



Control Number: 51787



Item Number: 1

Addendum StartPage: 0

RECEIVED

NUECES BAY TRACTS, LLC

2021 FEB -3 PM 12: 24

P O BOX 1152

51787

PUBLIC UTILITY COMMISSION  
FILING CLERK

PORTLAND, TEXAS 78374

January 20, 2021

Public Utility Commission of Texas  
P O Box 13326  
Austin, Texas 78711-3325

Re: Complaint #CP2020110111

Statement of Relief - What Needs To Happen To Move This Project Along

I am waiting for two engineering plans from Rincon Water:

#### FIRST PLAN

A minor waterline redesign showing supply line to tracts going east/west along side CR 2202 instead of a rectangle across entire eighty acre block.

I wrote a check for CCN expansion and waterline plan for \$21,000.00 on November 6, 2017. I finally received the completed waterline plan on July 2, 2019 - 603 days later. Original waterline plan needed updating when tract size went from six to one-half acre. On May 12, 2020, I sent copies of Plat with map showing changes needed to original plan to both Ken Johnson and engineer James Schwarz. The two main components of that plan - two supply lines from west and north - are unchanged.

Some seven months later, Developer STILL DO NOT HAVE AN UPDATED WATERLINE PLAN.

Since the first waterline plan was already "sent out for bids," the updated waterline plan bid process should not take much time.

Also, since my first attempt to reserve 13 taps - delivering a \$1,625.00 check to Rincon (2-22-2017) as instructed by Ken Johnson - of which \$1,300.00 was erroneously and

without good reason returned (7-17-2017) - I am not going to “repurchase” those taps and do not have a legal obligation to do so. I do have a obligation to pay a fee for the additional nine taps (22 minus 13 = 9) . Since no cost estimate is available for the 22 additional taps discussed at the November, 2020, Board of Director’s meeting, I will assume a fee per tap of twice the rate charged in 2017, or \$250.00 per tap, or:

9 taps X \$250.00 = \$2,250.00

This will reserve for the Developer’s use a total of 22 taps (connections). I will deliver a check to Rincon whenever notified to do so.

## SECOND PLAN

The second plan is a water pump, supply line upgrade to supply more water to our development , and will be developed during summer of 2021.

## CONCERNING IMPLIMENTATION OF BOTH PLANS:

1. Ken Johnson’s letter to me on May 13, 2020 is incorrect in stating “...your property is now inside City of Portland ETJ...abide by subdivision policies of the city...must get approval of city...”.

After checking with Brian De Latte, Deputy City Manager, receiving Brian’s email of May 22, 2020, and rechecking again with Brian, our development is NOT within City of Portland ETJ. I advised Ken of this in my May 26, 2020, letter to Ken and enclosed a copy of Brian’s email with my letter.

However, in Ken’s email of June 11, 2020, email to me, he again states “We will design...in accordance with ... City of Portland standards.”

That statement by Ken is incorrect; any engineering plans should NOT be designed to City of Portland standards.

2. A complete description by Rincon water personnel to me and my representative of present water supply situation for my development.

3. Rincon should timely relay requests from Developer for water system service improvements to Rincon’s engineer; a copy of that request should be provided to Developer.

4. After Rincon receives back proposed Second Plan from engineer, a SIMPLE BRIEF description of construction options available with a BALL PARK cost estimate for those

options be made to Developer. Again I state - SIMPLE BRIEF and BALL PARK estimate. If only one plan is proposed, a simple explanation for only one plan would be made.

5. After construction option is selected, engineer will compile list of equipment, pipe, etc. needed for purchase. Developer is responsible for purchasing those items.

6. If Rincon Water requires bids be advertised for construction (labor only), and since Developer will be paying those costs, Developer has option to request certain contractor even though that bid may not be lowest.

7. After updated "First Plan" is received by Developer, and after contractor is chosen, the next step is construction. Ken Johnson should then be instructed to make the fifteen minute telephone call to David Brink at TxDOT to reactivate Developer's previously issued APPROVAL CRP 2015123041519 to bore under FM 893. Please note this permit is good for six months. No additional information is required for that permit other than this telephone call.

MR JAMES FAY  
NUECES BAY TRACTS LLC  
2688 CR 2202  
TAFT TX 78390

11/16/2020

Mr. James Fay  
Nueces Bay Tracts LLC  
2688 CR 2202  
Taft TX 78390

RE: Complaint # CP2020110111

Dear Mr. Fay:

Under P.U.C. PROC. R. 22.242(c)(2), Commission Staff may grant a request for waiver of informal resolution for good cause. This rule recognizes that, because Staff conducts the informal resolution process, it is in the best position to determine whether use of that process should be waived for a particular complaint. Staff hereby waives for good cause the requirement that this complaint be presented for informal resolution.

Enclosed is a copy of the Formal Complaint Procedures Brochure. This information is necessary for filing a formal complaint and will assist you with completing this process. When you file your formal complaint, please include a copy of this letter. If you have any questions about this procedure, please contact Central Records at 512-936-7180.

Sincerely,

Chris Burch, Director  
Customer Protection Division

Enclosure

NUECES BAY TRACTS, LLC  
P O BOX 1152  
PORTLAND, TEXAS 78374

January 12, 2021

Public Utility Commission of Texas  
P O Box 13326  
Austin, Texas 78711-3325

Re: Complaint # CP2020110111

Enclosed is additional information on the above complaint. This is additional information to be added to my November 2, 2020 presentations.

Sincerely yours,

A handwritten signature in black ink that reads "James M. Fay III". The signature is written in a cursive style with a horizontal line under the "III".

James M. Fay III  
Managing Partner

NUECES BAY TRACTS, LLC

P O BOX 1152

PORTLAND, TEXAS 78374

Formal Complaint # CP2020110111

Filed By: James M. Fay III in behalf of Nueces Bay Tracts, LLC

Service Address: 90 Acre Tract at corner of CR 3463 and CR 2202  
San Patricio County, Texas

Filed Against: Rincon Water Supply Corporation  
P. O. Drawer 7  
Taft, Texas 78390

Description of Facts:

This report is in addition of two reports I mailed earlier to PUC

Letter and report to PUC dated November 2, 2020, which is thru September 16, 2020.  
Additional information is presented now.

Report dated November 2, 2020, which consists of letters, emails, bank statements, etc.  
substantiating statements made in above mentioned report. I will also present any  
additional information subsequent to September 16, 2020.

See following pages.

1. On October 6, 2020, I wrote a letter to Ken Johnson stating I was hand delivering two copies of Amending Plat of Nueces Bay Tracts Phase 1. In the letter I included a brief statement of steps taken so far to secure water service.

2. On October 25, 2020, I submitted to San Patricio County a SUBDIVISION/ DEVELOPMENT Application, San Patricio County, Texas. At the November 2, 2020, Regular Meeting of County of San Patricio Commissioners Court my application was accepted and approved.

3. On November 15, 2020, I sent a letter to Ken Johnson and enclosed a copy of approved SUBDIVISION... application for Rincon's records. I also asked again about when my updated waterline plans would be ready. Again, I received NO response.

4. In an effort to make progress, I contacted Beverly Moore who works in State Representative James M. Lozano's office asking her if she could help in getting PUC's assistance for a formal hearing since it is obvious no-one is acting on my project. On December 14 I received an email from Matt Lamon, Rep. Lozano's Chief of Staff, that I should file a formal complaint with PUC.

I understand I was sent correspondence to address CR 2620, Taft, Texas. That is a 911 address provided to me some years ago but there are no mail boxes or houses at that address. This caused a delay in receiving information from PUC.

All for now. I will send additional information as it becomes available.

Thank You



NUECES BAY TRACTS, LLC

P O BOX 1152

PORTLAND, TEXAS 78374

October 6 2020

Kenneth Johnson  
Rincon Water Supply Corporation  
P O Box 7  
Taft, Texas 78390

Dear Ken:

Today I am hand delivering two Certified Copies of AMENDING PLAT OF NUECES BAY TRACTS PHASE 1 dated September 29, 2020, one for Rincon Water and one for engineer James Schwarz. As I stated at the Rincon Water Supply Corporation monthly meeting September 15, 2020, when I presented for Board Approval my original Plat Of PHASE 1, the only changes between UPDATED and ORIGINAL PLAT was placing tracts alongside CR 2202 perpendicular to (running north to south) versus parallel to (east to west) that county road. I also made some changes to signature blocks which was needed. I am submitting this AMENDING PLAT for Board approval at the earliest possible date.

I was surprised to learn at that September 15 meeting that the fifteen or so taps (household connections) I have been promised on numerous occasions for at least two years were suddenly gone - sold to other applicants because "Rincon could not hold those taps for my project." Also, it was all my fault since I had taken too much time to submit my PLAT for approval.

I was also told "the Board was ready to approve my original application for water line construction and service at the November 19, 2019 Board meeting, but I had "changed everything up out there" and therefore my application was tabled. Actually, as I stated at that meeting, nothing had changed in the waterline plans for bringing service to my property, but only my distribution plan for that water once it arrived at my subdivision.

My original development plan was to sell six plus acre tracts without the Platting process. However, my real estate listing agents strongly suggested I change that plan due to many more buyers asking for smaller tracts and San Patricio County personnel stating the most frequently asked for size county tract to purchase was two and one-half acres.

Therefore, I changed to smaller tract sizes which required a PLAT be prepared. I have also completed a SUBDIVISION/DEVELOPMENT APPLICATION, San Patricio

County, Texas, and this process should be completed in a week.

At the September 15 Rincon Board of Directors meeting I was also surprised to learn that “the six inch waterline supplying my project was “maxed out “at 250 connections and therefore could not accept any additional connections.” Up until that meeting I have never been notified in any fashion previously by Rincon personnel that there was a six inch waterline that was to supply water to my project.

Also at that September 15 meeting I stated I had discussions with engineers who had discussed my need for additional taps with Rincon’s engineer James Schwarz and that “for somewhere in the \$75,000.00 range” improvements to Rincon’s pumps could be made which would make additional taps available for my project. I also stated I would need additional taps past that \$75,000.00 investment and, as the developer, I would be responsible for paying for those improvements.

I was then asked if I wanted Rincon’s engineer to develop an estimate for “short term” solution of fifteen to twenty taps or for a “long term” solution of substantial capital improvements for somewhere in the estimated two hundred taps I would ultimately need. My answer was “long term” because I did not want to spend \$75,000.00 only to replace that equipment a year later by other equipment.

My position has changed. My financing lender has instructed me to complete the “short term” option now to sell some tracts, with the “long term” option in 2021. Please have Rincon’s engineer prepare an estimate - with a plus or minus amount of \$5,000.00, for improvements needed for fifteen to twenty taps as originally promised to me for my project. Please make this estimate available as soon as possible.

How are the changes to the July 2019 Waterline Plans I first requested in my letter to you dated May 12, 2020 coming along? I mailed you a preliminary PLAT and small map outlining changes needed going from a rectangle across the 80 acre field to service only alongside CR 2202. This was followed up by correspondence of May 26 and July 27, 2020, again asking about progress on changing those plans.

What we are dealing with is two distinct issues - one being securing fifteen to twenty water service connections and the other updating the waterline plans. Obviously the waterline must be installed this winter while no crops are in the field. I estimate we have six months or so at least to upgrade pumping equipment before actual water service by homeowners is requested. Your cooperation in these matters is greatly appreciated.

Sincerely yours,

James M. Fay III

**SUBDIVISION/DEVELOPMENT APPLICATION**  
San Patricio County, Texas

No application for subdivision is complete until this application form has been filled out in its entirety, submitted to the office of San Patricio County Judge, and applicant has received acknowledgement of receipt. This application must also include all documents and fees required by the San Patricio County Subdivision and Development Regulations.

Proposed Name of Subdivision: Nueces Bay Tracts (Phase One)

Date of Submittal to County Judge's Office: \_\_\_\_\_

(This section in bold to be filled out by County Personnel):

**Date Received** \_\_\_\_\_  
**Name of Staff Member or Elected Official Who Received It** \_\_\_\_\_  
**If Determined to be Exempt, Initial Here And Date** \_\_\_\_\_  
**Fee paid in full?** \_\_\_\_\_ **Supporting documents/plat in order?** \_\_\_\_\_

Name of Land Owner: Nueces Bay Tracts LLC  
Address: P.O. Box 1152, Portland, TX 78374  
Telephone No: (361) 960-0371  
Email: FayJPfayIII@aol.com

Name of Applicant or Owner's Authorized Agent: James M. Fay III  
Company: \_\_\_\_\_  
Address: 224 Sutherland, Portland TX 78374  
Telephone No: (361) 960-0371  
Email: FayJPfayIII@aol.com

Precinct in Which Proposed Subdivision is Located: Precinct # 3  
Precinct Commissioner: Gary Moore Sr.  
Indicate Whether You Have Met with Commissioner: Yes

Total Acreage of Land in Subdivision/Development: 90 ac Total Acreage of Lots: 90 ac  
Intended or Likely Use of Lots and/or Development:

Residential:  Commercial/Industrial: \_\_\_\_\_ Other (Specify) \_\_\_\_\_  
Total Number of Lots: ① Acreage of Smallest Lot: one-half acre.

Indicate What Road Provides Access to the Existing Property. Include Road Name.

