY OF ELLIS

This instrument was sworn to and subscribed before me on the 8th day of August, 2019 by
Harold L. Barnard.



Cindy J. Smith
Notary Public, State of Texas

Notary's commission expires:

AFTER RECORDING RETURN TO:
Red Oak Industrial Development Corporation
P.O. Box 393
Red Oak, Texas 75154

PREPARED IN THE LAW OFFICE OF:
James R. Pitts, Attorney at Law
P. O. Box 561
Waxahatchie, Texas 75168

EXHIBIT F

DIGITAL MAPPING DATA (CD)

EXHIBIT G

PROOF OF NOTICE TO ROCKETT SUD



EXHIBIT G

816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532
www.lglawfirm.com

Ms. Crump's Direct Line: (512) 322-5832
Email: gcump@lglawfirm.com

August 19, 2019

CERTIFIED MAIL NO. 7016 3560 0000 8464 9100
RETURN RECEIPT REQUESTED

Ms. Kay Phillips
General Manager
Rockett Special Utility District
126 Alton Adams Drive
Waxahachie, TX 75165

RE: City of Red Oak Industrial Development Corporation's Petition for Streamlined Expedited Release from Rockett Special Utility District's Water CCN No. 10099, Pursuant to Texas Water Code § 13.254(a-5) and 16 TAC § 24.245(l)

Dear Ms. Phillips:

I have enclosed a copy of the Petition being filed today at the Public Utility Commission of Texas, on behalf of the City of Red Oak Industrial Development Corporation, for a streamlined expedited release of property owned by the Corporation from the Water Certificate of Convenience and Necessity (CCN) held by Rockett Special Utility District in Ellis County, Texas. The Petition is being filed pursuant to Texas Water Code § 13.254(a-5) and 16 Tex. Admin. Code § 24.245(l).

Sincerely,

Georgia N. Crump

GNC/jmc
402710017893999

Enclosure (Petition)

Lloyd Gosselink Rockelle & Townsend, P.C.

000000077

EXHIBIT G

Lloyd Gosselink
ATTORNEYS AT LAW
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue Suite 1900 Austin, Texas 78701

TO: Ms. Kay Phillips
General Manager
Rockett Special Utility District
126 Alton Adams Drive
Waxahachie, TX 75165

Reorder No. 3096
Label for change header
Blumberg & Co., Inc. 800 LAW MART

CERTIFIED MAIL
FIRST CLASS PERMIT NO. 1225 AUSTIN, TX



7016 3560 0000 8464 9100

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

Certified Mail Fee \$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.80

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

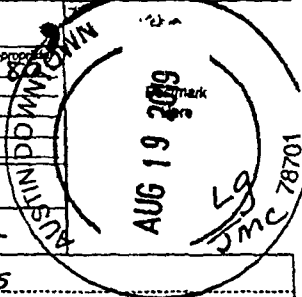
☐ Adult Signature Restricted Delivery \$

Postage \$ 2.20

Total Postage and Fees \$ 8.50

Sent To Kay Phillips
Street and Apt. No., or PO Box No. Rockett SUD
City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9011 See Reverse for Instructions



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p><u>Kay Phillips</u> <u>General Manager</u> <u>Rockett SUD</u> <u>126 Alton Adams Dr.</u> <u>Waxahachie, TX 75165</u></p> <p>2. Article Number (Transfer from service label) <u>7016 3560 0000 8464 9100</u></p>		<p>A. Signature <u>X</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

EXHIBIT "B"



Control Number: 49871



Item Number: 10

Addendum StartPage: 0

DOCKET NO. 49871

PETITION OF THE CITY OF RED §
OAK INDUSTRIAL DEVELOPMENT §
CORPORATION TO AMEND §
ROCKETT SPECIAL UTILITY §
DISTRICT'S WATER CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
IN DALLAS AND ELLIS COUNTIES §
BY EXPEDITED RELEASE §

