



Control Number: 51091



Item Number: 18

Addendum StartPage: 0

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FORMAL COMPLAINT OF	§	PUBLIC UTILITY COMMISSION
RIO ANCHO HOMEOWNERS	§	FILING CLERK
ASSOCIATION and DAVID AND	§	OF TEXAS
DOREEN MEYERS AGAINST	§	
AQUA TEXAS, INC.		

SECOND AMENDED FORMAL COMPLAINT

This Second Amended Formal Complaint ("Second Amended Complaint") is filed on behalf of the Rio Ancho Homeowners Association ("Rio Ancho") and its individual members, David and Doreen Meyers and the additional customers listed in attached Exhibit 1 (collectively, "Complainants"), showing the name of the account holder, their address and the Aqua Texas, Inc. account number for each customer. (See Exhibit 1.) Each of these individuals has been and is currently a customer of Aqua Texas, Inc. ("Aqua") in the Rio Ancho Subdivision. Rio Ancho has, on behalf of the listed individuals and other homeowners, interacted with Aqua in an effort over several years to resolve the service issues made the subject of this Second Amended Complaint. These efforts have not been successful. These customers have experienced chronic low pressure and several instances of loss of water service.

Summary of Second Amended Complaint

The Rio Ancho Subdivision (the "Subdivision") is currently comprised of approximately 151 homes on lots averaging an acre in size. Aqua is the retail water utility provider to all homes in the Subdivision. Nearly all homes have substantial landscaping and many homes have irrigation systems.

For years, homeowners in the Subdivision, including the individuals named in this Second Amended Complaint, have experienced repeated and chronic episodes of inadequate water pressure and entire loss of service for substantial periods of time. Numerous complaints have been

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filed with the Texas Commission on Environmental Quality (“TCEQ”) and, subsequent to its assuming jurisdiction, the Public Utility Commission (“PUC”). These service interruptions occurred even when Aqua imposed restrictions on water usage outlined in Aqua’s drought management plan, despite the fact no drought was occurring.

In an effort to resolve these issues with Aqua, Rio Ancho engaged this law firm to assist these homeowners in obtaining necessary improvements to the Aqua system required to provide the known demand requirements of this neighborhood. Rio Ancho hired an experienced, professional engineer to prepare a report outlining the deficiencies in the Aqua system and the needed improvements to meet the service requirements of the neighborhood. (See Exhibit 3.) This report was presented to Aqua. The report summarizes the instances when water service was either completely unavailable or the water pressure was so low that normal usage was prevented. In response to the years of service failures and this report, Aqua made some of the improvements outlined in the engineering report by Mr. Don Rauschuber. The limited improvements undertaken by Aqua were completed and functional in May, 2020.

Despite these limited improvements, the neighborhood and the individual Complainants have continued to suffer repeated instances of low water pressure and two separate instances of complete loss of service. The dates and times of these recent service failures are shown on the attached Exhibit 2. Aqua’s water system is inadequate to meet the known reasonable requirements of its customers in the Rio Ancho Subdivision.

Second Amended Formal Complaint

Since the limited improvements undertaken by Aqua were brought online, the resident customers of the Aqua system have experienced repeated instances of either extremely low pressure or loss of water service altogether. Low pressure complaints were registered on June 8,

June 11, July 3, July 6, and July 9, 2020. On June 11, 2020, there was a complete loss of water service and lack of pressure in the system and the customers were advised to boil water for a period of 48 hours after service was restored. It took hours for service to be restored to the system. The same loss of service occurred on July 14, 2020. (*See Exhibit 2.*)

In short, Rio Ancho and the individual residents/customers making this Second Amended Complaint have made every effort to work with Aqua to resolve these chronic service issues. While a portion of the needed improvements have been made, Aqua has refused to address the fundamental inability of the system to meet the known requirements necessary to provide reliable service to these customers.

To make matters worse, Aqua has consistently imposed usage restrictions authorized under its drought management plan when the conditions triggering such restrictions do not exist. The homeowners have been under, and largely compliant with, these drought plan restrictions for over a year, during which time no drought conditions as outlined in their plan exist. Aqua had placed the homeowner customers on the highest level of drought restrictions until the recent improvements were completed. Upon completion and operation of the improvements, Aqua reduced the drought restrictions to Level 1, again, even though no drought conditions existed. Aqua has now reimposed the most restrictive drought stage under its plan even though no drought conditions outlined in their plan exist. Aqua has improperly imposed its drought management plan restrictions to reduce consumption and avoid its responsibility to make the capital and operational improvements required to provide reliable service to Complainants.

Each time there is a failure of service, Aqua claims that the service failure was caused by excessive landscape watering. The reality is that the Aqua system is inadequate to meet the known requirements of this subdivision. The residents' outdoor water use is normal and predictable. The

residents' water use it neither wasteful nor excessive. Substantive Rule § 24.205(1) establishes that minimum standards for service must be met, but further provides that:

“Additional capacity shall be provided to meet the reasonable local demand characteristics of the service area, including reasonable quantities of water for outdoor usage and livestock.”

Aqua's system fails to meet this requirement.

Relief Requested

Attached to this Second Amended Complaint is the engineering report prepared by Don Rauschuber outlining the improvements that should be made to the system in order to meet historical and anticipated demand of these customers and avoid loss of service to these customers. Complainants seek an order from the PUC directing Aqua to identify and make system improvements necessary to meet the reasonable local demand in the Rio Ancho subdivision and to complete these improvements as rapidly as can be accomplished. Complainants also seek an order from the PUC directing Aqua to impose drought plan restrictions only when authorized by Aqua's drought management plan, and an order that the plan not be implemented in the future unless and until authorized by its drought management plan.