County Road: 3463, 2202 State Road: FM 893  
Other (Specify): \_\_\_\_\_

Property Address (or location description if no address yet exists): West of 3463, south of 2202.  
Current Legal Description: Tract fifteen, sec. 16, and tracts 5, 6, 7, and 8, sec. 16, George H. Paul Subdivision of Coleman Fulton Pasture Company Lands, San Patricio County, TX

Is the project within the ETJ of a city?  
No  Yes \_\_\_\_\_ City Name: \_\_\_\_\_

Is there floodplain within the proposed subdivision/development?  
No  Yes \_\_\_\_\_

① Initial size one-half acre. Larger size lots at later date. 1 of 3

With open enrollment - Gregory Portland ISD

School District(s) Taft Independent School District - taxing authority.

New Roads to Be Created As Part of This Subdivision or Development:

1) Public Roads (Give number of lanes, lane width, and linear feet, plus proposed names, if any):  
None

2) Private Roads (Give number of lanes, lane width, linear feet, plus proposed names, if any):  
None

Source of Water (Specify whether private well, shared well, rainwater collection, or public water supply): Rincon Water Supply Corp. Public Water

Anticipated Waste Water System:

Conventional OSSF (septic) X Class I OSSF \_\_\_\_\_ Collective Sanitary Sewer \_\_\_\_\_

Is Fiscal Surety Required (for Streets, Drainage, or Other Public Improvements):

No X Yes \_\_\_\_\_

If so, specify type of fiscal security. \_\_\_\_\_  
Expiration Date \_\_\_\_\_

Are You Requesting a Variance from San Patricio County Regulations?

No X Yes \_\_\_\_\_

If so, specify what section or sections of the regulations you are asking to be varied or waived, and include a separate letter explaining your request. Article and sub-section: \_\_\_\_\_

Anything Else You Wish to Add So That We Better Understand Your Application? Initial Phase One. Additional Phases to follow.

**Affirmation of Due Diligence and Comportment with Regulations of San Patricio County:**

*I hereby swear or affirm that I have reviewed and understand the Subdivision Rules of San Patricio County, and that, to the best of my knowledge, this proposed subdivision and/or development project complies with all the rules and regulations of San Patricio County, except for any exceptions or variances noted above. I further swear and affirm that, to the best of my knowledge, all the information presented in this application is true and correct.*

Signature of Applicant or Authorized Agent \_\_\_\_\_  
Date \_\_\_\_\_

If Applicant or Agent is Licensed Professional Engineer or Surveyor in the State of Texas, include license number; if not, include name and license number of Professional Engineer or Surveyor working on the project: \_\_\_\_\_

# UTILITY CHECKLIST for San Patricio County

This form must be filled out in its entirety and submitted with Subdivision Application.

## UTILITY CHECKLIST INSTRUCTIONS:

Applicant must provide a copy of the proposed plat to each utility for review and comment.

ELECTRIC UTILITY: Company Name American Electric Power  
Contact Name: Adolfo Ybarbo Phone Number: 361-815-6349  
Approved As-Is: \_\_\_\_\_ Easement(s) Required: 7 1/2 ft min  
Describe Required Easement(s): Exhibit A&B

Signature: ADOLFO YBARBO Title: Technician Sr.

TELEPHONE UTILITY: Company Name: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Approved As-Is: \_\_\_\_\_ Easement(s) Required: \_\_\_\_\_  
Describe Required Easement(s): \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

WATER UTILITY (If Applicable): Company Name: Rincon Water Supply Corporation  
Contact Name: Ronald Johnson Phone Number: 361-528-2469  
Approved As-Is: \_\_\_\_\_ Easement(s) Required:   
Describe Required Easement(s): 15' minimum inside property

Signature: Ronald Johnson Title: General Manager

SEWER UTILITY (If Applicable): Company Name: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Approved As-Is: \_\_\_\_\_ Easement(s) Required: \_\_\_\_\_  
Define Required Easement(s): \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

TEXAS DEPARTMENT OF TRANSPORTATION (If frontage on state-maintained roadway):  
Contact Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Title: \_\_\_\_\_

NUECES BAY TRACTS, LLC

P O Box 1152

Portland, Texas 78374

November 15, 2020

Kenneth Johnson  
Rincon Water Supply Corporation  
P O Box 7  
Taft, Texas 78390  
Dear Ken:

Enclosed is the last piece of information you asked for, Minutes of November 2, 2020, San Patricio County Commissioners' Court meeting in which County Commissioners approved my Nueces Bay Tracts subdivision Phase 1 plan. I have included a copy of SUBDIVISION/DEVELOPMENT APPLICATION, San Patricio County, Texas. for your file.

As you know on May 12, 2020, I sent you an approved copy of Phase 1 of Nueces Bay Tracts. I later gave you and the Board of Directors an Amended copy of Phase 1 of Nueces Bay Tracts Phase 1, with the only change being individual tracts go north/south not east/west. Everything else was the same.

In letters to you dated May 26, July 27, and October 6, 2020, I asked when the updated waterline plan would be ready. Again, the only change from original plan was omitting rectangle across field changed to running a line along CR 2202. All other parts remain the same. I have not been notified when the updated plan will be available.

You mentioned you did not get my May 26, 2020, letter. I am enclosing a copy for your file. I await the updated waterline plan so I can notify Monte Estes so he can prepare a bid for the project.

Sincerely yours,

James M. Fay III  
Managing Partner

**Return**

<b>REGULAR</b>	<b>NOVEMBER 2, 2020</b>	<b>MEETING</b>
<b>THE STATE OF TEXAS</b>	}	
	}	
<b>COUNTY OF SAN PATRICIO</b>	}	

**BE IT REMEMBERED THAT, notice had been duly filed and posted by the County Clerk on the 29th day of October, 2020 at 1:50 P.M. For a Regular meeting of the Commissioners' Court on MONDAY, NOVEMBER 2, 2020 at 9:00 A. M. in the San Patricio County Courthouse Commissioners Courtroom # 230 second Floor, Sinton, Texas. At which time the following subjects were discussed, concerned, passed, or adopted.**

**The following members were present, to-wit:**

- Present:**
  - David R. Krebs, County Judge**
  - Nina G. Trevino, Commissioner, Precinct 1**
  - Gary W. Moore, Sr., Commissioner, Precinct 2**
  - Alma V. Moreno, Commissioner, Precinct 3**
  - Howard J. Gillespie, Commissioner, Precinct 4**
- Staff Present:**
  - Gracie Alaniz-Gonzales, County Clerk**
  - Homer Roblez, Chief Assistant County Auditor**

**The following proceedings were had, to-wit:**

- 1. CALL TO ORDER, PLEDGES AND PUBLIC INVOLVEMENT**
  1. Call meeting to order  
Meeting was called to order at 9:00 a.m.
  2. Pledge of allegiance  
The Court opened the regular meeting with the Pledges of Allegiance to the flag of the United States and to the flag of the State of Texas.
  3. Citizens to be heard  
None today
  4. Report from Judge, Commissioner or Department concerning an item/report of community interest.  
Denise Janak, County Treasurer announced that if all Elected and Department Heads could make sure that time sheets were turned in as soon as possible. This is a short pay period due to the Veterans Day holiday.  
Dr. Mobley, SPC Health Authority gave his weekly COVID-19 report. He stated that cases in Texas continue to spike. He also mentioned that the flu is low throughout the state.  
Clara Reider, PHP Director also gave a brief report on COVID-19. She mentioned that the County and State are still under the mask order. She mentioned that she is seeing strep and common cold cases reported.  
Judge Krebs mentioned and touched base on all the Halloween activities that took place in the Courthouse last Friday.  
Norma Rivera, Personnel Director presented a few pictures of the costume contest and of the pumpkin decorating contest.

**2. DELIBERATE AND CONSIDER ACTION ON THE FOLLOWING ITEMS:**

- c. Consideration and action on approving Mr. Fay's application for Nueces Bay subdivision Phase I.  
 Motion made by Commissioner, Precinct 2 Gary W. Moore, Sr., seconded by Commissioner, Precinct 1 Nina G. Trevino to approve Mr. Fay's application for Nueces Bay subdivision Phase I.  
**Vote: 5 - 0 Carried**

- d. Consideration and action on approving agreement between San Patricio County Clerk's Office and Kofile for Vanguard Records Management and Imaging System for a total cost of \$2,984.73 per month.  
 Motion made by Commissioner, Precinct 1 Nina G. Trevino, seconded by Commissioner, Precinct 3 Alma V. Moreno to approve agreement between San Patricio County Clerk's Office and Kofile for Vanguard Records Management and Imaging System for a total cost of \$2,984.73 per month.  
**Vote: 5 - 0 Carried**

- e. Consideration and action for Shanna Owens, Floodplain Manager's request to amend the San Patricio County Floodplain Development Permitting Fee Schedule.  
 Motion made by Commissioner, Precinct 4 Howard J. Gillespie, seconded by Commissioner, Precinct 2 Gary W. Moore, Sr. to approve fee changes for industrial and commercial permits and to TABLE the proposed subdivision fees  
**Vote: 5 - 0 Carried**

3. **PERSONNEL**-Employment and current employee status changes in accordance with the current personnel policies, County Budget, and State law with notification of such changes to the payroll division of the Treasurer's office.

1. Deliberate and consider action employee salary:
- a. Emilio Carbajal - Resignation - Maintenance Assistant/Fairgrounds full time regular at \$2,100.76 per month effective October 22, 2020.
- b. Amanda Perez - Transfer - Juvenile Supervision Officer/Juvenile Detention part time regular to full time regular at \$1,993.30 per month effective November 1, 2020. Upon certification an additional \$99.76 per month will be awarded.
- c. Elisa M. Gomez - Employment - Clerk/Health-Community part-time regular 24 hours per week at \$11.00 per hour, effective November 2, 2020.  
 Motion made by Commissioner, Precinct 1 Nina G. Trevino, seconded by Commissioner, Precinct 4 Howard J. Gillespie to approve Personnel Agenda Items 3.1 (a) through 3.1 (c)  
**Vote: 5 - 0 Carried**

2. Accept and record employee status changes:  
 None this week

4. **EXECUTIVE SESSION**

**PUBLIC NOTICE** is given that the San Patricio Commissioners Court may elect to go into Executive Session anytime during the meeting to discuss matters listed on the Agenda, when authorized by the provisions of the Open Meetings Act, Chapter 551 of the Texas Government Code. In the event the Commissioners Court elects to go into Executive Session regarding an agenda item the section or sections of the Open Meetings Act authorizing the Executive Session will be publicly announced by the presiding officer. In accordance with the authority of the Government Code, Sections 551.071, 551.072, 551.073, 551.074, 551.0745, 551.076, 551.086 the Commissioners Court will hold an Executive Session to consult with attorney(s) including matters related to litigation; deliberate regarding real



*David R. Krebs*

DAVID R. KREBS, County Judge

*Nina G. Trevino*

NINA TREVINO, County Commissioner, Precinct 1

*Gary Moore Sr*

GARY MOORE, Sr. County Commissioner, Precinct 2

*Alma V. Moreno*

ALMA V. MORENO, County Commissioner, Precinct 3

*Howard Gillespie*

HOWARD GILLESPIE, Commissioner, Precinct 4

The State of Texas  
COUNTY OF SAN PATRICIO

I Gracie Alaniz-Gonzales, San Patricio County Clerk attest that the foregoing is a true and accurate accounting of the Commissioners' Court authorized proceeding for November 2, 2020



ATTEST:

*Gracie Alaniz-Gonzales*

GRACIE ALANIZ-GONZALES, County Clerk, Ex-Officio

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[GO TO THE TOP OF THE PAGE](#)

WSC WAI-AA  
WCAG 2.0

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2/2020

RE: Waterline Project

**From:** Beverly.Moore@house.texas.gov,

**To:** fayjpfayiii@aol.com,

**Subject:** RE: Waterline Project

**Date:** Mon, Nov 16, 2020 2:37 pm

---

I made contact with Mike Hoke at PUC and he will contact you and circle back to me.

Thanks,

Beverly

**From:** Paulette Fay <fayjpfayiii@aol.com>

**Sent:** Monday, November 16, 2020 1:37 PM

**To:** Beverly Moore <Beverly.Moore@house.texas.gov>

**Subject:** Waterline Project

Beverly:

Following is an outline of steps I have taken to secure water for our development. Basically I cannot get Ken Johnson, Rincon Water On-site manager, to timely forward plan and other requests to Rincon's Engineer, and to take steps himself to move this project along in a timely manner.

March 6, 2015, filing initial request with San Patricio County for utility service.

December 31, 2015, initial application by Ken to bore under CR 893. Ken did not follow up with additional needed info which I had to supply, which forced approval by TxDOT to February, 2017. This application has long since expired.

I was shocked and surprised to learn in July, 2017, Rincon did not have authority to sell water taps in my area; our farm has had water service from Rincon since 1960's. I also was told I needed a water line plan drawn by an engineer to proceed further. I was advised to "let Rincon's engineer James Schwarz complete CCN Application and Waterline Plan as this would simplify matters..." On November 6, 2017 I sent Rincon a check for \$21,000.00 for both jobs, which was cashed December 8, 2017. My CCN application was approved February 8, 2019, or 427 days after payment. I finally received waterline plans July 2, 2019, or 571 days after payment. I consider these delays excessive.