RECEIVED
2019 OCT 11 PM 1:36
PUBLIC UTILITY COMMISSION
OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Final Recommendation and would show the following:

I. BACKGROUND

On August 19, 2019, the City of Red Oak Industrial Development Corporation (Red Oak) filed a petition for streamlined expedited release from Rockett Special Utility District's (Rockett SUD) water Certificate of Convenience and Necessity (CCN) No. 10099 in Dallas and Ellis Counties, under Texas Water Code (TWC) § 13.254(a-5)¹ and 16 Texas Administrative Code (TAC) § 24.245(l). Red Oak asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Dallas and Ellis Counties, which are both qualifying counties. On September 13, 2019, Rockett SUD filed a motion to intervene in this proceeding.

Order No. 2, issued September 25, 2019, granted Rockett SUD's motion to intervene and established October 2, 2019, as the date for Rockett SUD to file a response to the administratively complete petition. Rockett SUD timely filed its response asserting that (1) Rockett SUD is the recipient of a federal loan, and therefore, is entitled to protection under 7 U.S.C. § 1926; and (2) the property for which Red Oak seeks streamlined expedited release is receiving water service. Order No. 3, issued October 10, 2019, extended the deadline for Staff to file its recommendation on final disposition to October 11, 2019. Therefore, this pleading is timely filed.

¹ Staff notes SB 2272 passed during the 86th Regular Legislative Session amended TWC § 13.254(a-5) effective September 1, 2019. Red Oak's petition was filed in August 2019, therefore, the current version of TWC § 13.254 and the new TWC § 13.2541 do not apply to this proceeding.

II. RECOMMENDATION ON FINAL DISPOSITION

Texas law requires the Commission to grant a petition for the streamlined expedited release of a tract of land that is at least 25 acres, is not *receiving* water or sewer service, and is located in a qualifying county.² Furthermore, Texas law prohibits the Commission from denying a petition for streamlined expedited release based on the fact that the utility from which decertification is sought is a borrower under a federal loan program.³ The Commission rules provide further specificity regarding the contents of a petition for a streamlined expedited release. The landowner must provide the Commission with a verified petition that includes:

1. a statement that the petition is being submitted under TWC § 13.254(1-5) and 16 TAC § 24.245(1);
2. proof that the tract of land is at least 25 acres in size;
3. proof that at least part of the tract of land is located in the current CCN holder's certificated service area and at least some of that part is located in a qualifying county;
4. a statement of facts that demonstrate that the tract of land is not currently receiving service;
5. copies of all deeds demonstrating ownership of the tract of land by the landowner;
6. proof that a copy of the petition has been mailed to the current CCN holder via certified mail on the day that the landowner submits the petition with the Commission; and
7. mapping information as required by the rule.⁴

Staff has reviewed the petition and, as supported by the attached memorandum of Patricia Garcia of the Commission's Infrastructure Division, Staff recommends that the maps and digital data filed by Red Oak provide adequate information demonstrating that the petition satisfies the requirements of TWC § 13.254(a-5) and 16 TAC § 24.245(1). Specifically, the maps and digital data provided by Red Oak enable Staff to determine that the property to be released: (1) is at least

² Act of June 17, 2011, 82nd Leg., R.S., ch. 1325, § 6, 2011 Gen. and Special Laws of Tex. 3839, 3842-43 (amended 2019) (current version at TWC § 13.2541(b)) (emphasis added).

³ Act of June 17, 2011, 82nd Leg., R.S., ch. 1325, § 6, 2011 Gen. and Special Laws of Tex. 3839, 3843 (amended 2013 and 2019) (current version at TWC § 13.2541(d)).

⁴ 16 TAC § 24.254(1).

25 acres; (2) is comprised of five⁵ separate tracts that are contiguous; (3) is located within the City's certificated area; and (4) is located within Dallas and Ellis Counties, which are qualifying counties. Further, Staff was able to confirm that Red Oak is the owner of all five tracts using the five separate warranty deeds provided with the petition.

