

Control Number: 50017



Item Number: 11

Addendum StartPage: 0

DOCKET NO. 50017

DOCKET NO. 5001/

APPLICATION OF PURE UTILITÍES, \$
LC AND UNDINE TEXAS, LLC FOR \$
SALE, TRANSFER, OR MERGER OF \$
WATER FACILITIES AND \$
CERTIFICATE RIGHTS IN LIBERTY, \$
POLK, SAN JACINTO, AND TYLER \$

COUNTIES

PUBLIC UTILITY COMMISSION

PUBLIC TILITY COMMISSION

PUBLIC TILITY COMMISSION

UNDINE TEXAS, LLC'S RESPONSE TO CORRECTED ORDER NO. 2

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Comes now, Undine Texas, LLC ("Undine") and files this Response to Corrected Order No. 2. In support thereof, Undine states the following:

I.

BACKGROUND

On September 17, 2019, Undine and Pure Utilities, LC (collectively, the "Applicants") filed their Application for Sale, Transfer or Merger of Water Facilities and Certificate Rights in Liberty, Polk, San Jacinto, and Tyler Counties (Docket No. 50017-1).

On October 21, 2019 the Administrative Law Judge ("ALJ") signed Corrected Order No. 2 Finding the Application Incomplete and Deficient, and Establishing an Opportunity to Cure. The ALJ gave the Applicants until November 18, 2019 to cure the deficiencies as described in the October 17, 2019, memorandum of Roshan Pokhrel. Therefore, this pleading is timely filed.

Π.

SUPPLEMENTAL APPLICATION INFORMATION

In response to Corrected Order No. 2, Undine hereby files the following information.

1. The digital data for the requested area to be decertified in the Six Lakes Subdivision in Liberty and Polk County does not match the map submitted. The Applicants must file updated digital data for the Six Lakes Subdivision and the following information:

- a) A detailed map identifying only the requested area, in reference to verifiable manmade and natural landmarks, such as roads, rivers, and railroads;
- b) Digital mapping data for the requested area, as a single polygon record, in shapefile (SHP) format, georeferenced in either NAD83 Texas Statewide Mapping System (Meters) or NAD83 Texas State Plane Coordinate System (US Feet); and
- c) Please remove approximate acreage from all detailed maps.

Response:

Please see: Detail Maps REVISED (Attachment A)

Point of Service Maps - Water REVISED (Attachment B)

Revised Six Lakes Digital Data (Provided by CD)

2. The Applicants must file an agreement letter for the decertification of a portion of Pure Utilities, LC's CCN No. 12072.

Response:

Please see: Pure-Undine Mapping Approval Letter (Attachment C)

- 3. The Purchaser has several active violations in the Texas Commission on Environmental Quality's Central Registry database for some of their public water systems. The Purchaser must provide documentation showing the violations have been resolved or a plan to resolve the following violations:
 - a. Failure to provide contaminant facilities for the polyphosphate storage tank, with a notice of violation date of Sep 6, 2019 for Angle Acres Water System.
 - b. Failure to properly install all water system electrical wiring, with a notice of violation date of Sep 6, 2019 for Angle Acres Water System.
 - c. Failure to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions, with a notice of violation date of Oct 11, 2017 for Crowley II Acre Subdivision.
 - d. Failure to provide the minimum water system capacity requirements for pressure storage, with a notice of violation date of Apr 5, 2018 for Colony Cove Subdivision Water System.
 - e. Failure to provide a minimum total well capacity of 0.6 gallons per minute per connection, with a notice of violation date of Aug 31, 2015 for Spring Forest Subdivision.

- f. Failure to design and maintain a water distribution system to provide at all points within the distribution network a minimum pressure of 35 psi all the times, with a notice of violation date of June 4, 2019 for Mark V Estates.
- g. Failure to provide all pressure tanks with a pressure release device and an easily readable pressure gauge, with a notice of violation date of Jan 11, 2019 for Lee Ridge Subdivision.

Response:

- a. Resolved with secondary containment installed by Purify on October 25, 2019.
- b: Resolved with well re-pipe and service on October 22, 2019.
- c. Resolved through Chuck Bell's 2018 Monthly Operating Reports, which indicate system pressure was maintained at 35 psi or greater.
- d. Resolved. Colony Cove has 48 connections, a 16,000-gallon ground storage tank, and 2 900-gallon pressure tanks.
- e. Resolved. Spring Forest has 240 connections and 2 public supply wells. Well 1 produces 105 gallons per minute. Well 2 has the potential to produce 150 gallons per minute. Well 2 is scheduled to be tested and re-worked by the end of the year allowing production to well exceed capacity requirements.
- f. Resolved with the installation of a new pumphouse and booster pumps on July 11, 2019.
- g. Resolved with the installation of a pressure relief valve at the well and 3 pressure gauges at the pressure tanks on June 20, 2019.
- 4. The Purchaser must provide a need for service for the tracts of land included in the uncertificated portion of the requested area.

Response:

The amendment areas reflected in the application (Docket Id. No. 50017-1, Attachment M) are generally the result of guidance from Commission Staff. In related Docket No. 49260, the Applicants' original submittal reflected a "facilities + 200" area of service. Commission Staff recommended the Applicants amend their application to better define the service area using property lines or verifiable manmade or natural landmarks (see April 10, 2019 Memorandum from D. Reyes to K. Meier, Document Id. No. 49260-18 ("Staff's review indicates that portions of the requested areas . . . need to be revised to include bounded service areas, rather than facility lines plus two hundred feet")).

Consistent with Commission Staff's guidance in Docket No. 49260, the subject application requests additions to CCN 13260 that generally incorporate the following areas: (1) parcels of existing customers that are currently located outside or partially outside existing CCN 12072; (2) parcels that are currently located partially within existing CCN 12072, which are being requested in their entirety (with larger parcels excluded); and (3) parcels located along distribution lines and are currently unserved. The amendment areas were generated using county property and parcel data.

The Applicants assert this amendment area to be of reasonable size to accomplish the goal of identifying the proper service area under CCN 12027, without otherwise expanding the CCN area. Particularly, the amendment area is the minimum size necessary to accomplish the following goals: (1) identify and incorporate existing customers of the utility; (2) incorporate the existing infrastructure associated with the existing service; (3) connect customers along a relevant road by also including unserved properties between served parcels; (4) be able to extend service to those unserved properties with distribution lines at the front of those unserved property; and (5) allow for growth along distribution lines.

As indicated, the requested amendment area generally includes customers currently being served by Pure Utilities, LC and the existing infrastructure and distribution lines used to serve them. The existing utility facilities have sufficient capacity to adequately serve existing customers as required under applicable rules. Attachment D contains infrastructure maps identifying the existing distribution lines for the amendment areas, indicating sufficient infrastructure is in place to serve the existing customers and the customers to be added pursuant to the amendment. Regarding Spring Creek in particular, the mapping data reflects a proposal for an additional 6 customers in the northwest portion of the area. Attachment E contains the request for service for those 6 connections. There are currently no plans for further development in the amendment area. If Undine is approached by a potential customer or developer for service in the amendment area, Undine will increase its capacity and otherwise upgrade its facilities as necessary to provide the requested service in accordance with applicable regulatory standards and requirements, charging the customer or developer a corresponding cost (CIAC).

As part of this response, the Applicants refer Commission Staff to the Application of Sharyland Water Supply Corporation to Amend a Certificate of Convenience and Necessity in Hidalgo County (Docket No. 43354). The applicant in that matter sought a CCN amendment to add an additional service area of 28,506 acres. Chairman Walker issued a memorandum in the docket (Document ID No. 43354-105), in which she recommended that instead of amending the CCN to add 28,506 acres, the CCN instead be amended to include the existing 613 customers currently outside the CCN area. Chairman Walker also indicated a willingness to include "a small, reasonable area around existing customers, such as a developing neighborhood, to the extent that there is support in the evidentiary record."

The Applicants consider the subject application to be completely distinguishable from the Sharyland application. First, the subject application is fundamentally a request for a sale, transfer or merger pursuant to 16 Tex. Admin. Code 24.239. The request for amendment to add additional area to the CCN is ancillary to the sale, transfer or merger. The amendment of the CCN area is in support of the STM application. In the Sharyland application, in contrast, the application was

solely a CCN amendment application pursuant to 16 Tex. Admin. Code 24.227. The purpose of the Sharyland application was to expand its existing CCN. The purpose of this application is a transfer of a utility. Second, the applicant in the Sharyland application sought to add 28,506 acres of land pursuant to its CCN amendment. The Applicants in this application seek a fraction of that amount, and, as discussed above, only the amount necessary to accomplish the goal of identifying the proper service area under CCN 12072 as part of the STM application. Ultimately, it is the Applicants' position that this application seeks to accomplish what Chairman Walker endorsed in her memorandum—the amendment of the CCN area to include existing customers, with a small, reasonable area around existing customers.

Accordingly, the Applicants consider any evaluation of "need for service" to be satisfied under this application.

Respectfully submitted,

DuBois, Bryant & Campbell, LLP

By:____/

Peter T. Gregg

State Bar No. 00784174

303 Colorado, Suite 2300

Austin, Texas 78701 pgregg@dbcllp.com

(512) 457-8000

(512) 457-8008 (fax)

Attorneys for Undine Texas, LLC

CERTIFICATE OF SERVICE

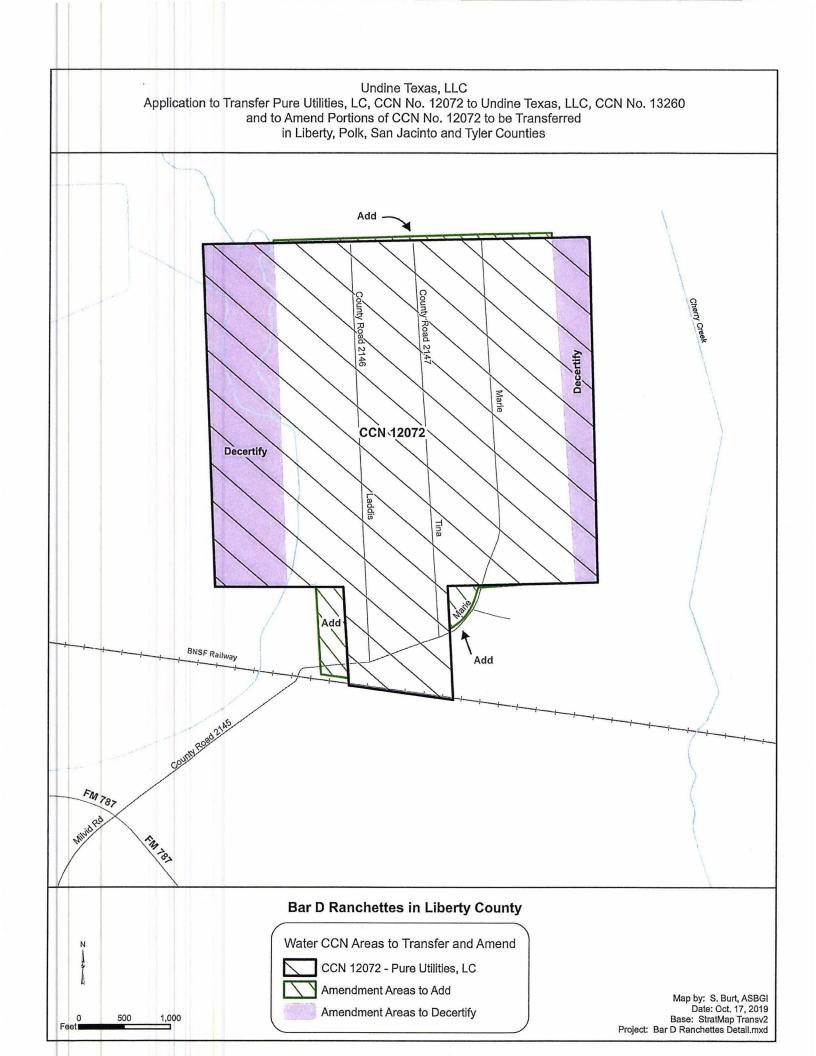
I certify by my signature above that a true and correct copy of the foregoing document was served on the persons as indicated below on this the way day of November, 2019:

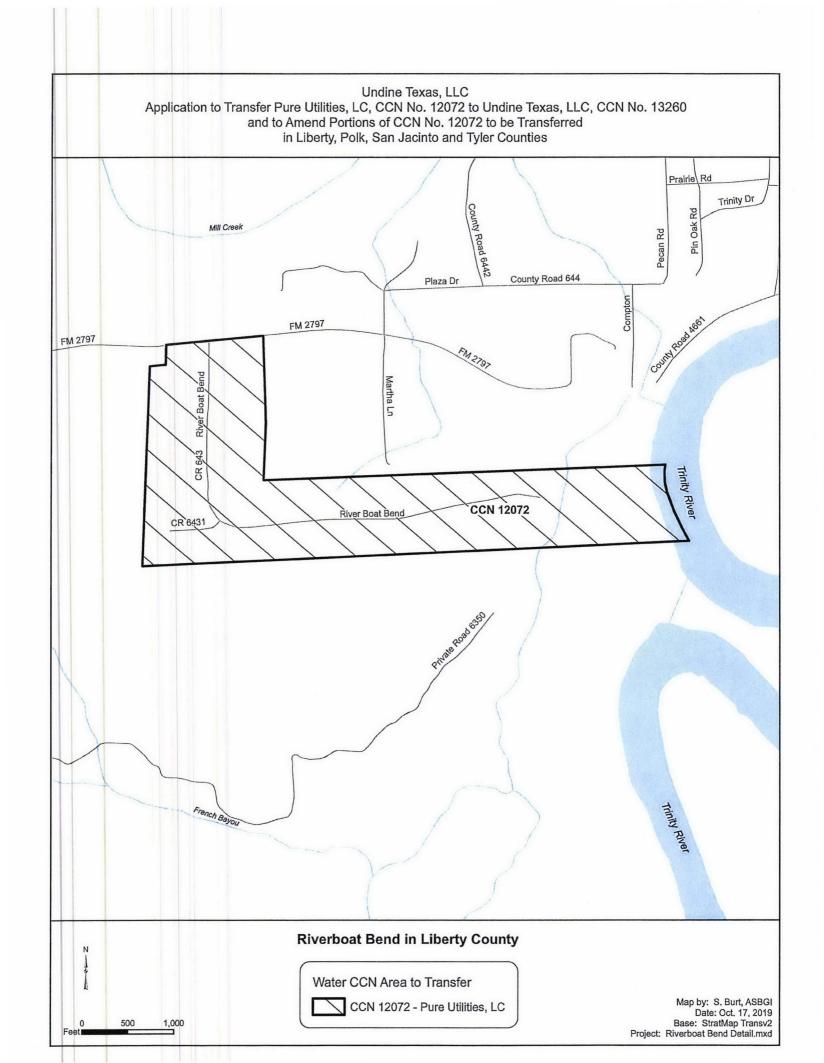
John Harrison
Public Utility Commission of Texas
Legal Division
1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
john.harrison@puc.texas.gov

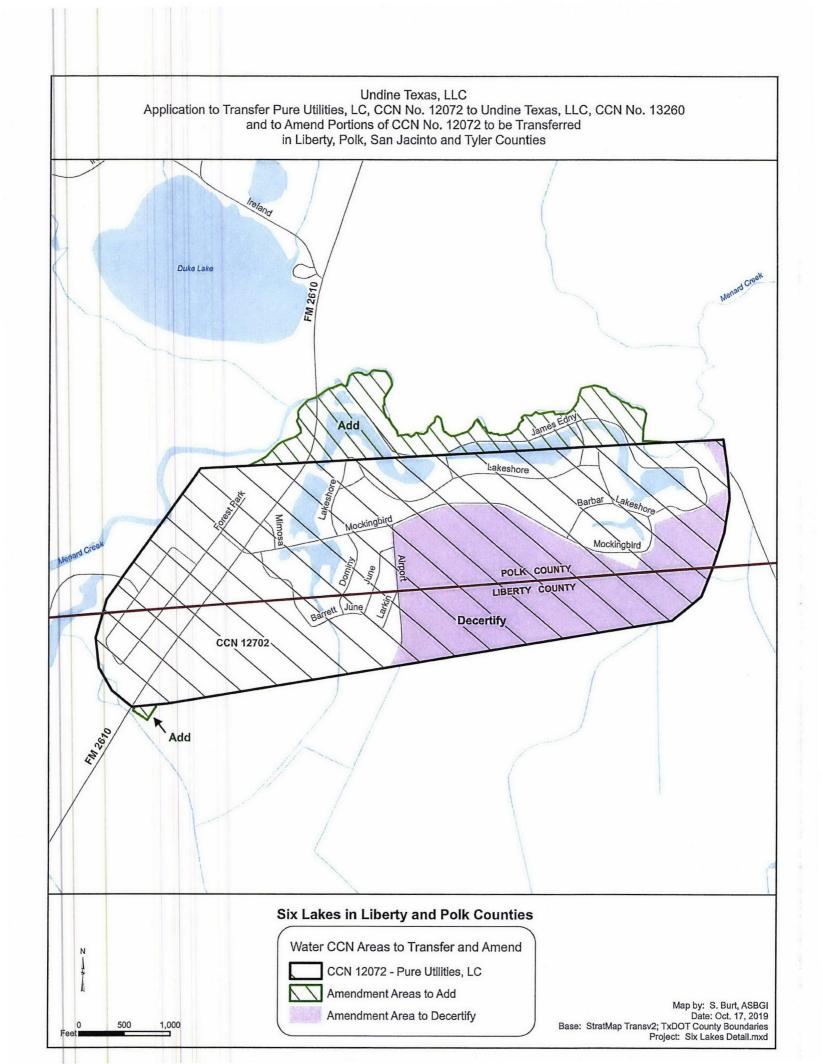
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Attachment A

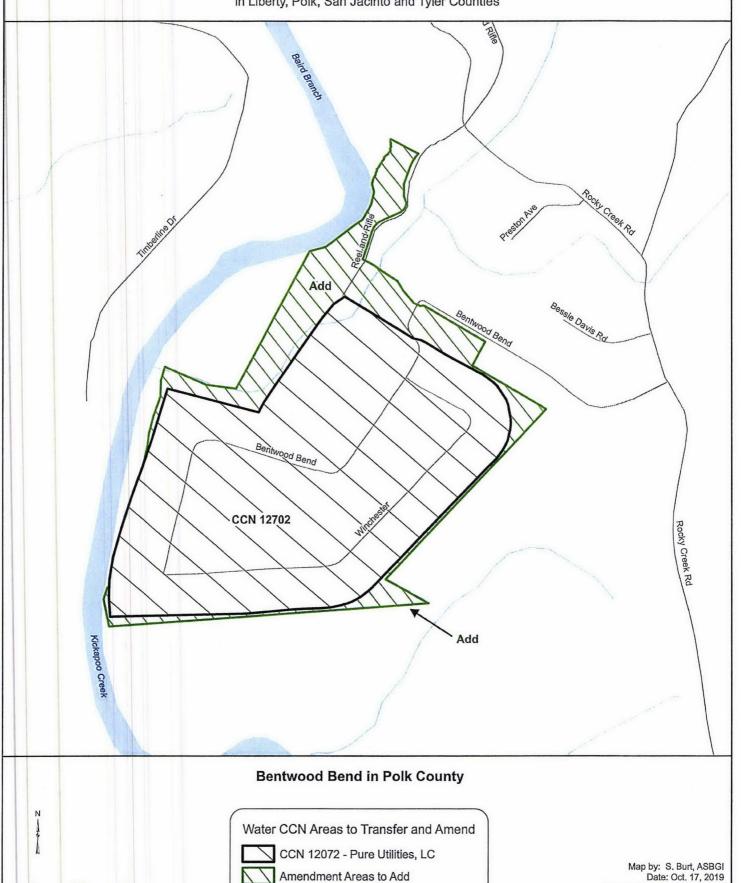
Docket No. 50017 Detail Maps REVISED







Undine Texas, LLC
Application to Transfer Pure Utilities, LC, CCN No. 12072 to Undine Texas, LLC, CCN No. 13260
and to Amend Portions of CCN No. 12072 to be Transferred
in Liberty, Polk, San Jacinto and Tyler Counties