My initial plan for development was selling six plus acre tracts with no platting required. After discussions with Real Estate agents and doing research myself it was plain smaller tracts sold better, so in August 2019 my plan changed to selling one-half acre tracts which required platting, subdivision application approval, and such. The fall of 2019 was spent meeting with surveyors, designing, surveying, staking, and drawing up initial plans for Nueces Bay Tracts Phase 1. I notified Rincon BofD at November, 2019 meeting of changes to waterline distribution system in my field which I needed to make, and explained there will be no changes to basic waterline plan as originally drawn.

I was told by Directors that "I was changing everything up out there...my plans has all changed"...etc. My application was tabled. I protested and said the overall plan had NOT changed and I needed to get waterline in ground before rains came and deal with minor changes later. Again, my application was tabled.

On May 12, 2020, I gave Ken and James Schwarz copies of plat plus small map showing changes in my field I needed to make. On July 27, 2020, I sent Ken Certified copies of Plat and asked how updated waterline plans were coming along. I appeared again at September 15, 2020 BofD meeting and was told:

. No taps for my development were available. I had "taken too much time and taps promised to me were sold to others."

12/11/2020

RE: Waterline Project

2. The six inch waterline supplying my development was "maxed out" and to get A. . . water I needed to pay for pump station improvements.

3. Did I want a "short term" solution for 22 taps or a "long term" solution since I would need 150 or so total taps in total. Initially I said "long term" ( not

wanting to do short term fix only to rip it out later) but after discussions with my lender changed to "short term" to have sales now.

On May 26, July 27, and October 6 I asked Ken when updated waterline plans would be ready. I am asking again today in a letter to Ken along with an approved San Patricio County Subdivision Application which Rincon needs. I have received no reply.

I have prepared and sent a thirteen page description with associated 100 plus page supporting documentation presentation to Public Utilities of Texas to protest actions taken and not taken by Rincon Water to move this project along. I have spent countless hours and thousands and thousands of dollars getting this development going. All that remains is water supply. We have buyers already speaking for tracts wanting to buy but we cannot proceed without a signed contract for water service and associated cooperation from Rincon Water.

PUC of Texas has received my application for a meeting and someone promised to call back, but they never did. What I need is the name of a contact person at PUC so I can go to Austin to present my presentation and find out why Rincon Water is not cooperating. We must get this project moving.

Any information you can provide will be greatly appreciated as I do not want to show up at PUC without an appointment, but trust me I will if that's what it takes. I am simply asking asking for PUC assistance in dealing with Rincon Water.

Sincerely yours

Jim Fay

**NOTICE AND AGREEMENT  
PROPOSED PUBLIC UTILITY, PIPELINE AND/OR MAIN ACTIVITY  
WITHIN SAN PATRICIO COUNTY ROAD RIGHT OF WAY**

**TO: COMMISSIONERS COURT, SAN PATRICIO COUNTY, TEXAS  
400 W. SINTON STREET, #105  
SINTON, TEXAS 78387**

Formal notices hereby give that Rincon Water Supply Corp. proposes to lay, construct, maintain and/or repair a pipeline and/or main in, under, across or along a County road, street, or highway within San Patricio County, Texas as follow:

**FOR PUBLIC UTILITY PIPELINE OR MAIN CROSSINGS OF COUNTY ROADS:**

Road No.	Distance & direction of nearest inter-section	length of crossing	type of construction bore, jacked, driven cased
3463	Along west side CR 3463 2,766 ft to CR 2202	-	open trench and bore.



SAN PATRICIO COUNTY  
COUNTY JUDGE'S OFFICE

**DOLORES C. HINOJOSA**

COURTHOUSE  
OFFICE: (361) 364-9305  
FAX: (361) 364-6118  
EMAIL: dolores.hinojosa@co.san-patricio.tx.us

400 W. SINTON STREET  
ROOM 109  
SINTON, TEXAS 78387

OR MA

as a

nt to

Faxed to

n fro  
n

Dolores Hinojosa

166 ft.

Cast

3.6.15

Pipe size and grade 4" PVC  
Wall Thickness 3/8

Type of material or substance to Cast

Anticipated (Design) working pressure 200 PSI

The location and description of this proposed installation or installations is more fully shown on the attached drawings.

The above contemplated public "utility pipeline and/or main laying, construction, maintenance or repairing project shall

be accomplished in accordance with the rules and regulations set out in that certain order entitled, "An Order Regulating the Laying, Construction, Maintenance and Repairing of Public Utility Pipelines or Mains in, Under, Across or Along Roads, Streets, and Highways in San Patricio County, Texas, under the jurisdiction of the Commissioners' Court of San Patricio County, Texas, that qualify as authorized public utility pipelines of mains," passed by the Commissioners' Court of San Patricio County, Texas dated March 27, 1989 and recorded in the minutes of said Court at Sinton, Texas.

The undersigned agrees to perform, at its expense, all the required work, including later relocation of the pipeline or facility if requested by the Commissioners' Court of San Patricio County, Texas and understands that said County is granting the use of property within the limits of its roads, streets, or highways only to the extent which its interest in this property permits.

COMPANY NAME Rineson Water Sply Corp Date 3.6.15  
AGENT OR OWNER Kenneth Johnson ADDRESS P O Box 7, Taft TX  
St. or PO Box 78390  
Kenneth Johnson City State Zip  
NAME & TITLE General Manager TELEPHONE (361) 528-3969

APPROVAL

On this, the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
approval is given for the work as shown in the attached  
notice with the following exception \_\_\_\_\_

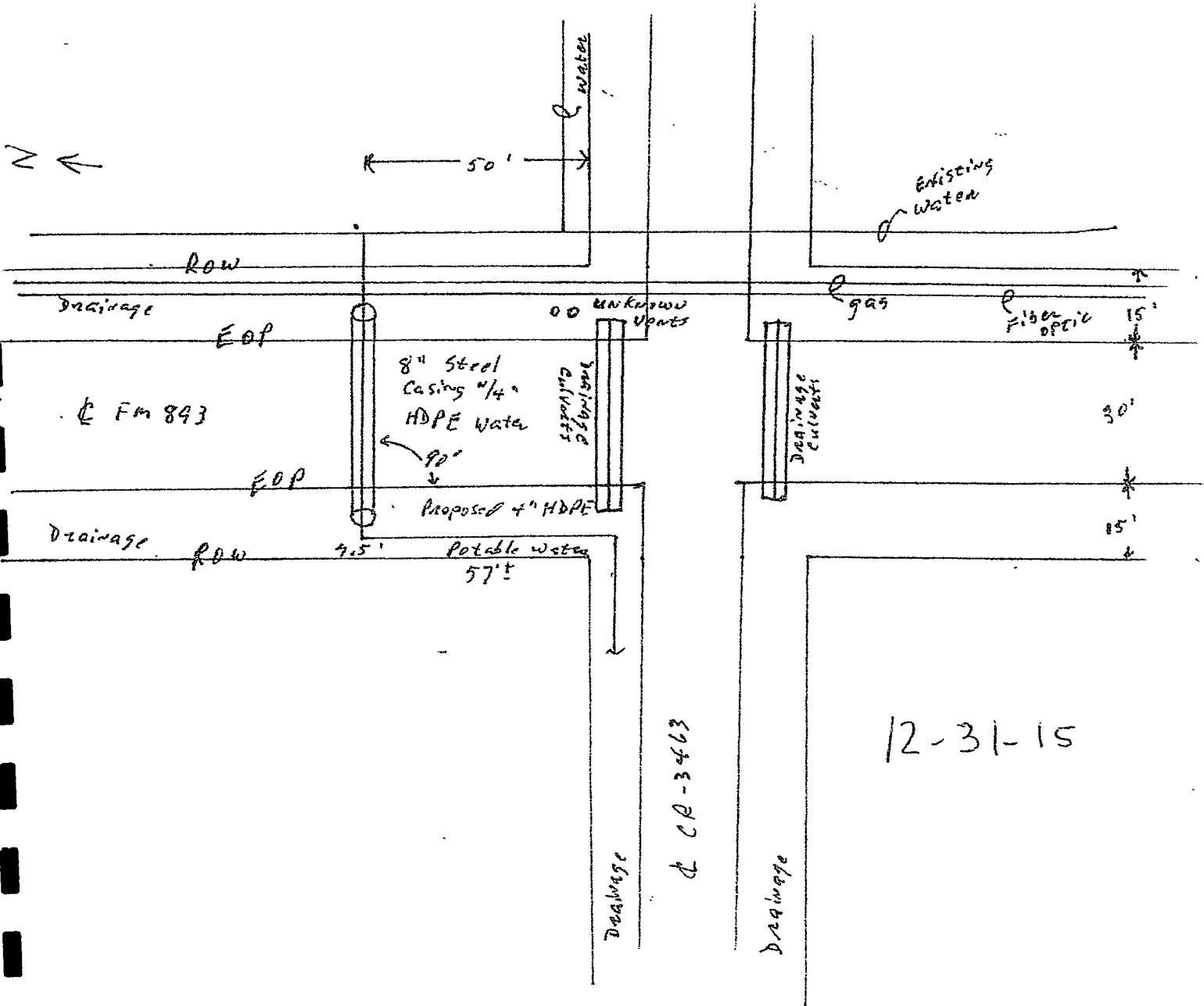
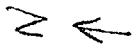
to make use of certain roads under the jurisdiction of the Commissioners' Court of San Patricio County, Texas, and in accordance with the rules and regulations set out in that certain order entitled, "An order regulating the laying, construction, maintaining and repairing of public utility pipelines, and/or mains, in, under, across or along roads, streets, and highways in San Patricio County, Texas, under the jurisdiction of the Commissioners' Court of San Patricio County, that qualify as authorized public utility pipelines and/or mains" as passed by the Commissioners' Court; dated the 27th day of March, 1989, recorded in Volume 35, page 433, of the Minutes of the Commissioners' Court of San Patricio County, Texas.

BY: \_\_\_\_\_

Note: Evidence of this approval must be kept on the jobsite and failure to do so constitutes grounds for job shutdown.

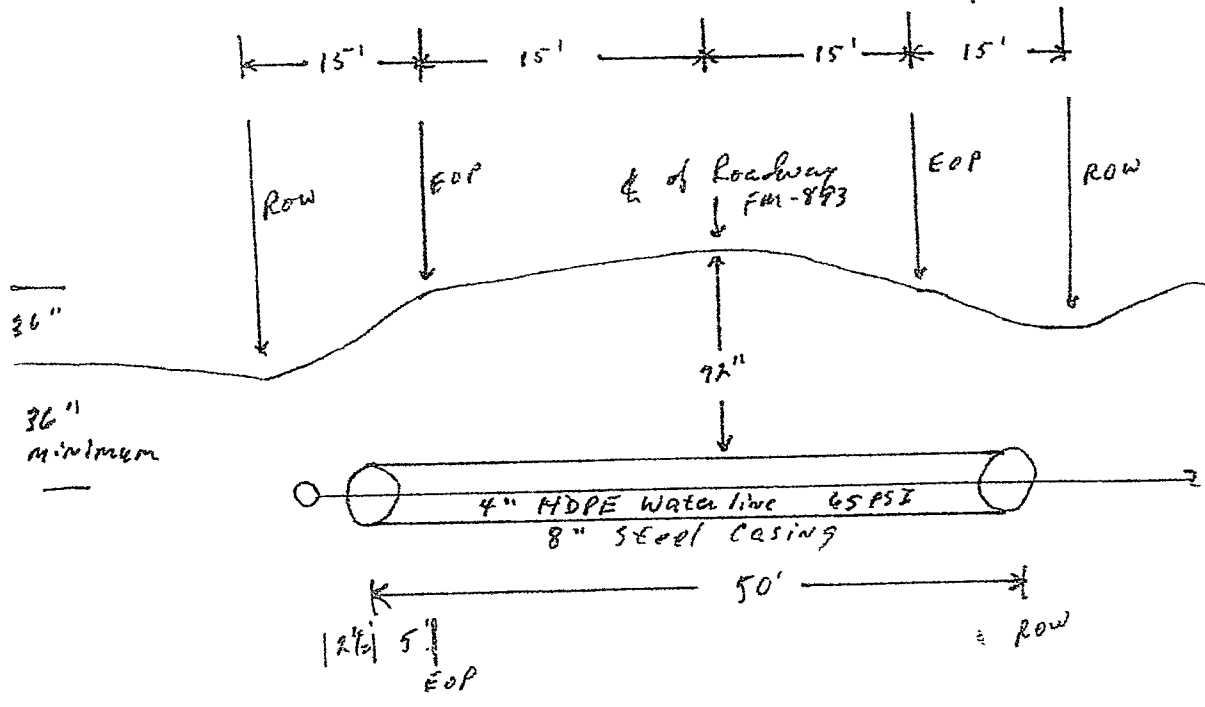
NOTICE:

Notify Commissioner Fred Nardini  
forty-eight (48) hours in advance of construction.  
Phone (301) 643-1460. Violation of this  
requirement shall constitute grounds for job  
shutdown. Upon completion of construction, an  
as-built map is required to be filed in the County  
Clerk's office at no additional cost.



