

Control Number: 50962



Item Number: 14

Addendum StartPage: 0



DOCKET NO. 50962

**APPLICATION OF NERRO SUPPLY §
INVESTORS, LLC AND UNDINE §
TEXAS, LLC FOR SALE, TRANSFER §
OR MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN §
MONTGOMERY COUNTY §
§**

**PUBLIC UTILITY COMMISSION BY _____
OF TEXAS**

APPLICANTS' RESPONSE TO ORDER NO. 2

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Undine Texas, LLC ("Undine") and Nerro Supply Investors, LLC ("Nerro") file this Response to Order No. 2. In support thereof, Applicants state the following:

I. BACKGROUND

On June 19, 2020, Undine and Nerro filed with the Public Utility Commission of Texas ("Commission") an application for sale, transfer or merger of facilities and certificate rights in Montgomery County. On July 7, 2020, Undine and Nerro filed Applicants' First Amendment to Application. On July 20, 2020, Commission Staff filed its Recommendation of Administrative Completeness and Proposed Notice. On July 21, 2020, the Administrative Law Judge ("ALJ") issued Order No. 2, finding the application deficient and not administratively complete and directing Applicants to amend the application to cure the deficiencies noted by Commission Staff on or before August 20, 2020. Accordingly, this response is timely filed.

II. Supplemental Application Information Provided

In response to Order No. 2, Undine and Nerro hereby file the following information:

Deficiency – Application Content

1. Proof that Nerro's Annual Report has been filed with the Commission.

RESPONSE:

See Attachment 1 (Confidential).

14

2. From Nerro Supply, LLC's records, a detailed inventory listing each asset for each system to be transferred including the following:
 - a. Date placed in service,
 - b. Original cost of each asset, and
 - c. Accumulated depreciation associated with each asset.

RESPONSE:

See Attachment 2 (Confidential).

3. Legal Status:
 - a. A copy of Undine's Certification of Account Status from the Texas Comptroller.
 - b. Undine's Corporation Charter number for Texas.

RESPONSE:

See Attachment 3.

Undine's Charter Number is 802339329.

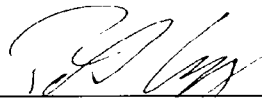
4. Active Violations — Proof all violations listed in the Texas Commission on Environmental Quality's databases have been returned to compliance or how they are being addressed by the Applicants.
 - a. Groundwater rule for Nerro.
 - b. All violations for Undine's public water systems.

RESPONSE:

- a. See Attachment 4a.
- b. See Attachment 4b.

Respectfully submitted,

DuBois, Bryant & Campbell, LLP

By: 

Peter T. Gregg
State Bar No. 00784174
303 Colorado, Suite 2300
Austin, Texas 78701
pgregg@dbcllp.com
(512) 457-8000
(512) 457-8008 (fax)

Attorneys for Undine Texas, LLC

CERTIFICATE OF SERVICE

I certify by my signature above that a true and correct copy of the foregoing document was served on the persons as indicated below on this the 19th day of August, 2020:

Daniel Moore
Public Utility Commission of Texas
Legal Division
1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
daniel.moore@puc.texas.gov

ATTACHMENT 1
NERRO SUPPLY, LLC 2019 PUC ANNUAL REPORT
CONFIDENTIAL

CONFIDENTIAL

DOCKET NO.: 50962

STYLE: Application of Nerro Supply Investors, LLC and Undine Texas, LLC for Sale, Transfer or Merger of Facilities and Certificate Rights in Montgomery County

SUBMITTING PARTY: Undine Texas, LLC

BRIEF DESCRIPTION OF CONTENTS: Attachment 1 - Nerro Supply, LLC 2019 PUC Annual Report

BATE STAMP OR SEQUENTIAL PAGE NUMBER RANGE: 5 to 21

ENVELOPE #: 1 OF 1

ADDITIONAL INFORMATION REQUIRED BY PROTECTIVE ORDER:

DATE SUBMITTED TO COMMISSION: August 19, 2020

ATTACHMENT 2

NERRO ASSET AND DEPRECIATION SCHEDULE

CONFIDENTIAL

CONFIDENTIAL

DOCKET NO.: 50962

STYLE: Application of Nerro Supply Investors, LLC and Undine Texas, LLC for Sale, Transfer or Merger of Facilities and Certificate Rights in Montgomery County

SUBMITTING PARTY: Undine Texas, LLC

BRIEF DESCRIPTION OF CONTENTS: Attachment 2 - Nerro Asset and Depreciation Schedule

BATE STAMP OR SEQUENTIAL PAGE NUMBER RANGE: 23 to 24

ENVELOPE #: 1 OF 1

ADDITIONAL INFORMATION REQUIRED BY PROTECTIVE ORDER:

DATE SUBMITTED TO COMMISSION: August 19, 2020

ATTACHMENT 3
UNDINE'S CERTIFICATE OF ACCOUNT STATUS



Franchise Tax Account Status

As of : 07/23/2020 12:54:52

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

UNDINE TEXAS, LLC

Texas Taxpayer Number 32058916225

Mailing Address 17681 TELGE RD CYPRESS, TX 77429-7080

Right to Transact Business in Texas ACTIVE

State of Formation DE

Effective SOS Registration Date 11/25/2015

Texas SOS File Number 0802339329

Registered Agent Name CORPORATION SERVICE COMPANY D/B/A CSC-LAWYERS INCO

Registered Office Street Address 211 E. 7TH STREET SUITE 620 AUSTIN, TX 78701

ATTACHMENT 4A
NERRO VIOLATIONS

Attachment 4a - Nerro Violations

| | System | ID | Violations Outstanding | Violation Name | Addressed | Resolved | Action |
|------------------|-------------------|-----------|------------------------|---|-----------|----------|--|
| DWW | Allendale | TX1700187 | #2016-60110281 | Monitor GWR Triggered/ Additional Major | Yes | No | Emailed TCEQ to verify |
| | Oaks Houston | TX0360126 | #2020-54 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2020-51 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2019-49 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2019-48 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2019-42 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2019-38 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2018-36 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2018-34 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2018-32 | MCL, LRAA - TTHM | Yes | No | Agreed Order |
| | | | #2018-28 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2017-27 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2017-25 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2017-23 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2017-15 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2017-16 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2016-12 | MCL, LRAA - TTHM | Yes | No | |
| | | | #2016-8 | MCL, LRAA - TTHM | Yes | No | |
| Central Registry | River Club | TX1700185 | 6/28/2017 | NOV- COD TCR Level 1 | Yes | No | DWW shows resolved |
| | Allendale | TX1700187 | 2/14/2020 | Failure to provide BFP record | Yes | No | Emailed TCEQ documentation on 6/3 |
| | Loch Ness | TX1700148 | 7/19/2019 | Failure to install 3-strand Barbed wire | Yes | No | Emailed TCEQ documentation on 8/12/19 & Resubmitted on 5/20/2020 - per inspector, to be resolved |
| | Loch Ness | TX1700148 | 7/19/2019 | Failure to provide well capacity per ACR | No | No | ACR reviewed- No change - Quotes being obtained to address well |
| | Lakewood | TX0210042 | 7/25/2019 | Failure to inspect interior of pressure tank | Yes | No | Emailed documentation to TCEQ on 5/27/2020 -Went to enforcement & addressed in order (resolved) |
| | Lakewood | TX0210042 | 7/25/2019 | Failure to maintain potable storage tanks | Yes | No | |
| | Oak Forest LWM | TX1980017 | 8/29/2017 | Failure to provide minimum GST capacity | Yes | No | Temporary ACR received |
| | Oak Forest LWM | TX1980017 | 3/27/2020 | Failure to inspect interior of pressure tank | Yes | No | Submitted plan to TCEQ for inspection- inspection needs completed |
| | Oak Forest LWM | TX1980017 | 3/27/2020 | Failure to provide capacity per temp ACR | Yes | No | Submitted request for review of ACR - TCEQ Doc ID 419153 |
| | Benchley Oaks | TX0210039 | 12/2/2016 | Failure to provide minimum pressure tank capacity | Yes | No | Temporary ACR for Capacity |
| | Whispering Woods | TX0260032 | 1/3/2020 | Failure to meet Secondary MCL for Manganese | Yes | No | Samples taken and analyzed to determine treatment options - system already using Poly |
| | Whispering Woods | TX0260032 | 1/3/2020 | Failure to meet Secondary MCL for Iron | Yes | No | Verified with TCEQ that orders are returned to compliance, pending receipt of notice of compliance |
| | Apache Hills | TX0260019 | 2/26/2019 | Agreed order - Docket 2018-0858-PWS-E | Yes | Yes | |
| | Somerville Place | TX0260021 | 3/16/2020 | Failure to provide minimum well capacity | | | Submitted to inspector copies of the capacity exception requests |
| | Somerville Place | TX0260021 | 3/16/2020 | Failure to provide minimum pressure tank capacity | Yes | No | submitted to TCEQ and the operator's plans to make necessary repairs to service lines at facility TCEQ Doc. ID 419194 |
| | Somerville Place | TX0260021 | 3/16/2020 | Failure to provide minimum service pump capacity | | | |
| | Somerville Place | TX0260021 | 3/16/2020 | Failure to maintain equipment | | | |
| | Lakeview NMO | TX0260010 | 2/3/2017 | Failure to maintain DCP | | | Documents submitted to inspector in response to EIF 7/23/20 |
| | Lakeview NMO | TX0260010 | 2/3/2017 | Failure to maintain flushing records | Yes | No | - Emailed Waco office to verify compliance or items needing resubmitted |
| | Lakeview NMO | TX0260010 | 2/3/2017 | Failure to collect samples per monitoring plan | | | |
| | Little Oak Forest | TX0260037 | 12/22/2017 | Failure to submit PN COD TTHM Qtr3 | Yes | No | COD Mailed 12/8/17 and emailed to TCEQ 1/8/2018, was a combined public notice - 7/23/20 emailed TCEQ to verify violation, pending response |
| | Little Oak Forest | TX0260037 | 12/22/2017 | Failure to submit PN COD TTHM Qtr4 | Yes | No | |
| | Little Oak Forest | TX0260037 | 4/17/2020 | Failure to provide an up-to-date DCP | Yes | No | Emailed DCP to Katelyn Mehringer- on 5/26, she stated issue will be resolved |

