



Control Number: 50961



Item Number: 16

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DOCKET NO. 50961

**APPLICATION OF NERRO SUPPLY, §
LLC AND UNDINE TEXAS §
ENVIRONMENTAL, LLC FOR SALE, §
TRANSFER OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN CHAMBERS AND HARRIS §
COUNTIES §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND PROPOSED NOTICE**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Supplemental Recommendation on Administrative Completeness and Proposed Notice. Staff recommends that the application be deemed administratively complete. In support, Staff shows the following:

I. BACKGROUND

On June 19, 2020, Nerro Supply, LLC (Nerro) and Undine Texas Environmental, LLC (Undine) (collectively, Applicants) filed an application for approval of the sale and transfer of facilities and certificate of convenience and necessity (CCN) rights in Chambers, Harris, and Liberty Counties. Undine, CCN No. 20816, seeks approval to acquire facilities and to transfer all of Nerro's sewer CCN No. 20366, cancel CCN No. 20366, decertify a portion of Gulf Coast Waste Disposal Authority's sewer CCN No. 20465, and add additional area to adjust CCN boundaries to properly cover the existing customers. The total area to be added to Undine's CCN No. 20816 is 344 acres and includes current customers. Applicants filed supplemental information on July 1, July 6, August 19, and August 20, 2020.

On July 23, 2020, the administrative law judge (ALJ) issued Order No. 2, which established a deadline of September 18, 2020 for Staff to file a supplemental recommendation on administrative completeness and proposed notice. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum of Patricia Garcia of the Commission's Infrastructure Division, Staff has reviewed the application, along with the supplemental information provided, and recommends that it be found administratively complete.

III. PROPOSED NOTICE

The Commission's notice requirements for sale, transfer, merger applications are provided by 16 Texas Administrative Code (TAC) § 24.239. Specifically, Staff recommends that Applicants be ordered to provide notice according to the attached memorandum of Ms. Garcia using the notices attached to this pleading. Along with each individual notice, Staff recommends that Applicants provide an accurate map delineating the requested service area.

Staff also recommends that Applicants publish notice once each week for two consecutive weeks in a newspaper of general circulation in the counties where the uncertificated requested area is located. Within 30 days of the provision of notice, Staff recommends that Applicants file proof of notice, including a copy of the map provided, as described in the attached memorandum and proof of newspaper publication, including tear sheets. Finally, it is recommended that Applicants use the attached affidavits to meet these requirements.

IV. PROPOSED PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule for the continued processing of this application:

Event	Date
Deadline for Applicants to file proof of notice, including signed affidavits that notice was provided along with a copy of the notice and map sent to the affected parties and published in a newspaper of general circulation	November 2, 2020
Deadline for Staff to file a recommendation on sufficiency of notice	November 12, 2020
Deadline to file a motion to intervene	30 days after notice is issued

V. REQUEST TO RESTYLE DOCKET

Staff respectfully requests that the docket be restyled to "*Application of Nerro Supply, LLC and Undine Texas Environmental, LLC for Sale, Transfer or Merger of Facilities and Certificate*

Rights in Chambers, Harris, and Liberty Counties.” This change properly reflects the counties in which the transaction contemplated in this docket will take place.

VI. CONCLUSION

For the reasons discussed above, Staff respectfully requests that the application be deemed administratively complete and that the proposed procedural schedule be adopted for further processing of the application.

Dated: September 18, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

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Managing Attorney

/s/ Merritt Lander
Merritt Lander
State Bar No. 24106183
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7290
(512) 936-7268 (facsimile)
Merritt.Lander@puc.texas.gov

DOCKET NO. 50961

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record on September 18, 2020 in accordance with the Order Suspending Rules issued in Project No. 50664.

/s/ Merritt Lander _____
Merritt Lander

Public Utility Commission of Texas

Memorandum

To: Merritt Lander, Attorney
Legal Division

From: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

Date: September 18, 2020

Subject: **Docket No. 50961**, *Application of Nerro Supply, LLC and Undine Texas Environmental, LLC for Sale, Transfer or Merger of Facilities and Certificate Rights in Chambers and Harris Counties*

On June 19, 2020, Undine Texas Environmental, LLC (Undine or Purchaser) and Nerro Supply, LLC (Nerro or Seller) (collectively, Applicants) filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Chambers, Harris, and Liberty Counties, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. Additionally, Undine is seeking to add additional area and decertify a portion of Gulf Coast Waste Disposal Authority's sewer certificate of convenience and necessity (CCN) No. 20465 in Chambers and Harris Counties, Texas pursuant to TWC §§ 13.242 to 13.250 and 16 TAC §§ 24.225 to 24.237.