12-31-15

CR-3463



CRP20151230141519

Basic Information


**Event History**

Attachments

Go back

Statistics [Show/Hide]

**Event History** [Collapse/Expand]

Event 2	Review partially completed / Submit revised documentation	
When	01/19/2016 01:41:42 PM	
By	David Brink (TxDOT, Utility Permit Office) - dbrink	
Send to	Kenneth Johnson (Rincon Water Supply Corporation, Rincon Water Supply) - kennethjohnson	
Comment	<p>I'm sending this request back for revisions: --In the description block it states the location to be: 50' north of the intersection of CR-3463. FM 893 runs east-west not north-south. Please revise the location information accordingly. --There is a n added portion that is being proposed in State ROW. Please describe the parallel portion to be in State ROW in the description block. --The sheet shows the north arrow incorrectly oriented. Please confirm and revise accordingly. --The width of the ROW of FM 893 in this vicinity appears wider than 60 feet. Please contact the Sinton Area office: Armando Bosquez Armando.Bosquez@txdot.gov 361-364-6405 to confirm the ROW width and revise the plan and profile view accordingly. -- Given that this is a proposed H2O crossing, the casing shall extend within the limits of the ROW lines. On the plan view sheet please revise this to show the casing to extend to the north side ROW of FM 893 instead of how it currently illustrated. --It is not clearly labeled on the profile view how deep this parallel portion will be installed. Please revise the depth information. --It is not clearly labeled how deep this casing will be installed under the FM 893 ditches. Please revise the profile view to better show this information. --It is not clearly stated on the plan view what the offset of the parallel portion of this waterline will be installed. Please revise this information to clearly label the offset. --Is that the closest to the ROW line on the south side this parallel portion of water line can be installed. The State minimum for horizontal separation of a proposed utility to an existing one is 12 inches of undisturbed soil. If there are existing utilities preventing the offset of this water line from being closer to the ROW line then please illustrate those existing utilities on the plan view of the sheet. --How will this proposed water line crossing be installed. Please provide this information. It is the District's preference to have bore pits outside State ROW when possible. If it is not possible to have the bore pit outside then provide some information showing how close the bore pit will be to the edge of pavement of FM 893. --What kind of traffic control plan will be used for the construction of this water line in State ROW. Please either prepare and attach a TCP or it is also acceptable to use an appropriate TxDOT TCP. Please either upload the pertinent TCP into this request or state what kind of TCP will be used. If there are any questions please contact me: David Brink 361-808-2498</p>	
Event 1	Application submitted / Conduct initial review	
When	12/31/2015 07:03:29 AM	
By	Kenneth Johnson (Rincon Water Supply Corporation, Rincon Water Supply) - kennethjohnson	
Send to	Utility Permit Office	
Description	4" HDPE potable water line installed in 8" welded steel casing crossing FM-893 50' north of the intersection of CR-3463 (77)in San Patricio County, TX. This potable water line is to serve a new subdivision being located at the intersection of CR-3463 and CR-2202 in San Patricio County.	
Special Comment		
Attachment 1	Tx DOT permit - Jim Fay Development.pdf	
Notice of Proposal Installation	View Notice	



# Inventory

7 4" 90°  
1 4" cap/

2 4" to 3" +

6 Valves 4"

38 " " lock rings ?

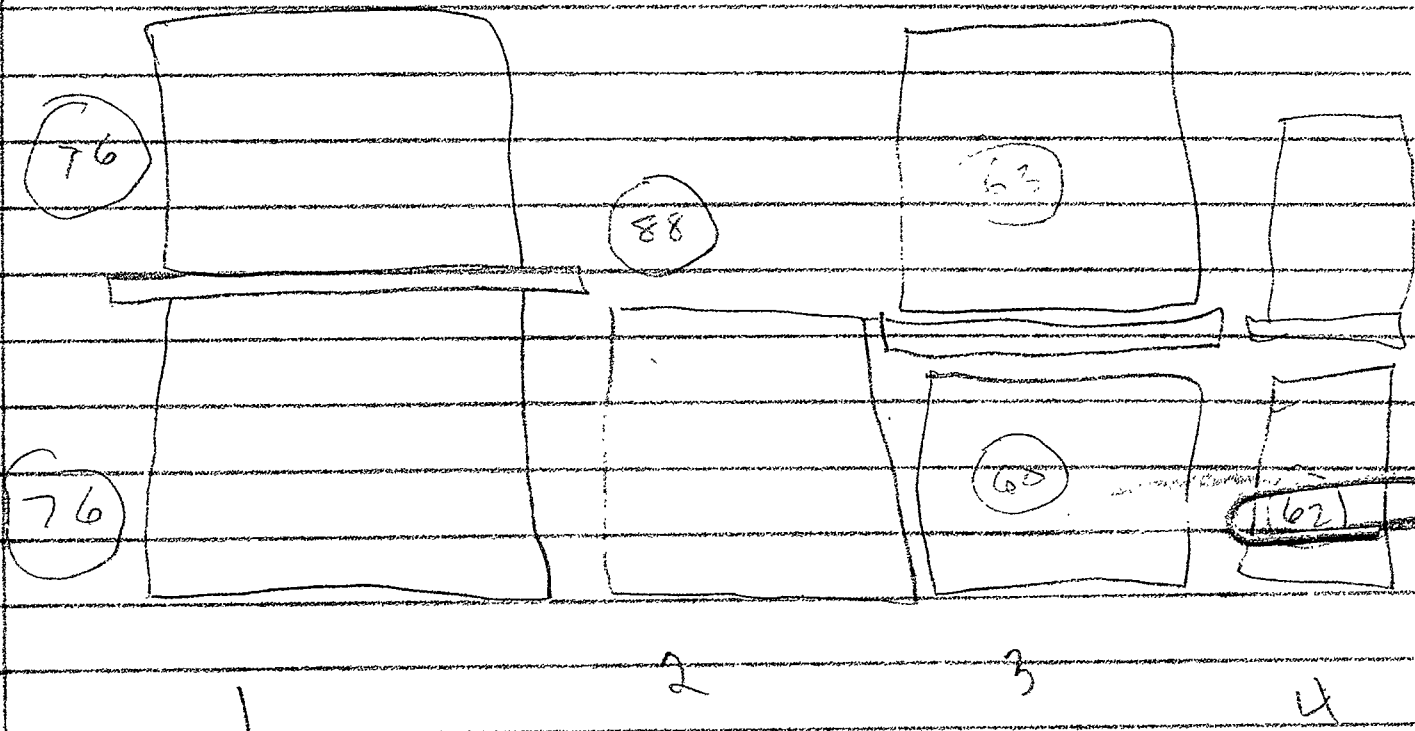
3 " T " 4"

2 3" hymax pipe unions (brown boxes)  
2 4" - - - ( - - - )

4  
5  
6  
7  
8

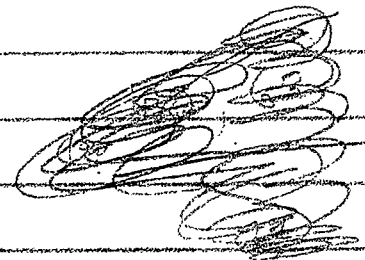
# Inventory Pipe

on hand at farm =



(425 joints)

63  
73



(w/o) 29  
33  
62

33



# PROSPERITY BANK®

Visit us online at ProsperityBankUSA.com

Statement Date

10/31/2016

12406 1 AV 0.376

NUECES BAY TRACTS

PO BOX 1152

PORTLAND TX 78374-1152

Account No

Page 1 of 4



### STATEMENT SUMMARY

10/01/2016	Beginning Balance			\$8,760.23
	4 Deposits/Other Credits	+	\$51,600.00	
	7 Checks/Other Debits	-	\$58,398.63	
10/31/2016	Ending Balance	31	Days in Statement Period	\$1,961.60
	Total Enclosures			11

### DEPOSITS/OTHER CREDITS

Date	Description	Amount
10/05/2016	Deposit	\$400.00 ✓
10/05/2016	Transfer Deposit	\$50,000.00 ✓
10/07/2016	Deposit	\$200.00 ✓
10/19/2016	Transfer Deposit	\$1,000.00 ✓

### CHECKS

Check Number	Date	Amount	Check Number	Date	Amount	Check Number	Date	Amount
1111	10-05	\$55,258.48 <i>KEP</i>	1115	10-24	\$1,462.75 <i>note</i>	1119*	10-31	\$37.50 <i>Repair</i>
1113*	10-13	\$50.00 <i>No</i>	1116	10-24	\$130.00 <i>Ref. rest.</i>			
1114	10-12	\$1,443.25	1117	10-28	\$16.65 <i>TXL</i>			

### TOTAL OVERDRAFT FEES

	Total For This Period	Total Year-to-Date
Total Overdraft Fees	\$0.00	\$0.00
Total Return Item Fees	\$0.00	\$0.00

### DAILY ENDING BALANCE

Date	Balance	Date	Balance	Date	Balance
10-01	\$8,760.23	10-12	\$2,658.50	10-24	\$2,015.75
10-05	\$3,901.75	10-13	\$2,608.50	10-28	\$1,999.10
10-07	\$4,101.75	10-19	\$3,608.50	10-31	\$1,961.60



0000

Handy Note

10904 0124060

DEPOSIT TICKET	PROSPERITY BANK	\$ 400.00
NUECES BAY TRACTS PO BOX 1182 PORTLAND, TX 78074		

10/5/2016 \$400.00

CREDIT	PROSPERITY BANK	NUECES Bay Tract	10/5/16
transfer from savings			
Fifty thousand dollars			
ACCOUNT NUMBER			157
			50000.00

10/5/2016 \$50,000.00

DEPOSIT TICKET	PROSPERITY BANK	\$ 200.00
Name: Nueces Bay Tracts PO CH		
DATE: 10-6-16		
PROSPERITY BANK		

10/7/2016 \$200.00

CREDIT	PROSPERITY BANK	NUECES Bay Tract	10/15/16
transfer from savings			
100000			

10/19/2016 \$1,000.00

NUECES BAY TRACTS	1111
DATE: 9.27.16	\$ 55,258.48
PAY TO THE ORDER OF: AEP	
Only fifty five thousand two hundred fifty eight and 48/100	
FOR: K. DAVIS MS 0000034412	

10/5/2016 1111 \$55,258.48

NUECES BAY TRACTS	1113
DATE: 10.4.16	\$ 50.00
PAY TO THE ORDER OF: Virginia Hearing	
Only 50.00	
FOR: Nolan	

10/13/2016 1113 \$50.00

NUECES BAY TRACTS	1114
DATE: 10.6.16	\$ 1,443.25
PAY TO THE ORDER OF: KJT	
Only one thousand four hundred forty three and 25/100	
FOR: Note	

10/12/2016 1114 \$1,443.25

NUECES BAY TRACTS	1115
DATE: 10.18.16	\$ 1,462.75
PAY TO THE ORDER OF: Catholic Union of Texas	
Only one thousand four hundred sixty two and 75/100	
FOR: Note	

10/24/2016 1115 \$1,462.75

NUECES BAY TRACTS	1116
DATE: 10.19.16	\$ 130.00
PAY TO THE ORDER OF: G P Materials	
Only one hundred thirty	
FOR: Note	

10/24/2016 1116 \$130.00

NUECES BAY TRACTS	1117
DATE: 10.24.16	\$ 16.65
PAY TO THE ORDER OF: TXU	
Only sixteen dollars and 65/100	
FOR: Note	

10/28/2016 1117 \$16.65

NUECES BAY TRACTS	1119
DATE: 10.22.16	\$ 37.50
PAY TO THE ORDER OF: Custom Machine Shop	
Only thirty seven and 50/100	
FOR: Note	

10/31/2016 1119 \$37.50

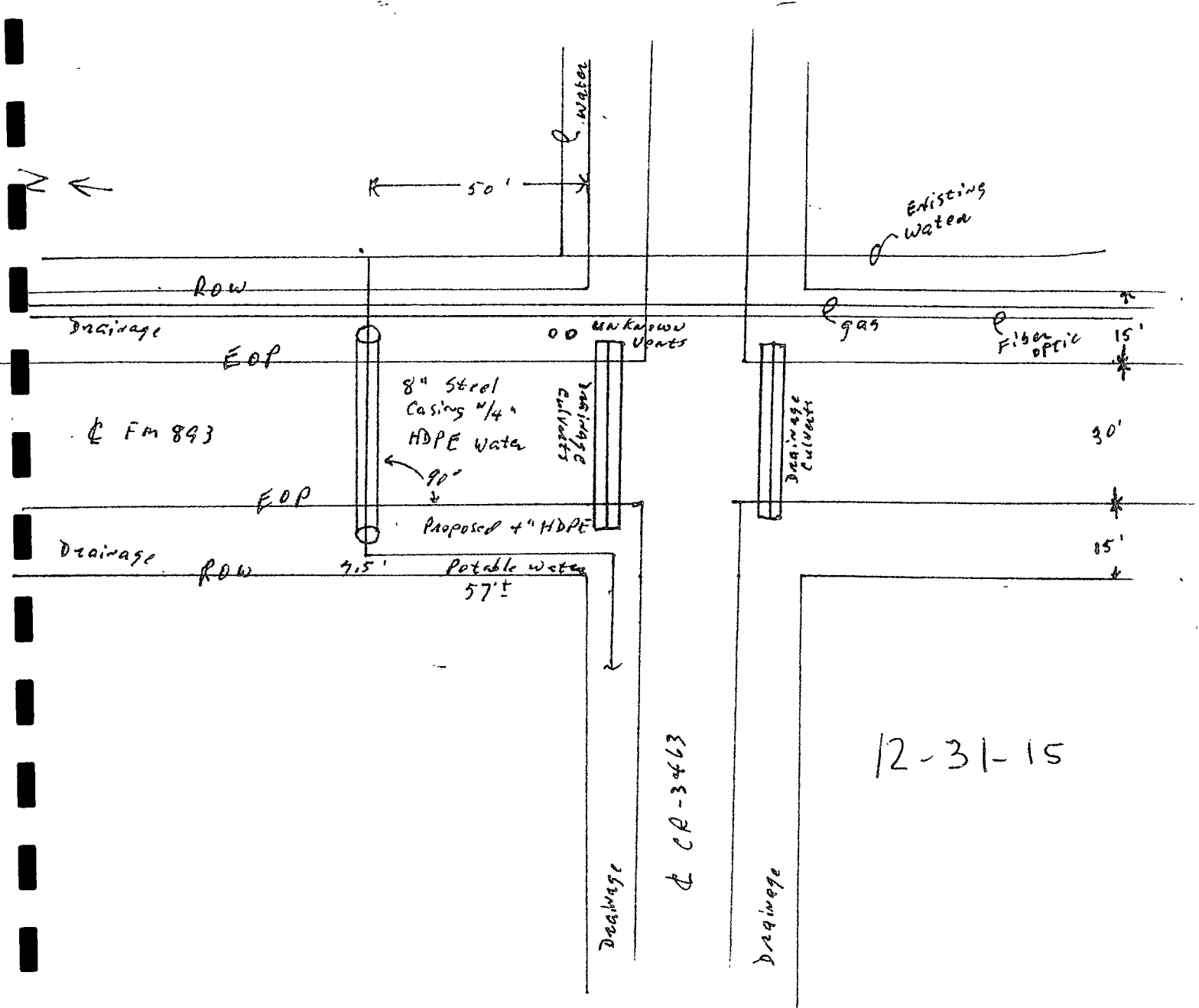
**EXAMPLE: Water tap far side with sidewalk** w/ no storm drains  
43 TAC (Texas Administrative Code)