Respectfully submitted,



Russell S. Johnson
State Bar No. 10790550
MCGINNIS LOCHRIDGE LLP
600 Congress Ave., Ste. 2100
Austin, Texas 78701
Phone: (512) 495-6180
Fax: (512) 505-6380
rjohnson@mcginnislaw.com

ATTORNEYS FOR COMPLAINANTS
RIO ANCHO HOMEOWNERS ASSOCIATION
AND THE INDIVIDUAL CUSTOMERS LISTED
IN EXHIBIT 1, ATTACHED HERETO

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on counsel for Aqua Texas, Inc., as required by order or in accordance with 16 TEX. ADMIN. CODE § 22.74, on this 2nd day of February, 2021, as follows:

Rashmin Asher
Public Utility Commission of Texas
Legal Division
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
rashmin.asher@puc.texas.gov

Geoffrey P. Kirshbaum
Terrill & Waldrop
810 W. 10th Street
Austin, Texas 78701
gkirshbaum@terrilwaldrop.com



Russell S. Johnson

EXHIBIT 1 - COMPLAINANTS

<u>Name</u>	<u>Address</u>	<u>Aqua Account No.</u>	<u>Latest PUC Complaint No.</u>	<u>Phone No.</u>
Fracis T. Rossi	517 Buffalo Trail, Liberty Hill, TX 78642	0023994251434447		
James Justin Pogue	113 Quiet Oak Cove, Liberty Hill, TX 78642	2429950-1438690		
Julie Bowse	108 Pleasant Nest Place, Liberty Hill, TX 78642	0024172301438795		
Kenneth W. and Diana S. Cline	100 Wild Turkey Court, Liberty Hill, TX 78642	002399661 1328127	CP 2020060358	
David Amador	212 Lost Prairie Trl, Liberty Hill, TX 78642	0025286181460810		
Marshall Ault	308 Buffalo Trail, Liberty Hill, TX 78642	0023640541397763		
Chester and Virginia Jackson	103 Eagle Valley Lane, Liberty Hill, TX 78642	0021094551353705		
Eric Robinson	Group Three Builders - Multiple Properties			512-373-9893
Bruce and Sue Brown	803 Peasant Meadow, Liberty Hill, TX 78642	0023510101335922		
David & Doreen Meyers	103 Buffalo Trail, Liberty Hill, TX 78642	0025009841451166		
Casey and Ashlie Cobb	513 Buffalo Trail, Liberty Hill, TX 78642	0023994181432114		
Rob Myers	104 Cozy Oak Way, Liberty Hill, TX 78642	002439918-1445341		
Daniel & Andrea Winans	100 Golden Eagle Way, Liberty Hill, TX 78642	002568479 1470230		
Samuel Cox	201 Eagle Valley Lane, Liberty Hill, TX 78642	0023438241363029		
Jaime and Dustin Torres	102 Paloma Place, Liberty Hill, TX 78642	0023957391429181		

EXHIBIT 2 - WATER ISSUES

<u>Name</u>	<u>Street No.</u>	<u>Street Name</u>	<u>Issue Reported</u>	<u>Boil Water Notice</u>	<u>Date</u>	<u>Time A M / P M.</u>	<u>Comments</u>
Chelsea Williams	505	Golden Eagle Way	Low Pressure		06/08/20	All Day	
Bill Putorti	311	Buffalo Trail	Low Pressure	Boil water notice	06/11/20	6 00 a m	
Virginia Jackson	103	Eagle Valley Ln	Low Pressure	Boil water notice	06/11/20	6 30 a m	
Kevin Hay	400	Pheasant Meadow	Low Pressure	Boil water notice	06/11/20	6 00 a m	
David Meyers	103	Buffalo Trail	Low Pressure	Boil water notice	06/11/20	6 00 a m	
David Amador	212	Lost Prairie	Low Pressure	Boil water notice	06/11/20	4 00 a m	
Lou Ault	308	Buffalo Trail	Low Pressure	Boil water notice	06/11/20	10 45 a m	
Bruce	803	Pheasant Meadow	Low Pressure	Boil water notice	06/11/20	10 45 a m	
Joan Patton	101	Wild Turkey Ct	Low Pressure	Boil water notice	06/11/20	10 45 a m	
Kenneth Cline	100	Wild Turkey Ct	Low Pressure	Boil water notice	06/11/20	4 30 a m	
Bill Putorti	311	Buffalo Trail	No Water	Boil water notice	06/11/20	10 47 a m	
John Taliaferro	316	Buffalo Trail	No Water	Boil water notice	06/11/20	10 51 a m	
Nanette Swensen	504	Buffalo Trail	No Water	Boil water notice	06/11/20	10 30 a m	
Debra Carvalho	202	Rio Ancho	No Water	Boil water notice	06/11/20	10 30 a m	
Tom & Patricia Adrian	100	Cozy Oak Way	Low Pressure	Boil water notice	06/11/20	5 00 a m	
Tom & Patricia Adrian	100	Cozy Oak Way	No Water	Boil water notice	06/11/20	11 00 a m	
Deb Lohman	605	Pheasant Meadow	No Water	Boil water notice	06/11/20	11 00 a m	
Ann Bennett	528	Buffalo Trail	Low Pressure	Boil water notice	06/11/20	11 09 a m	
LeAnn DeHart	206	Rio Ancho	No Water	Boil water notice	06/11/20	10 30 a m	
Marshall Ault	308	Buffalo Trail	No Water	Boil water notice	06/11/20	11 09 a m	
Scott Magee	201	Rio Ancho	No Water	Boil water notice	06/11/20	11 14 a m	
Jennifer Knight	102	Wild Turkey Ct	No Water	Boil water notice	06/11/20	11 32 a m	
Frank Rossi	517	Buffalo Trail	Low Pressure	Boil water notice	06/11/20	11 28 a m	
Julie Bowse	108	Pleasant Nest Place	Low Pressure	Boil water notice	06/11/20	11 58 a m	
Shannon	100	Falcon Cove	No Water	Boil water notice	06/11/20	11 14 a m	
Robert Myers	104	Cozy Oak Way	No Water	Boil water notice	06/11/20	10 54 a m	
Cristi Payne	200	Rio Ancho	No Water	Boil water notice	06/11/20	10 45 a m	
Raela Bedford	100	Timberwolf Trace	No Water	Boil water notice	06/11/20		
Tammy Moederzoon	240	Rio Ancho Blvd	Low Pressure	Boil water notice	06/11/20		
Kelle Howard	101	Quiet Oak Cove	Low Pressure	Boil water notice	06/11/20	8 00 a m	
Eric Hanson	400	Buffalo Trail	No Water	Boil water notice	06/11/20		
Corey & Darla McKenna	104	Buffalo Trail	No Water	Boil water notice	06/11/20		
Virginia Jackson	103	Eagle Valley Ln	Low Pressure		07/03/20	8 00 a m	
John Taliaferro	316	Buffalo Trail	Low Pressure		07/06/20	9 30 p m	
Bill Putorti	311	Buffalo Trail	Low Pressure		07/06/20	8 00 p m	
Joan Patton	101	Wild Turkey Ct	Low Pressure		07/06/20	8 00 p m	
Kenneth Cline	100	Wild Turkey Ct	Low Pressure		07/06/20	8 00 p m	
Klint Carmickle	207	Rio Ancho Blvd	Loud Noise from pump		07/09/20	Constant	
David Meyers	103	Buffalo Trail	Low Pressure		07/09/20	9 00 p m	
Virginia Jackson	103	Eagle Valley Ln	Low Pressure		07/09/20	9 00 p m	Not enough pressure to raise the sprinkler heads
Gregg Wilde	606	Pheasant Meadow	Low Pressure		07/09/20	10 00 p m	Not enough pressure to raise the sprinkler heads could not water lawn for second time on their day
Debra Carvalho	202	Rio Ancho Blvd	Low Pressure		07/08/20	8 30 p m	
Jessica Saenz	2825	County Road 322	Low Pressure		07/09/20	9 08 p m	Not enough pressure to water on designated water day
Scott Magee	201	Rio Ancho Blvd	Low Pressure		07/09/20	9 09 p m	
John Taliaferro	316	Buffalo Trail	Low Pressure		07/09/20	9 11 p m	Cannot irrigate, can barely operate showers
Eddie McNeill	509	Buffalo Trail	Low Pressure		07/09/20	9 15 p m	
Kevin Hay	400	Pheasant Meadow	Low Pressure		07/09/20	9 15 p m	
Joan Patton	101	Wild Turkey Ct	Low Pressure		07/09/20	10 05 p m	
Bruce Brown	803	Pheasant Meadow	Low Pressure		07/09/20	10 05 p m	
Sid Lundy	101	Noble Log Grove	Low Pressure		07/09/20	10 06 p m	
Jennifer Polk	105	Rio Ancho Blvd	Low Pressure		07/09/20	All Evening	Too low to shower, much less water
Bill Putorti	311	Buffalo Trail	Low Pressure		07/09/20	9 30 p m	
Entire neighborhood		Not Applicable	No Water	Boil water notice	07/14/20		