Staff has also reviewed the information provided by Rockett SUD, which included a map depicting a portion of its existing water system that was prepared by Rockett SUD's engineer.⁶ The map shows a 12" water line that is installed directly on the western side of Tract 3 as well as a 6" water line and 5/8" x 3/4" meter installed directly on the western side of Tract 4B.⁷ In addition, Rockett SUD provided a bill for 56 gallons of water usage on Tract 4B during the period June 27, 2019 to July 10, 2019.⁸ The only information about the 12" water line on Tract 3 that was provided in addition to the map is a statement in Rockett SUD's pleading that this line "connects to another Rockett 12" water line to provide service to the Property and surrounding lands."⁹ The affidavit of Rockett SUD's General Manager is silent as to what this line is used for but specifically addresses the uses of the 6" water line on Tract 4B.¹⁰ Consequently, Rockett SUD has shown that Tract 4B is receiving service under TWC § 13.254(a-5), but has failed to provide information sufficient to show that the 12" water line on Tract 3 is dedicated to the provision of service to Tract 3. Accordingly, Staff recommends that Tracts 1, 2, 3, and 4A meet the requirements for streamlined expedited release.¹¹

⁵ The petition refers to only four tracts; however, Tract 4 is comprised of a 74.917-acre parcel (Tract 4A) and a 10.39-acre parcel (Tract 4B). Tract 4B is located in both Dallas and Ellis Counties. Tracts 1, 2, 3, and 4A are located wholly within Ellis County.

⁶ Rockett Special Utility District's Response and Objection to Petition for Expedited Release at 6, Ex. A and Ex. F (Oct. 2, 2019) (Rockett SUD's Response).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 6.

¹⁰ *Id.* at Ex. A.

¹¹ See *Tex. General Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 136 (Tex. App. Austin 2014, pet. denied) (concluding that "section 13.254(a-4) does not contain an 'all or nothing' requirement" that would have required the GLO to seek decertification of all of its property located within Crystal Clear's CCN").

Staff is aware of the controversy between the Federal Fifth Circuit and the majority of the other Federal Circuit Courts and the Texas Third Court of Appeals regarding the test applied to determine whether a rural water association qualifies for protection under 7 U.S.C. § 1926(b).¹² Staff also understands that there is an appeal before the Fifth Circuit from a federal district court case that overruled the Commission's approval of petition for streamlined expedited release based upon the conclusion that Section 1926(b) pre-empts TWC § 13.254(a-6).¹³ While Staff believes that the Commission is required to follow state law,¹⁴ it is also reluctant to recommend to the Commission a position that could run afoul of orders from a federal court. Therefore, Staff suggests that, in the alternative, the Commission could abate this proceeding until the courts resolve this issue.

III. FINAL MAP

Typically, Staff would provide a final map along with its recommendation on final disposition. However, in addition to this docket, there is a second petition for streamlined expedited release from Rockett SUD's CCN pending in Docket No. 49863.¹⁵ Given that there is more than one possible outcome in both dockets, Staff respectfully requests that it be allowed to issue a final map within 10 days of the Commission issuing a final order in this docket or Docket No. 49863, whichever is later.

¹² See *Chesapeake Ranch Water v. Bd. of Com'rs of Calvert Cty*, 401 F.3d 274, 279-80 (4th Cir. 2005); *Le-Ax Water Dist. v. City of Athens*, 346 F.3d 701, 706-07 (6th Cir. 2003); *Rural Water Sys. No. 1 v. City of Sioux Cir.*, 202 F.3d 1035, 1037 (8th Cir. 2000); *Sequoyah Cty. Rural Water Dist. No. 7 v. Town of Muldrow*, 1914 F.3d 1192, 1207 (10th Cir. 1999); *North Alamo Water Supply Corp. v. City of San Juan*, 90 F.3d 910, 915 (5th Cir. 1996) (per curiam); see also, *Creedmoor-Maha Water Supply Corp. v. Tex. Comm'n on Env. Quality*, 307 S.W.3d 505, 521-22 (Tex. App.—Austin 2010, no pet.) (adopting the majority view of the federal circuits regarding what it means to provide or make service available under Section 1926(b)).