- **Material:** Shall conform to American Waterworks Association (AWWA), local requirements and 30 TAC (Texas Administrative Code) subsection: 290.44.
- **Angle:** For water taps that will be leaving State ROW, the angle shall be 90 degrees to ROW. The crossing shall be as close to 90 degrees as possible. District tolerance is 5 degrees from 90 (85-95 degrees). Sufficient justification is required for anything outside the tolerance.
- **Depth:** --In either inches or feet.
  - **Minimum** depth shall be 30 inches (under ditches), but not less than 18 inches below pavement structure for crossings. For ease of determining depth, the preference is to use the next bullet...
  - ...or 60 inches underneath pavement surface...if depth below structure isn't used.
  - **NOTE:** Ditches are occasionally re-graded and may reduce overall cover. You may want to go deeper in order to maintain minimum cover.
  - **NOTE:** If stormwater drains exist in the crossing location, this water service tap must clear below the existing drains by at least 24 inches. Show the drains in the bore profile.
- **Bore Pits:** Shall be placed outside State ROW.
  - No jacking will be allowed; only boring. Please ensure jacking is not stated on the sheet.
  - The receiving pit at the location where the tap into the existing water line will be made must have the following information shown on the sheet: -Dimensions of pit, -Distance pit will be from edge of pavement, -Length of time the pit will be open.
- **Casing:** Water line crossings shall be encased in steel casing within the limits of State ROW.
  - Single residential household water service line crossings may be encased in HDPE.
  - Divided highways with frontage roads shall still have casing the entire width.
- **Description:** Think of the description block as a readable summary of the permit request and should contain at least a minimum of the following information:
  - --Additional information can be provided also.
  - 1. What is being proposed?
  - 2. What roadway will it be on?
    - Use State roadway names.
  - 3. Where is it located?
    - Use either accurate distance and direction from a State or county road intersecting the State road this will be installed on, or, offsets from TxDOT reference markers.
  - 4. What will be its purpose?
- **Vicinity map and GPS/LAT LONG:** A vicinity map is encouraged and will provide quicker orientation. TxDOT no longer uses NAD27: Use either NAD83 or NAVD88.
- **Miscellaneous:** --I only need to see what is inside State ROW. --State or show on the sheet how far off the ROW line the existing water line is that will be tapped. If the existing line is close to the edge of pavement (EoP) or back of curb (BoC), provide the distance to EoP/BoC also. --An inset/blowup can be used to better illustrate what will be installed at the tap. --State the size and type of line to be used. --TxDOT will not allow open cutting of its pavement. If the existing water line is under pavement, another location for the tap will need to be found. --Include north arrow for orientation.
- **Water meters:** Shall be located outside State ROW. If there is an existing water meter and it is being disconnected and reconnected, or upgraded or part of the project, it shall be re-located to outside State ROW.
- **Sidewalks:** If a sidewalk is in the location of the proposed tap, the sidewalk will need to be either bored under or saw cut from one joint to another joint. Tunneling or digging underneath will not be allowed. Valves and any other equipment will not be allowed to be installed in the sidewalk. Before the sidewalk is touched, the maintenance office shall be contacted so that the sidewalk can be repaired to original condition. In the utility installation request (UIR) it will need to be stated, either in the description block or on the sheet, that the maintenance office (insert name and number) will be contacted before the sidewalk is touched so they can check to ensure it is repaired to original condition.
- **Pedestrian Traffic Control Plans:** If the sidewalk is to be closed, a pedestrian TCP is required. Pedestrians will have to be routed around the portion of the sidewalk on an all-weather surface and NOT into the street. Think of in the context of someone trying to go around the location in a wheelchair. This information will have to be uploaded with the plans in the UIR (Utility Installation Review System). Proper signage and barricades will also need to be used and shown on the request.
- **Existing utilities:** --Show any existing utilities on the plan and profile views, if known, and their offsets.

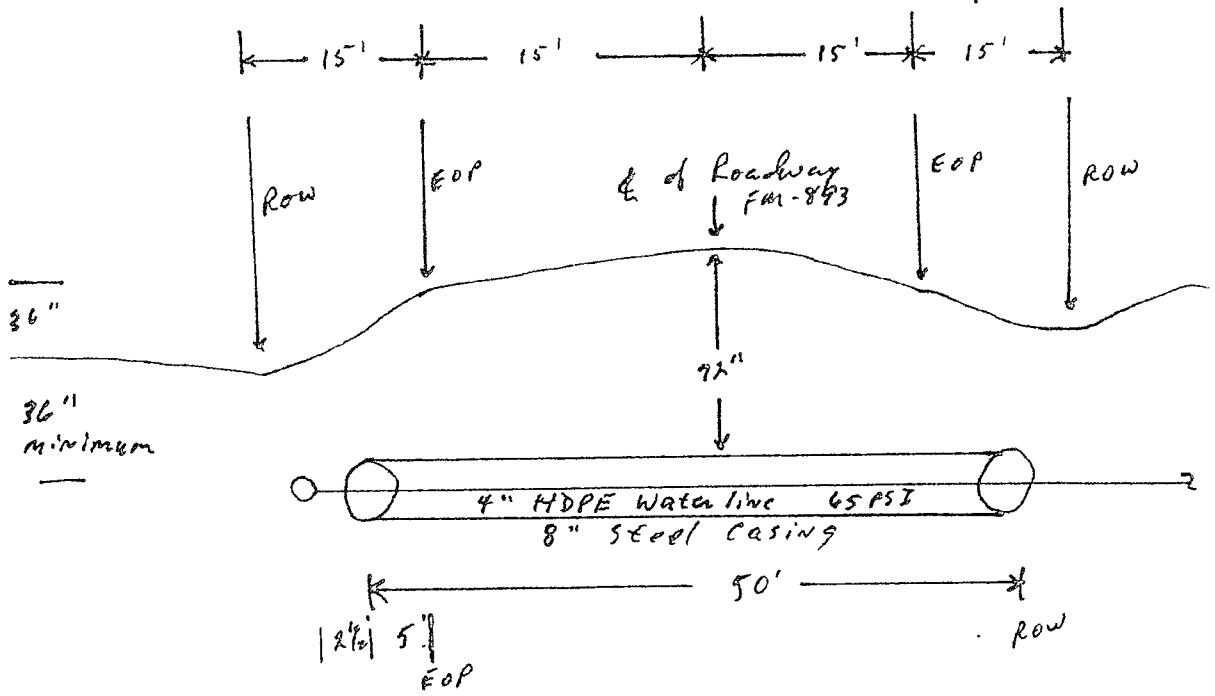
weld steel

Armando Bosquez  
361 761-364-6405  
armando.bosquez@  
L.L.D. 2011

David Brink  
361-808-2498  
davidobrink@



12-31-15



4" HDPE Water line 65 PSI  
8" Steel casing

Application For Jim Fort  
Rincon Water Corp.

TXDOT APPL.

Addition information to original permit application submitted 12-31-15 By Kenneth Johnson (Rincon Water Supply Corporation -Taft TX)

See schedule 1

Proposed Construction

Existing 4" water line runs parallel to FM 893 on north side. Leaving Portland, go west on FM 893, approximately one mile west of Portland city limits sign to intersection of FM 893 and Co Rd 3463. Project is to supply water to development south of FM 893. To access existing water line, need to bore under FM 893 from south to north, tap into existing line, and continue with new 4" water from north to south along west side CR 3463. At this point on FM 893, there are no sidewalks, curbs, houses, trees, or any other permanent structures.

Notes to Schedule 1

1. Proposed bore site is 51'5" west from west wall of concrete drain box (going N/S under FM 893). Also, see yellow point dot on C/L 893 and stakes on north and south side of 893 in plowed fields. (Approx lat. 27.88755N long. -97.37719W)
2. Width of FM 893 at this point is 15'6" from C/L to north and south sides (total 31').
3. FM 893 ROW width at this point is 80 feet. See Schedule 3
4. Small stakes with red ribbon mark ROW outside points-both north and south-from C/L FM 896 (are perpendicular 90 degrees to 893). Larger stakes inside of smaller stakes

Application For Jim Far  
Rincon Water Corp.

mark inside point of farming operation. Currently farming occurs in 6'10" of ROW on south side of 893 and 11'9" on north side of ROW.

Notes to Schedule 2

1. Existing water line is 16' N of grass line and 5' N of north side boundary of ROW of FM893. There is a 2" to 3" drop in elevation from C/L 893 to edge of pavement of 893.
2. Ground level (there is no "ditch" per se on N or S sides of FM 893 at this point) is 43" from highest point (crown) of FM 893 on south side and 36" on north side. As such, total depth from highest point of 893 to bore will be six feet or more.
3. Water line depth on north side 893 is 36" below ground level.
4. AEP poles exist on north side of 893 and are 38' from C/L of road. There are no poles obstructing proposed bore location. There are no other underground utilities in bore plane.
5. Water line casing will be welded steel pipe, minimum 8" diameter and 80' long and stretch from/to ROW N and S outside extremity. A 4" water line will pass thru bore.
6. There exists about 5' of clearance from end of bore to existing water line on north side - space used for connections and fittings. On south side, new water line will exit bore and turn S at 45 degree angle to west side of CR 3463, then turn south long side 3463.
7. No water meters will be located within highway ROW.



Application For Jim F-7  
Rincon Water Corp.

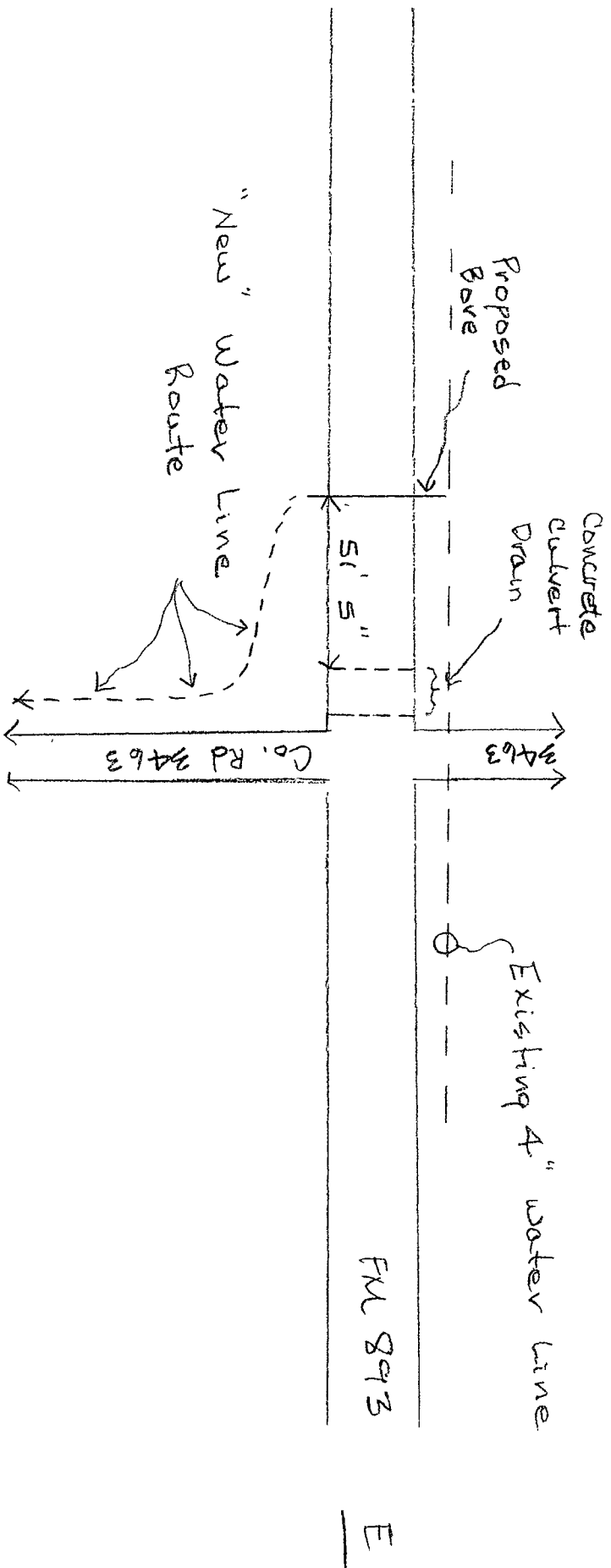
8. Bore is being contracted to Issacks Contracting in Aransas Pass , Texas. They will be responsible for boring and installing casing. All bore pits will be located outside Highway ROW.

