



Control Number: 50543



Item Number: 52

Addendum StartPage: 0

DOCKET NO. 50543

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2021 APR 13 AM 9:12

APPLICATION OF SP UTILITY §
COMPANY, INC. TO AMEND ITS §
CERTIFICATE OF CONVENIENCE AND §
NECESSITY AND FOR DUAL § PUBLIC UTILITY COMMISSION
CERTIFICATION WITH DREW T. §
SPENCER D/B/A CYPRESSWOOD §
ESTATES IN MONTGOMERY COUNTY OF TEXAS

SP UTILITY COMPANY, INC.'s
RESPONSE TO COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION

TO THE PUBLIC UTILITY COMMISSION STAFF, by and through their attorney of record Justin Adkins, Legal Division, Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326.

COMES NOW, SP Utility Company, Inc. ("SP Utility") and submits this Response to the Public Utility Commission Staff's ("Commission Staff") Third Request for Information ("RFI") pursuant to Tex. R. Civ. P. 190 through 198 and 16 Tex. Admin. Code § 22.144 ("TAC"). Pursuant to 16 TAC § 22.144(c)(2)(F), these responses may be treated as if they were filed under oath.

Respectfully submitted,

Helen S. Gilbert
State Bar No. 00786263
BARTON BENSON JONES PLLC
7000 N. MoPac Expwy, Suite 200
Austin, Texas 78731
Telephone: (210) 640-9174
Telecopier: (512) 472-4014

By: _____

Helen S. Gilbert

Helen S. Gilbert

**ATTORNEYS FOR SP UTILITY
COMPANY, INC.**

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 13th of April 2021.

Helen S. Gilbert

Helen S. Gilbert

**RESPONSES TO COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION TO
SP UTILITY COMPANY, INC.
QUESTION NOS. STAFF 3-1 THROUGH 3-4**

Staff 3-1: Please provide the approval letter from the Texas Commission on Environmental Quality for the new distribution system to be installed by SP Utility to serve the customers in the area.

RESPONSE: *See Attachment A.* TCEQ approved the plans and specifications for the new Cypresswood Subdivision Water System on November 4, 2020. As indicated in SP Utility's response to Commission Staff's Second RFIs, however, TCEQ inadvertently assigned the PWSID number that corresponded to the old system. As of March 31, 2021, TCEQ has reissued the approval assigning new PWSID 700918 to SP Utility for the new system.

Staff 3-2: Admit or deny the new distribution system to be installed by SP Utility will replace the entire existing distribution system of Cypresswood Estates.

RESPONSE: Admit.

Staff 3-3: Admit or deny that once the new distribution system is installed, the customers being served by the new system will be charged the rates contained in SP Utility's current, approved tariff.

RESPONSE: Admit.

Staff 3-4: Admit or deny that SP Utility will submit an application to the Commission on behalf of Cypresswood Estates in order to cancel the certificate of convenience and necessity held by Cypresswood Estates, once all customers currently being served are fully served only by SP Utility.

RESPONSE: SP Utility can neither admit nor deny this request. Per Commission Staff's email of January 29, 2021, SP Utility was informed that Harrison Williams, either as owner of SP Utility or Temporary Manager of the Cypresswood Estates water system, did not "have the authority to relinquish another utility's CCN," that the CCN would "need to be relinquished by the CCN holder, or in this case, Brent Davis." *See Attachment B*, email correspondence of January 29, 2021 from Taylor Denison to Helen Gilbert. Notwithstanding Commission Staff's position, SP Utility believes Brent Davis will timely and willingly cancel the Cypresswood Estates' CCN.

