



## Filing Receipt

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**DOCKET NO. 50816**

<b>APPLICATION OF VINTON HILLS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ALEGRE, LLC AND VILLAGE OF</b>	<b>§</b>	
<b>VINTON FOR SALE, TRANSFER, OR</b>	<b>§</b>	<b>OF TEXAS</b>
<b>MERGER OF FACILITIES AND</b>	<b>§</b>	
<b>CERTIFICATE RIGHTS IN EL PASO</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**NOTICE OF APPROVAL**

This Notice of Approval addresses the application of Vinton Hills Alegre, LLC and Village of Vinton for the sale, transfer, or merger of facilities and certificate rights in El Paso County. The Commission approves the sale and transfer of all of Vinton Hills' water facilities and service area under water certificate of convenience and necessity (CCN) number 12563 to the Village of Vinton, the cancellation of Vinton Hills' water CCN number 12563, and the amendment of the Village of Vinton's water CCN number 13269 to include the area previously included in Vinton Hills' CCN.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Vinton Hills is a Texas limited liability company registered with the Texas secretary of state under file number 800704510.
2. Vinton Hills operates, maintains, and controls facilities for providing retail water service in El Paso county under CCN number 12563.
3. Vinton Hills owns three public water systems registered with the Texas Commission on Environmental Quality (TCEQ) under identification numbers 0710151, 0710169, and 0710172.
4. Village of Vinton is a municipality located in El Paso County.
5. Village of Vinton operates, maintains, and controls facilities for providing retail water service in El Paso County under CCN number 13269.

6. Village of Vinton owns a public water system registered with the TCEQ under identification number 0710050.

### **Application**

7. On May 5, 2020, Vinton Hills and Village of Vinton filed the application at issue in this proceeding.
8. On June 11, 2020, Vinton Hills and Village of Vinton filed an amendment to the application, clarifying that the requested area should be transferred into Village of Vinton's existing CCN number 13269.
9. Vinton Hills and Village of Vinton seek approval to transfer all of Vinton Hills' facilities and service area held under CCN number 12563 to Village of Vinton under water CCN number 13269. Vinton Hills' CCN number 12563 will be cancelled as a result of the transaction.
10. The requested area is located in downtown Village of Vinton, and is generally bounded on the north by Valley Chile Road; on the east by Lovena Road; on the south by Cap Carter Road; and on the west by State Highway 20.
11. The total requested area being transferred includes approximately 310 acres and 299 current customers in the Villa Alegre Estates, Vinton Hills subdivision, and Vinton Village Estates in El Paso County.
12. In Order No. 3 filed on July 6, 2020, the administrative law judge (ALJ) found the application administratively complete.

### **Notice**

13. On July 17, 2020, the applicants filed the affidavit of Christina Thompson, paralegal of Lloyd Gosselink Rochelle & Townsend, P.C., attorneys for Village of Vinton, attesting that notice was mailed to all current customers, neighboring utilities, and affected parties on July 13, 2020.
14. In Order No. 4 filed on August 18, 2020, the ALJ deemed the notice sufficient.

### **Evidentiary Record**

15. On October 20, 2020, Village of Vinton filed an agreed motion to admit evidence on behalf of all of the parties.

16. In Order No. 5 filed on October 23, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) applicants' application and confidential attachments filed on May 5, 2020; (b) applicants' amendment to the application filed on June 11, 2020; (c) Commission Staff's recommendation on administrative completeness and proposed procedural schedule filed on July 2, 2020; (d) applicants' proof of notice filed on July 17, 2020; (e) Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed on August 17, 2020; and (f) Commission Staff's recommendation on approval of the sale filed on September 16, 2020.
17. On July 30, 2021, Village of Vinton filed an agreed motion to admit evidence on behalf of all of the parties.
18. In Order No. 8 filed on August 3, 2021, the ALJ admitted the following additional evidence into the record of this proceeding: (a) Vinton Hills' and Village of Vinton's proof of closing filed on May 12, 2021; (b) Commission Staff's recommendation on the sufficiency of the closing documentation filed on May 27, 2021; (c) Village of Vinton's consent form filed on July 15, 2021; (d) Vinton Hills' consent form filed on July 19, 2021; and (e) the map and certificate attached to the parties' joint supplemental motion to admit evidence and proposed notice of approval filed on July 30, 2021.