¹³ See *Crystal Clear Special Util. Dist. v. Marquez*, 316 F.Supp.3d 965, 979 (W.D. Tex., March 29, 2018).

¹⁴ See *Creedmoor-Maha*, 307 S.W.3d at 521 (citing to *Penrod Drilling Corp. v. Williams*, 868 S.W.2d 294, 296 (Tex. 1992) (per curiam)).

¹⁵ *Petition of Alamo Mission LLC to Amend Rockett Special Utility District's Water Certificate of Convenience of Necessity in Ellis County by Expedited Release*, Docket No. 49863 (pending).

IV. CONCLUSION

Staff respectfully recommends that the Commission grant Red Oak's petition in part and decertify Tracts 1, 2, 3, and 4A. Staff further recommends that the Commission deny Red Oak's petition as to Tract 4B because the record reflects that Tract 4B is currently receiving service. In the alternative, Staff recommends that the Commission abate this proceeding in light of the unresolved issues at the federal court level.


Dated: October 11, 2019

Respectfully submitted.

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney


Eleanor D'Ambrosio
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1701 N. Congress Avenue
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(512) 936-7021
(512) 936-7268 (facsimile)
Eleanor.Dambrosio@puc.texas.gov

DOCKET NO. 49871
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 11, 2019, in accordance with 16 TAC § 22.74.


Eleanor D'Ambrosio

PUC Interoffice Memorandum

To: Eleanor D'Ambrosio, Attorney
Legal Division

Thru: Heidi Graham, Manager
Infrastructure Division

From: Patricia Garcia, Engineering Specialist
Infrastructure Division

Date: October 11, 2019

Subject: **Docket No. 49871:** *Petition of the City of Red Oak Industrial Development Corporation to Amend Rockett Special Utility District's Water Certificate of Convenience and Necessity in Dallas and Ellis Counties by Expedited Release*

On August 19, 2019, the City of Red Oak Industrial Development Corporation (Petitioner) filed an application for expedited release from Rockett Special Utility District's (Rockett SUD) water Certificate of Convenience and Necessity (CCN) No. 10099 in Dallas and Ellis Counties, under Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code § 24.245(l). The Petitioner asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Dallas and Ellis Counties, which are both qualifying counties.

The Petitioner included a statement indicating a copy of the petition was sent via certified mail to Rockett SUD on the date the petition was filed with the Commission. On September 13, 2019, Rockett SUD filed a motion to intervene, which was granted by the Administrative Law Judge on September 25, 2019. A response and objection to the petition was submitted by Rockett SUD on October 2, 2019.

The response included a claim that Rockett SUD qualifies for protection under 7 U.S.C. § 1926(b) because it is the recipient of a federal loan. In addition, Rockett SUD demonstrated that there is a waterline installed on the west side of tract 3 and a water line and tap installed on the west side of tract 4b that serves the property. The pleading included a map showing the location of the water lines and meter and a bill for the period of June 27, 2019 through July 10, 2019 for an address that appears to be in one of the areas requested for release. Although Staff would prefer to have bills showing three consecutive months of service, Staff recommends that Rockett SUD has shown that tract 4b is receiving water service but has not made a similar showing for tracts 1, 2, 3, and 4a.

Rockett SUD's response did not address whether granting the petition would render any of its property useless and valueless. Therefore, Staff also recommends that there is no useless or valueless property, in accordance with 16 TAC § 24.245(n)(3). Staff further recommends that a compensation proceeding is not necessary, if the Commission determines that there is no useless or valueless property, pursuant to 16 TAC § 24.245(n)(7).

EXHIBIT "C"