ATTACHMENT A

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



PWS_1700918_CO_20210331_Plan Ltr

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY *Protecting Texas by Reducing and Preventing Pollution*

March 31, 2021

REVISED

Mr. Nathaniel C. Lail, P.E.
Water Engineers, Inc.
17230 Huffmeister Road, Ste. A
Cypress, TX 77429

Re: **Cypresswood Subdivision WS** - Public Water System (PWS) ID No. **1700918**
Proposed Water Plant
Engineer Contact Telephone: (281) 373-0500
Plan Review Log No. P-09042020-032R
Montgomery County, Texas

CN602478257; RN111212619

Dear Mr. Lail:

On September 4, 2020, the Texas Commission of Environmental Quality (TCEQ) received planning material for the proposed water plant. Based on our review, the project generally meets the minimum requirements of Title 30 Texas Administrative Code (TAC) Chapter 290 - Rules and Regulations for Public Water Systems and is **conditionally approved for construction** if the project plans and specifications meet the following requirement(s):

- The well location shall comply with Chapter 290.41(c)(1)(A-F) of the Rules with regard to separation distances from pollution hazards and the provision of a recorded sanitary control easement, deed or TCEQ approved exception to same.
- Certificate of Convenience and Necessity (CCN) required by SP Utility prior to charging for service.
- Corrosive indices will be used to calculate corrosivity of the water from new source(s). Corrosive or aggressive water could result in aesthetic problems, increased levels of toxic metals, and deterioration of household plumbing and fixtures. **If the water appears to be corrosive**, the system will be required to conduct a study and submit an engineering report that addresses corrosivity issues or may choose to install corrosion control treatment **before use may be granted**. All changes in treatment require submittal of plans and specifications for approval by TCEQ.

Texas Water Code Section 36.0015 allows for the creation of groundwater conservation districts (GCDs) as the preferred method of groundwater management. GCDs manage groundwater in many counties and are authorized to regulate production and spacing of water wells. **Public water systems drilling wells within an existing GCD are responsible for meeting the GCD's requirements.** The authorization provided in this letter does not affect GCD authority to manage groundwater or issue permits.

ATTACHMENT A

Mr. Nathaniel C. Lail, P.E.
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March 31, 2021

The design engineer or water system representative is required to notify the Plan Review Team in writing by fax at (512) 239-6972 or by emailing john.lock@tceq.texas.gov and cc: vera.poe@tceq.texas.gov at least 48 hours before the well casing pressure cementing begins. If pressure cementing is to begin on Monday, then they must give notification on the preceding Thursday. If pressure cementing is to begin on Tuesday, then they must give notification on the preceding Friday.

The TCEQ does not approve this well for use as a public water supply at this time. We have previously enclosed a copy of the "Public Well Completion Data Checklist (Step 2)".

The submittal consisted of engineering drawings, technical specifications and an engineering summary. **The proposed project consists of:**

- One (1) public water supply well drilled to 325 feet with 280 linear feet (lf) of 6.625-inch outside diameter (od) steel casing, pressure-cemented 280 lf; 40 lf of 4-inch id stainless steel screen; 20 lf of 4-inch id blank steel liner. The well is rated for 170 gallons per minute (gpm) yield with a 20 horsepower submersible pump. The design capacity of the pump is 170 gpm at 300 feet total dynamic head (tdh);
- One 86,000 gallon AWWA D103 bolted steel ground storage tank;
- Two 3,380 gallon ASME welded steel pressure tanks;
- Three 15 horsepower booster pumps rated at 419 gpm each at 125 feet tdh;
- Sodium hypochlorite disinfection;
- Intruder resistant fencing;
- 200 lf of 6-inch AWWA C900 DR18 PVC waterline.

This approval is for the construction of the above listed items only. Any wastewater components contained in this design were not considered. The authorization provided in this letter does not relieve a Public Water System from the need to comply with other applicable state and federal regulations.

The Cypresswood Estates public water system provides water treatment.

The project is located at 20414 Sanders Rd. in Montgomery County.