EXHIBIT 3 - ENGINEER'S REPORT

TECHNICAL PRESENTATION
TO THE
RIO ANCHO HOMEOWNERS ASSOCIATION
REGARDING THE

RIO ANCHO WATER SYSTEM

OWNED AND OPERATED BY
AQUA TEXAS

PRESENTED BY
DONALD G. RAUSCHUBER, P.E.
DGRA, INC., AUSTIN, TEXAS

JANUARY 30, 2020

EXHIBIT 3 - ENGINEER'S REPORT

RIO ANCHO SUBDIVISION, LIBERTY HILL, TEXAS



EXHIBIT 3 - ENGINEER'S REPORT

LOCATION OF NO WATER AND
LOW-PRESSURE COMPLAINTS
IN 2018 (ORANGE) AND 2019
(RED)

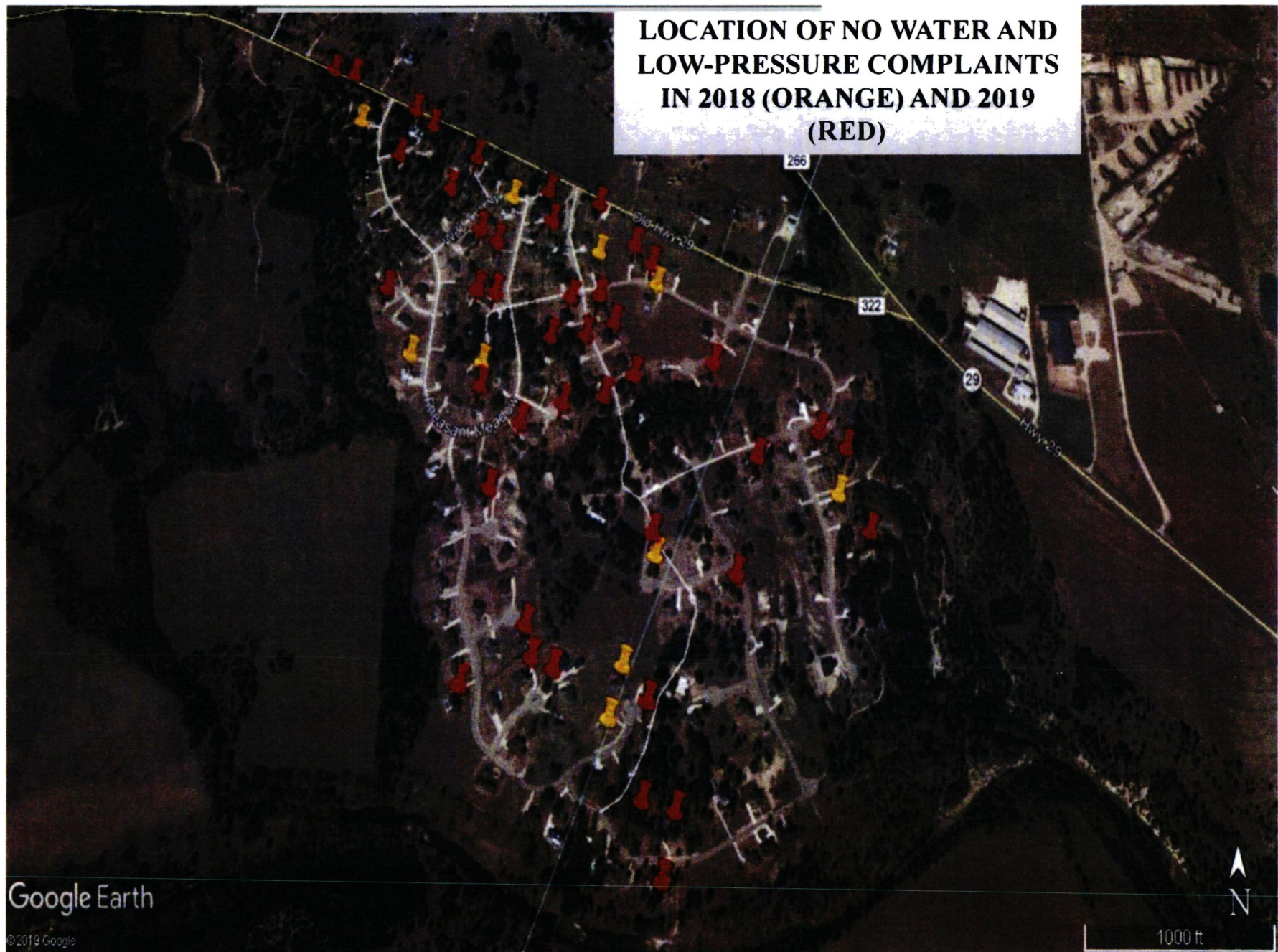


EXHIBIT 3 - ENGINEER'S REPORT

LOCATION OF RIO ANCHO WATER WELLS AND PUMP STATION



EXHIBIT 3 - ENGINEER'S REPORT

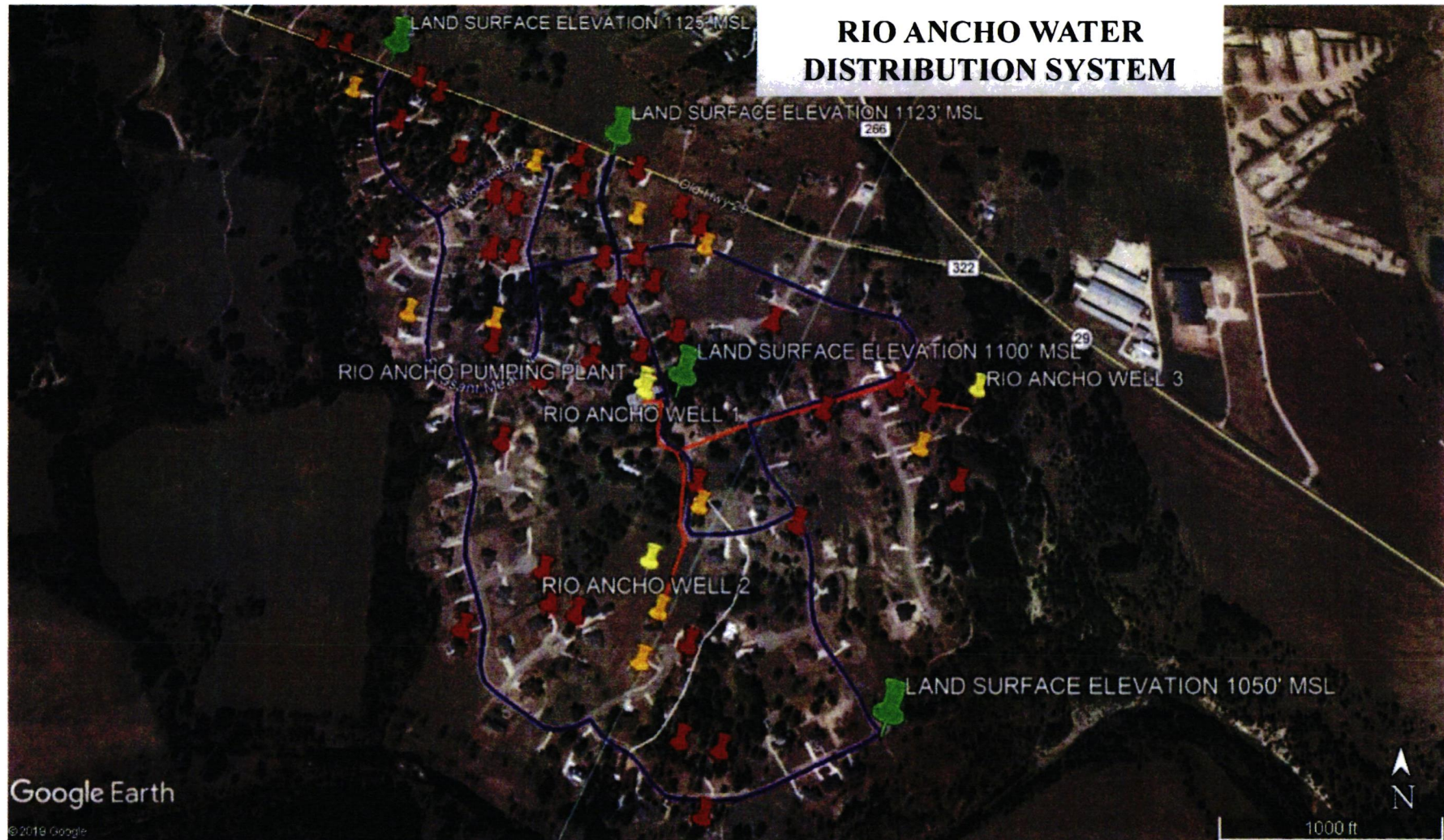


EXHIBIT 3 - ENGINEER'S REPORT

HOW THE RIO ANCHO WATER SYSTEM WORKS

EXHIBIT 3 - ENGINEER'S REPORT



EXHIBIT 3 - ENGINEER'S REPORT

WELL NO. 2

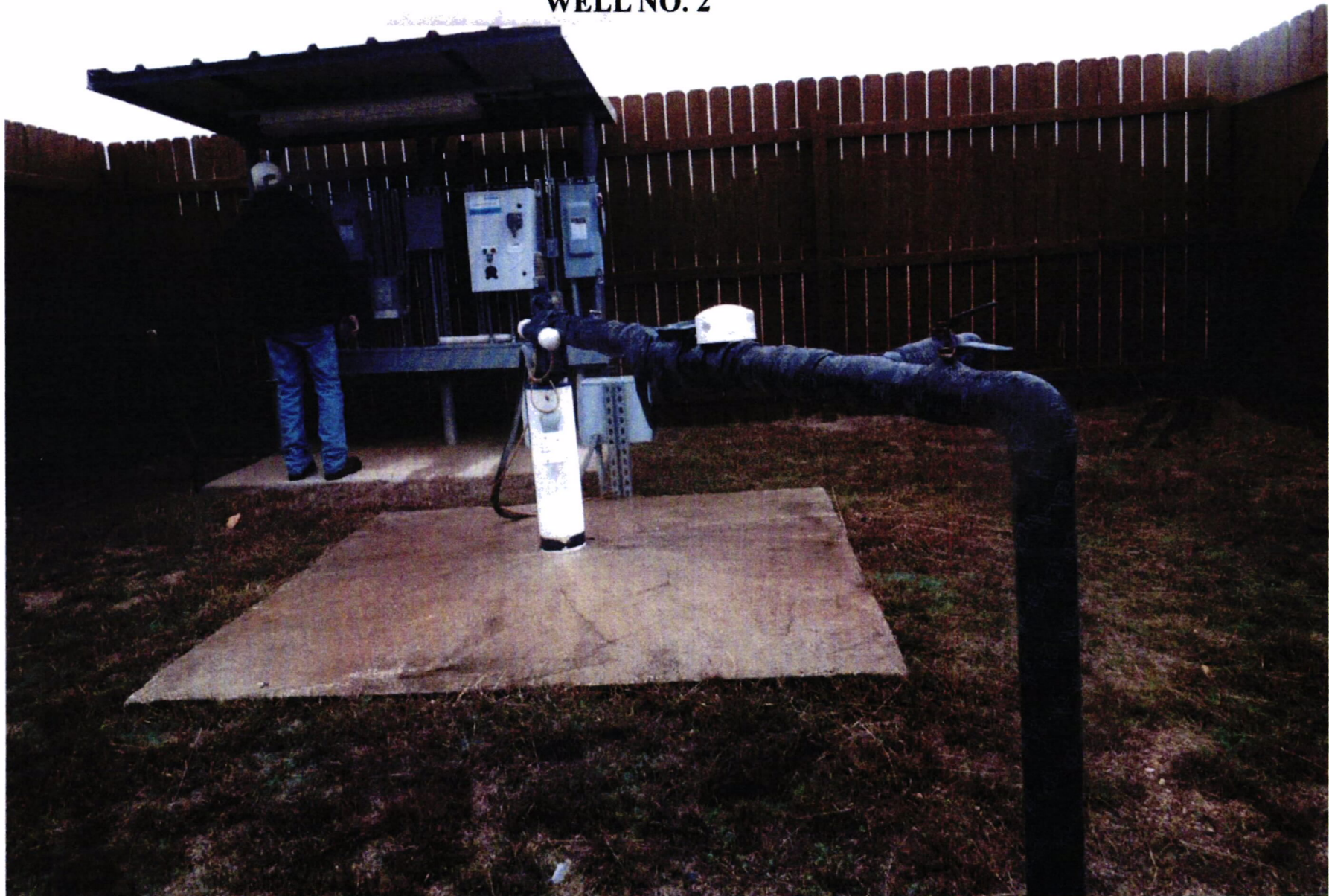


