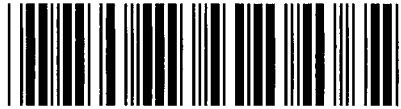
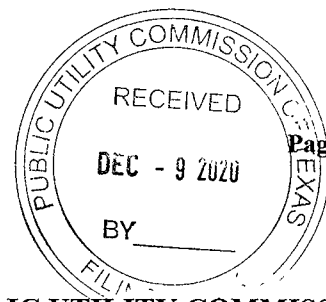


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DOCKET NO. 50404

PETITION OF STERLING DEASON §  
O'DONNELL AND DARWIN DEASON, §  
CO-TRUSTEES OF THE STERLING §  
DEASON O'DONNELL DD 2012 TRUST §  
UNDER AGREEMENT OF THE DD §  
2014-B GRANTOR RETAINED §  
ANNUITY TRUST TO AMEND §  
MARILEE SPECIAL UTILITY §  
DISTRICT'S CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
COLLIN COUNTY BY EXPEDITED §  
RELEASE §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**MARILEE SPECIAL UTILITY DISTRICT'S RESPONSE TO ORDER NO. 7**

COMES NOW, Marilee Special Utility District ("Marilee") and files this Response to Order No. 7. In support thereof, Marilee respectfully shows the following:

**I. Background**

On January 2, 2020, Sterling Deason O'Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O'Donnell DD 2012 Trust Under Agreement of the DD 2014-B Grantor Retained Annuity Trust ("Petitioner") filed a petition to decertify 260.372 acres of real property (the "Property") from Marilee's certificated water service territory, Certificate of Convenience and Necessity (CCN) No. 10150 pursuant to Texas Water Code (TWC) § 13.2541(b)<sup>1</sup> and 16 Texas Administrative Code (TAC) § 24.245(l)<sup>2</sup> (the "Petition").

On February 11, 2020, Marilee filed its required Response that the Petition should be denied (i.e., a motion to dismiss), providing details that the Property is currently receiving water service from Marilee through three (3) active meters and various existing waterlines and that the

<sup>1</sup> Formerly, TWC § 13.254(a-5), amended by Acts 2019, 86th Leg., ch. 688 (S.B. 2272), § 4.

<sup>2</sup> The Petition was filed pursuant to 16 TAC § 24.245(l) on January 2, 2020, now § 24.245(h), as the current § 24.245 was adopted to be effective July 2, 2020, 45 TexReg 4321, and current through 45 Tex.Reg. No. 8066, dated November 20, 2020, as effective on or before November 27, 2020.

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previous landowner of the Property was denied a petition for expedited release by the Commission in 2017,<sup>3</sup> finding the Property was receiving water service through the *same* 3 active meters.<sup>4</sup>

On April 16, 2020, Marilee filed its Surreply to Petitioner's Reply, requesting the Petitioner be dismissed under the doctrines of res judicata and collateral estoppel and, among other things, pointing out that the billing statements and service addresses provided are for the *same* three active meters in 2017 and Marilee continued to provide service to the Property subject to the Petition.<sup>5</sup>

On June 12, 2020, the Petition was deemed administratively complete and a procedural schedule was set by issued Order No. 5, including a sixty-day deadline to approve or deny the expedited release of the Property by August 11, 2020.<sup>6</sup>

On July 2, 2020, Marilee filed its Objection to Commission Staff's (Staff) Recommendation on Final Disposition, showing that the 2017 petition also excluded areas around the three active meters and that the Marilee had committed prior to 2017 and continues to currently commit and provide water service to the Property and adjacent areas through the various service agreements executed prior to and after 2017.<sup>7</sup> Further, Petitioner failed to show any action by Marilee that it had ceased to provide or commit to providing water service to the Property.<sup>8</sup>

Order No. 7 requires Marilee to file by December 8, 2020, a briefing regarding certain descriptions indicated therein regarding Marilee's meters, waterlines and facilities related to the Petition.<sup>9</sup> Thus, this Response is timely filed.

## **II. Response to Descriptions in Order No. 7**

### **A. Meter #309 serves approximately 75.931 acres of the Property, not merely "a lot" within the Property**

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<sup>3</sup> *Petition of Patricia Miller Deason to amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 46866, Order at 6 (May 19, 2017).

<sup>4</sup> Marilee's Response to the Petition, at 2-6 (Feb. 11, 2020).

<sup>5</sup> Marilee's Surreply to Petitioner's Reply, at 6-7 (Apr. 16, 2020).

<sup>6</sup> Order No. 5, at 2 (Jun. 12, 2020).

<sup>7</sup> Marilee's Objection to Commission Staff's Recommendation on Final Disposition, at 3-8 (Jul. 2, 2020).

<sup>8</sup> *Id.*, at 2.

<sup>9</sup> Order No. 7, at 2 (Nov. 24, 2020).

Order No. 7 states that Marilee's 8" waterline running through the southern end of the Property, and that Meter #309 (connected to Marilee's 2" waterline parallel to the southeastern edge of the Property) serves a lot within the entire acreage.<sup>10</sup> Although Meter #309 does provide water service to a lot, a more accurate description is that Meter #309 provides service to approximately 75.947 acres of the Property.

Attachment 1 hereto is the Affidavit of Donna Loiselle, Marilee's General Manager. Prior to 1997, Marilee (formerly known as Gunter Rural Water Supply Corporation (WSC), and also formerly, Gunter Special Utility District), provided water service to a portion of the Property under the landowner James R. (J.R.) McIlroy and Virginia McIlroy through Meter #309. J.R. McIlroy granted an easement (attached hereto as Attachment 2-A) over the property to Marilee, so that Marilee could install the 8" waterline referenced in Order No. 7 and to receive service from Marilee through Meter #309.

In 1997, the McIlroys conveyed approximately 75.931 acres, more or less, of land served by Meter #309, to Patricia Miller (the same person as Patricia Miller Deason, who submitted the 2017 petition in Docket No. 46866 and conveyed the Property to Petitioner in this proceeding). Attachment 2-B hereto contains the 1997 deed conveying the 75.931 acres to Patricia Miller.

Because Patricia Miller purchased property that was already receiving water service from Marilee, Patricia Miller and J.R. McIlroy executed a Membership Transfer Authorization (attached hereto as Attachment 2-C), where Patricia Miller would take over Meter #309 from J.R. McIlroy, and Marilee thus agreed to *continue* providing water service to the 75.931 acres through Meter #309.

Patricia Miller is the same Patricia Miller Deason, who submitted the 2017 petition in Docket No. 46866 and conveyed the Property to Petitioner in this proceeding. As previously provided in this proceeding, the Commission denied the 2017 petition finding the property was receiving water service from Marilee after review of Marilee's responses regarding, among other things, the same waterlines and facilities and Meters #309, #1528, and #721 in this docket.<sup>11</sup> In

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<sup>10</sup> *Id.*, at 1.

<sup>11</sup> Marilee's Response to the Petition, at 5-6 (Feb. 11, 2020).

Docket No. 46866, Marilee also provided a copy of the Member Transfer Authorization<sup>12</sup> (Attachment 1-C) and considered by the Commission in its decision to deny the 2017 petition.

Patricia Miller Deason then conveyed the 75.931 acres, along with additional acreage, to Petitioner.<sup>13</sup> In Marilee's Response to the Petition, Marilee provided the location of Meter #309<sup>14</sup> and Collin County Central Appraisal District (CAD) listing that reflects the same deed as provided by Petitioner in its Petition here, and also the CAD map to compare and show that Meter #309 is located therein.<sup>15</sup>

Pursuant to 16 TAC § 24.3(33) and TWC § 13.002(21), Marilee provides—and the 75.931 acres associated with Meter #309 receives—water service, as Marilee has performed acts, furnished and supplied water, committed and used its meter, facilities, and waterlines to provide water service to said 75.931 acres of land, which is clearly evidenced by Meter #309, Marilee's 8", 2" and other connecting waterlines and facilities.

Although Petitioner here attempts to carve out a couple of acres (a "lot") where Meter #309 is physically located, Marilee committed and used its waterlines and facilities including the 8", 2" and other waterlines to transmit water through Meter #309 to serve the related 75.931 acres long before Petitioner owned this land. Petitioner has not shown that Marilee is not providing water or that Marilee no longer commits or uses its waterlines and facilities<sup>16</sup> or Meter #309 to provide water service to the 75.931 acres within the Property.

#### **B. Meter #721 serves approximately 21.335 acres within the Property**

Attachment 3 attached hereto is a true and correct copy of a portion of Marilee's water system map prepared by Marilee's engineer of record, DBI Engineers, as of December 8, 2020. It has been discovered that Meter #721 is not located directly on the Property.

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<sup>12</sup> *Petition of Patricia Miller Deason to Amend Marilee's CCN in Collin County by Expedited Release*, Docket No. 46866, Marilee's Response at Ex. B, p. 7-8 (Mar. 15, 2017).