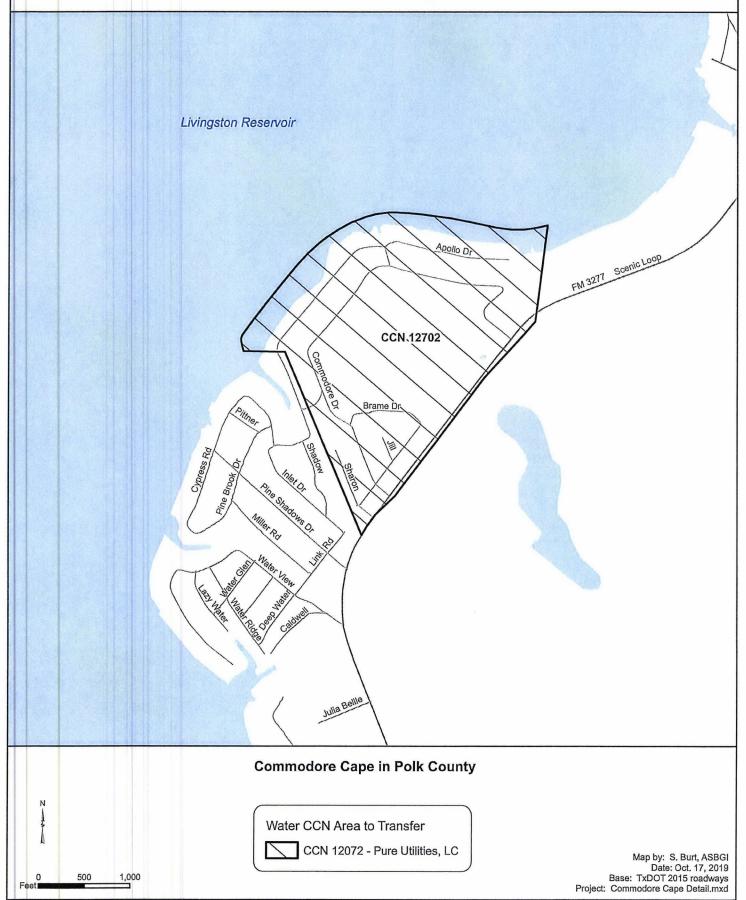


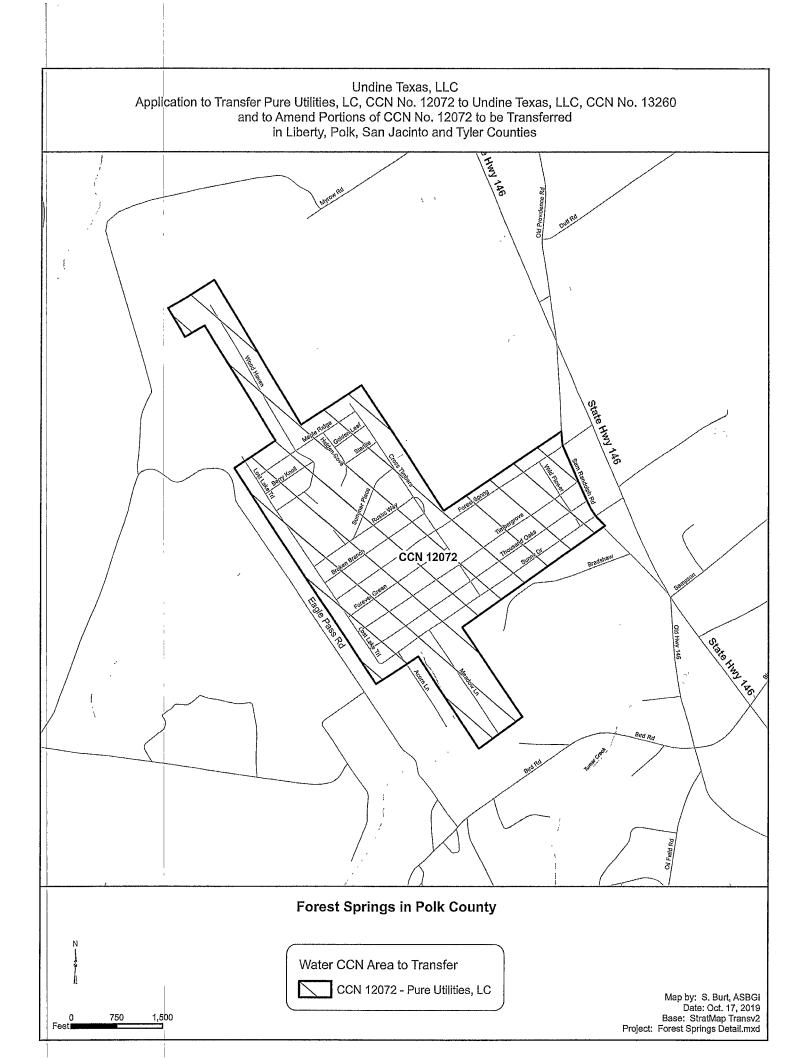
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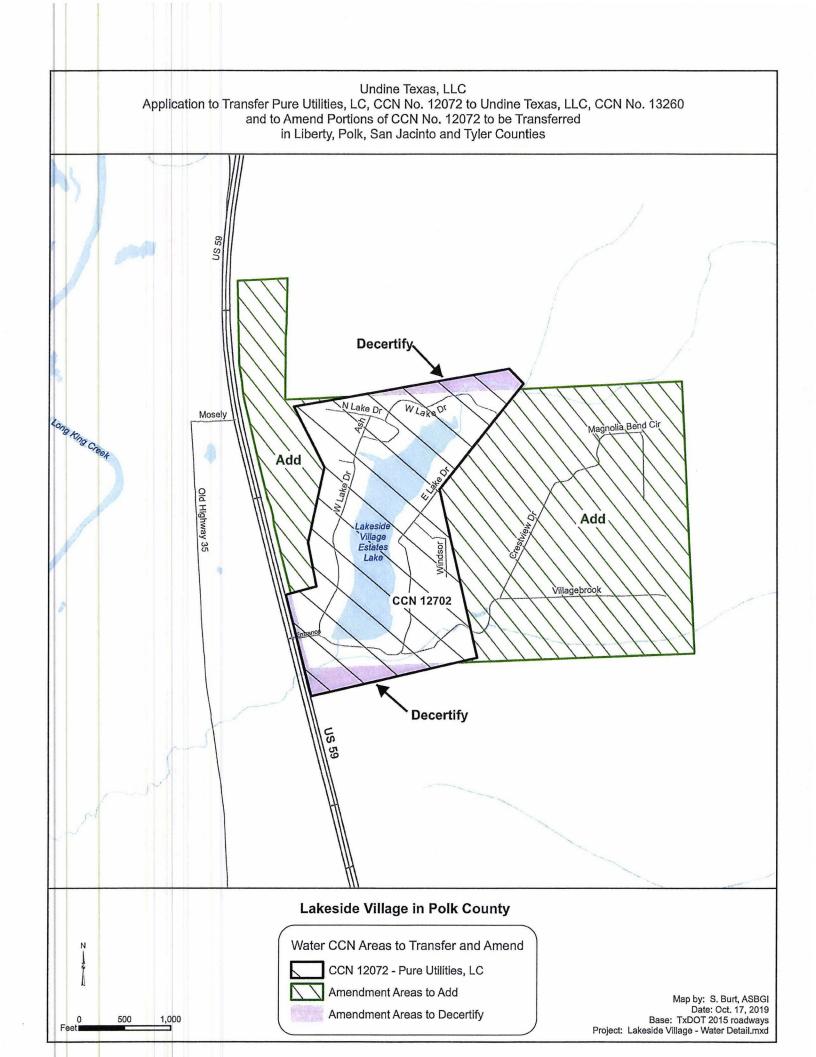
Base: TxDOT 2015 roadways

Project: Bentwood Bend Detail.mxd

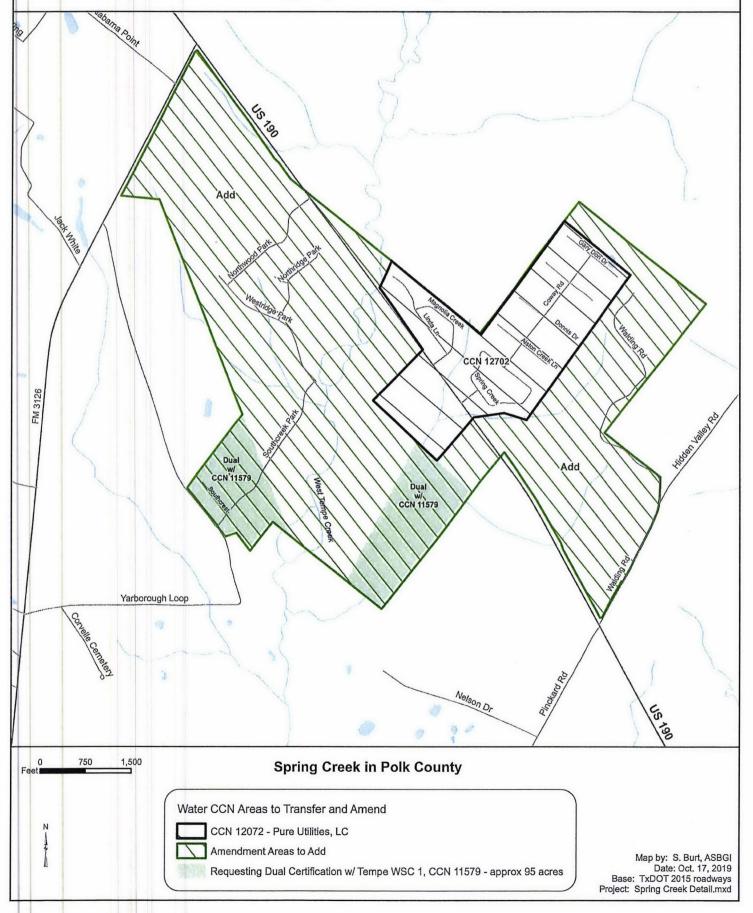
Undine Texas, LLC Application to Transfer Pure Utilities, LC, CCN No. 12072 to Undine Texas, LLC, CCN No. 13260 and to Amend Portions of CCN No. 12072 to be Transferred in Liberty, Polk, San Jacinto and Tyler Counties



