



## Filing Receipt

**Received - 2021-07-22 12:22:52 PM**  
**Control Number - 51091**  
**ItemNumber - 48**

**SOAH DOCKET NO. 473-21-0246.WS  
PUC DOCKET NO. 51091**

<b>COMPLAINT OF CERTAIN MEMBERS</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>OF RIO ANCHO HOMEOWNERS</b>	<b>§</b>	
<b>ASSOCIATION AGAINST AQUA</b>	<b>§</b>	<b>OF</b>
<b>TEXAS, INC.</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**COMMISSION STAFF'S RESPONSE TO AQUA'S  
FIRST REQUEST FOR INFORMATION  
QUESTION NOS. AQUA 1-1 THROUGH AQUA 1-14**

The Staff (Staff) of the Public Utility Commission of Texas (Commission) stipulates that the following response(s) to request(s) for information may be treated by all parties as if the answers were filed under oath.

Dated: July 22, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**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 via electronic mail on July 22, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664

/s/ Phillip Lehmann  
Phillip Lehmann

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**AQUA 1-1**

Please provide all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for Ms. Heidi Graham, Infrastructure Division, in anticipation of her testimony in this case on behalf of Commission Staff.

**RESPONSE:**

- Docket No. 51091, <http://interchange.puc.texas.gov/>
- Texas Water Code, Chapter 13,  
<http://www.puc.texas.gov/agency/rulesnlaws/statutes/PUCWaterStatutes2019.pdf>
- Title 16 of the Texas Administrative Code, Chapter 24,  
<http://www.puc.texas.gov/agency/rulesnlaws/subrules/water/CH24Complete.pdf>
- Title 30 of Texas Administrative Code (TAC), Chapter 290, Subchapter D,  
<https://www.tceq.texas.gov/assets/public/legal/rules/rules/pdflib/290d.pdf>
- Declaration of Covenants, Conditions, Easements & Restrictions, Rio Ancho Subdivision, Section I at 23 provided as HG-3 in Ms. Graham's testimony and also attached to this responsive document.

Prepared by: Heidi Graham and Counsel  
Sponsor: Heidi Graham

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**AQUA 1-2**

What are the demand characteristics Ms. Heidi Graham, Commission Infrastructure Division, is recommending Aqua expand its Rio Ancho Subdivision water system capacity to accommodate?

**RESPONSE:**

Ms. Graham's responsibilities at the Commission do not include the design of public water system facilities, therefore Ms. Graham is not recommending any specific design or system capacity. One of Ms. Graham's responsibilities is to interpret the Commission's rules and regulations and apply them to her assigned cases. In her testimony, Ms. Graham cites the Commission's rule, 16 TAC 24.205(1), that addresses the water system capacity required. The Commission's rule requires a retail public utility's water system to provide additional capacity beyond the Texas Commission on Environmental Quality's minimum standards to meet the reasonable local demand characteristics of the service area, including reasonable quantities of water for outside usage and livestock.

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**AQUA 1-3**                    If the demand characteristics Ms. Heidi Graham, Commission Infrastructure Division, is recommending Aqua expand its Rio Ancho Subdivision water system capacity to accommodate increase beyond those identified in Aqua 1-2, would Ms. Graham recommend Aqua expand that system's capacity yet again?

**RESPONSE:**            See response to AQUA 1-2.

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**AQUA 1-4**           Is there a limit to the demand characteristics Ms. Heidi Graham, Commission Infrastructure Division, would recommend Aqua expand its Rio Ancho Subdivision water system to accommodate? Please explain.

**RESPONSE:**       See response to AQUA 1-2.

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**AQUA 1-5**                      When would the demand characteristics for Aqua's Rio Ancho Subdivision water system become so unreasonable that Aqua would not need to expand the system's capacity to accommodate them?

**RESPONSE:**                See response to AQUA 1-2.

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**AQUA 1-6**                      Please describe what you consider "reasonable quantities of water for outside usage" with respect to Aqua's Rio Ancho Subdivision water system.