<sup>13</sup> Petition by Sterling Deason O'Donnell and Darwin Deason, at Ex. C (Jan. 2, 2020).

<sup>14</sup> Marilee's Response to the Petition, at Ex. B, p. 1 (Feb. 11, 2020).

<sup>15</sup> *Id.*, at Ex. D, p. 3.

<sup>16</sup> See Marilee's Objection to Staff's Recommendation on Final Disposition, at 2 and Ex. A (Jul. 2, 2020) (providing the location to Marilee's various waterlines, existing and new water wells, elevated tank, pumpstation, and appurtenances that provide and are committed to providing water service to the Property, as attested by Marilee's consulting engineer of record).

However, Meter #721 provides water service to approximately 21.335 acres of the Property at the address 9298 Myrtle Drive, Celina, Texas 75009. Marilee provided the CAD listing for the address 9298 Myrtle Drive, Celina, Texas 75009 in which Meter #721 provides water service, to show that the deed submitted by Petitioner in this proceeding, which includes the Property and other areas, specifically 9298 Myrtle Drive.<sup>17</sup> Further, Marilee provided the billing statement for Meter #721 which provides water service to 9298 Myrtle Drive and CAD map to show that 9298 Myrtle Drive is the top left (northwest corner) of the Property.<sup>18</sup> Although the Meter #721 has been found that it is not located physically on the Property (Attachment 3), Meter #721 provides water service to approximately 21.335 acres of the Property.

Pursuant to 16 TAC § 24.3(33) and TWC § 13.002(21), Marilee provides—and the 21.335 acres of the Property associated with Meter #721 receives—water service, as Marilee has performed acts, furnished and supplied water, committed and used its meter, facilities, and waterlines to provide water service to 9298 Myrtle Drive which is clearly evidenced by Meter #721, Marilee's 4" and other connecting waterlines and facilities, and easement for #721 in Attachment 3.

**C. Meter #1528 is located on the Property and Marilee serves approximately 244 acres, not merely "a lot" within the Property**

Order No. 7 states that Marilee's 6" waterline (running just east of the northeast corner of the Property) is connected to Meter #1528 "that lies within the entire acreage (i.e., the Property) and that serves a lot within the [Property]."<sup>19</sup> Meter #1528 is located on (within) the Property; however, Marilee provides water service through Meter #1528 **to approximately 244 acres**, not merely "a lot" as indicated in Order No. 7.

In 2004, the previous landowner Patricia Deason, the same person who submitted the 2017 petition in Docket No. 46866 and conveyed the Property to Petitioner here, executed a service application and agreement where Marilee provides water service to the address 9379 County Road (CR) 132, Celina, Texas 75009, and where Marilee assigned its Meter #1528 to provide such service to that address. Attachment 4 is a true and correct copy of this service application and

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<sup>17</sup> Marilee's Response to the Petition, at Ex. D, p. 1-2, 8 (Feb. 11, 2020).

<sup>18</sup> Id., at Ex. C, p. 2.

<sup>19</sup> Order No. 7 at 2.

agreement and Marilee's Meter #1528, which was also submitted in Docket No. 46866, a copy of the redacted check (payment) for Marilee to construct the road bore, install Meter #1528, and the required deposit for Meter #1528.<sup>20</sup>

In addition to providing water service through the actual Meter #1528, through this service application and agreement, Marilee is currently providing water service—and is contractually obligated to provide water service—to 9379 CR 132. Marilee provided the Collin County Central Appraisal District (CAD) listing for 9379 CR 132, which indicates the acreage of 9379 CR 132 to be 244.3440 acres, and that Patricia Deason conveyed 9379 CR 132 to Petitioner here.<sup>21</sup> Marilee also provided a copy of the current billing for water usage through Meter (Account) #1528, which also reflects the service address of 9379 CR 132.<sup>22</sup>

Pursuant to 16 TAC § 24.3(33) and TWC § 13.002(21), Marilee provides (and 9379 CR 132 receives), water “service” as Marilee has performed acts, furnished and supplied water, committed and used its meter, facilities, and waterlines to provide water service to the 244.3440 identified as 9379 CR 132, which is clearly evidenced by Meter #1528, Marilee's 6” and other connecting waterlines and facilities.

Further, the CAD map reflects that 244.3440 acres (9379 CR 132) lie within the Property. Even as Petitioner attempts to carve out a couple of acres for “a lot” near Meter #1528, Petitioner has not shown that Marilee is not providing water or that Marilee no longer commits or uses its waterlines and facilities<sup>23</sup> or Meter #1528 to provide water service to 9379 CR 132 or the remainder of the 244.3440 acres, which is clearly within the Property.

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<sup>20</sup> Marilee's Objection to Staff's Recommendation, at 3-4 (Jul. 2, 2020).

See also *Petition of Patricia Miller Deason to Amend Marilee's CCN in Collin County by Expedited Release*, Docket No. 46866, Marilee's Response at Ex. B, p. 3 (Mar. 15, 2017) (providing the same service application and agreement for Meter #1528).

<sup>21</sup> See Marilee's Response to the Petition, at Ex. D, p.3-7 (Feb. 11, 2020) (reflecting that the address 9379 CR 132 being 244.3440 acres and that Patricia Deason conveyed the Property to Petitioner through the deed filed as Instrument No. 20190213000153000).

See also Petition, at Ex. C (Dec. 30, 2019) (evidencing Petitioner's ownership of the same 244.3440 acres of land at address 9379 CR 132 and submission of the same filed deed, Instrument No. 20190213000153000).

<sup>22</sup> Marilee's Response to the Petition, at Ex. C, p. 3 (Feb. 11, 2020).

<sup>23</sup> See Marilee's Objection to Staff's Recommendation on Final Disposition, at 2 and Ex. A (Jul. 2, 2020) (providing the location to Marilee's various waterlines, existing and new water wells, elevated tank, pumpstation, and appurtenances that provide and are committed to providing water service to the Property, as attested by Marilee's consulting engineer of record).

**D. The Commission must consider all the facts surrounding water service to the Property, consistent with its ruling in related Docket No. 46866.**

In Petitioner's Response to Order No. 7, Petitioner states that Petitioner "has not requested water service from Marilee Special Utility District or paid 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."<sup>24</sup>

However, there is no requirement or definition providing that *current* landowner must be the actor who requests or pays for water service, in order for the Property to be receiving water "service" as defined by 16 TAC § 24.3(33) and TWC § 13.002(21). Conversely, TWC § 13.2541(b) and 16 TAC § 24.245(h)(1)(B) provide, among other requirements, that "*land ... not receiving [water] service*" may be released from a CCN holder's certificated service area.

Petitioner cites to *Crystal Clear*, alluding that the facts surrounding this Petition and the 2017 show that Marilee merely has waterlines and facilities near the tract.<sup>25</sup> It is clear that Petitioner chooses to ignore all the actions taken by Marilee, previous landowners, tenants—and even the Order issued by the Commission in 2017, where the Commission found that the Property was receiving water service, even when Patricia Miller Deason also carved out tracts for lots related to Meters #309, #721, and #1528.

Marilee has presented ample evidence in this proceeding, the majority of which was the same information submitted in 2017 where the Commission denied such petition by Patricia Miller Deason in Docket No. 46866, that *the Property* as a whole *is receiving water service* from Marilee through various actions by Marilee throughout the years—including but not limited to construction and installation of related waterlines, facilities, and Meters #309, #721, and #1528, and actions by previous landowners through various service agreements, granting easements, transfer and payment of water service and usage, and current tenants usage of water through Meters #309, #721, and #1528.

Petitioner has not shown any "act performed" by Marilee or how Marilee no longer commits to or uses its waterlines and facilities to provide service to the Property. The fact that

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<sup>24</sup> Petitioner's Brief in Response to Order No. 7, at Ex. A ¶ 3 (Dec. 8, 2020).

<sup>25</sup> *Id.* at 4-5.



**DOCKET NO. 50404**

<b>PETITION OF STERLING DEASON</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>O'DONNELL AND DARWIN DEASON,</b>	<b>§</b>	
<b>CO-TRUSTEES OF THE STERLING</b>	<b>§</b>	<b>OF TEXAS</b>
<b>DEASON O'DONNELL DD 2012 TRUST</b>	<b>§</b>	
<b>UNDER AGREEMENT OF THE DD</b>	<b>§</b>	
<b>2014-B GRANTOR RETAINED</b>	<b>§</b>	
<b>ANNUITY TRUST TO AMEND</b>	<b>§</b>	
<b>MARILEE SPECIAL UTILITY</b>	<b>§</b>	
<b>DISTRICT'S CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>COLLIN COUNTY BY EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**MARILEE SPECIAL UTILITY DISTRICT'S RESPONSE TO ORDER NO. 7**

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**I. Background**

On January 2, 2020, Sterling Deason O'Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O'Donnell DD 2012 Trust Under Agreement of the DD 2014-B Grantor Retained Annuity Trust ("Petitioner") filed a petition to decertify 260.372 acres of real property (the "Property") from Marilee's certificated water service territory, Certificate of Convenience and Necessity (CCN) No. 10150 pursuant to Texas Water Code (TWC) § 13.2541(b)<sup>1</sup> and 16 Texas Administrative Code (TAC) § 24.245(l)<sup>2</sup> (the "Petition").