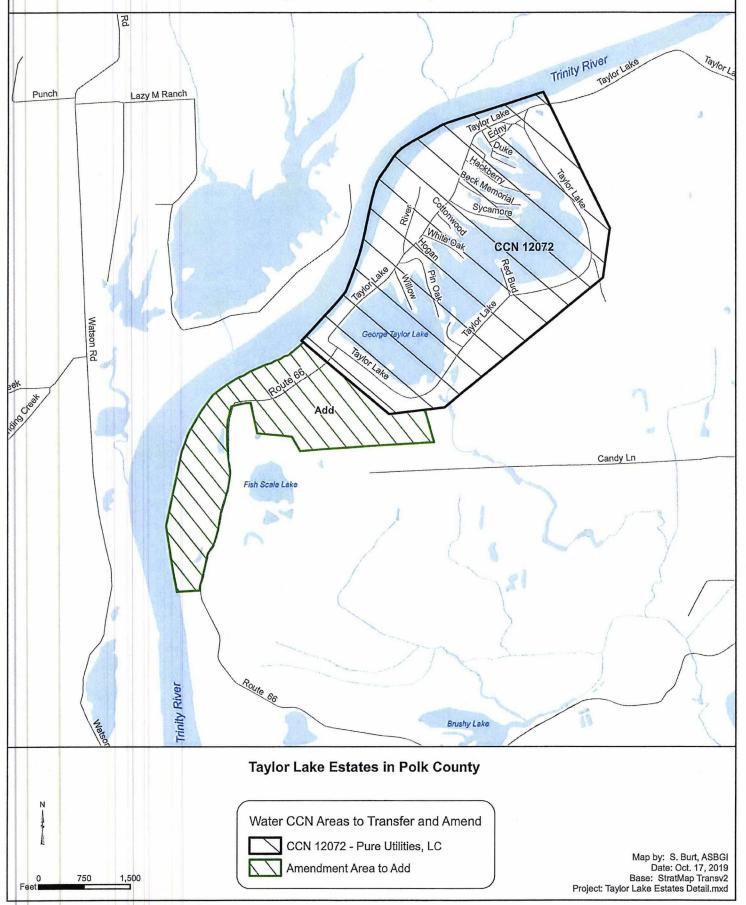


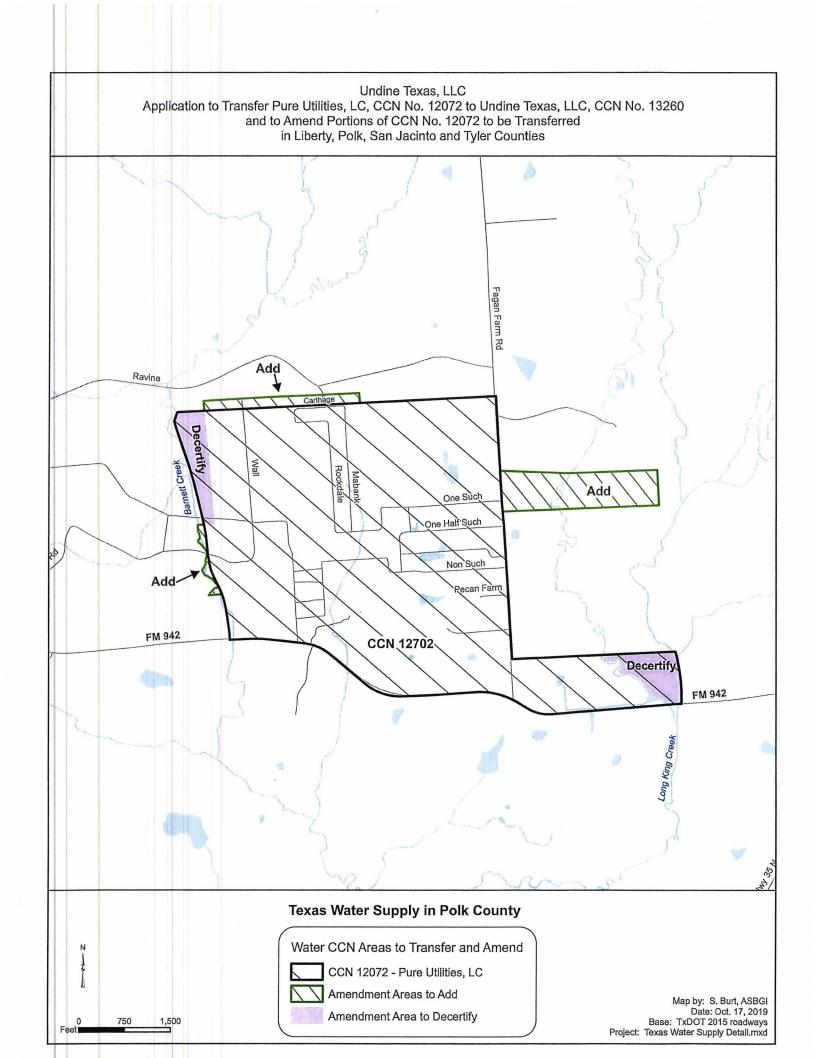


Undine Texas, LLC
Application to Transfer Pure Utilities, LC, CCN No. 12072 to Undine Texas, LLC, CCN No. 13260
and to Amend Portions of CCN No. 12072 to be Transferred
in Liberty, Polk, San Jacinto and Tyler Counties

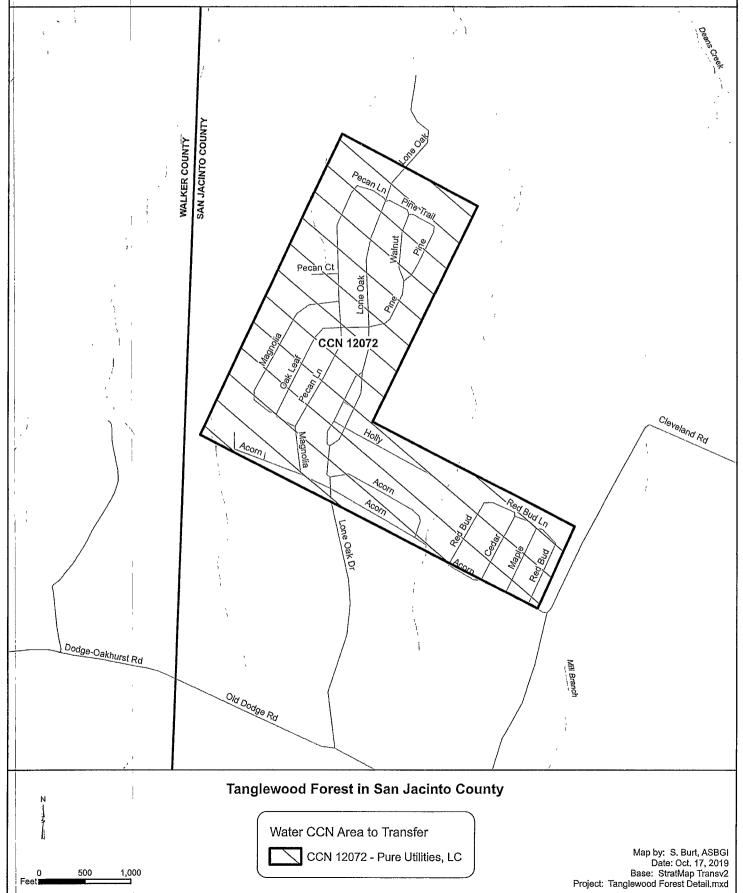


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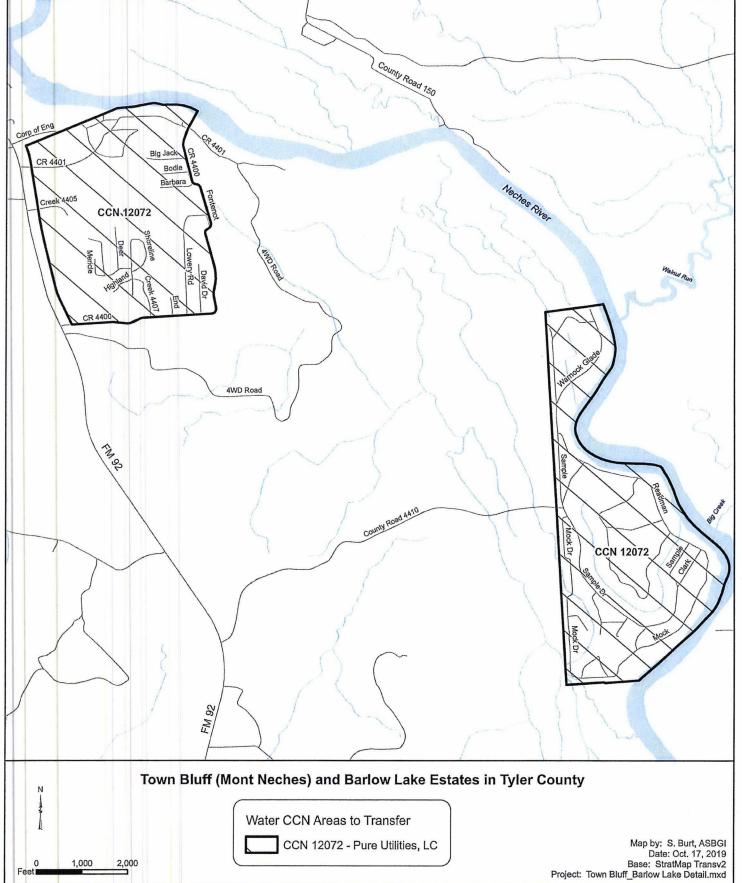


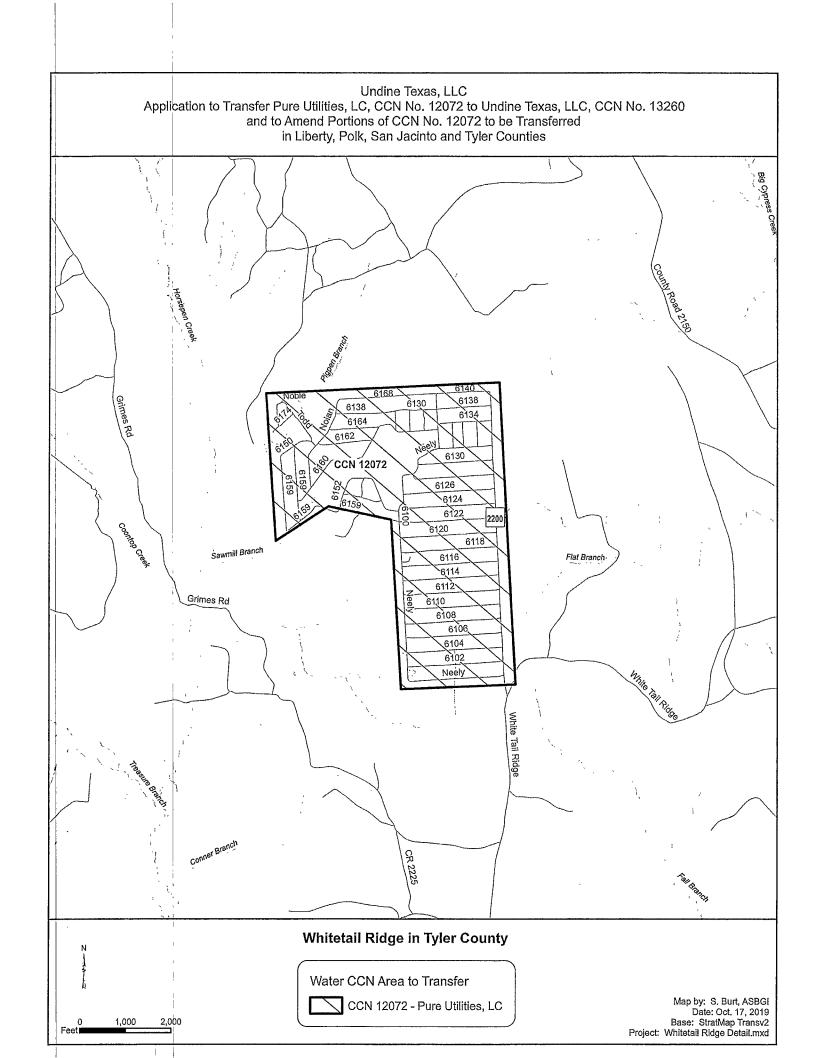


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and to Amend Portions of CCN No. 12072 to be Transferred
in Liberty, Polk, San Jacinto and Tyler Counties