9. Traffic control plan will follow Work Place Near Shoulder for Conventional Roads Diagram on Traffic Control Plan TCP (1-1)-12. No construction will occur within Highway ROW, and no stoppages of traffic is anticipated.

Application For Jim Fay  
By Kenneth Johnson  
Rincon Water Corp.

Sch. 1

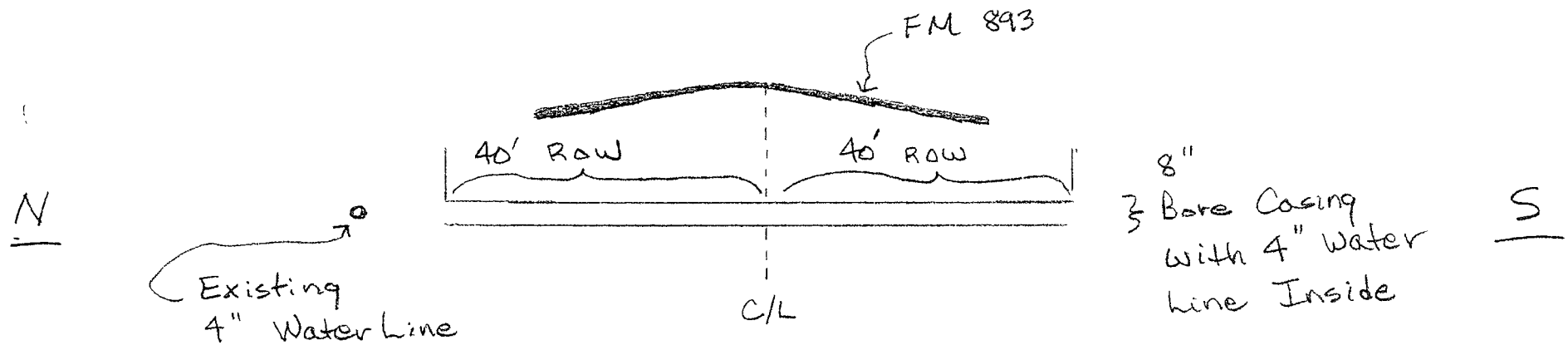
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Profile View

Application For Jim Fay  
by Kenneth Johnson  
Rincon Water Corp.

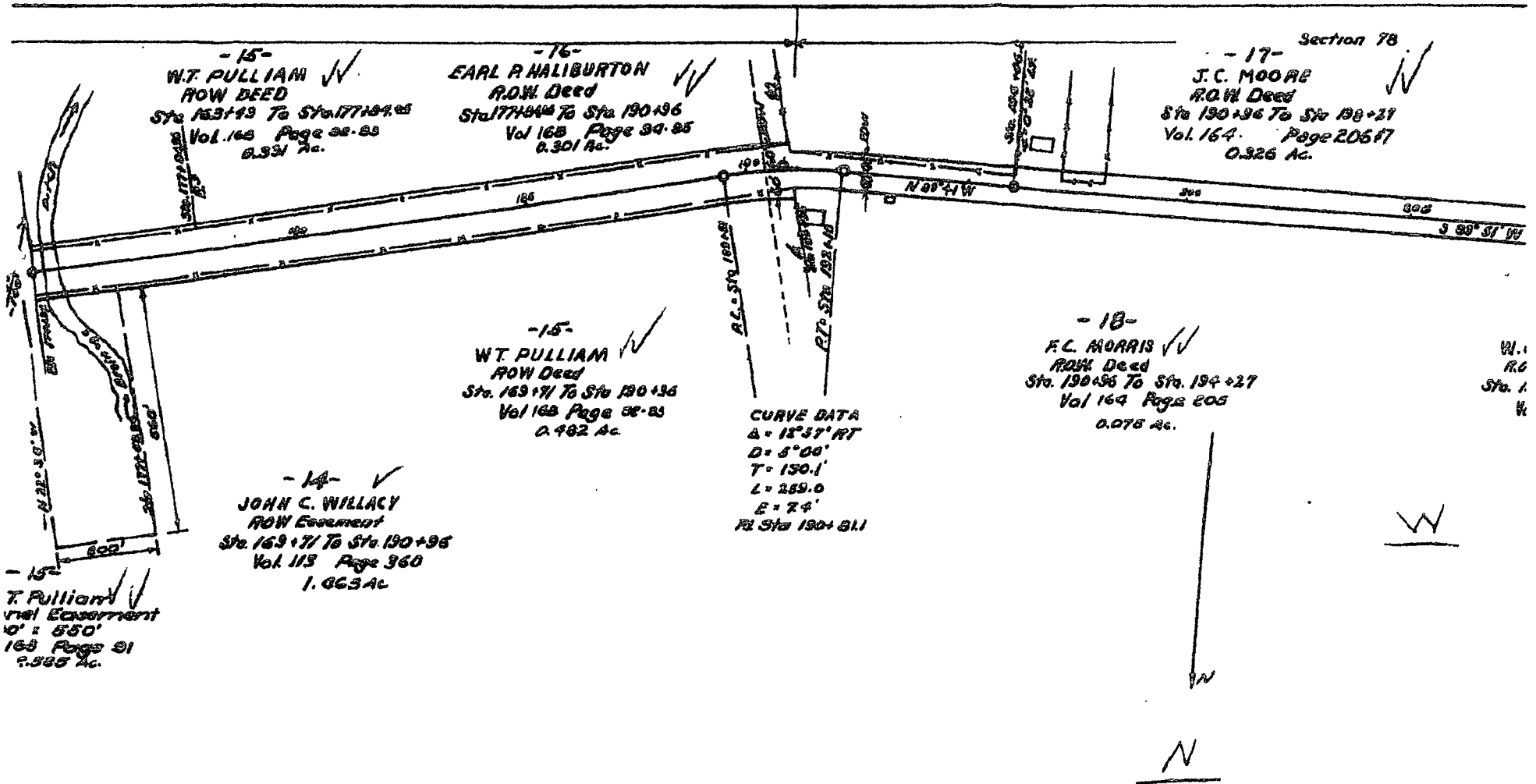
Sch. 2



Profile View



Application For Jim Fay  
Rincon Water



The Geo. H. Paul Subdivision of the Coleman Fulton Pasture Companies Land  
Section 78 Sec. 78

Schedule 3

CRP20161102162318 CRP20161102162318

San Patricio  
County  
Maintenance  
(Sinton)

Rincon Water  
Supply  
Corporation  
FM0893

Application approved.  
Notify TxDOT (using  
UIR) 2 business days  
prior to construction  
11/16/2016

David Brink  
District Permit Coordinator  
1701 S.P.I.D.  
Corpus Christi, TX. 78416  
361-808-2498  
[david.brink@txdot.gov](mailto:david.brink@txdot.gov)

**From:** Paulette Fay [<mailto:fayjpfayiii@aol.com>]  
**Sent:** Wednesday, November 30, 2016 8:08 AM  
**To:** David Brink  
**Subject:** permit

Wondering how my application rework initially submitted by Rincon water for boring under FM 893 west of Portland is coming along.

Thanks  
Jim Fay

[Redacted]

**#EndTheStreakTX**

Jim,

I just called Rincon and spoke with a lady there. She told me Ken is on vacation but she gave me Mark Moreno's contact information, below.

Mark Moreno, Supervisor  
361-222-1905 Cell

Here is the main Rincon office number.  
Rincon Office number  
361-528-3969

I do hope this helps.

David Brink  
District Permit Coordinator  
1701 S.P.I.D.  
Corpus Christi, TX. 78416  
361-808-2498

**From:** Paulette Fay [mailto:paulette.fay@rinconwater.com]  
**Sent:** Wednesday, November 30, 2016 10:28 AM  
**To:** David Brink  
**Subject:** Re: permit

Dear David;

As we discussed in our meeting I am getting almost no cooperation from Ken at Rincon Water. Obviously since Ken sat on the initial application for 9 months he was not concerned about the application.

I have heard nothing from Ken in the acceptance of application.

My sincere appreciation for your assistance in this matter.

Sincerely yours  
Jim Fay

-----Original Message-----

From: David Brink <[mailto:David.Brink@rinconwater.com]>  
To: Paulette Fay <[mailto:paulette.fay@rinconwater.com]>  
Sent: Wed, Nov 30, 2016 8:19 am  
Subject: RE: permit

Jim,

This was approved on the 16<sup>th</sup> of November:

Not ours. Pertains to  
6" water line, N/S  
on 893

**#EndTheStreakTX**

## Attached Message

From David Brink <David.Brink@txdot.gov>  
To Paulette Fay <fayjpfayiii@aol.com>  
Cc ken.rinconwsc@gmail.com <ken.rinconwsc@gmail.com>  
Subject RE: Follow up to Rincon Water application for Jim Fay bore under 893 3 mi west Portland  
Date Tue, 10 Jan 2017 16:03:34 +0000

Rincon has not yet sent me the revised installation request so it can be reviewed and approved.

I am attaching into this email the email I prepared and sent to both you and Ken with Rincon. That email contains everything that needs to be done for this installation request so that it can be revised and sent back to me. Until that happens, this request is not approved and no work can be done in State ROW. I am trying to help get this issue resolved and have supplied all of the necessary information needed to get this request fixed and approved.

David Brink  
District Permit Coordinator  
1701 S.P.I.D.  
Corpus Christi, TX. 78416  
361-808-2498  
[david.brink@txdot.gov](mailto:david.brink@txdot.gov)

**From:** Paulette Fay [<mailto:fayjpfayiii@aol.com>]  
**Sent:** Tuesday, January 10, 2017 9:49 AM  
**To:** David Brink  
**Subject:** Follow up to Rincon Water application for Jim Fay bore under 893 3 mi west Portland

I went to Rincon Water office in Taft this morning to get copy of approved permit application for above location. Your tele call 1-2 or 3-17 reported the application was approved pending some small changes that you were making.

However Ken accessed the TxDOT web site which shows no final approval. Ken assured me that site is up to date as of today 1-10-17.

I must be snake-bit. It is dry and I must get working and scheduling contractors. Please let me know what I can do to complete this application and it will be done immediately. I did call earlier this morning and let a message, so disregard that call when you read this.

Thank You  
Jim Fay  
(361)960-0371

## Attached Message

From David Brink <David.Brink@txdot.gov>  
To ken.rinconwsc@gmail.com <ken.rinconwsc@gmail.com>

[david.brink@txdot.gov](mailto:david.brink@txdot.gov)

Attached Message

From David Brink <David.Brink@txdot.gov>  
To Paulette Fay <fayjpfayiii@aol.com>  
Subject RE: Permit application-Recon water bore under Fm 893  
Date Mon, 30 Jan 2017 21:20:50 +0000

Jim,

When I sent the request back (on the 25<sup>th</sup>, same day he sent it to me) I asked that he give me a call as soon as possible because there were a few things he and I needed to discuss to get the permit request ready. There are a few small issues with it that won't take long to fix but I need him to give me a ring so we can discuss them. I'm just awaiting a call from him. I also just left a message with the lady at Rincon asking that Ken give me a ring so we can discuss the quick fixes that are needed so we can get this approved as quickly as possible.

There isn't a need for you to visit. Everything can be fixed by Ken calling me so we can go over what needs to be done.

David Brink  
District Permit Coordinator  
1701 S.P.I.D.  
Corpus Christi, TX. 78416  
361-808-2498  
[david.brink@txdot.gov](mailto:david.brink@txdot.gov)

**From:** Paulette Fay [<mailto:fayjpfayiii@aol.com>]  
**Sent:** Monday, January 30, 2017 10:04 AM  
**To:** David Brink  
**Subject:** Permit application-Recon water bore under Fm 893

I briefly talked to Ken Johnson (mgr Rincon) early Saturday morning. He reported he resubmitted permit application last week and received word Thursday it was rejected again. I asked Ken why it was rejected and he said he did not know (or so he said).

I feel the best way to proceed is for me to sit down with Ken with whatever changes to application we need at his office and step by step make changes as necessary, and continue to do so until done.

In this light, I have an appointment in Corpus Christi on Tuesday at 9:30. Do you have time about 8:00 to 8:45 Tuesday morning in the lobby at TXdot to meet and explain what we need to do. If you have written suggestions for Ken to follow it would be helpful. The rejection notice and instructions you included with it.

Please let me know; I feel we are close but need to finish.



Thanks

Jim Fay

Attached Message

From David Brink <David.Brink@txdot.gov>  
To Paulette Fay <fayjpfayiii@aol.com>  
Subject RE: Permit application-Recon water bore under Fm 893  
Date Wed, 1 Feb 2017 17:29:28 +0000

Mr. Fey,

To let you know I just left a voicemail on his cell phone and also left a message with the secretary informing her that there are a few very minor revisions that I need to have done to the installation request (CRP20151230141519) and that all that was needed was to have Ken give me a call while he was at his computer and we can get the minor revisions taken care of while on the phone. I told her the revisions would take only about 10-15 minutes and then we can get this approved and resolved.