On February 11, 2020, Marilee filed its required Response that the Petition should be denied (i.e., a motion to dismiss), providing details that the Property is currently receiving water service from Marilee through three (3) active meters and various existing waterlines and that the

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<sup>1</sup> Formerly, TWC § 13.254(a-5), amended by Acts 2019, 86th Leg., ch. 688 (S.B. 2272), § 4.

<sup>2</sup> The Petition was filed pursuant to 16 TAC § 24.245(l) on January 2, 2020, now § 24.245(h), as the current § 24.245 was adopted to be effective July 2, 2020, 45 TexReg 4321, and current through 45 Tex.Reg. No. 8066, dated November 20, 2020, as effective on or before November 27, 2020.

previous landowner of the Property was denied a petition for expedited release by the Commission in 2017,<sup>3</sup> finding the Property was receiving water service through the *same* 3 active meters.<sup>4</sup>

On April 16, 2020, Marilee filed its Surreply to Petitioner's Reply, requesting the Petitioner be dismissed under the doctrines of res judicata and collateral estoppel and, among other things, pointing out that the billing statements and service addresses provided are for the *same* three active meters in 2017 and Marilee continued to provide service to the Property subject to the Petition.<sup>5</sup>

On June 12, 2020, the Petition was deemed administratively complete and a procedural schedule was set by issued Order No. 5, including a sixty-day deadline to approve or deny the expedited release of the Property by August 11, 2020.<sup>6</sup>

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Order No. 7 requires Marilee to file by December 8, 2020, a briefing regarding certain descriptions indicated therein regarding Marilee's meters, waterlines and facilities related to the Petition.<sup>9</sup> Thus, this Response is timely filed.

## **II. Response to Descriptions in Order No. 7**

### **A. Meter #309 serves approximately 75.931 acres of the Property, not merely "a lot" within the Property**

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Order No. 7 states that Marilee's 8" waterline running through the southern end of the Property, and that Meter #309 (connected to Marilee's 2" waterline parallel to the southeastern edge of the Property) serves a lot within the entire acreage.<sup>10</sup> Although Meter #309 does provide water service to a lot, a more accurate description is that Meter #309 provides service to approximately 75.947 acres of the Property.

Attachment 1 hereto is the Affidavit of Donna Loiselle, Marilee's General Manager. Prior to 1997, Marilee (formerly known as Gunter Rural Water Supply Corporation (WSC), and also formerly, Gunter Special Utility District), provided water service to a portion of the Property under the landowner James R. (J.R.) McIlroy and Virginia McIlroy through Meter #309. J.R. McIlroy granted an easement (attached hereto as Attachment 2-A) over the property to Marilee, so that Marilee could install the 8" waterline referenced in Order No. 7 and to receive service from Marilee through Meter #309.

In 1997, the McIlroys conveyed approximately 75.931 acres, more or less, of land served by Meter #309, to Patricia Miller (the same person as Patricia Miller Deason, who submitted the 2017 petition in Docket No. 46866 and conveyed the Property to Petitioner in this proceeding). Attachment 2-B hereto contains the 1997 deed conveying the 75.931 acres to Patricia Miller.

Because Patricia Miller purchased property that was already receiving water service from Marilee, Patricia Miller and J.R. McIlroy executed a Membership Transfer Authorization (attached hereto as Attachment 2-C), where Patricia Miller would take over Meter #309 from J.R. McIlroy, and Marilee thus agreed to *continue* providing water service to the 75.931 acres through Meter #309.

Patricia Miller is the same Patricia Miller Deason, who submitted the 2017 petition in Docket No. 46866 and conveyed the Property to Petitioner in this proceeding. As previously provided in this proceeding, the Commission denied the 2017 petition finding the property was receiving water service from Marilee after review of Marilee's responses regarding, among other things, the same waterlines and facilities and Meters #309, #1528, and #721 in this docket.<sup>11</sup> In

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<sup>10</sup> *Id.*, at 1.

<sup>11</sup> Marilee's Response to the Petition, at 5-6 (Feb. 11, 2020).

Docket No. 46866, Marilee also provided a copy of the Member Transfer Authorization<sup>12</sup> (Attachment 1-C) and considered by the Commission in its decision to deny the 2017 petition.

Patricia Miller Deason then conveyed the 75.931 acres, along with additional acreage, to Petitioner.<sup>13</sup> In Marilee's Response to the Petition, Marilee provided the location of Meter #309<sup>14</sup> and Collin County Central Appraisal District (CAD) listing that reflects the same deed as provided by Petitioner in its Petition here, and also the CAD map to compare and show that Meter #309 is located therein.<sup>15</sup>

Pursuant to 16 TAC § 24.3(33) and TWC § 13.002(21), Marilee provides—and the 75.931 acres associated with Meter #309 receives—water service, as Marilee has performed acts, furnished and supplied water, committed and used its meter, facilities, and waterlines to provide water service to said 75.931 acres of land, which is clearly evidenced by Meter #309, Marilee's 8", 2" and other connecting waterlines and facilities.

Although Petitioner here attempts to carve out a couple of acres (a "lot") where Meter #309 is physically located, Marilee committed and used its waterlines and facilities including the 8", 2" and other waterlines to transmit water through Meter #309 to serve the related 75.931 acres long before Petitioner owned this land. Petitioner has not shown that Marilee is not providing water or that Marilee no longer commits or uses its waterlines and facilities<sup>16</sup> or Meter #309 to provide water service to the 75.931 acres within the Property.

#### **B. Meter #721 serves approximately 21.335 acres within the Property**

Attachment 3 attached hereto is a true and correct copy of a portion of Marilee's water system map prepared by Marilee's engineer of record, DBI Engineers, as of December 8, 2020. It has been discovered that Meter #721 is not located directly on the Property.

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<sup>12</sup> *Petition of Patricia Miller Deason to Amend Marilee's CCN in Collin County by Expedited Release*, Docket No. 46866, Marilee's Response at Ex. B, p. 7-8 (Mar. 15, 2017).

<sup>13</sup> Petition by Sterling Deason O'Donnell and Darwin Deason, at Ex. C (Jan. 2, 2020).

<sup>14</sup> Marilee's Response to the Petition, at Ex. B, p. 1 (Feb. 11, 2020).

<sup>15</sup> *Id.*, at Ex. D, p. 3.

<sup>16</sup> See Marilee's Objection to Staff's Recommendation on Final Disposition, at 2 and Ex. A (Jul. 2, 2020) (providing the location to Marilee's various waterlines, existing and new water wells, elevated tank, pumpstation, and appurtenances that provide and are committed to providing water service to the Property, as attested by Marilee's consulting engineer of record).

However, Meter #721 provides water service to approximately 21.335 acres of the Property at the address 9298 Myrtle Drive, Celina, Texas 75009. Marilee provided the CAD listing for the address 9298 Myrtle Drive, Celina, Texas 75009 in which Meter #721 provides water service, to show that the deed submitted by Petitioner in this proceeding, which includes the Property and other areas, specifically 9298 Myrtle Drive.<sup>17</sup> Further, Marilee provided the billing statement for Meter #721 which provides water service to 9298 Myrtle Drive and CAD map to show that 9298 Myrtle Drive is the top left (northwest corner) of the Property.<sup>18</sup> Although the Meter #721 has been found that it is not located physically on the Property (Attachment 3), Meter #721 provides water service to approximately 21.335 acres of the Property.

Pursuant to 16 TAC § 24.3(33) and TWC § 13.002(21), Marilee provides—and the 21.335 acres of the Property associated with Meter #721 receives—water service, as Marilee has performed acts, furnished and supplied water, committed and used its meter, facilities, and waterlines to provide water service to 9298 Myrtle Drive which is clearly evidenced by Meter #721, Marilee's 4" and other connecting waterlines and facilities, and easement for #721 in Attachment 3.

**C. Meter #1528 is located on the Property and Marilee serves approximately 244 acres, not merely "a lot" within the Property**

Order No. 7 states that Marilee's 6" waterline (running just east of the northeast corner of the Property) is connected to Meter #1528 "that lies within the entire acreage (i.e., the Property) and that serves a lot within the [Property]."<sup>19</sup> Meter #1528 is located on (within) the Property; however, Marilee provides water service through Meter #1528 **to approximately 244 acres**, not merely "a lot" as indicated in Order No. 7.

In 2004, the previous landowner Patricia Deason, the same person who submitted the 2017 petition in Docket No. 46866 and conveyed the Property to Petitioner here, executed a service application and agreement where Marilee provides water service to the address 9379 County Road (CR) 132, Celina, Texas 75009, and where Marilee assigned its Meter #1528 to provide such service to that address. Attachment 4 is a true and correct copy of this service application and

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<sup>18</sup> Id., at Ex. C, p. 2.