EXHIBIT 3 - ENGINEER'S REPORT



EXHIBIT 3 - ENGINEER'S REPORT

42,000 GALLON GROUND STORAGE TANK



EXHIBIT 3 - ENGINEER'S REPORT

WATER DISINFECTION SYSTEM

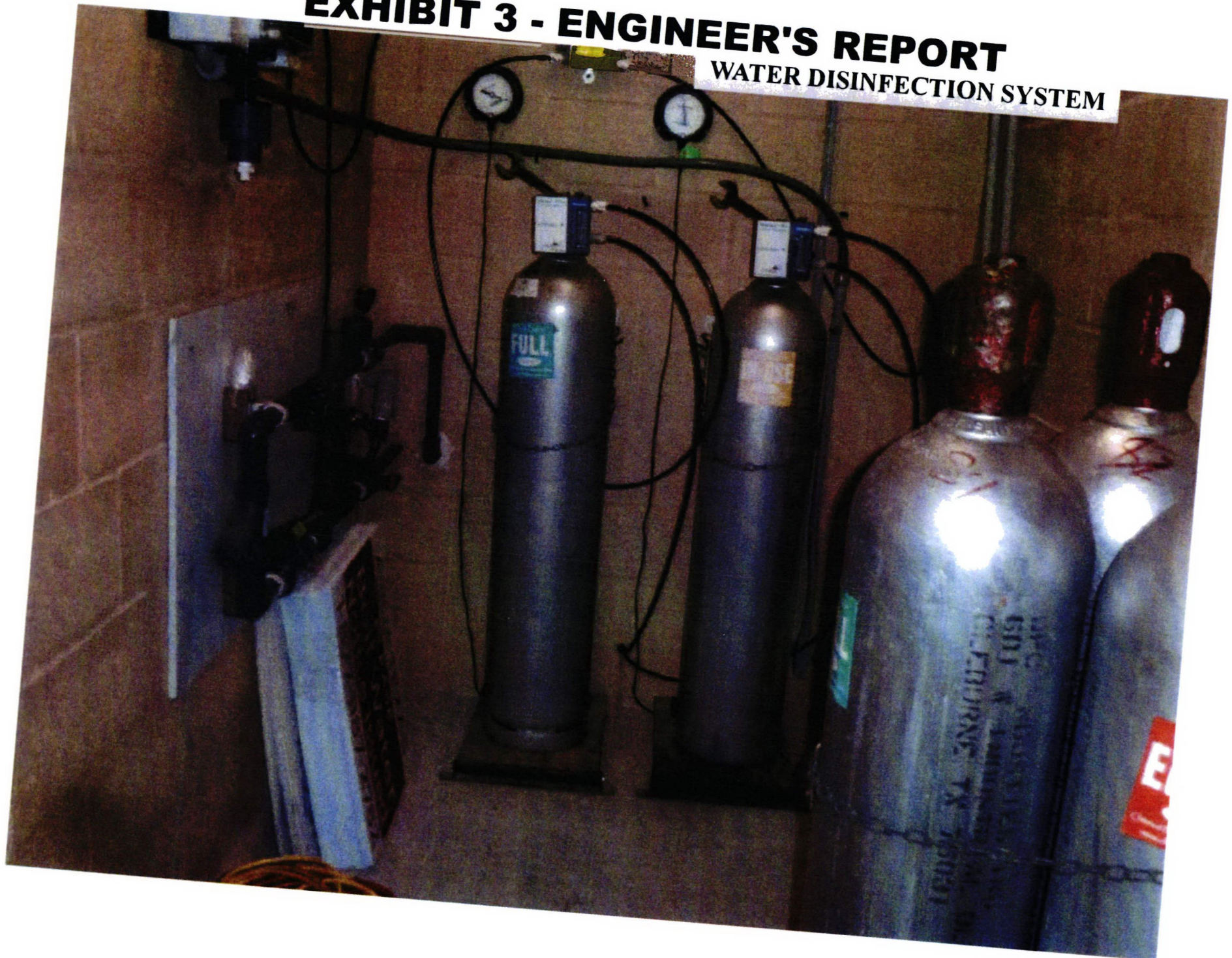


EXHIBIT 3 - ENGINEER'S REPORT

RIO ANCHO PUMP STATION



EXHIBIT 3 - ENGINEER'S REPORT

THREE WATER BOOSTER PUMPS



EXHIBIT 3 - ENGINEER'S REPORT

PUMP STATION CONTROL ROOM

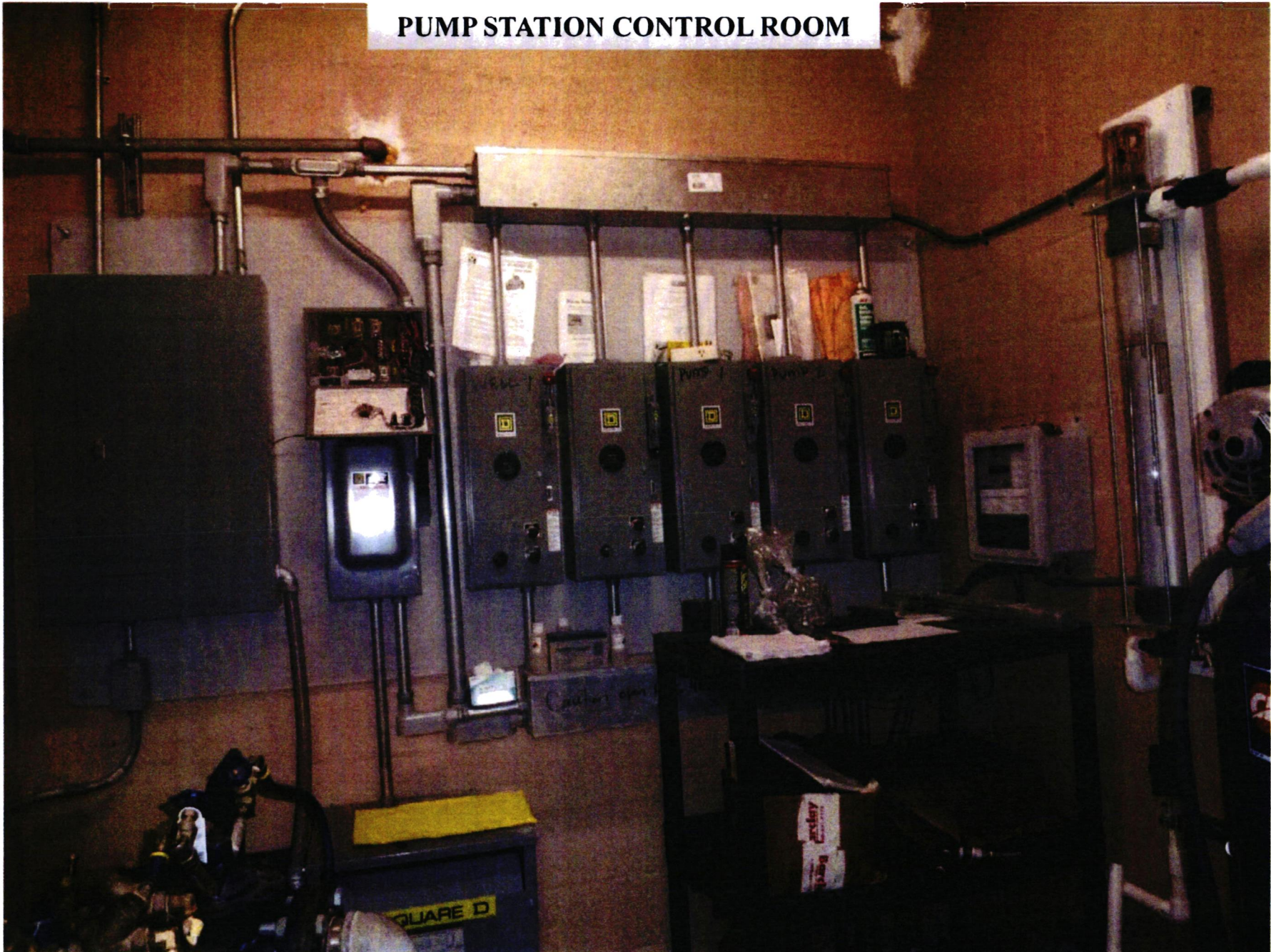