David Brink  
District Permit Coordinator  
1701 S.P.I.D.  
Corpus Christi, TX. 78416  
361-808-2498  
[david.brink@txdot.gov](mailto:david.brink@txdot.gov)

**From:** David Brink  
**Sent:** Monday, January 30, 2017 3:21 PM  
**To:** 'Paulette Fay'  
**Subject:** RE: Permit application-Recon water bore under Fm 893

Jim,

When I sent the request back (on the 25<sup>th</sup>, same day he sent it to me) I asked that he give me a call as soon as possible because there were a few things he and I needed to discuss to get the permit request ready. There are a few small issues with it that won't take long to fix but I need him to give me a ring so we can discuss them. I'm just awaiting a call from him. I also just left a message with the lady at Rincon asking that Ken give me a ring so we can discuss the quick fixes that are needed so we can get this approved as quickly as possible.

There isn't a need for you to visit. Everything can be fixed by Ken calling me so we can go over what needs to be done.

David Brink  
District Permit Coordinator  
1701 S.P.I.D.  
Corpus Christi, TX. 78416  
361-808-2498  
[david.brink@txdot.gov](mailto:david.brink@txdot.gov)

From: David Brink <David.Brink@txdot.gov>

To: Armando Bosquez <Armando.Bosquez@txdot.gov>; Charles Benavidez <Charles.Benavidez@txdot.gov>

Subject: Rincon Water Supply and FM 893

Date: Thu, Feb 2, 2017 9:31 am

Attachments: FM 893 plan and profile.pdf (221K)

---

Charles,

Sorry for not sending this information to you yesterday after we spoke. The attached emails in this email are the communications I've had back and forth between Mr. Fay (customer) and Ken Johnson (Rincon WSC). I have left numerous voicemails on his cell phone and also with his secretary at Rincon's office to have Ken call me so we can go over the minor revisions I need to have done with this request so we can get it sent in and approved. Mr. Fay has been trying to work with Rincon and has told me he has already paid for the job but for some reason unknown to me Ken is completely unwilling to contact me to get this sorted.

Here is the contact information for Ken Johnson:

Installation Owner Job No.	Jim Fay Develop
Applicant Name	Kenneth Johnson
Contact Information	<a href="mailto:ken.rinconwsc@gmail.com">ken.rinconwsc@gmail.com</a> - 361-528-3969 - 361-222-1906 (mobile)
Installation Owner Name	Rincon Water Supply Corporation
Office Name	Rincon Water Supply
Proposed Construction Schedule	<b>Begin on: 02/01/2017</b> <b>Finish on: 03/01/2017</b>
Request Type	Regular Installation Request
Installation Purpose	Public Utility Installation
Installation Class	Water

Here is the contact information for Mr. Fay:

Jim Fay  
[fayjpfayiii@aol.com](mailto:fayjpfayiii@aol.com)  
(361)960-0371

Is there any way you can contact Rincon to see what's going on with this request? Thank you very much for your time.

David Brink  
District Permit Coordinator  
1701 S.P.I.D.  
Corpus Christi, TX. 78416  
361-808-2498  
[david.brink@txdot.gov](mailto:david.brink@txdot.gov)

Approval Form  
Online version 11/2005

**APPROVAL**To Kenneth JohnsonRincon Water Supply CorporationPO Drawer 7Taft, TX 78390Date 2/7/2017Application No. CRP20151230141519District App. No. CRP20151230141519Highway FM 0893Control Section 120901Maintenance Section San Patricio County Maintenance  
(Sinton)County San Patricio

TxDOT offers no objection to the location on the right-of-way of your proposed utility installation, as described by Notice of Proposed Utility Installation No. CRP20151230141519 (District Application No. CRP20151230141519) dated 2/7/2017 and accompanying documentation, except as noted below.

**Not applicable**

When installing utility lines on controlled access highways, your attention is directed to governing laws, especially to Texas Transportation Code, Title 6, Chapter 203, pertaining to Modernization of State Highways; Controlled Access Highways. Access for serving this installation shall be limited to access via (a) frontage roads where provided, (b) nearby or adjacent public roads or streets, (c) trails along or near the highway right-of-way lines, connecting only to an intersecting roads; from any one or all of which entry may be made to the outer portion of the highway right-of-way for normal service and maintenance operations. The Installation Owner's rights of access to the through-traffic roadways and ramps shall be subject to the same rules and regulations as apply to the general public except, however, if an emergency situation occurs and usual means of access for normal service operations will not permit the immediate action required by the Utility Installation Owner in making emergency repairs as required for the safety and welfare of the public, the Utility Owners shall have a temporary right of access to and from the through-traffic roadways and ramps as necessary to accomplish the required emergency repairs, provided TxDOT is immediately notified by the Utility Installation Owner when such repairs are initiated and adequate provision is made by the Utility Installation Owner for convenience and safety of highway traffic.

The installation shall not damage any part of the highway and adequate provisions must be made to cause minimum inconveniences to traffic and adjacent property owners. In the event the Installation Owner fails to comply with any or all of the requirements as set forth herein, the State may take such action as it deems appropriate to compel compliance.

It is expressly understood that the TxDOT does not purport, hereby, to grant any right, claim, title, or easement in or upon this highway; and it is further understood that the TxDOT may require the Installation Owner to relocate this line, subject to provisions of governing laws, by giving thirty (30) days written notice.

If construction has not started within six (6) months of the date of this approval, the approval will automatically expire and you will be required to submit a new application. You are also requested to notify this office prior to commencement of any routine or periodic maintenance which requires pruning of trees within the highway right-of-way, so that we may provide specifications for the extent and methods to govern in trimming, topping, tree balance, type of cuts, painting cuts and clean up. These specifications are intended to preserve our considerable investment in highway planting and beautification, by reducing damage due to trimming.

**Special Provisions:**

You are required to notify TxDOT 48 hours (2 business days) before you start construction to allow for proper inspection and coordination of work days and traffic control plans. Use the UIR website for the 48-hour notification. DO NOT start construction until you have coordinated the construction start date and inspection with TxDOT. You are also required to keep a copy of this Approval, the Notice of Proposed Installation, and any approved amendments at the job site at all times.

By Texas Department of Transportation  
Tomas Trevino  
Title Maintenance Engineer  
District Corpus Christi



Installation Application  
Online version 4/2006

## Notice of Proposed Installation Utility Line On TxDOT Highway Right of Way

To the Texas Transportation Commission  
c/o District Engineer  
Texas Department of Transportation  
Corpus Christi District, Texas

Date 2/7/2017  
Application No. CRP20151230141519

Formal notice is hereby given that Rincon Water Supply Corporation  
proposes to install a utility facility within the right-of-way of FM0893  
in San Patricio County, Texas as follows: (details are shown on page 2)

**Rincon Water Supply Corporation proposes to tap into an existing 4 inch water line running parallel on the north side of FM 893 with a new 4 inch water line in an 8 inch welded steel casing to the south side of FM 893. Here the new 4inch water line will run east parallel to the Right of Way line of FM 893 at approximately 7.5 feet inside private property plus or minus 57 feet to the west side of county road 3463 at which point the line will turn south and run 7.5 feet inside property to county road 2202. The angle of the bore will be 90 degrees. The location of the bore will be approximately 52 feet west of the concrete cross drainage culvert on the west side of county road 3463. The bore will be made at a depth of at least 6 feet underneath the pavement of FM 893. The portions of the new 4 inch water line not underneath the pavement will be installed at least 36 inches below ground elevation and ditches. The casing on the north side of FM 893 will end approximately 5 feet from the existing 4 inch water line. The casing on the south side of FM 893 will end at the property line on the south side of the ROW. No water meters will be installed in State ROW. The bore pit will be outside State ROW. The traffic control that will be used is Traffic Control Plan TCP (1-1)-12.**

The line will be constructed and maintained on the highway right-of-way as shown on the attached drawing and in accordance with the rules, regulations and policies of the Texas Department of Transportation (TxDOT), and all governing laws, including but not limited to the "Federal Clean Water Act," the "National Endangered Species Act," and the "Federal Historic Preservation Act." Upon request by TxDOT, proof of compliance with all governing laws, rules and regulations will be submitted to TxDOT before commencement of construction

Our firm will use Best Management Practices to minimize erosion and sedimentation resulting from the proposed installation, and we will revegetate the project area as indicated under "Revegetation Special Provisions."

Our firm will ensure that traffic control measures complying with applicable portions of the Texas Manual of Uniform Traffic Control Devices will be installed and maintained for the duration of this installation.

The location and description of the proposed installation and appurtenances is more fully shown by 1 files containing drawings and other pertinent information uploaded to the website.

Construction will begin on or after March 1, 2017 and end on or before April 1, 2017

I certify that I am authorized to represent the Firm listed below, and that our Firm agrees to the conditions/provisions included in this notice.

Utility Installation Owner Rincon Water Supply Corporation

By Kenneth Johnson  
Title General Manager  
Address PO Drawer 7  
Taft, TX 78390  
Phone No. 361-528-3969  
E-mail address ken.rinconwsc@gmail.com

James M. Fay, III  
224 Sutherland  
Portland, TX 78374

*JMF*  
2-19-2017

RE: Nueces Bay Tracts; My File No. 2393-004

Jim:

I think Michael MacInnis' comments regarding the platting make a lot of sense. I recently took a client through the platting process in Nueces County and the bond for septic was expensive and a hassle.

On the other hand, it is one thing to avoid unnecessary hassles. However, if you do not meet the higher construction standards for the roads in the subdivision, I believe you may regret it. Road concerns are a problem for developers that create them. Trying to fix roads without the proper base material has been a source of a lot of conflict in rural subdivision.

Plan A. Build the subdivision roads to county standards, and later have them accepted for county maintenance, taking them off the books of the homeowners association. Also, If you do build the subdivision roads to the platting standards, the covenants could provide that the subdivision could be platted later, either (a) after each lot has been furnished with a septic system; or (b) when the remaining lot owners are willing to pay a septic deposit. This would allow this subdivision to be platted lots. The platted lots and county standard roads would likely allow the subdivision tracts to hold their value, and for the homeowners association to have a significantly lower assessment. Also, I would not be surprised to see the legislature abandon the septic deposit system.

Plan B. Build the subdivision roads to a lower standard, saving some money now. The likely result would be:

- (a) poor roads in the near future;
- (b) the County would not be able to accept maintenance of the roads, so the homeowners association would be locked in for the long term on the road maintenance;
- (c) the road maintenance would be high, because repair of roads without substantial base material is generally ineffective, making frequent repairs necessary.
- (d) if you are going to go this route, a good disclosure to your buyers on the front end would be helpful to avoid future claims by the lot owners.

Michael's comments about the private land and county road easements is helpful too.

I have included a review of the matters discussed at the meeting earlier this afternoon at Nathan East's office, attended by Nathan, Ken Johnson, you and me. From the meeting, I understand the following:

1. The documents delivered at the meeting were the following:

we ✓  
a. Rincon Rules. Rincon Water Supply Corporation TARIFF Rules and Regulations Adopted by the Board of Directors by Resolution RES-1010-01 on 04-19-2011 (43 pages) - Ken provided a copy to Nathan, you and me. I have attached a digital copy (word searchable).

✓  
b. Rincon Construction Standards. Rincon Water Supply Corporation CONSTRUCTION STANDARDS (3 pgs) - undated - provided to me by Ken. I have attached a digital copy (word searchable).

✓  
c. TCEQ Rules. Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems §§290.38 - 290.47 12-10-2015 (134 pgs) - provided to me by Ken. I will send this to you in a separate email, since it is so long (word searchable). I

✓  
d. Warranty Deed dated 11-25-1991 from Centex Cement Corporation to Jeff Hunt relating to 200.006 acres in San Patricio County recorded on 11-27-1991 in Clerk's File No. 400467, Real Property Records, San Patricio County, Texas, and being expressly subject to all recorded easements. I have attached a digital copy.

✓  
e. Right of Way Easement dated 04-10-1987 from Centex Cement Corporation to Rincon Water Supply Corp. granting an easement and access in the property described in Vol 260, Pg 317, Deed Records of San Patricio County, not exceeding 15' in width, and recorded on 05-04-1988 in Clerk's File No. 369955, Real Property Records, San Patricio County, Texas, and containing the following provision: "The consideration recited herein shall constitute payment in full for all damages sustained by Grantors by reason of the installation of the structures referred to herein ..." I have attached a digital copy. I will get a copy of the document at Vol 260 Pg 317

2. Ken Johnson reviewed the process for approval from Rincon Water Supply Corporation (Rincon) as follows:

a. Under the Rincon Rules, the development is considered a subdivision and the landowner will need to obtain Rincon's approval of a utility plan and a plat (a drawing showing the placement of the utilities and the general layout of the subdivision). Note: The Rincon Rules do not require the plat to conform to the formal San Patricio County Subdivision Rules. Ken Johnson has the authority to act for Rincon in approving the utility plan and the plat without a meeting of the Rincon Board.

b. Rincon usually required a \$20,000 deposit for Rincon's engineering and design of the utility system. However, Rincon is permitting the landowner to provide their own utility plan, and will not assess the deposit. However, the utility plan must meet the TCEQ Rules, the Rincon Rules, and it will need to be approved by Rincon's engineer, Jeff Schwartz (office in Robstown).

c. Rincon usually requires a professional contractor. However, Rincon is permitting Jim Fay to serve as the contractor for the construction work to install the waterline, although such construction must be performed according to the Rincon Construction Standards.

d. On questioning regarding a possible reimbursement system from landowners who, in the future, tap into the waterline without having paid for its construction, Ken mentioned the possibility of a 5 year reimbursement period based on new taps allocated on a water unit basis. However, such an arrangement would need to be approved by the Rincon Board.