### **Sale**

19. In Order No. 6 filed on October 23, 2020, the ALJ approved the sale and transaction to proceed and required Vinton Hills and Village of Vinton to file proof that the transaction had closed and that the customer deposits had been addressed.
20. On May 12, 2021, Vinton Hills and Village of Vinton filed notice that the sale had closed on April 19, 2021, and confirmed that there were no customers deposits to be addressed.
21. In Order No. 7 filed on May 28, 2021, the ALJ found the closing documents sufficient.

### **System Compliance**

22. Neither Vinton Hills nor Village of Vinton have been subject to any enforcement action by the Commission, TCEQ, Texas Department of State Health Services, the Office of the Attorney General, or United States Environmental Protection Agency in the past five years.

23. Neither Vinton Hills nor Village of Vinton have outstanding violations listed in the TCEQ database.
24. Village of Vinton has demonstrated a compliance status that is adequate for approval of the transaction.

**Adequacy of Existing Service**

25. Vinton Hills is currently providing water service to 299 customers in the requested area through its three public water systems and such service has been continuous and adequate.
26. Construction is not necessary to provide adequate service to the requested area at this time, but Village of Vinton is planning for future upgrades to the water system.

**Need for Additional Service**

27. There is a need for the 299 current customers to continue receiving water service in the requested area.
28. Village of Vinton has received no new requests for service and does not seek to include additional uncertificated area beyond the requested area.
29. The application transfers only existing facilities, customers, and service area.

**Effect of Approving the Transaction**

30. Vinton Hills and Village of Vinton are the only utilities affected by this transfer.
31. The requested area is already certificated and receiving service; therefore, there will be no effect on existing landowners.
32. Approving the transaction and granting the CCN amendment will obligate Village of Vinton to serve the approximately 299 current customers and to provide water service to any future customers in the requested area.
33. As a result of the transaction, Village of Vinton will be able to reduce its reliance on groundwater wells and instead obtain a more reliable water supply for public drinking water from El Paso Water Utilities through a wholesale purchase agreement.

**Ability to Serve: Managerial and Technical**

34. Vinton Hills' three public water systems currently serve the existing 299 customers in the requested area and have adequate capacity to meet the demands in the requested area.

35. Village of Vinton employs TCEQ-licensed operators who will operate the three additional water systems.
36. Village of Vinton has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the Texas Water Code (TWC), and the TCEQ's rules.
37. Village of Vinton has demonstrated the managerial and technical capability to provide continuous and adequate retail water service to the requested area.

**Feasibility of Obtaining Service from Additional Retail Public Utility**

38. The requested area is currently being served by Vinton Hills with existing facilities.
39. Notice was provided to utilities within a two-mile radius and no protests or requests to opt out were received regarding the proposed transaction.
40. It is not feasible for an adjacent utility or retail public utility to provide service to the requested area.

**Ability to Serve: Financial Ability and Stability**

41. Village of Vinton has a debt-to-equity ratio of less than one, satisfying the leverage test.
42. Village of Vinton has sufficient cash available to cover any projected operations and maintenance shortages during the first five years after completion of the proposed transaction, satisfying the operations test.
43. Village of Vinton has acquired a United States Department of Agriculture loan for future improvements to the water system and any additional improvements will be paid for through its budgeting process using project funds included in the budget.
44. Village of Vinton has demonstrated the financial capability and stability to provide continuous and adequate retail water service the requested area.

**Financial Assurance**

45. There is no need to require Village of Vinton to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity and Effect on the Land**

46. There will be no effect on environmental integrity or the land because the requested area is already receiving water service.
47. Village of Vinton plans future upgrades to the water system; however, the effect on environmental integrity and the land will be minimal during the upgrades and Village of Vinton has pledged to restore the disturbances to the land to substantially the same condition that existed before the upgrades.