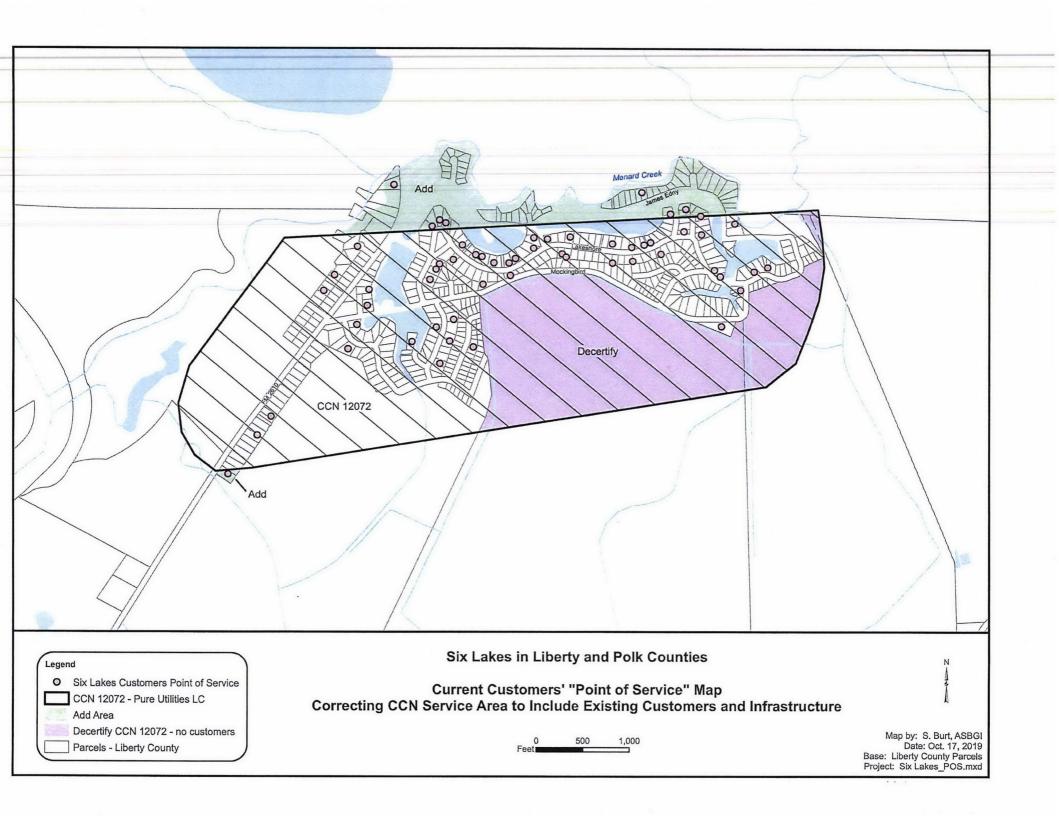
Undine Texas, LLC
Application to Transfer Pure Utilities, LC, CCN No. 12072 to Undine Texas, LLC, CCN No. 13260 and to Amend Portions of CCN No. 12072 to be Transferred in Liberty, Polk, San Jacinto and Tyler Counties

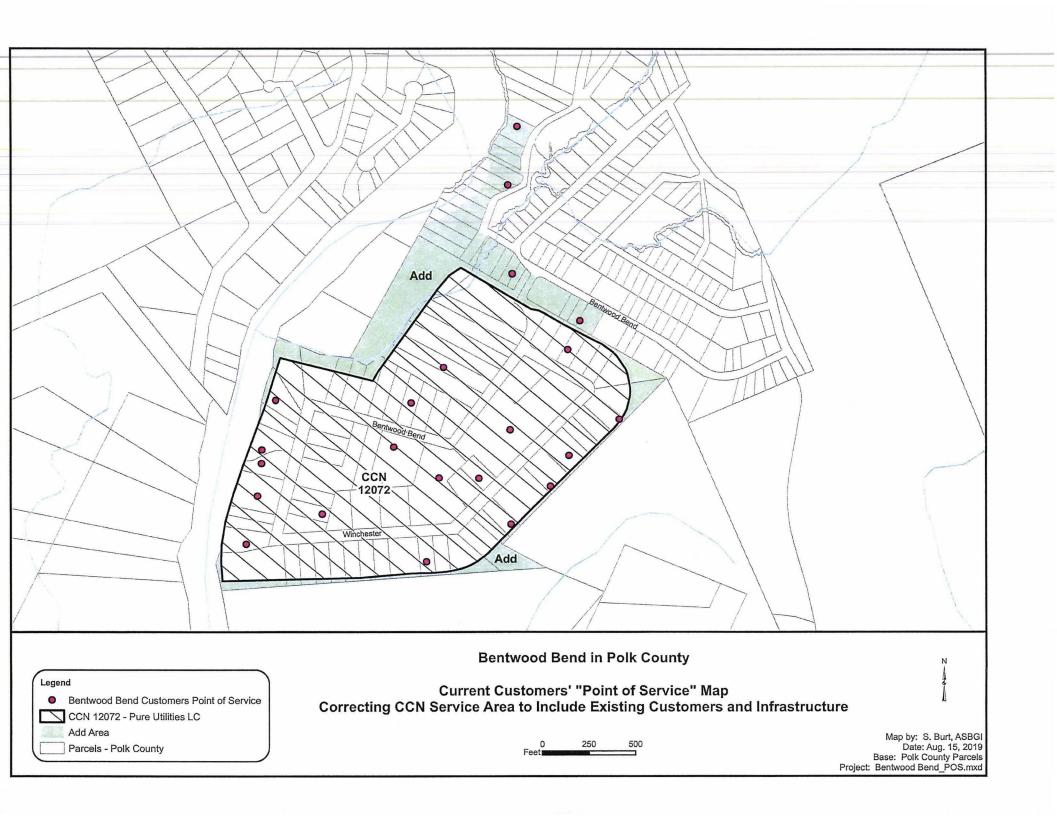




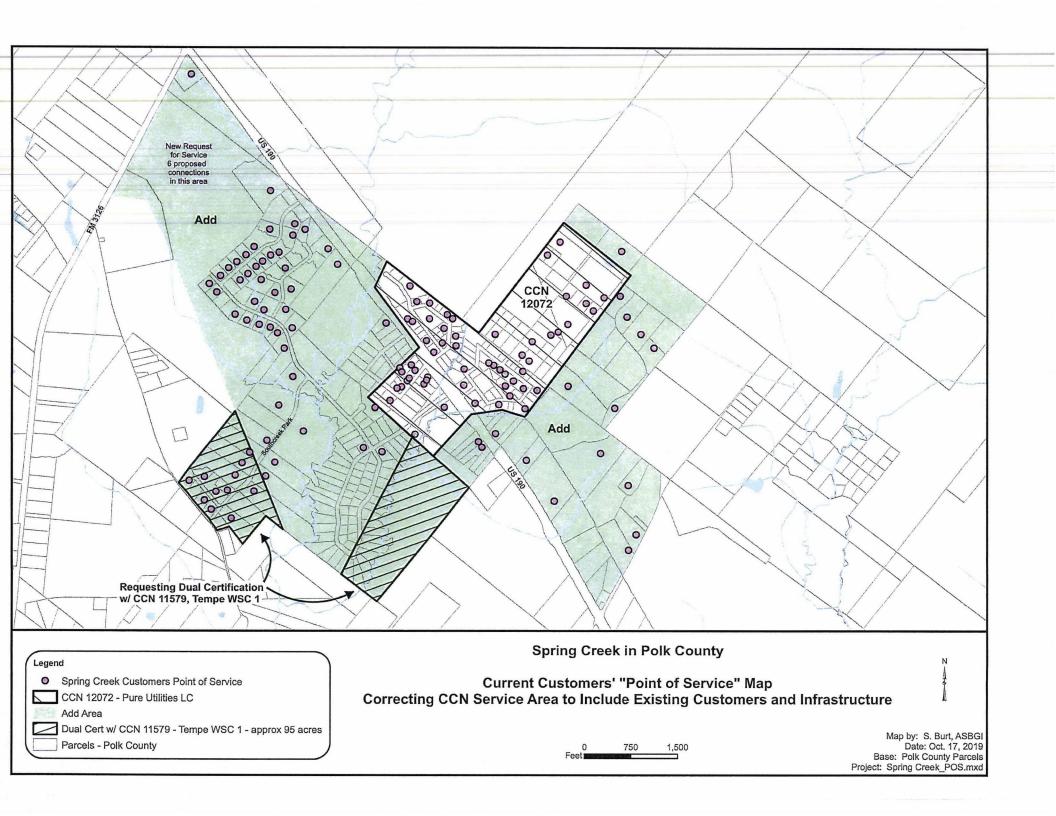
Attachment B Docket No. 50017 Point of Service Maps - Water REVISED