EXHIBIT 3 - ENGINEER'S REPORT

3,000 GALLON WATER PRESSURE TANK



EXHIBIT 3 - ENGINEER'S REPORT

AIR COMPRESSOR



EXHIBIT 3 - ENGINEER'S REPORT

RIO ANCHO WATER SYSTEM PRELIMINARY ANALYSIS

EXHIBIT 3 - ENGINEER'S REPORT

CHART 1
RIO ANCHO WATER PRODUCED AND WATER SOLD
IN CALENDAR YEARS 2018 AND 2019



EXHIBIT 3 - ENGINEER'S REPORT

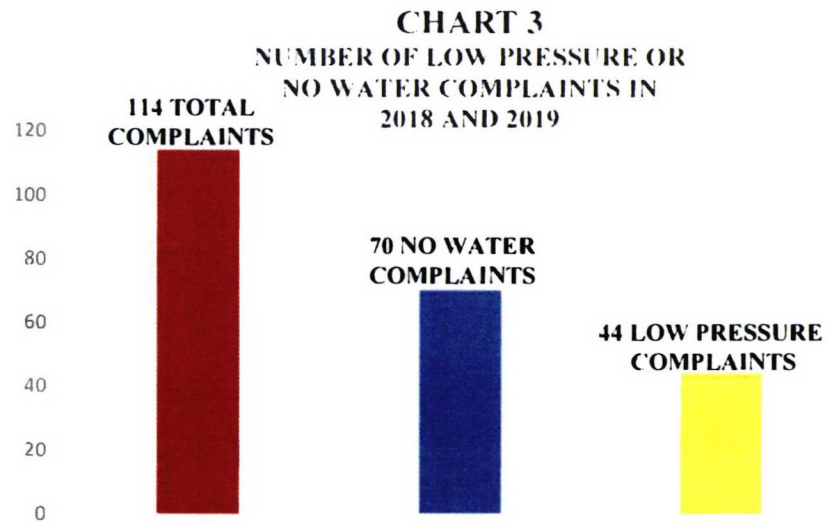
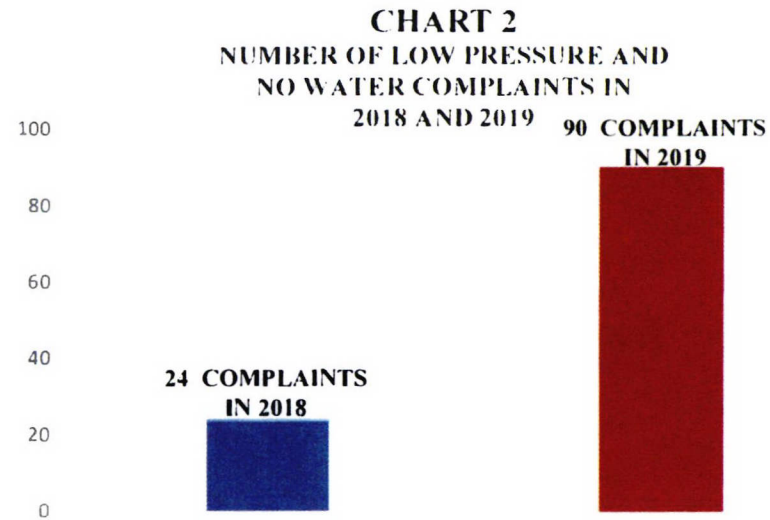