**Improvement in Service or Lowering of Cost to Consumers**

48. The transaction will improve the current level of service by allowing for the installation of a looped water system and connecting customers to a more reliable water supply provided by El Paso Water Utilities under a wholesale purchase agreement.
49. Customers will continue to receive the same level of service as there will be no change in daily customer service and operations as a result of the proposed transaction.
50. No lowering of cost to customers in the requested area will result from approving the transaction.

**Regionalization or Consolidation**

51. Because the requested area will not require construction of a physically separate water system, consideration of regionalization or consolidation with another retail public utility is not required.

**Maps and Certificate**

52. On June 30, 2021, Commission Staff emailed the final proposed map and certificate related to this docket to Vinton Hills and Village of Vinton.
53. On July 15, 2021, Village of Vinton filed its consent to the proposed final map and certificate.
54. On July 19, 2021, Vinton Hills filed its consent to the final proposed map and certificate.
55. The final proposed map and certificate were attached to the parties' joint supplemental motion to admit evidence and proposed notice of approval filed on July 30, 2021.

**Informal Disposition**

56. More than 15 days have passed since the completion of notice provided in this docket.
57. No person filed a protest or motion to intervene.
58. Vinton Hills, Village of Vinton, and Commission Staff are the only parties to this proceeding.
59. No party requested a hearing and no hearing is needed.
60. Commission Staff recommended approval of the application.
61. The decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.242, 13.244, 13.246, 13.251, and 13.301.
2. Vinton Hills and Village of Vinton are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Vinton Hills and Village of Vinton provided notice of the application that complies with TWC §§ 13.246(a) and 13.301(a)(2) and 16 TAC §§ 24.235 and 24.239(a) through (c).
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
5. Vinton Hills and Village of Vinton have complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
6. Vinton Hills and Village of Vinton completed the sale within the time frame required by 16 TAC § 24.239(m).
7. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 25.227(e) and 24.239(h)(5), Village of Vinton demonstrated adequate financial, managerial, and

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<sup>1</sup> Tex. Gov't Code §§ 2001.001–.903.



technical capability for providing continuous and adequate service to the requested area as required by TWC § 13.301(b) and 16 TAC § 24.239(e).

8. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because the construction of a physically separate water system is not required.
9. It is not necessary for Village of Vinton to provide a bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
10. Vinton Hills and Village of Vinton demonstrated that the sale of Vinton Hills' water facilities and the transfer of the water service area held under CCN number 12563 from Vinton Hills to Village of Vinton will serve the public interest and is necessary for the for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).
11. Village of Vinton must record a certified copy of its certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of El Paso County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording, as required by TWC § 13.257(r) and (s).
12. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the sale and transfer of all of Vinton Hills' water facilities and service area under water CCN number 12563 to Village of Vinton, the cancellation of Vinton Hills' water CCN number 12563, and the amendment of Village of Vinton's water CCN number 13269 to include the facilities and service area previously included in Vinton Hills' water CCN number 12563, to the extent provided in this Notice of Approval.
2. The Commission approves the map attached to this Notice of Approval.
3. The Commission issues the certificate attached to this Notice of Approval.

4. Village of Vinton must provide service to every customer and applicant for service within the approved area under water CCN number 13269 that requests service and meets the terms of Village of Vinton's water service, and such service must be continuous and adequate.
5. Village of Vinton must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in El Paso County affected by the application and must file in this docket proof of the recording no later than 45 days after the date of this Notice of Approval.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**Signed at Austin, Texas the 9th day of August 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**GREGORY R. SIEMANKOWSKI**  
**ADMINISTRATIVE LAW JUDGE**

Village of Vinton  
Portion of Water CCN No. 13269  
PUC Docket No. 50816  
Transferred all of Vinton Hills Alegre, LLC., CCN No. 12563 in El Paso County



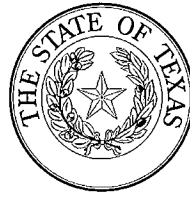
**Water CCN**



13269 - Village of Vinton

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# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **Village of Vinton**

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Village of Vinton is entitled to this

### **Certificate of Convenience and Necessity No. 13269**

to provide continuous and adequate water utility service to that service area or those service areas in El Paso County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50816 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Village of Vinton to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas the 9th day of August 2021.