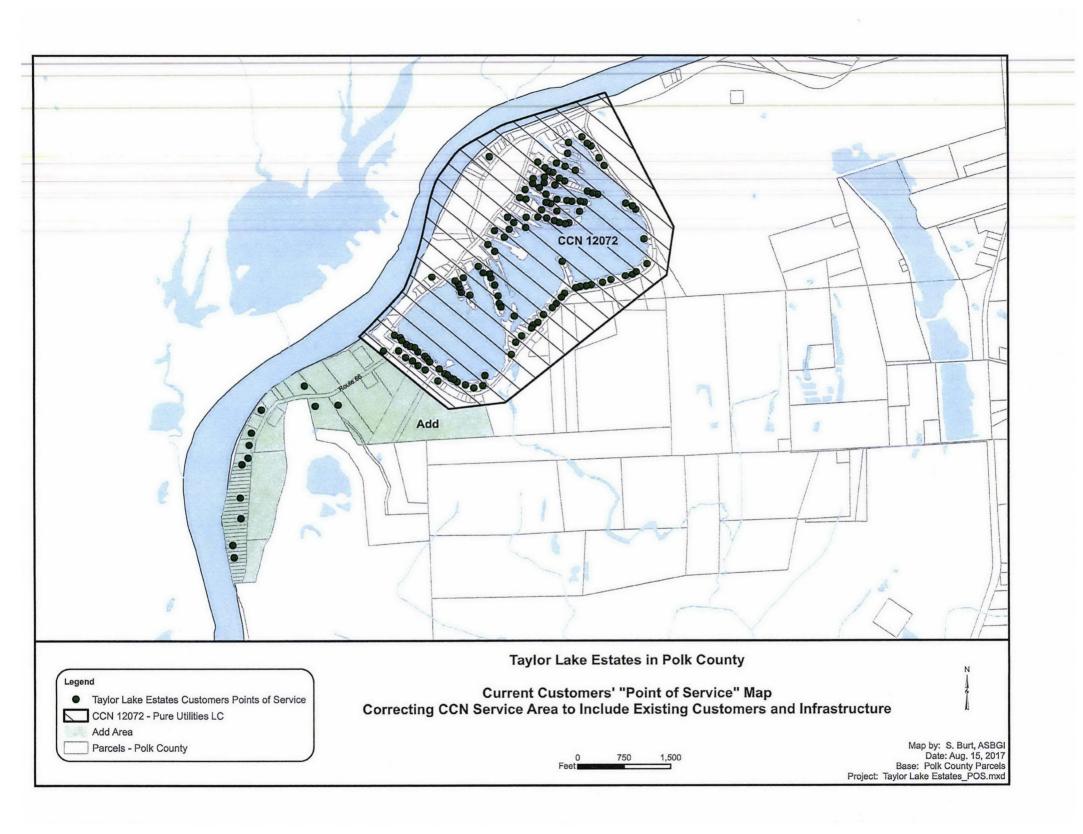


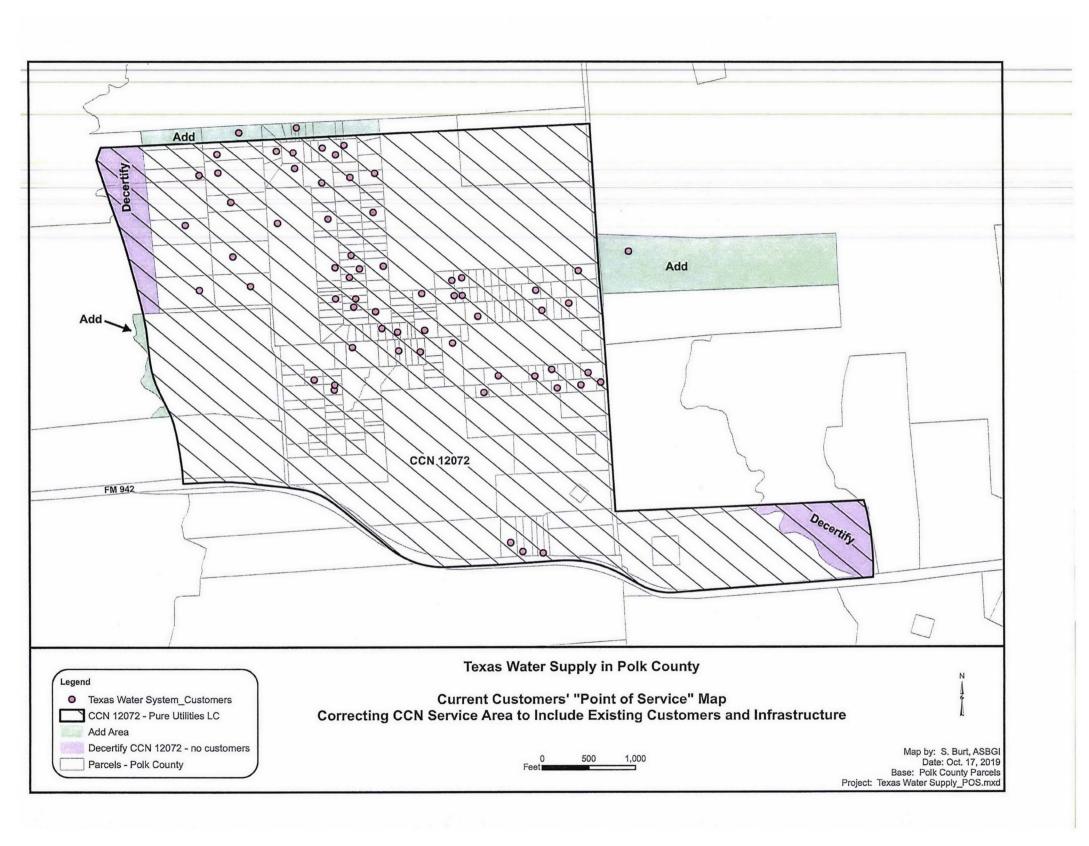












Attachment C Docket No. 50017 Pure – UT Mapping Approval Letter



November 13, 2019

Stone Jackson Pure Utilities, LC 207 W Mill Street Livingston, Texas 77351

Re: Application of Pure Utilities, LC and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Liberty, Polk, San Jacinto, and Tyler Counties

Dear Mr. Jackson:

As part of the processing of the referenced application, Commission Staff has requested that Undine Texas, LLC and Pure Utilities, LC confirm their agreement on the areas to be decertified as part of the application. Attached to this letter are the maps for the areas being transferred. The maps identify the areas to be decertified. By signature below, would you please confirm your agreement that the maps reflect the areas you have agreed to decertify as part of this application. We appreciate your ongoing cooperation.

You and Undine are not under any legal obligation of any kind whatsoever by virtue of this letter except for the matters specifically contained herein.

Agreed and accepted this 13 th day of November, 2019.