<sup>19</sup> Order No. 7 at 2.

agreement and Marilee's Meter #1528, which was also submitted in Docket No. 46866, a copy of the redacted check (payment) for Marilee to construct the road bore, install Meter #1528, and the required deposit for Meter #1528.<sup>20</sup>

In addition to providing water service through the actual Meter #1528, through this service application and agreement, Marilee is currently providing water service—and is contractually obligated to provide water service—to 9379 CR 132. Marilee provided the Collin County Central Appraisal District (CAD) listing for 9379 CR 132, which indicates the acreage of 9379 CR 132 to be 244.3440 acres, and that Patricia Deason conveyed 9379 CR 132 to Petitioner here.<sup>21</sup> Marilee also provided a copy of the current billing for water usage through Meter (Account) #1528, which also reflects the service address of 9379 CR 132.<sup>22</sup>

Pursuant to 16 TAC § 24.3(33) and TWC § 13.002(21), Marilee provides (and 9379 CR 132 receives), water “service” as Marilee has performed acts, furnished and supplied water, committed and used its meter, facilities, and waterlines to provide water service to the 244.3440 identified as 9379 CR 132, which is clearly evidenced by Meter #1528, Marilee's 6” and other connecting waterlines and facilities.

Further, the CAD map reflects that 244.3440 acres (9379 CR 132) lie within the Property. Even as Petitioner attempts to carve out a couple of acres for “a lot” near Meter #1528, Petitioner has not shown that Marilee is not providing water or that Marilee no longer commits or uses its waterlines and facilities<sup>23</sup> or Meter #1528 to provide water service to 9379 CR 132 or the remainder of the 244.3440 acres, which is clearly within the Property.

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<sup>20</sup> Marilee's Objection to Staff's Recommendation, at 3-4 (Jul. 2, 2020).

See also *Petition of Patricia Miller Deason to Amend Marilee's CCN in Collin County by Expedited Release*, Docket No. 46866, Marilee's Response at Ex. B, p. 3 (Mar. 15, 2017) (providing the same service application and agreement for Meter #1528).

<sup>21</sup> See Marilee's Response to the Petition, at Ex. D, p.3-7 (Feb. 11, 2020) (reflecting that the address 9379 CR 132 being 244.3440 acres and that Patricia Deason conveyed the Property to Petitioner through the deed filed as Instrument No. 20190213000153000).

See also Petition, at Ex. C (Dec. 30, 2019) (evidencing Petitioner's ownership of the same 244.3440 acres of land at address 9379 CR 132 and submission of the same filed deed, Instrument No. 20190213000153000).

<sup>22</sup> Marilee's Response to the Petition, at Ex. C, p. 3 (Feb. 11, 2020).

<sup>23</sup> See Marilee's Objection to Staff's Recommendation on Final Disposition, at 2 and Ex. A (Jul. 2, 2020) (providing the location to Marilee's various waterlines, existing and new water wells, elevated tank, pumpstation, and appurtenances that provide and are committed to providing water service to the Property, as attested by Marilee's consulting engineer of record).

**D. The Commission must consider all the facts surrounding water service to the Property, consistent with its ruling in related Docket No. 46866.**

In Petitioner’s Response to Order No. 7, Petitioner states that Petitioner “has not requested water service from Marilee Special Utility District or paid 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.”<sup>24</sup>

However, there is no requirement or definition providing that *current* landowner must be the actor who requests or pays for water service, in order for the Property to be receiving water “service” as defined by 16 TAC § 24.3(33) and TWC § 13.002(21). Conversely, TWC § 13.2541(b) and 16 TAC § 24.245(h)(1)(B) provide, among other requirements, that “*land* ... not receiving [water] service” may be released from a CCN holder’s certificated service area.

Petitioner cites to *Crystal Clear*, alluding that the facts surrounding this Petition and the 2017 show that Marilee merely has waterlines and facilities near the tract.<sup>25</sup> It is clear that Petitioner chooses to ignore all the actions taken by Marilee, previous landowners, tenants—and even the Order issued by the Commission in 2017, where the Commission found that the Property was receiving water service, even when Patricia Miller Deason also carved out tracts for lots related to Meters #309, #721, and #1528.

Marilee has presented ample evidence in this proceeding, the majority of which was the same information submitted in 2017 where the Commission denied such petition by Patricia Miller Deason in Docket No. 46866, that *the Property* as a whole *is receiving water service* from Marilee through various actions by Marilee throughout the years—including but not limited to construction and installation of related waterlines, facilities, and Meters #309, #721, and #1528, and actions by previous landowners through various service agreements, granting easements, transfer and payment of water service and usage, and current tenants usage of water through Meters #309, #721, and #1528.

Petitioner has not shown any “act performed” by Marilee or how Marilee no longer commits to or uses its waterlines and facilities to provide service to the Property. The fact that

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<sup>24</sup> Petitioner’s Brief in Response to Order No. 7, at Ex. A ¶ 3 (Dec. 8, 2020).

<sup>25</sup> *Id.* at 4-5.

tenants<sup>26</sup> continues to pay for the water usage reconfirms Marilee's current service, commitment and use of its waterlines and facilities, and obligation to continue to provide water service to the Property, which Marilee committed to long ago and especially evidenced through the service agreements mentioned herein. Thus, the Petition should be denied as the Property does not qualify for streamlined expedited release under TWC §13.2541(b) and 16 TAC § 24.245(l)(2)(B), now 16 TAC § 24.245(h)(1)(B).

If the Commission grants the Petition in this proceeding, it would directly contradict the Commission's findings and Order issued in Docket No. 46866 on May 19, 2017.

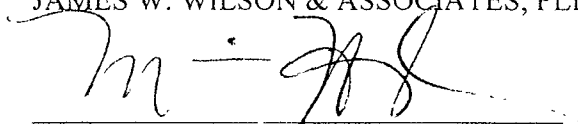
### III. Conclusion

In its responses and replies filed in this docket, Marilee has provided ample information that the Property is receiving water "service" from Marilee, including but not limited to the fact that Marilee is continuing to provide service to the Property here, before and after the Commission denied the related 2017 petition where the lots containing the three active meters were not part of the property at issue.

Thus, the Commission must deny the Petition and dismiss this proceeding, as the Property does not meet the required condition of streamlined expedited release under TWC § 13.2541(b) and 16 TAC § 24.245(l)(2)(B), now 16 TAC § 24.245(h)(1)(B).

Respectfully submitted,

JAMES W. WILSON & ASSOCIATES, PLLC



Maria Huynh  
State Bar No. 24086968  
James W. Wilson  
State Bar No. 00791944  
103 W. Main Street  
Allen, Texas 75013  
Tel: (972) 727-9904  
Fax: (972) 755-0904  
Email: mhuynh@jww-law.com  
jwilson@jww-law.com

ATTORNEYS FOR MARILEE SPECIAL  
UTILITY DISTRICT

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<sup>26</sup> Order No. 6, at 2 (Nov. 19, 2020).



**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this document was served on the following parties of record on December 8, 2020, by e-mail.<sup>27</sup>

via e-mail: creighton.mcmurray@puc.texas.gov

Creighton McMurray  
Attorney-Legal Division  
Public Utility Commission  
1701 N. Congress  
P.O. Box 13326  
Austin, Texas 78711-3326

*Attorney for the Commission*

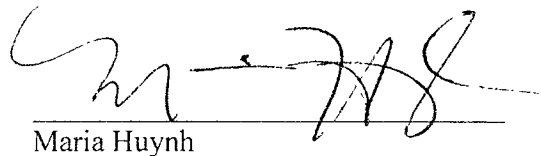
via e-mail: jbethke@coatsrose.com

Joshua W. Bethke  
Coats Rose, P. C.  
14755 Preston Road, Suite 600  
Dallas, Texas 75254

via e-mail: nscott@coatsrose.com

Natalie B. Scott  
Coats Rose, P. C.  
2700 Via Fortuna, Suite 350  
Austin, Texas 78746

*Attorneys for Petitioner*

A handwritten signature in black ink, appearing to read 'Maria Huynh', is written over a horizontal line.

Maria Huynh

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<sup>27</sup> *Issues Related to the State of Disaster for Coronavirus Disease 2019*, Docket No. 50664, Second Order Suspending Rules (Jul. 16, 2020).

## **ATTACHMENT 1**

DOCKET NO. 50404

PETITION OF STERLING DEASON	§	PUBLIC UTILITY COMMISSION
O'DONNELL AND DARWIN DEASON,	§	
CO-TRUSTEES OF THE STERLING	§	OF TEXAS
DEASON O'DONNELL DD 2012 TRUST	§	
UNDER AGREEMENT OF THE DD	§	
2014-B GRANTOR RETAINED	§	
ANNUITY TRUST TO AMEND	§	
MARILEE SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

**SUPPORTING AFFIDAVIT OF DONNA LOISELLE, GENERAL MANAGER  
OF MARILEE SPECIAL UTILITY DISTRICT**

STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

**BEFORE ME**, the undersigned authority, on this date personally appeared Donna Loiselles, who being by me first duly sworn states as follows:

"My name is Donna Loiselles. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.