An appointed engineer must notify the TCEQ's Region 12 Office in Houston at (713) 767-3582 when construction will start. Please keep in mind that upon completion of the water works project, the engineer or owner will notify the commission's Water Supply Division, in writing, as to its completion and attest to the fact that the completed work is substantially in accordance with the plans and change orders on file with the commission as required in 30 TAC §290.39(h)(3).

Please refer to the Plan Review Team's Log No. **P-09042020-032R** in all correspondence for this project.

Please complete a copy of the most current Public Water System Plan Review Submittal form for any future submittals to TCEQ. Every blank on the form must be completed to minimize any delays in the review of your project. The document is available on TCEQ's website at the address shown below. You can also download the most current plan submittal checklists and forms from the same address.

<https://www.tceq.texas.gov/drinkingwater/udpubs.html>

ATTACHMENT A

Mr. Nathaniel C. Lail, P.E.
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March 31, 2021

For future reference, you can review part of the Plan Review Team's database to see if we have received your project. This is available on TCEQ's website at the following address:

<https://www.tceq.texas.gov/drinkingwater/planrev.html/#status>

You can download the latest revision of 30 TAC Chapter 290 - Rules and Regulations for Public Water Systems from this site.

If you have any questions, please contact John Lock at (512)239-4710 or by email at john.lock@tceq.texas.gov or by correspondence at the following address:

Plan Review Team, MC-159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Sincerely,



John Lock, P.E.
Plan Review Team
Plan and Technical Review Section
Water Supply Division
Texas Commission on Environmental Quality



Vera Poe, P.E., Team Leader
Plan Review Team
Plan and Technical Review Section
Water Supply Division
Texas Commission on Environmental Quality

VP/JL/av

cc: SP Utility, Inc. P.O. Box 690521, Houston, TX 77269

ATTACHMENT B

Holly Hendler

From: Helen Gilbert <hgilbert@gwtlaw.com>
Sent: Friday, April 9, 2021 10:50 AM
To: Helen Gilbert
Subject: Fwd: SP Utility



Gilbert Wilburn, PLLC
ATTORNEYS AT LAW

Helen S. Gilbert

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Begin forwarded message:

From: "Denison, Taylor" <Taylor.Denison@puc.texas.gov>
Subject: RE: SP Utility
Date: January 29, 2021 at 4:11:33 PM CST
To: Helen Gilbert <hgilbert@gwtlaw.com>, "Armstrong, Heath" <Heath.Armstrong@puc.texas.gov>
Cc: Harrison Williams <harrison.ftu@gmail.com>

Hi Helen,

We are wrapped up with a few other dockets today, but I wanted to get back to you before the weekend. We haven't yet conferred with our team on next steps here, but will let you know ASAP if we foresee any other questions or RFIs.

If approval in this docket is issued, I do not believe Harrison will have the authority to relinquish another utility's CCN, or at least I'm unaware of what would give him that authority. Off the top of my head, I assume the CCN would need to be relinquished by the CCN holder, or in this case, Brent Davis. I'm happy to talk more about this next week if necessary.

Thanks,
Taylor



Taylor P. Denison

Attorney – Legal Division

Public Utility Commission of Texas

W: (512) 936-7203 | taylor.denison@puc.texas.gov

From: Helen Gilbert <hgilbert@gwtxlaw.com>

Sent: Friday, January 29, 2021 2:34 PM

To: Armstrong, Heath <Heath.Armstrong@puc.texas.gov>; Denison, Taylor <Taylor.Denison@puc.texas.gov>

Cc: Harrison Williams <harrison.ftu@gmail.com>

Subject: SP Utility

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Heath & Taylor,

We are pleased with the Commission's decision today. Do you know of any reason - additional staff questions or requests for information - that would further slow down this amendment?

Also, I don't want to get too far ahead of ourselves but once issued, do you agree that Harrison as TM can relinquish the Drew T. Spencer CCN?

Please advise, thanks,

Helen



Gilbert Wilburn, PLLC
ATTORNEYS AT LAW

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