Pure Utilities, LC

UNDINE TEXAS, LLC

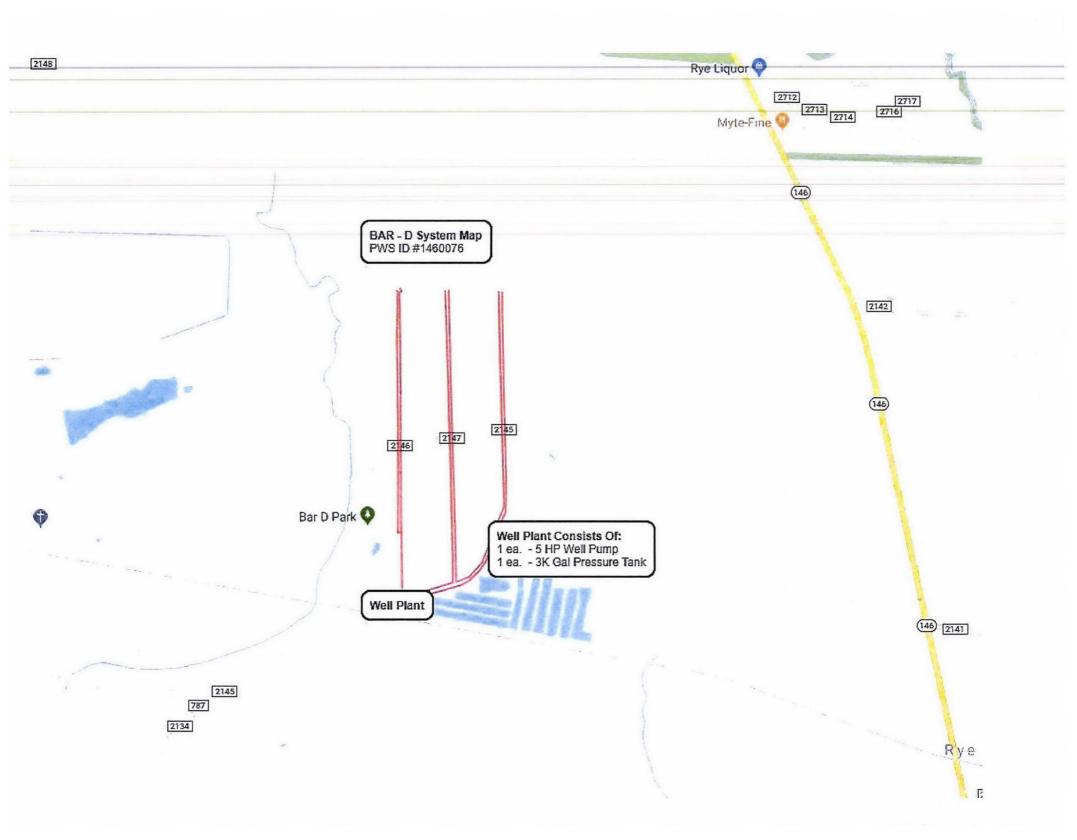
Name: Stone wall Jackson Name: Care

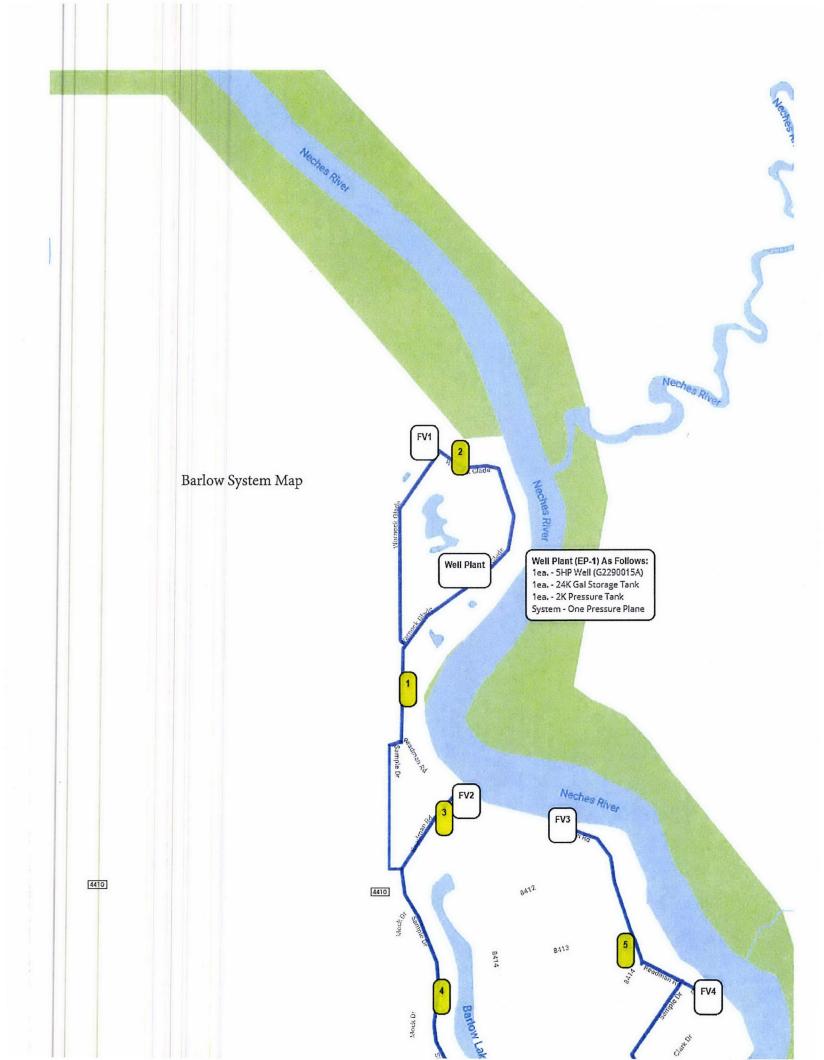
Title: Member

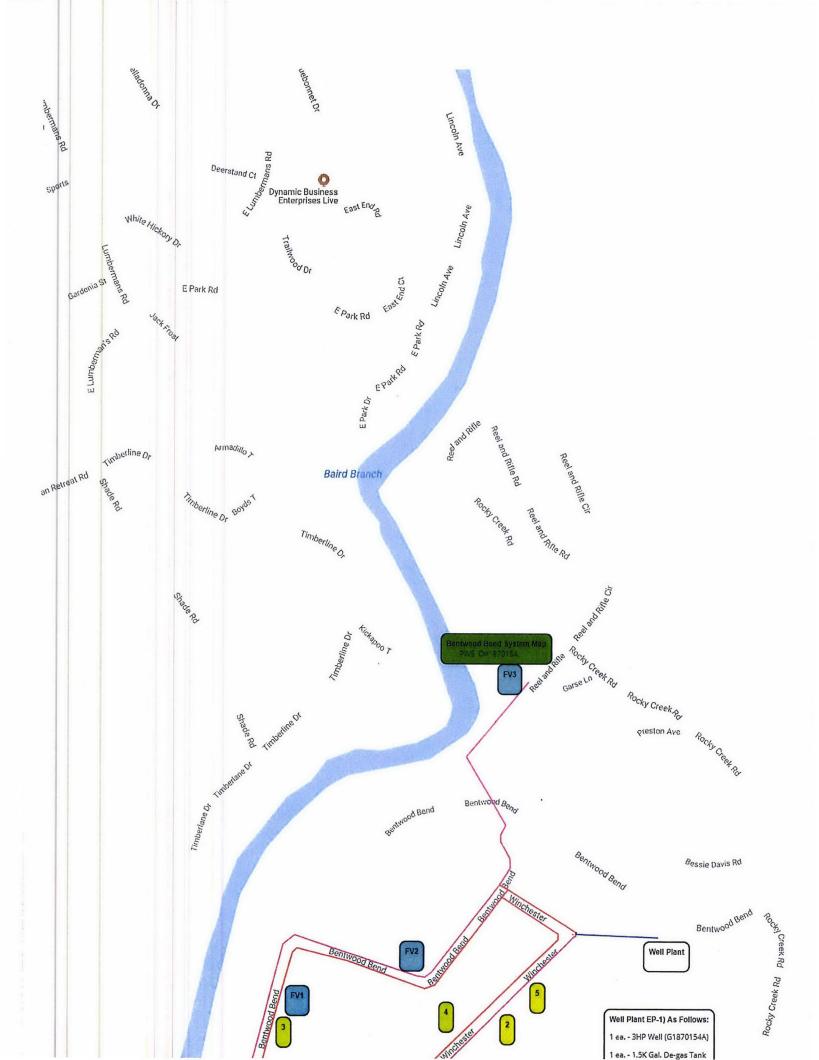
Name: Carey Thomas

Title: Senior Vice President

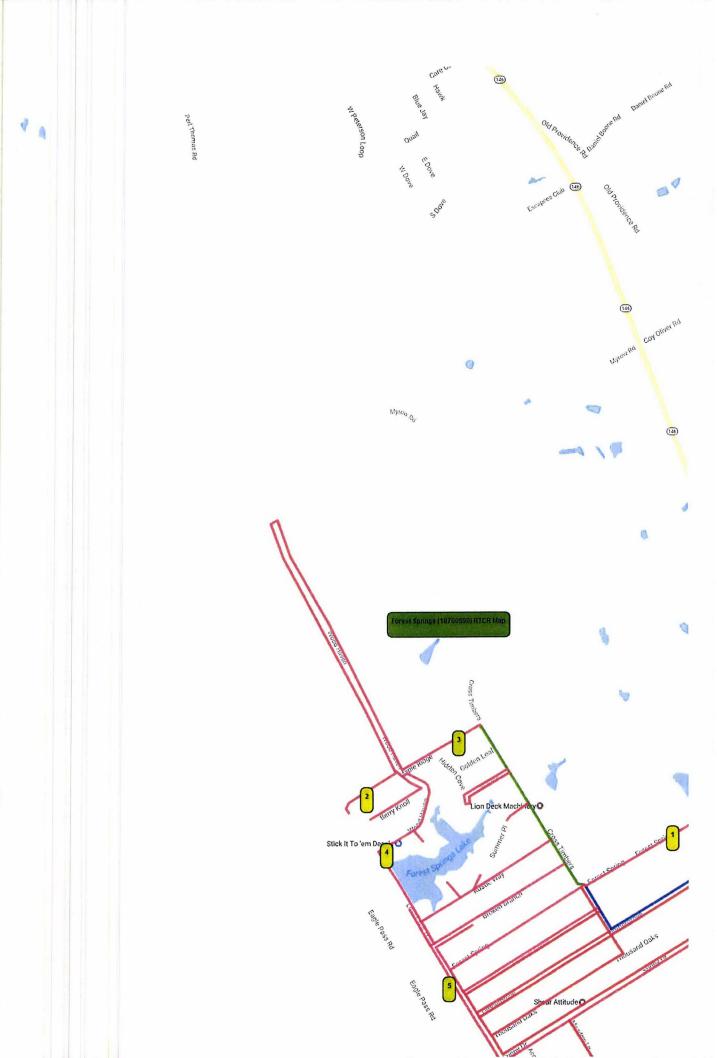
Attachment D Docket 50017 Distribution Maps







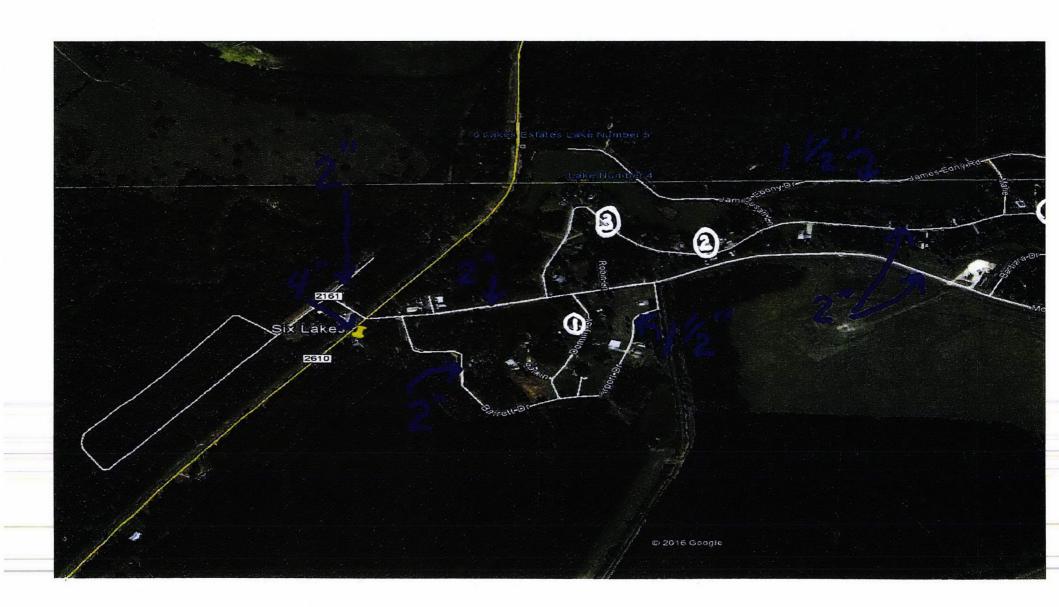
COMMODORE CAPE RTCR MAP PWS ID# 1870026 Apollo Dr Apollo Dr nmodore Or Comm Well Plant #1 Commo Well Plant (EP-1) As Follows: Commodore Cape Property Owners 1 ea. - 5HP Well (G1870026A) Commodore L 1 ea. - 16 K Gal. Storage Tank 1 ea. - 4K Gal. Pressure Tank System - One Pressure Plane 3 3277 Commodore Vo Weston The Chick Inn 😜



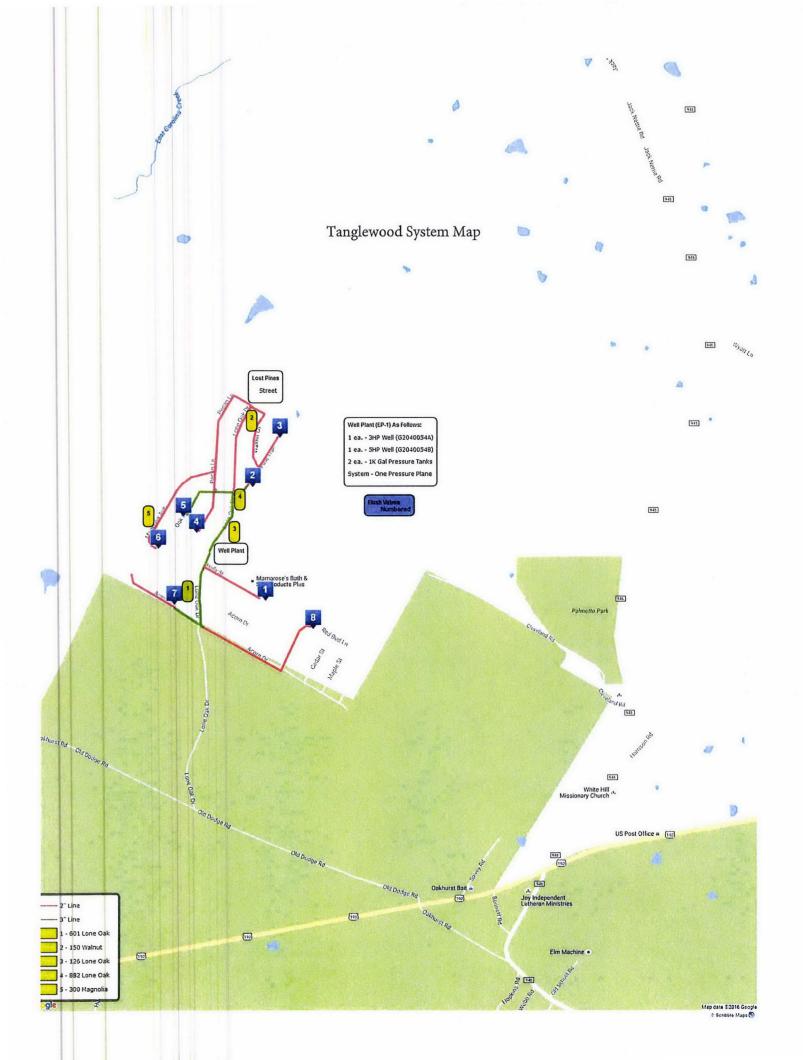
SIX LAKES WATER SYSTEM - PWS ID# 1460015