ATTACHMENT 4B
UNDINE VIOLATIONS

Undine Active TCEQ Violations

| RN Number | Regulated Entity Name | County | Active Violation | Comments |
|-------------|----------------------------------|----------|--|---|
| RN101175057 | BEAUMONT PLACE | HARRIS | Failure to either remove iron and manganese or demonstrate that the metals can be sequestered so that the discoloration problems they cause do not exist in the distribution system Failure to flush all dead-end mains at a monthly interval | Undine is using blended phosphate to mitigate the iron & manganese. Monthly dead-end main flushing is performed |
| RN101256535 | BRANDI ESTATES | BRAZORIA | Failure by a retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity | engineering and exception requests underway |
| RN101209054 | BRIAR MEADOWS | BRAZORIA | Failure to notify the executive director prior to making any significant change or addition to the system's treatment facilities | Documentation emailed to TCEQ 10/23/2019, 10/25/2019, and 7/23/2020 |
| RN101259596 | BUFFALO CREEK | JOHNSON | Failure to calibrate the meter on well #2 C1. Minor | Resolved per tceq central registry |
| RN101241081 | CASTLEWOOD SUBDIVISION | HARRIS | Failure to maintain all water storage facilities in a watertight condition Failure to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions The public water system's operating records must be accessible for review during inspections and be available to the executive director upon request | New GST installed New booster pumps installed Records available upon review |
| RN101270312 | COUNTRY ACRE ESTATES | BRAZORIA | Failure to protect Well No. 1, Source ID No. 0200274A with an intruder resistant fence with a locked gate or a locked, ventilated well house to exclude possible contamination or damage to the facility by trespassers Failure to protect Well No. 1, Source ID No. 0200274A with an intruder resistant fence with a locked gate or a locked, ventilated well house to exclude possible contamination or damage to the facility by trespassers Failure to have all electrical wiring installed in conduit near Well No. 1, Source ID No. G0200274A Failure to maintain copies of well completion data on file for as long as the well remains in service Failure to maintain accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank at the public water system until the facility is decommissioned | new fence new fence new pumphouse and electrical engineering and exception requests underway as built submitted 8/4/2020 |
| RN102679842 | CROWLEY II ACRE SUBDIVISION | JOHNSON | Failure to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions C4, Minor (3)(D) | Repair leaks and remove illegal connections |
| RN101192078 | DEMI JOHN I S WATER SYSTEM | BRAZORIA | TTHM LRAA MCL 3Q2019 - During the 3rd quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.119 mg/L at 25 Trout LN (DBP2-01) TTHM LRAA MCL 4Q2019 - During the 4th quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.123 mg/L at 25 Trout LN (DBP2-01) TTHM LRAA MCL 1Q2020 - During the 1st quarter of 2020 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.094 mg/L at 25 Trout LN (DBP2-01) | TTHM Levels below MCL for last three quarters 4Q2019, 1Q2020, 2Q2020 " " |
| RN101190361 | DEMI JOHN PLACE WATER SYSTEM | BRAZORIA | Failure to provide documentation of a sample tap for treated water on the ground storage tank (Plant 1) and pressure tank (Plant 2) Failure to provide documentation of a sample tap for treated water on the ground storage tank (Plant 1) and pressure tank (Plant 2) Failure to comply with the requirements established by the executive director to submit bacteriological samples from raw water sources Failure to comply with the requirements established by the executive director to submit bacteriological samples from raw water sources Failure to maintain well completion data for Well Number 1 (G0200185A) and Well Number 2 (G0200185B) Failure to maintain accurate and up-to-date as-built plans for the water system | Documentation submitted to TCEQ 4/16/2020 " Raw samples scheduled for monthly collection " engineering and exception requests underway engineering and exception requests underway |
| RN101275287 | GREENGATE ACRES SUBDIVISION | HARRIS | Failure to comply with the site-specific requirements for a public water system which has been granted an exception to a regulatory requirement Failure to design the PWS system to afford effective circulation of water with a minimum of dead ends. All dead end mains shall be provided with acceptable flush valves and discharge piping | Raw samples scheduled for monthly collection Review mapping and dead end mains with valves |
| RN101204303 | HEATHERGATE ESTATES | HARRIS | Failure of a system that uses groundwater or purchased water sources only and serves fewer than 250 connections and fewer than 750 people daily to monitor the distribution chlorine residual from various locations within the distribution system every seven days | Residuals scheduled for collection every seven days |
| RN101251627 | HIGHLAND MOBILE HOME SUBDIVISION | HARRIS | Failure to have an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies Failure to include the public water system's Sample Siting Plan as part of the monitoring plan | Review mapping and dead-end mains with valves submitted to TCEQ 6/12/2020 |
| RN101257301 | HIGHLAND RIDGE SUBDIVISION | HARRIS | Failure to have an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies Failure to collect a distribution residual at least every seven days | Review mapping and dead-end mains with valves Residuals scheduled for collection every seven days |