Specifically, Undine, sewer CCN No. 20816, seeks approval to acquire facilities and to transfer the remaining portion of Nerro's sewer CCN No. 20366, cancel CCN No. 20366,¹ and decertify a portion of Gulf Coast Waste Disposal Authority's (Gulf Coast) sewer CCN No. 20465. Undine is also requesting adjustments to the CCN area to adjust borders to properly cover the customers served in the areas. The total area to be transferred from Nerro is approximately 111 acres; 32 of these acres are incorrectly reflected on Nerro's current sewer CCN map and need to be moved to the correct location. The total area to be certificated to Undine is 344 acres. This is comprised of 111 acres transferred from Nerro (including the 32-acre piece mentioned above that is incorrectly reflected on Nerro's current sewer CCN map and needs to be moved to the correct location), 218 acres decertified from Gulf Coast, and 47 acres previously uncertificated.

Staff from the Rate Regulation Division and Infrastructure Division have reviewed the additional information filed by the Applicants on August 19 and 20, 2020 and recommend that the application be deemed administratively complete. Staff further recommends that the Applicants be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
 - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
 - *Aqua Texas Inc (CCN No. 21065)*
 - *Baytown Area Water Authority*
 - *Chambers-Liberty Counties Navigation District*

¹ See docket No. 49382 for other subdivisions transferred.

- *City of Houston*
- *City of Jersey Village*
- *City of Mont Belvieu*
- *City of Old River-Winfree*
- *Coastal Water Authority*
- *CY Fair Community Improvement District*
- *Emerald Forest Utility District*
- *Gulf Coast Waste Disposal Authority (CCN No. 20465)*
- *H C M U D Inc (CCN No. 20641)*
- *Harris County Flood Control District*
- *Harris County Municipal Utility District (MUD) 6*
- *Harris County MUD 23*
- *Harris County MUD 25*
- *Harris County MUD 220*
- *Harris County MUD 261*
- *Harris County MUD 366*
- *Harris County Water Control & Improvement District 133*
- *North Harris County Regional Water Authority*
- *Northwest Harris County MUD 24*
- *Northwest Park MUD*
- *Port of Houston Authority*
- *Reid Road MUD 1 (CCN No. 20440)*
- *Reid Road MUD 2*
- *Rolling Fork Public Utility District*
- *Sunbelt Fresh Water Supply District (CCN No. 20347)*
- *Trinity @ Windfern LLC (CCN No. 21088)*
- *Trinity River Authority of Texas*
- *West Harris County MUD 1*
- *West Harris County MUD 9*
- *West Harris County MUD 10*
- *West Harris County MUD 11*
- *West Harris County MUD 21*
- *White Oak Bend MUD*
- *Windfern Forest Utility District*

- b. The county judge of each county that is wholly or partially included in the requested area:
- *Chambers County Judge*
 - *Harris County Judge*
 - *Liberty County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
- *Harris-Galveston Coastal Subsidence District*
- d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area that is uncertificated. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.

- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by the Applicants from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. Information related to districts including addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <http://www14.tceq.texas.gov/iwud/>.

- 2) Publish notice in a newspaper having general circulation in each county where the uncertificated requested area is located, once each week for two consecutive weeks. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, the Applicants must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.
- 4) Provide a copy of a map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
- 5) File in the docket a map and copy of notice along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to the Applicants. The Applicants will have 20 days from the receipt of the RFI to respond.