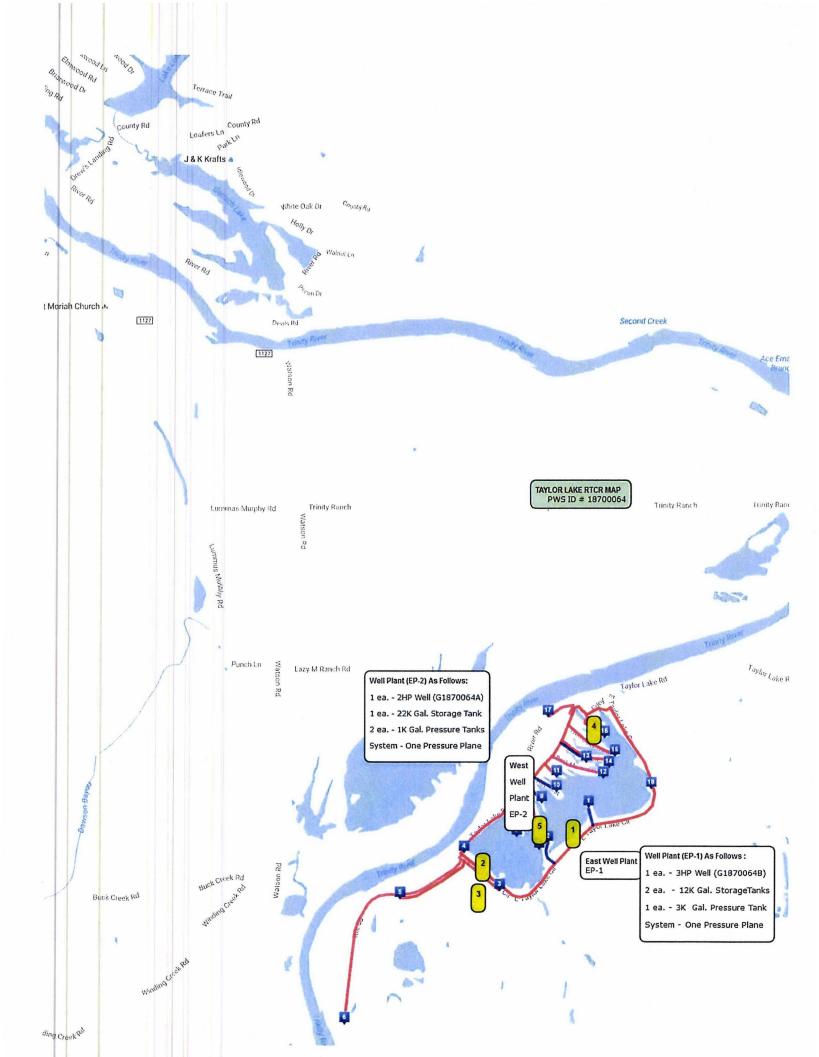
60 Dominey Dr.
 381 Lakeshore Dr.
 249 Lakeshore Dr.
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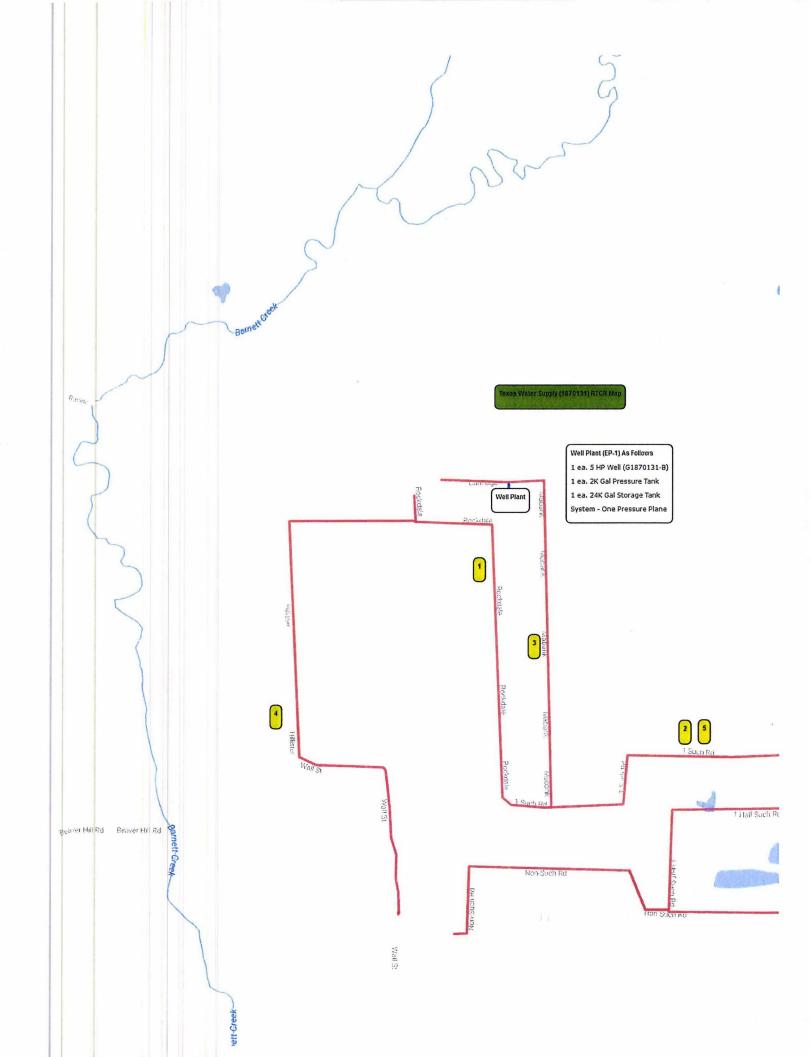
Well Plant(Yellc EP-1 1 ea. - 5HP We 1 ea. - 18,000 (1 ea. - 3,000 G System Operate

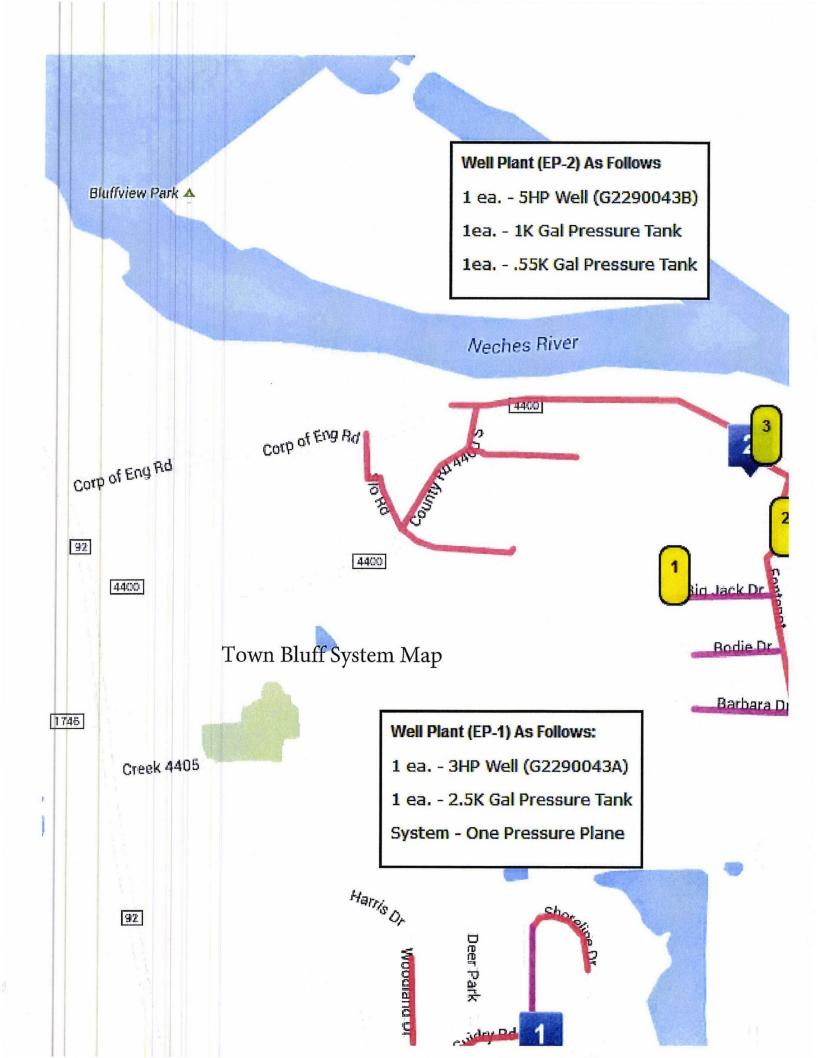


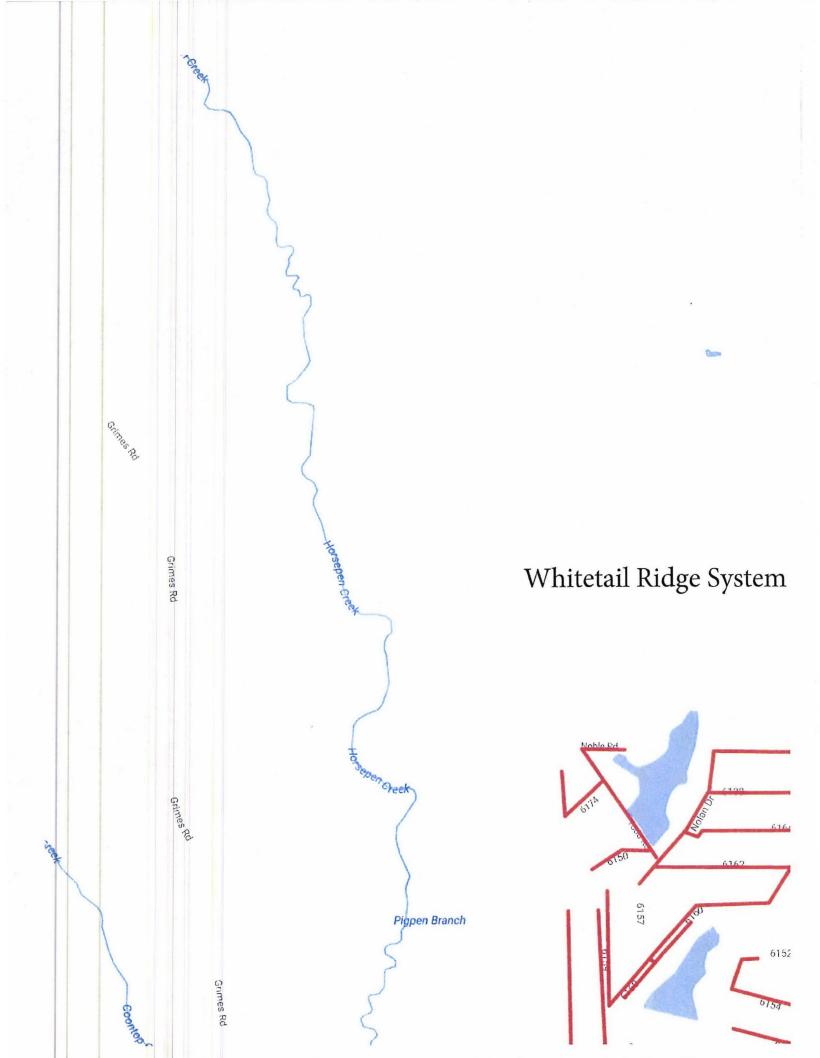
Alebanna Point











Attachment E Docket 50017 Request for Service

Adriana Gittinger

From:

Stonewall Jackson <stonewall@livingston.net>

Sent:

Friday, November 15, 2019 9:07 AM

To:

Katie Ransbottom

Subject:

Request for 6 new services, not 12, in the Northwest area of Spring Creek

----Original Message----

From: Stonewall Jackson [mailto:stonewall@livingston.net]

Sent: Wednesday, October 2, 2019 4:58 PM

To: 'JOHN DUNLAP'

Subject: RE: Water service

Hi John, Confirming our phone conversation, Pure Utilities, L.C. is looking forward to providing your 6 new residences with public drinking water

service in the Four Corners Estates area of Livingston, Texas. Hope your project goes really well for you. Blessings, Stonewall Jackson, Pure Utilities, L.C.

----Original Message----

From: JOHN DUNLAP [mailto:jsdun1982@yahoo.com]

Sent: Wednesday, October 2, 2019 2:47 PM

To: stonewall@livingston.net

Cc: John Dunlap Subject: Water service

Stonewall,

Per our phone conversation, I (Cardinal Property Development) am requesting public water service be provided by Pure Utilities to our 6 new residential lots in Four Corners Estates, Livingston, Texas.

Please confirm your approval of this request.

Thanks

Cardinal Property Development John Dunlap 281 705-9391

Sent from my iPhone