Since 1996, I have been the duly appointed general manager of Marilee Special Utility District ("Marilee") and I am the custodian of the records of Marilee. Marilee is the successor to Gunter Special Utility District, and formerly Gunter Rural Water Supply Corporation.

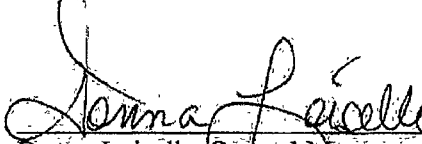
I have read Marilee Special Utility District's Response to Order No. 7 in Docket No. 50404 (the "Response") and each and every factual statement contained therein is true and correct.

Attachment 2-A is a true and correct copy of the easement granted by J.R. McIlroy associated with Marilee's 8" waterline on the southern portion of the Property, which was granted as part of service to the McIlroy property through Meter #309.

Attachment 2-C is a true and correct copy of the Membership Transfer Authorization, where Patricia Miller, also known as Patricia Miller Deason, received water service on the property (previously owned by J.R. McIlroy and wife Virginia McIlroy) through Meter #309. Marilee has provided this Membership Transfer Authorization, along with billing statements and other information to the Commission in Docket No. 46866.

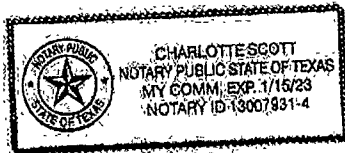
Attachment 3 is a true and correct copy of a portion of Marilee's water system map prepared by Marilee's engineer of record, DBI Engineers as of December 8, 2020. The Property that is the subject matter of Docket No. 50404, as provided by Petitioner through various responses.

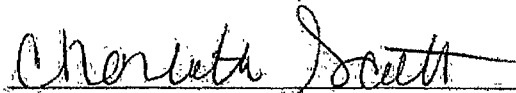
Attachment 4 is a true and correct copy of the service application and agreement signed by Patricia Deason, the same person as Patricia Miller and Patricia Miller Deason, for water service to 9379 CR 132, Celina, Texas 75009, where Marilee assigned Meter #1528 to provide water service to such address. Marilee has provided this service application and agreement, along with billing statements and other information to the Commission in Docket No. 46866."

  
Donna Loiselle, General Manager  
Marilee Special Utility District

**SUBSCRIBED AND SWORN TO** before me on the 8<sup>th</sup> day of December 2020, by  
Donna Loiselle, General Manager of Marilee Special Utility District.

[Notary seal]



  
Notary Public, State of Texas

**ATTACHMENT 2-A**

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION

RIGHT OF WAY EASEMENT  
(General Type Easement)

309  
KNOW ALL MEN BY THESE PRESENTS, that J. R. McIlroy,  
(hereinafter called "Grantors"), in consideration of one dollar (\$1.00) and other  
good and valuable consideration paid by Gunter Rural Water Supply Corporation,  
(hereinafter called "Grantee"), the receipt and sufficiency of which is hereby ac-  
knowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee,  
its successors, and assigns, a perpetual easement with the right to erect, construct,  
install and lay and thereafter use, operate, inspect, repair, maintain, replace, and  
remove water distribution lines and appurtenances over and across 78.5 acres  
of land, more particularly described in instrument recorded in Vol. 604, Page 165,  
Deed Records, Collin County, Texas, together with the right of ingress  
and egress over Grantors' adjacent lands for the purpose for which the above mentioned  
rights are granted. The easement hereby granted shall not exceed 15' in width, and  
Grantee is hereby authorized to designate the course of the easement herein conveyed  
except that when the pipe line(s) is installed, the easement herein granted shall be  
limited to a strip of land 15' in width the center line thereof being the pipe line  
as installed.

The consideration recited herein shall constitute payment in full for all damages  
sustained by Grantors by reason of the installation of the structures referred to here-  
in and the Grantee will maintain such easement in a state of good repair and efficiency  
so that no unreasonable damages will result from its use to Grantors' premises. This  
Agreement together with other provisions of this grant shall constitute a covenant  
running with the land for the benefit of the Grantee, its successors, and assigns. The  
Grantors covenant that they are the owners of the above described lands and that said  
lands are free and clear of all encumbrances and liens except the following:

The easement conveyed herein was obtained or improved through Federal financial  
assistance. This easement is subject to the provisions of Title VI of the Civil Rights  
Act of 1964 and the regulations issued pursuant thereto for so long as the easement  
continues to be used for the same or similar purpose for which financial assistance  
was extended or for so long as the Grantee owns it, whichever is longer.

IN WITNESS WHEREOF the said Grantors have executed this instrument this \_\_\_\_\_  
29th day of June, 19 93.

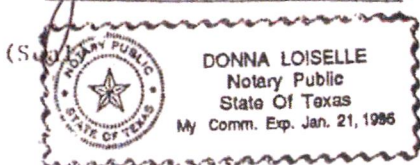
J. R. McIlroy

ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF Collin

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on  
this day personally appeared J. R. McIlroy  
known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing  
instrument, and acknowledged to me that he (she) (they) executed the same for the pur-  
poses and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 29th day  
of June, 19 93.



Donna Loisel  
Notary Public in and for  
Collin County, Texas

93-0068800

**ATTACHMENT 2-B**

97- 0099986

97- 0063490

ATC GF# 443161-D

**WARRANTY DEED WITH VENDOR'S LIEN  
(Vendor's Lien Reserved to Grantor)**

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF COLLIN

§

THAT THE UNDERSIGNED, JAMES R. MCILROY and wife, VIRGINIA MCILROY, hereinafter called "Grantor", whether one or more, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration to the undersigned in hand paid by the Grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by the Grantee of that one certain promissory note of even date herewith in the principal sum of \$279,735.00 payable to the order of Grantor, as therein specified, providing for acceleration of maturity and for attorney's fees, the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a deed of trust of even date herewith to William M. Woodall, Trustee, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto PATRICIA MILLER, whose mailing address is 5808 Lupton Drive, Dallas, Dallas County, Texas 75225, herein referred to as "Grantee", whether one or more, the real property described on Exhibit "A" attached hereto and incorporated herein by reference.

This conveyance, however, is made and accepted subject to any and all restrictions, encumbrances, easements, covenants and conditions, if any, relating to the hereinabove described property as the same are filed for record in the County Clerk's Office of Collin County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, Grantee's heirs, executors, administrators, successors and assigns forever; and Grantor does hereby bind Grantor's heirs, executors, administrators, successors and/or assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, Grantee's heirs, executors, administrators, successors and/or assigns against every person whomsoever claiming or to claim the same or any part thereof.

But it is expressly agreed that the Vendor's Lien, as well as Superior Title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.

Current ad valorem taxes on the property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED this 30th day of July, 1997.

THIS INSTRUMENT IS BEING REFILED FOR THE PURPOSE OF CORRECTING THE LEGAL DESCRIPTION ONLY AND IN NO WISE AFFECTS THE VALIDITY OF THE LIEN HEREBY SECURED OR THE CONVEYANCE AS IS INTENDED.

*James R. McIlroy*  
JAMES R. MCILROY

*Virginia M. McIlroy*  
VIRGINIA MCILROY

(NOTARY ACKNOWLEDGEMENT ON FOLLOWING PAGE)



~~3969 1383~~

THE STATE OF TEXAS

§  
§  
§

COUNTY OF COLLIN

31 The foregoing instrument was acknowledged before me on the  
day of July, 1997, by James R. McIlroy and wife, Virginia  
McIlroy.