Notice to Current Customers, Neighboring Systems, and Cities

UNDINE TEXAS ENVIRONMENTAL, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 20816, NOTICE OF INTENT TO PURCHASE A PORTION OF THE SEWER FACILITIES AND TO TRANSFER SEWER SERVICE AREA UNDER CCN NO. 20366 FROM NERRO SUPPLY, LLC IN CHAMBERS, HARRIS, AND LIBERTY COUNTIES, TEXAS

To: _____ Date Notice Mailed: _____, 20____
(Name of Customer, Neighboring System, or City)

(Address)

(City State Zip)

Undine Texas Environmental, LLC 17681 Tegle Road Cypress, TX 77429
(Purchaser's Name) (Address) (City), (State) (Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase a portion of Nerro Supply, LLC's sewer facilities and to transfer sewer certificated service area under CCN No. 20366, in Chambers, Harris and Liberty Counties, TX from:

Nerro Supply, LLC P.O. Box 691008 Houston, TX 77269
(Seller's Name) (Address) (City), (State) (Zip Code)

The sale is scheduled to take place if approved by the Commission (V.T.C.A., Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivisions:

Maple Leaf Gardens

The requested area is located approximately 2 miles northeast of downtown Jersey Village, Texas, and is generally bounded on the north by Fox Road and Windfern Road; on the east by Windfern Road; on the south by Camelia Crest Lane; and on the west by Houston Oaks Drive. The total requested area includes approximately 124 acres and 188 current customers.

The area to be transferred from Nerro Supply LLC is approximately 79 acres.

The area to be amended/added is approximately 45 acres.

Woodland Acres

The requested area is located approximately 1 mile north of downtown Old River-Winfree, Texas, and is generally bounded on the north by Ridgewood Road; on the east by FM 1409 and Harmon Estates Road; on the south by Old River; and on the west by a line 1500' west of Shady Lane. The total requested area includes approximately 252 acres and 219 current customers.

The area to be transferred from Nerro Supply LLC is approximately 32 acres.

The area to be amended/added is approximately 220 acres. This includes the transferred area of approximately 32 acres that is to be moved to the correct location.

The area of Gulf Coast Waste Disposal Authority to be decertified is approximately 198 acres.

See enclosed map showing the requested areas

This transaction will not have an effect on the current customer's rates and services.

The requested areas overlap the district boundaries of West Harris County MUD 11. If West Harris County MUD 11 does not request a public hearing, the Commission shall determine that the district is consenting to Undine Texas Environmental, LLC's request to provide retail sewer utility service in the requested area.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

Utility Representative

Utility Name

Notice for Publication

UNDINE TEXAS ENVIRONMENTAL, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 20816, NOTICE OF INTENT TO PURCHASE A PORTION OF THE SEWER FACILITIES AND TO TRANSFER SEWER SERVICE AREA UNDER CCN NO. 20366 FROM NERRO SUPPLY, LLC IN CHAMBERS, HARRIS, AND LIBERTY COUNTIES, TEXAS

<u>Undine Texas Environmental, LLC</u>	<u>17681 Tegle Road</u>	<u>Cypress, TX</u>	<u>77429</u>
(Purchaser's Name)	(Address)	(City). (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase a portion of Nerro Supply, LLC's sewer facilities and to transfer sewer certificated service area under CCN No. 20366, in Chambers, Harris and Liberty Counties, TX from:

<u>Nerro Supply, LLC</u>	<u>P.O. Box 691008</u>	<u>Houston, TX</u>	<u>77269</u>
(Seller's Name)	(Address)	(City). (State)	(Zip Code)

The sale is scheduled to take place if approved by the Commission (V.T.C.A., Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivisions:

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The area to be transferred from Nerro Supply LLC is approximately 32 acres.

The area to be amended/added is approximately 220 acres. This includes the transferred area of approximately 32 acres that is to be moved to the correct location.

The area of Gulf Coast Waste Disposal Authority to be decertified is approximately 198 acres.

A copy of the map showing the requested area is available at: 17681 Telge Road, Cypress, Texas 77429

This transaction will not have an effect on the current customer's rates and services.

The requested areas overlap the district boundaries of West Harris County MUD 11. If West Harris County MUD 11 does not request a public hearing, the Commission shall determine that the district is consenting to Undine Texas Environmental, LLC's request to provide retail sewer utility service in the requested area.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

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Si desea información en español, puede llamar al 1-888-782-8477.

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, NEIGHBORING UTILITIES AND
AFFECTED PARTIES
DOCKET NO. 50961

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual
notice to the following entities and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is,
owner, member of partnership, title of officer of corporation, or other authorized representative of
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am
personally familiar with the notices given with this application, and have complied with all notice
requirements in the application and application acceptance letter; and that all such statements made
and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,
or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT DOCKET NO. 50961

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____,
who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____