EXHIBIT 3 - ENGINEER'S REPORT

CHART 4
MONTHLY OCCURRENCE OF THE NUMBER OF
LOW PRESSURE AND NO WATER COMPLAINTS
2018 AND 2019

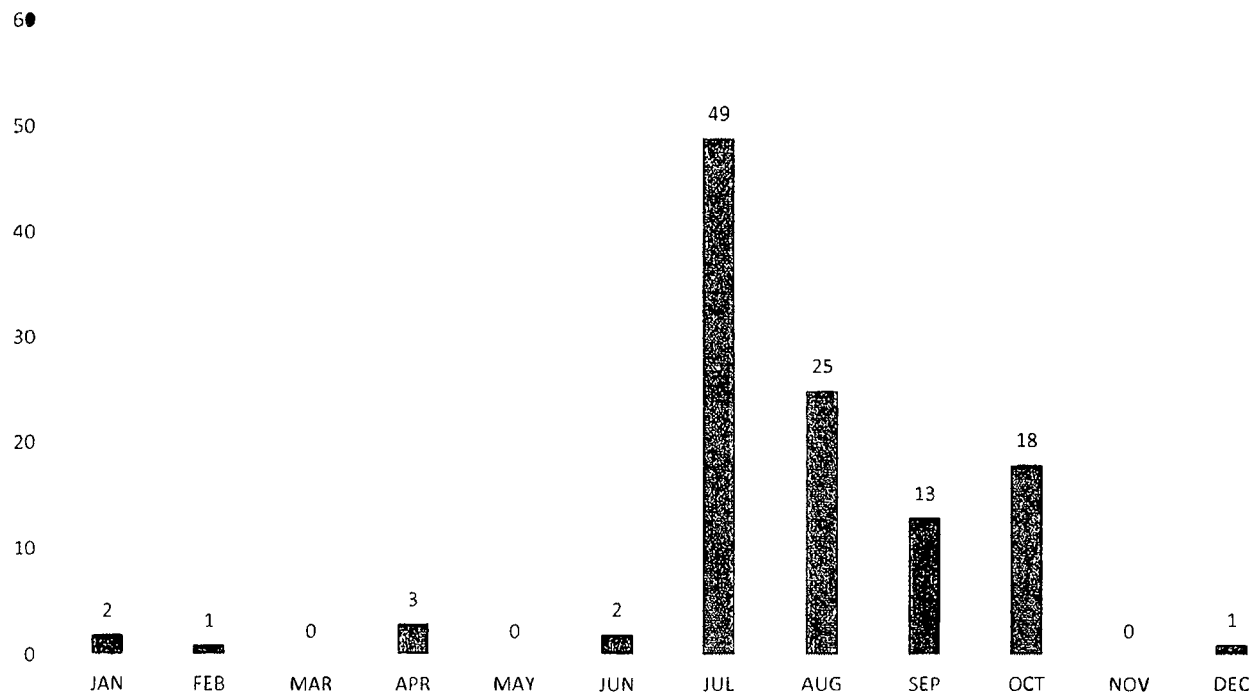


EXHIBIT 3 - ENGINEER'S REPORT

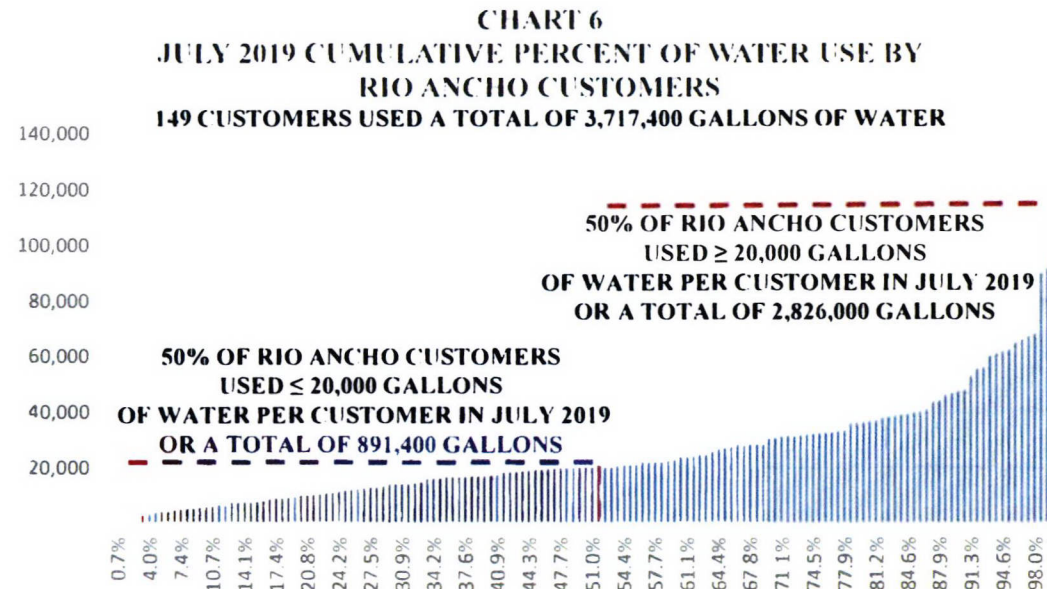
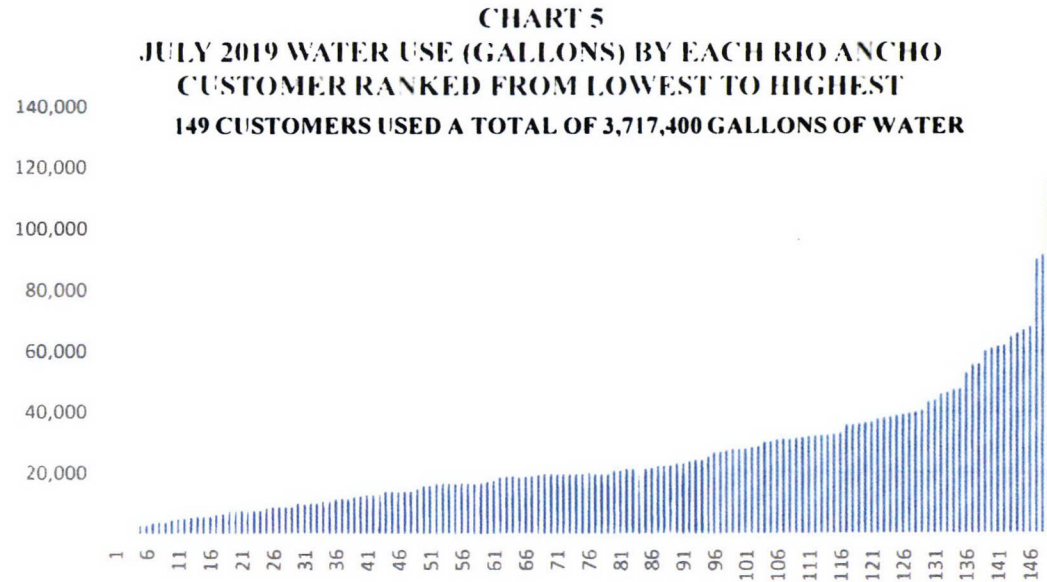