*[Signature]*  
NOTARY PUBLIC, STATE OF TEXAS  
PRINTED NAME OF NOTARY

*Laura Shoberg*

MY COMMISSION EXPIRES:

12-12-00



04067 03300

AFTER RECORDING RETURN TO:

Patricia Miller  
5808 Lupton Drive  
Dallas, Texas 75225

PREPARED IN THE LAW OFFICE OF:

William M. Woodall, P.C.  
8201 Preston Road, Suite 280  
Dallas, Texas 75225

EXHIBIT "A"

## Legal Description

SITUATED in Collin County, Texas, in the BBB & C RR Survey, Abstract No. 130, being a resurvey of part of the 78.8 acres of land described in a deed from Leland Fleener and wife, Eugenia Fleener to James R. McIlroy and wife, Virginia McIlroy dated August 21, 1962, recorded in Volume 604, Page 165 of the Collin County Deed Records, being described by metes and bounds as follows:

BEGINNING at an iron pin found in the center of an east-west road named County Road No. 130, at the southwest corner of said 78.8 acre tract and the southeast corner of the Julia A. Lindley 6.000 acres of land, Ref. Doc. 93-0047281;

THENCE North 1 deg. 00 min. 39 sec. west, 591.28 feet with the west line of said 78.8 acre tract and the east line of said 6.000 acre tract and with a fence to an iron pin found at the northeast corner of said 6.00 acre tract and the southeast corner of the Bobby D. Upton 10.000 acres of land, Ref. Doc. 93-0095198;

THENCE North 1 deg 11 min 48 sec west, 551.51 feet with the west line of said 78.8 acre tract and the east line of said 10.000 acres tract and with a fence to an iron pin found at the northeast corner of said 10.000 acres tract and the southeast corner of the Hal D. Kenyon 10.000 acres of land, Ref. Doc. 95-0010604;

THENCE North 1 deg 00 min 18 sec west, 550.24 feet with the west line of said 78.8 acre tract and the east line of said Kenyon 10.000 acres and with a fence to an iron pin found at the northeast corner of said Kenyon 10.000 acres and the southeast corner of the Joe E. Stalling 6.000 acres of land, Ref. Doc. 93-0075959;

THENCE North 1 deg 13 min 34 sec west, 247.33 feet with the west line of said 78.8 acres tract and with the east line of said Stalling 6.000 acres and with a fence to an iron pin set at the northwest corner of said 78.8 acres tract and a southwest corner of the Patricia Deason 166.309 acres of land, Ref. Doc. 96-0036768;

THENCE easterly with the south line of said 166.309 acre tract and with a fence and with the north line of said 78.8 acre tract as follows:

South 89 deg 53 min 07 sec East, 805.93 feet;

South 89 deg 01 min 03 sec East, 707.23 feet;

South 89 deg 28 min 55 sec East, passing an iron pin found on the west side of County Road No. 132 at 245.56 feet and continuing in all 275.56 feet to an iron pin set in the center of said Road No. 132 at the northeast corner of said 78.8 acre tract and in the south line of said 166.309 acre tract and at the northwest corner of the Mark A. Martin 22.1045 acres of land, Ref. V. 3995, P. 493;

THENCE South 0 deg 36 min 36 sec east, 738.33 feet with the east line of said 78.8 acre tract and with the west line of said 22.1045 acre tract and with the center of said Road to an iron pin set at the northeast corner of a 2.466 acre tract, Ref. Doc. 94-0118133;

THENCE South 85 deg 39 min 33 sec west, with the north line of said 2.466 acre tract passing an iron pin found at 31.6 feet and continuing in all 397.27 feet to an iron pin found at the northwest corner of said 2.466 acre tract;

~~3969 1385~~

THENCE South 0 deg 55 min 12 sec east, 265.54 feet with the west line of said 2.466 acre tract to an iron pin found at the southwest corner of said 2.466 acre tract;

THENCE North 87 deg 26 min 11 sec east, with the south line of said 2.466 acre tract, passing an iron pin found at 364.23 feet and continuing in all 395.23 feet to an iron pin set at the southeast corner of said 2.466 acre tract, in the center of said County Road 132;

THENCE South 0 deg 36 min 38 sec east, 867.87 feet with the east line of said 78.8 acre tract and with the center of said Road No. 132 and with the west line of the Paul H. Martin 20.1045 acres of land, Ref. V. 3595, P. 481 to an iron pin set at the southeast corner of said 78.8 acre tract and the southeast corner of said Paul Martin tract, and in the south line of said BBB & C RR Survey, Abstract No. 130 and in the north line of the Mary Alice Helms Land, Ref. V. 460, P. 471;

THENCE South 89 deg 00 min 17 sec west, 1772.15 feet with the south line of said 788 acre tract and with said Road No. 130 and with said Survey Line and with the north line of said Helms Land to the PLACE OF BEGINNING and containing 75.947 acres of land.

04047 00302

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE  
DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND  
UNENFORCEABLE UNDER FEDERAL LAW (COUNTY OF COLLIN)  
(THE STATE OF TEXAS)  
I hereby certify that this instrument was filed in the Public Records on the date  
and the same is hereby acknowledged, in the Official Public  
Records of Real Property of Collin County Texas on

AUG 05 1997

*Helen Starnes*  
COUNTY CLERK, COLLIN COUNTY, TEXAS



Filed for Record in:  
COLLIN COUNTY, TX  
HONORABLE HELEN STARNES

On 1997/08/05

At 12:47P

Number: 97- 0068490  
Type : D1 15.00

CORRECTED EXHIBIT "A"  
(Corrected Legal Description)

01047 00303

Situated in Collin County, Texas, in the BBB & C RR Survey, Abstract No. 130, being a resurvey of part of the 78.8 acres of land described in a deed from Leland Fleener and wife, Eugenia Fleener to James R. McIlroy and wife, Virginia McIlroy dated August 21, 1962, recorded in Volume 604, Page 165 of the Collin County Deed Records, being described by metes and bounds as follows:

BEGINNING at an iron pin found in the center of an East-West rock road named County Road No. 130, at the Southwest corner of said 78.8 acre tract and the Southeast corner of the Julia A. Lindley 6.000 acres of land, Ref. Doc. 93-0047281;

THENCE North 1 degrees 00 minutes 39 seconds West, 591.28 feet with the West line of said 78.8 acre tract and the East line of said 6.000 acre tract and with a fence to an iron pin found at the Northeast corner of said 6.000 acre tract and the Southeast corner of the Bobby D. Upton 10.000 acres of land, Ref. Doc. 93-0095198;

THENCE North 1 degrees 11 minutes 48 seconds West, 551.51 feet with the West line of said 78.8 acre tract and the East line of said 10.000 acre tract and with a fence to an iron pin found at the Northeast corner of said 10.000 acre tract and the Southeast corner of the Hal D. Kenyon 10.000 acres of land, Ref. Doc. 95-0010604;

THENCE North 1 degrees 00 minutes 18 seconds West, 590.24 feet with the West line of said 78.8 acre tract and the East line of said Kenyon 10.000 acres and with a fence to an iron pin found at the Northeast corner of said Kenyon 10.000 acres and the Southeast corner of the Joe E. Stalling 6.000 acres of land, Ref. Doc. 93-0075959;

THENCE 0 degrees 03 minutes 45 seconds East, 247.22 feet with the West line of said 78.8 acre tract and with the East line of said Stalling 6.000 acres and with a fence to an iron pin found at the Northwest corner of said 78.8 acre tract and a Southwest corner of the Patricia Deason 166.309 acres of land, Ref. Doc. 96-0036768;

THENCE Easterly with the South line of said 166.309 acre tract and with a fence and with the North line of said 78.8 acre tract as follows:

South 89 degrees 53 minutes 17 seconds East, 800.37 feet;

South 89 degrees 01 minutes 03 seconds East, 707.23 feet;

South 89 degrees 28 minutes 55 seconds East, passing an iron pin found on the West side of County Road 132 at 245.56 feet and continuing in all 275.56 feet to an iron pin set in the center of said Road No. 132 at the Northeast corner of said 78.8 acre tract and in the South line of said 166.309 acre tract and at the Northwest corner of the Mark A. Martin 22.1045 acres of land, Ref. V. 3595, P. 493;

THENCE South 0 degrees 36 minutes 38 seconds East, 738.33 feet with the East line of said 78.8 acre tract and with the West line of said 22.1045 acre tract and with the center of said Road to an iron pin set at the Northeast corner of a 2.466 acre tract, Ref. Doc. 94-0108133;

THENCE South 85 degrees 39 minutes 33 seconds West, with the North line of said 2.466 acre tract passing an iron pin found at 31.6 feet and continuing in all 397.27 feet to an iron pin found at the Northwest corner of said 2.466 acre tract;

THENCE South 0 degrees 55 minutes 12 seconds East, 265.54 feet with the West line of said 2.466 acre tract to an iron pin found at the Southwest corner of said 2.466 acre tract;

THENCE North 87 degrees 26 minutes 11 seconds East, with the South line of said 2.466 acre tract, passing an iron pin found at 364.23 feet and continuing in all 395.23 feet to an iron pin set at the Southeast corner of said 2.466 acre tract, in the center of said County Road 132;

( Continued )

06067-00304

THENCE South 0 degrees 36 minutes 38 seconds East, 867.87 feet with the East line of said 78.8 acre tract and with the center of said Road No. 132 and with the West line of the Paul H. Martin 20.1045 acres of land, Ref. V. 3595, P. 481 to an iron pin set at the Southeast corner of said 78.8 acre tract and the Southeast corner of said Paul Martin tract, and in the South line of said BBB & C RR Survey, Abstract No. 130, and in the North line of the Mary Alice Helms Land, Ref. V. 460, P. 471;

THENCE South 89 degrees 00 minutes 17 seconds West, 1772.15 feet with the South line of said 78.8 acre tract and with said Road No. 130 and with said Survey line and with the North line of said Helms land to the PLACE OF BEGINNING and containing 75.931 acres of land, more or less.