**RESPONSE:**                As outlined in Staff's response to Aqua 1-2, Ms. Graham does not recommend any specific system design or system capacity aside from recommending Aqua comply with 16 TAC 24.205(1), which requires a retail public utility's water system to provide additional capacity beyond the TCEQ minimum standards to meet the reasonable local demand characteristics of the service area, including reasonable quantities of water for outside usage and livestock. Ms. Graham notes that the Rio Ancho Subdivision deed restrictions' requires that all residences have well maintained hydro-mulched or sodded yards and that complying with the deed restrictions would be a reasonable usage of water.<sup>1</sup>

Prepared by: Heidi Graham and Counsel  
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<sup>1</sup> See, <http://countyclerk.burnetcountytexas.org/RealEstate/SearchDetail.aspx> at Instrument # 200808933 (last visited July 21, 2021)

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**AQUA 1-7**

Please describe what factors and methods the Commission utilizes to determine what constitutes "reasonable quantities of water for outside usage" for purposes of 16 TAC § 24.205(1), including but not limited to whether and how water availability, conservation planning, regulatory restrictions, groundwater withdraw limitations, and hydrogeologic conditions are considered.

**RESPONSE:** See response to AQUA 1-2.

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Sponsor: Heidi Graham

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**AQUA 1-8**                      Please provided any documents used for Commission Staff's analysis of what constitutes "reasonable quantities of water for outside usage" for purposes of 16 TAC § 24.205(1) in this case.

**RESPONSE:**                See response to AQUA 1-2.

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**AQUA 1-9**

Are water use restrictions in hot summer months reasonable for a retail public utility to impose on its customers? If so, what watering schedule options would you consider reasonable.

**RESPONSE:**

No. 16 TAC § 24.205(2) authorizes a retail public utility such as Aqua to temporarily limit water usage using its drought contingency plan (DCP) in cases of drought, periods of abnormally high usage, or extended reduction in ability to supply water due to equipment failure, or to comply with a state agency or court order on conservation or other reasons identified in the utility's approved DCP. However, unless specifically authorized by TCEQ, a retail public utility may not use water use restrictions in lieu of providing facilities that meet the minimum capacity requirements of TCEQ's rules, 30 TAC Chapter 290 (relating to Public Drinking Water), or reasonable local demand characteristics during normal use periods, and may not use water use restrictions if it is not making all immediate and necessary efforts to repair or replace malfunctioning equipment.

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**AQUA 1-10**

Admit, deny, or explain why you cannot admit or deny: The Texas Commission on Environmental Quality (TCEQ) requires all retail public water suppliers to prepare and enforce a drought contingency plan in accordance with 30 TAC § 288.20 and submit it to the TCEQ Executive Director in accordance with 30 TAC § 288.30(5).

**RESPONSE:**

Admit.

<https://www.tceq.texas.gov/assets/public/legal/rules/rules/pdflib/290d.pdf>.

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**AQUA 1-11**            Is it your recommendation that Aqua should not be allowed to use its drought contingency plan for the Rio Ancho Subdivision water system?

**RESPONSE:**        No. See response to AQUA 1-9.

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**AQUA 1-12**                    Is promotion of water conservation an issue that is important to the Commission?

**RESPONSE:**                The Commission addresses water conservation in its rules under 16 TAC Chapter 24, Subchapter B. RATES AND TARIFF CHANGES, <http://www.puc.texas.gov/agency/ruleslaws/subrules/water/CH24Complete.pdf>.

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**AQUA 1-13**            Is promotion of water conservation an issue that is important to the State of Texas?

**RESPONSE:**           Ms. Graham is not authorized to speak for the State of Texas.

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**AQUA 1-14**            How do the recommendations included in the direct testimony of Ms. Heidi Graham, Commission Infrastructure Division, serve to promote water conservation?

**RESPONSE:**        See response to AQUA 1-12.

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