EXHIBIT 3 - ENGINEER'S REPORT

CHART 7
AUGUST 2019 WATER USE (GALLONS) BY EACH RIO ANCHO
CUSTOMER RANKED FROM LOWEST TO HIGHEST



CHART 8
AUGUST 2019 CUMULATIVE PERCENT OF WATER USE BY
RIO ANCHO CUSTOMERS

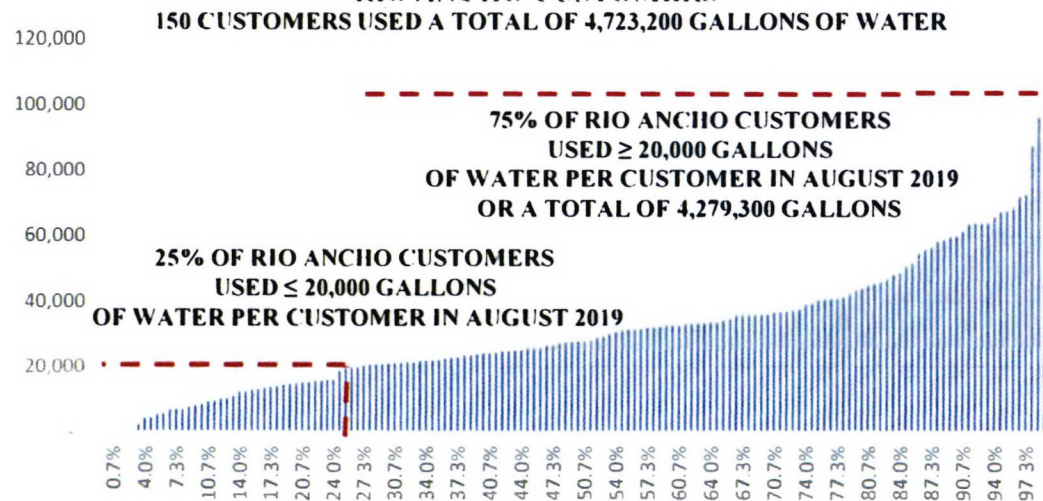


EXHIBIT 3 - ENGINEER'S REPORT

TABLE ONE

MASS BALANCE ANALYSIS (Δ STORAGE = Δ INFLOW - Δ OUTFLOW) BASED ON JULY 2019 RIO ANCHO WATER USE

A	B	C	D	E	G	H	I	J	K	L
JULY 2019 WATER USE (GALLONS)	NO. OF CUSTOMERS JULY 2019	GALLONS USE PER CUSTOMER	AVERAGE DAILY WATER USE PER CUSTOMER	GALLONS PER MINUTE PER CUSTOMER	TOTAL WATER PRODUCTION CAPACITY REQUIRED ON A DAILY BASIS (GALLONS PER MINUTE)	MAXIMUM DAY TO AVERAGE DAY RATIO 2.0 (GALLONS PER MINUTE)	PEAK HOUR TO MAXIMUM DAY RATIO 2.0 (GALLONS PER MINUTE)	RIO ANCHO WELL PRODUCTION CAPACITY (GALLONS PER MINUTE) (ASSUMING WELL PRODUCTION DOES NOT DECLINE AS A FUNCTION OF PUMPING TIME)	DIFFERENCE BETWEEN PEAK HOUR DEMAND AND RIO ANCHO WATER PRODUCTION CAPACITY (GALLONS PER MINUTE)	VOLUME OF GROUND STORAGE NEEDED OVER AN 8-HOUR PEAK PERIOD (GALLONS)
3,717,400	149	24,949	805	0.56	83.3	167	333	141	192	92,208

TABLE TWO

MASS BALANCE ANALYSIS (Δ STORAGE = Δ INFLOW - Δ OUTFLOW) BASED ON AUGUST 2019 RIO ANCHO WATER USE

A	B	C	D	E	G	H	I	J	K	L
AUGUST 2019 WATER USE (GALLONS)	NO. OF CUSTOMERS AUGUST 2019	GALLONS USE PER CUSTOMER	AVERAGE DAILY WATER USE PER CUSTOMER	GALLONS PER MINUTE PER CUSTOMER	TOTAL WATER PRODUCTION CAPACITY REQUIRED ON A DAILY BASIS (GALLONS PER MINUTE)	MAXIMUM DAY TO AVERAGE DAY RATIO 2.0 (GALLONS PER MINUTE)	PEAK HOUR TO MAXIMUM DAY RATIO 2.0 (GALLONS PER MINUTE)	RIO ANCHO WELL PRODUCTION CAPACITY (GALLONS PER MINUTE) (ASSUMING WELL PRODUCTION DOES NOT DECLINE AS A FUNCTION OF PUMPING TIME)	DIFFERENCE BETWEEN PEAK HOUR DEMAND AND RIO ANCHO WATER PRODUCTION CAPACITY (GALLONS PER MINUTE)	VOLUME OF GROUND STORAGE NEEDED OVER AN 8-HOUR PEAK PERIOD (GALLONS)
4,723,200	150	31,488	1,016	0.71	105.8	212	423	141	282	135,468

EXHIBIT 3 - ENGINEER'S REPORT

TABLE THREE

DRAFT - SUBJECT TO CHANGE

**TCEQ PUBLIC WATER SYSTEM MINIMUM CRITERIA AND RECOMMENDED DESIGN CRITERIA
BASED ON HISTORIC RIO ANCHO WATER USE TERNs**

USING TCEQ MINIMUM CRITERIA				PROVIDED CAPACITY AS OF JANUARY 2020		RECOMMENDED BUILDOUT DESIGN CRITERIA BASED ON RIO
MINIMUM CRITERIA	UNITS	FOR RIO ANCHO BUILDOUT OF 205 CONNECTION		RIO ANCHO		RIO ANCHO
0.6	GPM PER CONNECTION	123	GPM	128 GPM (Aqua Texas)	GPM	180 TO 200 GPM
200	GALLONS PER CONNECTION	41,000	GALLONS	42,000	GALLONS	120,000 TO 150,000 GALLONS
2.0	GPM PER CONNECTION	410	GPM	525 (Aqua Texas)	GPM	580 to 600 GPM
20 0	GALLONS PER CONNECTION	4,100	GALLONS	3,000	GALLONS	6,000 GALLONS