UNOFFICIAL

ANY PROVISION WHICH WHICH IMPAIRS THE FULL EFFECT OF THE  
DECLARATION OF REAL PROPERTY INTERESTS OF COLLIN COUNTY, TEXAS AND  
THE STATE OF TEXAS  
I hereby certify that this instrument was filed in the Public Records of Collin  
County, Texas, on the 24th day of November, 1997, at the County Clerk's Office  
and the same instrument is on file in the Public Records of Collin County, Texas.

NOV 24 1997

*Helen Starnes*



Filed for Record in:  
COLLIN COUNTY, TX  
HONORABLE HELEN STARNES

On 1997/11/24

At 10:11A

Number: 97- 0099986  
Type : D1 19.00

**ATTACHMENT 2-C**

*File # 2500*  
*11-8-97*

MEMBERSHIP TRANSFER AUTHORIZATION

TRANSFEROR hereby surrenders Membership in the Gunter Rural WSC by execution of the attached Stock Certificate. Water service rights granted by Membership and other qualification hereby cease contingent upon further qualification of the Transferee in accordance with the policies of the Gunter Rural WSC.

By execution hereof, the undersigned hereby acknowledges that the Membership Transfer complies with the terms of one of the following items (1) through (4), thereby qualifying for transfer of Membership in accordance with the laws of the State of Texas.

- (1) The Membership is transferred by will to a person related to the Transferor within the second degree by consanguinity; or
- (2) The Membership is transferred without compensation to a person related to the Transferor within the second degree by consanguinity; or
- (3) The Membership is transferred without compensation or by sale to the Corporation; or
- (4) The Membership is transferred as a part of the conveyance of real estate from which the Membership arose.

Transferee understands that qualification for Membership is not binding on the Corporation and does not qualify the Member for continued water service unless the following terms and conditions are met:

- (1) This Membership Transfer Authorization Form is completed by the Transferor and Transferee;
- (2) The Transferee has completed the required Application packet;
- (3) All indebtedness due the Corporation has been paid;
- (4) The Membership Certificate has been surrendered, properly endorsed, by the record Transferor;
- (5) The Transferee demonstrates satisfactory evidence of ownership of the property designated to receive service and from which the Membership arose; and
- (6) Any other terms and conditions of the Corporation's Tariff are properly met.

  
Signature of TRANSFEROR

  
Signature of TRANSFEE

MEMBERSHIP TRANSFER AUTHORIZATION (CONT'D)

J. R. McIlroy  
Transferor's Name

Box 385  
Forwarding Address

CELINA TX 75009  
City, State, Zip Code

\_\_\_\_\_  
Phone #

Account Number 309

Final Reading \_\_\_\_\_ Date 10/31/97

Location of Meter: Corner of CR#130 & CR#132

A FEE OF \$25.00 IS CHARGED ON ALL TRANSFERS AND MUST ACCOMPANY THIS FORM.

\_\_\_\_ YES ☒ NO (check which applies)

Transferor may request a refund of the Membership Fee (\$100.00) and Transferee understands that he/she must place on deposit a refundable Membership Fee with the Corporation. (Check appropriate space if refund is requested by Transferor). (Refund will be made once Transferee has placed on deposit Membership Fee (\$100.00)).

ACKNOWLEDGMENT

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas  
Commission expires: \_\_\_\_\_

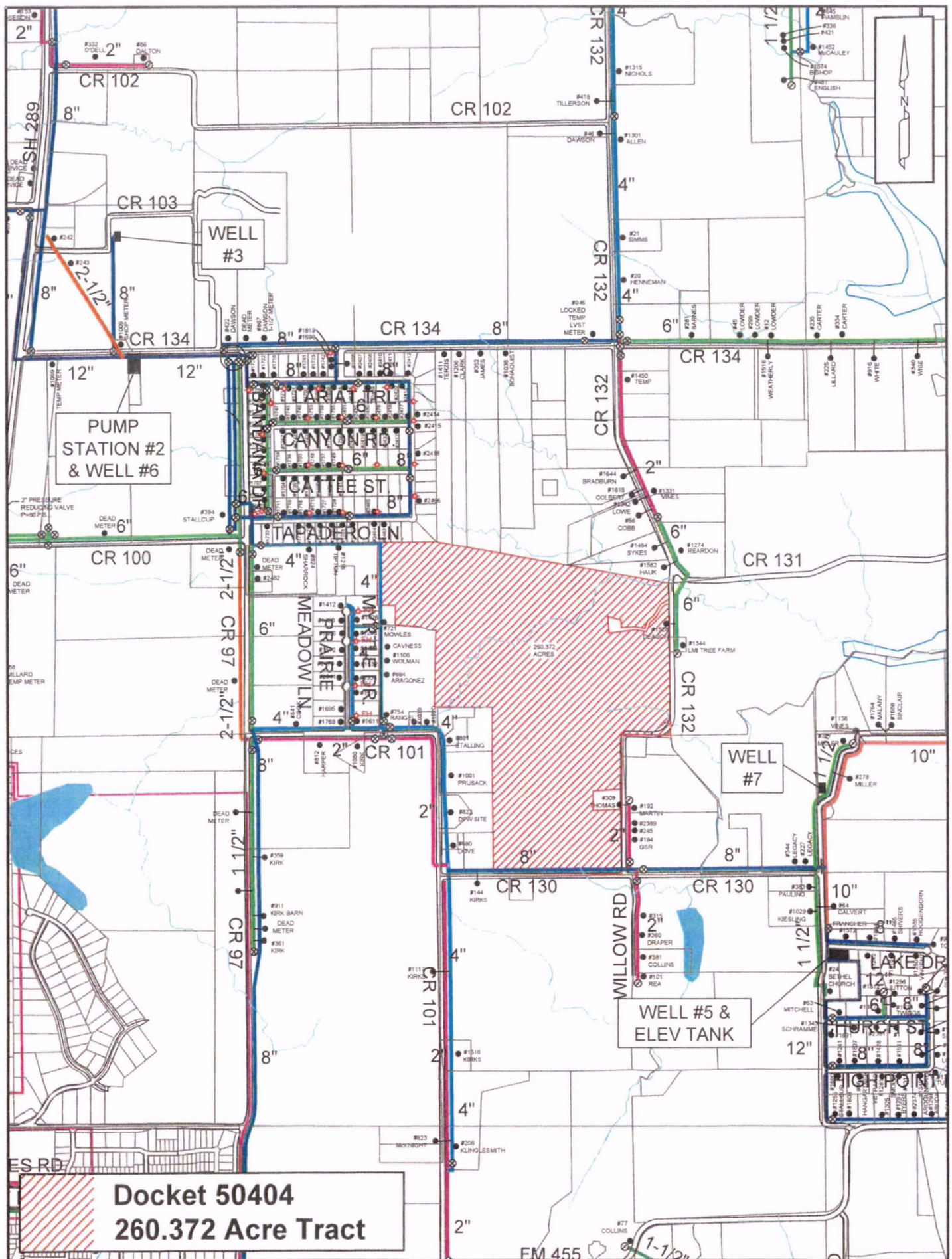
STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas  
Commission expires: \_\_\_\_\_



### **ATTACHMENT 3**





UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION

RIGHT OF WAY EASEMENT  
(General Type Easement)

KNOW ALL MEN BY THESE PRESENTS, that Jimmie Hardisty (hereinafter called "Grantors"), in consideration of one dollar (\$1.00) and other good and valuable consideration paid by Gianten Rural Water Supply Corporation (hereinafter called "Grantee"), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors, and assigns, a perpetual easement with the right to erect, construct, install and lay and thereafter use, operate, inspect, repair, maintain, replace, and remove water distribution lines and appurtenances over and across 21.289 acres of land, more particularly described in instrument recorded in Vol. #92-003465 Deed Records, Collin County, Texas, together with the right of ingress and egress over Grantors' adjacent lands for the purpose for which the above mentioned rights are granted. The easement hereby granted shall not exceed 15' in width, and Grantee is hereby authorized to designate the course of the easement herein conveyed except that when the pipe line(s) is installed, the easement herein granted shall be limited to a strip of land 15' in width the center line thereof being the pipe line as installed.

The consideration recited herein shall constitute payment in full for all damages sustained by Grantors by reason of the installation of the structures referred to herein and the Grantee will maintain such easement in a state of good repair and efficiency so that no unreasonable damages will result from its use to Grantors' premises. This Agreement together with other provisions of this grant shall constitute a covenant running with the land for the benefit of the Grantee, its successors, and assigns. The Grantors covenant that they are the owners of the above described lands and that said lands are free and clear of all encumbrances and liens except the following:

The easement conveyed herein was obtained or improved through Federal financial assistance. This easement is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the easement continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the Grantee owns it, whichever is longer.

IN WITNESS WHEREOF the said Grantors have executed this instrument this 13<sup>th</sup> day of November, 19 92.

Jimmie Don Hardisty

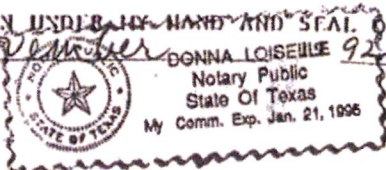
ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF Collin

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Jimmie Don Hardisty known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing instrument, and acknowledged to me that he (she) (they) executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 13<sup>th</sup> day of November, 19 92.