| | | | | |
|-------------|------------------------------------|------------|---|---|
| RN101280105 | JOHN DAME | JOHNSON | Failure to provide a minimum production capacity of 0.6 gallons per minute (gpm) per connection EIC C7 Min(3)(D) | Capital Project |
| RN101230100 | JOY VILLAGE | MONTGOMERY | Failure to comply with the site-specific requirements for a public water system which has been granted an exception to a regulatory requirement Failure to provide water system operating records during inspections | Raw samples scheduled for monthly collection Records available upon review |
| RN101225456 | LEE RIDGE SUBDIVISION | BRAZORIA | Failure to maintain the well completion data for Well Number 1 (G0200506A) in violation of 30 TAC §290.46(h)(3) Failure to notify the executive director in writing of the addition of treatment chemicals Failure to provide all pressure tanks with a pressure release device and an easily readable pressure gauge | engineering and exception requests underway engineering as-builts underway, including polyphosphate scheduled construction August 2020 |
| RN101231975 | MEADOWLAKE ESTATES | HARRIS | Failure to comply with the site-specific requirements for a public water system which has been granted an exception to a regulatory requirement | Collecting monthly raw samples as of April 2020 |
| RN101236081 | MOORELAND SUBDIVISION WATER SYSTEM | BRAZORIA | Failure to maintain an accurate and up-to-date map of the distribution system with mains and valves Failure to maintain copies of the well completion data as defined in §290.41(c)(3)(A) for as long as each well remains in service | Review mapping and dead-end mains with valves engineering and exception requests underway |
| RN101209922 | RESERVOIR ACRES SUBDIVISION | HARRIS | Failure to notify the executive director prior to making any significant changes to the storage facilities. | engineering plans submitted to TCEQ for approval |
| RN101256857 | RIVERSIDE ESTATES | BRAZORIA | Failure to notify the executive director prior to making any significant changes in the pressure maintenance facilities Failure to maintain copies of all well completion data for each well for as long as the well remains in service Failure to conduct interior and exterior inspections of the ground storage and pressure tanks | approval letter received from TCEQ regarding booster pumps 4-24-2020 engineering and exception requests underway scheduled for capital project and after Covid-19 subsides as it requires an outage |
| RN101180693 | ROSHARON ROAD ESTATES SUBDIVISION | BRAZORIA | Failure to develop and maintain an up to date system monitoring plan | Monitoring Plan will be updated by 9/1/2020 |
| RN101224541 | SNUG HARBOR SUBDIVISION | BRAZORIA | Failure to inspect the interior of a pressure tank at least once every five years | scheduled after Covid-19 subsides as it requires an outage |
| RN101252542 | SPRING FOREST SUBDIVISION | MONTGOMERY | Failure to monitor the distribution chlorine residual daily Failure to comply with the requirements established by the executive director in a granted exception. | Residuals scheduled for daily collection Raw samples scheduled for monthly collection |
| RN101217552 | SPRINGMONT SUBDIVISION | HARRIS | Failure to comply with the requirements established by the executive director in a granted exception | Raw samples scheduled for monthly collection |
| RN101279921 | SWEETGUM FOREST | MONTGOMERY | Failure to obtain approval by the Executive Director for a physical connection between the distribution system of a public drinking water supply and that of any other water supply. Failure to provide a minimum production capacity of 0.6 gallons per minute (gpm) per connection for purchase water systems | engineering and approval requests underway engineering and exception requests underway |
| RN101201127 | URBAN ACRES SUBDIVISION | HARRIS | Failure to comply with the established site-specific operation, maintenance, and reporting requirements for systems that have been granted an exception | Raw samples scheduled for monthly collection |
| RN101284453 | WILCO WATER | BRAZORIA | Failure to provide a housed enclosure for the hypochlorination solution container, to protect it from the adverse weather conditions. | Resolved, new pump house installed |