(Seal)



Donna Louise  
Notary Public in and for

721

93-0003816

## **ATTACHMENT 4**

Acc 1528

**GUNTER SPECIAL UTILITY DISTRICT  
SERVICE APPLICATION AND AGREEMENT**

Please Print:

DATE March 29<sup>th</sup>, 2004

APPLICANT'S NAME: Patricia Deason

CO-APPLICANT'S NAME \_\_\_\_\_

CURRENT BILLING ADDRESS:

10645 Lennox Lane  
Dallas TX 75229

FUTURE BILLING ADDRESS:

PHONE NUMBER - Home (214) 750 - 9797

Work ( ) \_\_\_\_\_

PROOF OF OWNERSHIP PROVIDED BY Warranty Deed

DRIVER'S LICENSE NUMBER OF APPLICANT \_\_\_\_\_

TX

LEGAL DESCRIPTION OF PROPERTY (Including name of road, subdivision with lot and block number): 9379 County Rd 132 Celina, TX 75009

ACREAGE 166

HOUSEHOLD SIZE 2500 sq. ft.

NUMBER IN FAMILY 1

LIVESTOCK & NUMBER

Cattle 20  
Horses 3  
Donkeys 2

SPECIAL SERVICE NEEDS OF APPLICANT: \_\_\_\_\_

**NOTE: FORM MUST BE COMPLETED BY APPLICANT ONLY. A MAP OF SERVICE LOCATION REQUEST AND A COPY OF DEED MUST BE ATTACHED.**

**THIS AGREEMENT** is between Gunter Special Utility District, a political subdivision of the State Of Texas (hereinafter called the District) and Patricia Deason (hereinafter call the Applicant and/or customer).

The District shall sell and deliver water and/or wastewater service to the Applicant and the Applicant shall purchase, receive, and/or reserve service from the District in accordance with the Service Policies of the District, as amended from time to time by the Board of Directors of the District. Upon compliance with said Policies, including payment of a deposit, the Applicant shall become eligible to receive service.

The Applicant shall pay the District for service hereunder as determined by the District's Service Policies and upon the terms and conditions set forth therein, a copy of which has been provided as an information packet, for which Applicant acknowledges receipt hereof by execution of this Agreement. A copy of this Agreement shall be executed before service may be provided to the Applicant.

The Board of Directors shall have the authority to discontinue, terminate or suspend the service to any customer not complying with any policy or not paying any utility rates, fees or charges as required by the District's published Service Policies. At any time service is discontinued, terminated or suspended, the District shall not re-establish service unless it has a current, signed copy of this agreement.

All water shall be metered by meters to be furnished and installed by the District. The meter and/or wastewater connection is for the sole use of the customer and is to provide service to only one (1) dwelling or one (1) business. Extension of pipe(s) to transfer utility service from one property to another, to share, resell, or submeter water to any other persons, dwellings, businesses, or property, etc., is prohibited.

The District shall have the right to locate a water service meter and the pipe necessary to connect the meter on the Applicant's property at a point to be chosen by the District, and shall have access to its meter and equipment located upon Applicant's premises at all reasonable and necessary times for any purpose connected with or in the furtherance of its business operations, and upon discontinuance of service the District shall have the right to remove any of its equipment from the Applicant's property. The Applicant shall install, at their own expense, any necessary service lines from the District's facilities and equipment to the point of applicant's use, including any customer service isolation valves, backflow prevention devices, pressure regulators, clean-outs, and other equipment as may be specified by the District. The District shall also have access to the Applicant's property for the purpose of inspecting for possible cross-connections, potential contamination hazards, illegal lead materials, and any other violations or possible violations of state and federal statutes and regulations relating to the federal Safe Drinking Water Act or Chapter 341 of the Texas Health & Safety Code or the District's Service Policies.

The District is responsible for protecting the drinking water supply from contamination or pollution which could result from improper practices. This service agreement serves as notice to each customer of the restrictions which are in place to provide this protection. The District shall enforce these restrictions to ensure the public health and welfare. The following undesirable practices are prohibited by state regulations:

- a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air gap or an appropriate backflow prevention assembly in accordance with state regulations.

- b. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the proper installation of an air gap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for annual inspection and testing by a certified backflow prevention device tester.
- c. No connection which allows condensing, cooling, or industrial process water to be returned to the public drinking water supply is permitted.
- d. No pipe or pipe fitting which contains more than 8.0 % lead may be used for the installation or repair of plumbing on or after July 1, 1988, at any connection which provides water for human consumption.
- e. No solder or flux which contains more than 0.2 % lead may be used for the installation or repair plumbing on or after July 1, 1988, at any connection which provides water for human consumption.

The District shall maintain a copy of this agreement as long as the Applicant and/or premises is connected to the public water system. The Applicant shall allow their property to be inspected for possible cross-connections, potential contamination hazards, and illegal lead materials. These inspections shall be conducted by the District or its designated agent prior to initiating service and periodically thereafter. The inspections shall be conducted during the District's normal business hours, except in emergencies.

The District shall notify the Applicant in writing of any cross-connections or other undesirable practices which have been identified during the initial or subsequent inspection. The Applicant shall immediately correct any undesirable practice on their premises. The Applicant shall, at their expense, properly install, test, and maintain any backflow prevention device required by the District. Copies of all testing and maintenance records shall be provided to the District as required. Failure to comply with the terms of this service agreement shall cause the District to terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Applicant.

In the event the total water supply is insufficient to meet the service needs of all of the District's customers, or in the event there is a shortage of water, the District may initiate the Emergency Rationing Program as specified in the District's Service Policies. By execution of this Agreement, the Applicant hereby agrees to comply with the terms of said program.

By execution hereof, the Applicant shall hold the District harmless from any and all claims for damages caused by service interruptions due to waterline breaks by utility or like contractors, tampering by other customers/users of the District, normal failures of the system, or other events beyond the District's control.

The Applicant shall grant to the District permanent recorded easement(s) dedicated to the District for the purpose of providing reasonable rights of access and use to allow the District to construct, maintain, replace, upgrade, parallel, inspect, test and operate any facilities necessary to serve that Applicant as well as the District's purposes in providing system-wide service for existing or future customers.


By execution hereof, the Applicant agrees that non-compliance with the terms of this agreement by said Applicant shall justify discontinuance, termination or suspension of service until such time as the violation is corrected to the satisfaction of the District.

Any misrepresentation of the facts by the Applicant on any of the four pages of this agreement shall result in discontinuance of service pursuant to the terms and conditions of the District's Service Policies.

(Please initial in the space below upon reading the following)

*BA* Applicant acknowledges that the District's water distribution system provides potable water for domestic consumption only and does not provide "fire flows" as defined by the Uniform Fire Code or similar code or regulation to fight structure fires.

SIGNED this the 29<sup>th</sup> day of March, 2004.

  
Signature of Applicant

---

For office use only

Accepted and Approved: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_



## Gunter Special Utility District

April 19, 2004

Patricia Deason  
10645 Lennox Lane  
Dallas, TX 75229

Re: water service request - CR# 132

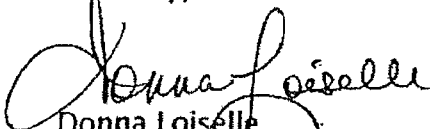
Dear Ms. Deason:

Your request for water service at 9379 CR# 132 has been approved by the engineer with the following recommendations; a county road bore with a service line crossing is necessary to establish service.

If you wish to go forward with your application please remit your payment of \$4600.00, this covers the connection fee, deposit and the road bore. You will also need to identify the meter location.

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

Sincerely,

  
Donna Loiselle  
General Manager

LMI LANDSCAPES, INC.  
CHECK NO.

000200425030

U25U3U

VENDOR NO. G390 NAME GUNTER SPECIAL UTILITY DIST. DATE Apr 30 04  
=====

INVOICE DATE	DESCRIPTION	GROSS AMT.	DISC. AMT.	NET AMT.
=====				

water svc. Request  
9379 CR #132  
Road bore & service line crossing

TOTAL 4,600.00 0.00 4,600.00

THIS DOCUMENT HAS A COLORED BACKGROUND AND A SIMULATED WATERMARK ON THE BACK

**LMI.**  
LANDSCAPES

LMI LANDSCAPES, INC.  
1437 HALSEY WAY  
CARROLLTON, TEXAS 75007-4410  
972-446-0020

TEXAS CAPITAL BANK  
Dallas, Texas

32-1797 / 1114

2004-

CHECK NO.  
025030

\*\*\*\*\* Four Thousand Six Hundred and 00/100 \*\*\*\*\*

DATE

Apr 30 04

AMOUNT

\$4,600.00

PAY  
TO THE  
ORDER  
OF

GUNTER SPECIAL UTILITY DIST.  
P.O. BOX 1017  
CELINA, TX

75009

AUTHORIZED SIGNATURE