3. An overview of the process prior to construction, from the Rincon point of view, is as follows:

a. Rincon needs to review and approve the utility plan (Rincon will rely on Schwartz review) and subdivision plat (Ken referenced the Rincon Rules, pg 8, Article III.(b) relating to Rincon's responsibility to protect the public by ensuring the integrity of the of the water distribution system);

b. Rincon requires a TXDOT permit for boring under the state roads (the permit was issued Feb 7, 2017, and, according to Ken's understanding of what David Brink at TXDOT told Ken, the permit is good for 6 months from the issue date, regardless what the permit itself states. Furthermore, Ken indicated there is presumably a means for obtaining an extension, if necessary.

c. The easement is recorded and should provide a sufficient means for building the waterline through the Kim Hunt land.

d. With the TXDOT permit and Rincon's approval, construction should be able to begin.

4. Nathan East expressed his view that he would, on behalf of Rincon, following approval of the utility plan and plat by Rincon, visit Kim Hunt and let her know that the easement and the permits allow the work to proceed.

5. Ken mentioned that the waterline would need not be permitted if it were in a public road easement because Rincon has been required to pay for relocation of waterlines in the past, when a public road is widened. Jim Fay proposed to put the waterline within the road right of way to avoid the difficulties anticipated from Kim Hunt. Jim advised Ken that the County Commissioner for the affected area has agreed to this. The end result of the conversation was as follows:

a. If Jim Fay can convince a majority of the County Commissioner's Court to allow the waterline to be in the road right of way, and provide a written commitment that the county would assume the cost of relocating the waterline if the road is widened in the future, the Ken would be willing to take the proposal to his Rincon Board to see if they will allow the waterline to be in the road right of way under those limited circumstances.

b. If the Rincon Board agrees to follow the lead of the County Commissioner's Court on the subject, then Rincon would permit the waterline to be within the road right of way.

c. Jim said the utility plan will not be available for a couple of weeks. Therefore, the soonest the matter could be taken up by the County Commissioners would be in early March (County Commissioners' Court meets weekly on Mondays, although there are often cancelled meetings during the March planting season). The matter could then be taken to the Rincon Board at their March 21 meeting, but the information would need to be provided to Ken no later than March 14 in order that he can get the information in the files of the Board members in time to be reviewed by them before the meeting.

6. Kim Hunt, the landowner, has expressed concerns the waterline project would impair the drainage of her land, resulting in damages to it. Jim said the ditch would only be 8" wide; therefore, the ditch would not affect the drainage of the Hunt land. Nathan East suggested Jim's engineer prepare elevations before and after the work is done, and provide written documentation of such elevations, as evidence that the waterline project did not affect the elevations, and therefore did not affect the drainage. Jim did not object to the idea.

7. Jim proposed that he start on his waterline project on his own land, in order to get a head start on it. Ken said Jim could do what he wanted on his own land, but the approvals would need to be in place before the work was done elsewhere.



8. Jim said he expected the utility plan would take his engineer 14 - 21 days to prepare. Ken commented that the Rincon engineer produced a large project plan in 10 days recently.

9. Jim commented that the County Commissioners' Court approved the subdivision waterline project 2 years ago, on March 16, 2015.

10. Regarding the reimbursement proposal, Ken indicated it should be a joint effort, with Jim providing the cost estimates and Ken proposing a document. The proposal would need to be approved by the Rincon Board.

11. Jim requested 13 (in addition to the 1 Jim will use for his own property) water taps be reserved for his development. Ken responded that Jim would need to pay a deposit of \$1,625. Ken asked Jim to go to the Rincon office, give them a check, and fill out the required paperwork to reserve the water taps.

12. David Conoly asked Ken what assurances there are that Rincon has the water to provide the subdivision. Ken said Rincon has a contract with the San Patricio MUD, signed last year, assuring water would be provided on a living unit basis, for 30 years. Ken also said that San Patricio MUD has a contract with the City of Corpus Christi for water from the Rhodes pipeline and from the Owens Plant, on the basis of 6 gallons per minute for each property.

After the meeting I encouraged you to get a clear commitment from your engineer on the work to be done. If you cannot get it, you might consider someone who can.

Best Regards,

David

---

David Z. Conoly  
David Z. Conoly, P.C. 1930 Glenoak Dr. Corpus Christi TX 78418  
PH 361.937.6400 FX: 361.937.6846 CELL: 361.548 2431 EMAIL: [dzc@dzclaw.com](mailto:dzc@dzclaw.com)  
Fellow, American College of Real Estate Lawyers

**BOARD CERTIFIED**  
Texas Board of Legal Specialization  
COMMERCIAL REAL ESTATE LAW  
FARM AND RANCH REAL ESTATE LAW  
RESIDENTIAL REAL ESTATE LAW

---

**From:** Paulette Fay [<mailto:fayjpfayiii@aol.com>]  
**Sent:** Thursday, February 16, 2017 6:50 PM  
**To:** David Z. Conoly  
**Subject:** Thoughts on todays meeting and other issues

David:

I am attaching email received from Michael MacInnis R.P.L.S. of most interest is "by the way. ." which essentially means we must deal w/Kim anyway no matter what. It's doubtful Kim knows of such Provisions- I do not know if Nathan East does either, or at least he said nothing at today's meeting.

From: Paulette Fay <fayjpfayiii@aol.com>

To: dzc <dzc@dzclaw.com>

Subject: Notes on your 2-19 email

Date: Sun, Feb 19, 2017 7:52 pm

2-19

2.d. Both neighbors to east and west are contemplating developments. The reason I asked Ken direct to make a deposit for remaining 13 taps was to lock up those taps now. No doubt in future Equivalent Dwelling Unit (EDU) limit (TARAFF p. 9) will be met on 4" supply line. Someone else will construct next line.

e. "The consideration stated herein..." Kim will scream when she receives no crop damages; maybe later I could pay some helping her to forego drainage claims. Again - later.

3.a. Water utility plan by licensed P. E. should suffice. Of course Ken and Schwartz approval of plans allows them to stall further. I remember Ken saying his review takes two days, Schwartz two weeks. We will see.

b. I will send emails to David Brink as things progress so he is aware of neighbor's actions and how they are slowing progress.

5. a. Will not happen.

b. N/A

c. In final analysis, proceeding thru Kim's field is only way to go.

6. I will instruct Mike MacInnis to do elevations on my 80 acres following waterline path. I am also asking him to spot elevations, ideally at every utility pole, to cement culvert (N/E side Kim's land) under FM 893, and also at two tie in's on Kim's south borderline - both pre and post construction. I do not like to pay duplicate work (assuming engineer's surveyor does same) but in this case probably worth it.

7. I will wait for final approval before any waterline construction.

11. Will do this week.

Finally, I am going to arrange a meeting this week with Fred Nardini - County Commissioner and Terry Simpson County Judge to flush out informal subdivision rules, roads, etc. This is our only option - we have borrowed all we can and must sell tracts to pay note and finish construction - no other option. I fully understand your points with plan B, but it is our only option.

I am getting the feeling Brandi Ward P.E. is not coming thru; I will find out Monday and go from there.

Thanks,

Jim



# PROSPERITY BANK®

12099 1 AV 0.373  
NUECES BAY TRACTS  
PO BOX 1152  
PORTLAND TX 78374-1152

Visit us online at ProsperityBankUSA.com

Statement Date

2/28/2017

Account No

Page 1 of 6



### STATEMENT SUMMARY

02/01/2017	Beginning Balance		\$2,361.69
	4 Deposits/Other Credits	+	\$4,625.00
	12 Checks/Other Debits	-	\$5,883.38
02/28/2017	Ending Balance	28 Days in Statement Period	\$1,103.31
	Total Enclosures		15

### DEPOSITS/OTHER CREDITS

Date	Description	Amount
02/06/2017	Deposit	\$600.00
02/10/2017	Deposit	\$300.00
02/14/2017	Transfer Deposit	\$2,100.00
02/21/2017	Transfer Deposit	\$1,625.00

### CHECKS

Check Number	Date	Amount	Check Number	Date	Amount	Check Number	Date	Amount
1142	02-06	\$15.41	1146	02-15	\$700.00	1150	02-22	\$1,625.00
1143	02-06	\$24.50	1147	02-21	\$76.00	1151	02-23	\$32.00
1144	02-14	\$30.63	1148	02-17	\$1,203.13	1152	02-28	\$10.13
1145	02-13	\$32.00	1149	02-21	\$34.58			

### OTHER DEBITS

Date	Description	Amount
02/15/2017	[REDACTED]	\$2,100.00

### TOTAL OVERDRAFT FEES

	Total For This Period	Total Year-to-Date
Total Overdraft Fees	\$0.00	\$0.00
Total Return Item Fees	\$0.00	\$0.00

### DAILY ENDING BALANCE

Date	Balance	Date	Balance	Date	Balance
02-01	\$2,361.69	02-13	\$3,189.78	02-17	\$1,256.02
02-06	\$2,921.78	02-14	\$5,259.15	02-21	\$2,770.44
02-10	\$3,221.78	02-15	\$2,459.15	02-22	\$1,145.44

MEMBER FDIC



NYSE Symbol "PB"

NUECES BAY TRACTS  
PO BOX 1142  
PORTLAND, TX 78274

DATE 2-21-17 1150

PAY TO THE ORDER OF Riverson Water Supply \$ 1625<sup>00</sup>

One thousand six hundred twenty five DOLLARS

PROSPERITY BANK  
2000 W. UNIVERSITY BLVD  
PORTLAND, TX 78251

FOR DEPOSIT ONLY  
NON-CASH DEPOSIT

Jim Fay

#001150#

2/22/2017 1150 \$1,625.00

NUECES BAY TRACTS  
PO BOX 1151  
PORTLAND, TX 78274

DATE 2-25-17 1151

PAY TO THE ORDER OF Cash \$ 32<sup>00</sup>

Thirty two DOLLARS

PROSPERITY BANK  
2000 W. UNIVERSITY BLVD  
PORTLAND, TX 78251

Jim Fay

#001151#

2/23/2017 1151 \$32.00

NUECES BAY TRACTS  
PO BOX 1142  
PORTLAND, TX 78274

DATE 2-27-17 1152

PAY TO THE ORDER OF Post Net \$ 10<sup>13</sup>

Ten and 13/100 DOLLARS

PROSPERITY BANK  
2000 W. UNIVERSITY BLVD  
PORTLAND, TX 78251

Jim Fay

#001152#

2/28/2017 1152 \$10.13

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RE: Fay property in Portland

Brandi Karl to you + 1 more show details Ma

Jim Fay - FM 893 Permit.pdf (15 KB)

Michael, Mac Innis - survey or

After talking to you, I have a better idea of what information you have and then what the gaps are that we will need to fill in order to produce the engineering drawings. Please send Jim Fay a cost estimate to complete the following:

- › Topo shots on the west side of CR 3463 from FM 893 to CR 2202. We will need topo on both sides of FM 893 at the bore location (exhibit attached), including the drainage culvert and location of the existing 4" waterline for the tie-in. Identify the available R.O.W. and/or utility easements acquired, edge of pavement, existing utilities, power poles, ditch flowline, culvert at CR 2202, etc)
- › Call in utility locates for all utilities along the waterline route (West side of CR 3463, south side of CR 2202 from CR 3463 to the tie-in location.)
- › It sounds like you already have this topo for the south side of CR 2202, but if not, we would need the additional shots that you are lacking.
- › We will need an Autocad file with all of the topo (old and new) consolidated into one file. This topo needs to be tied into property corners, street rights-of-way, as well as all easements that you have produced for Jim (waterline, proposed roadway, and AEP). Should be on State Plane Coordinate system and I'm assuming NGVI 88.
- › Location of 3" waterline for the tie-in on CR 2202.

7-26-17

More

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**RE: TXDOT permit**

Brandi Karl to you show details

Fet

Received your emails.

Thanks,

cid:image002.png@01CF80D6.B4532BE0

**Brandi B. Karl, P.E.** [brandib@urbaneng.com](mailto:brandib@urbaneng.com)  
*Project Engineer* [www.urbaneng.com](http://www.urbaneng.com)

**Urban Engineering** work: 361-790-7225  
411 S. Pearl St. mobile: 361-774-4534  
Rockport, TX 78382 fax: 361-729-7933



**From:** Paulette Fay [<mailto:fayjpfayiii@aol.com>]  
**Sent:** Monday, February 20, 2017 6:46 PM  
**To:** Brandi Karl <[BrandiK@urbaneng.com](mailto:BrandiK@urbaneng.com)>  
**Subject:** TXDOT permit



Brandi here is the permit

More

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**RE: water line update**

**Brandi Karl** to you show details

Ma

Jim,

I was working with Jerry Brundrett to get the topo surveying that I need lined up, but after talking to Michael MacInnis, he's already done so much of it that it makes more sense for him to finish it up. I'm copying you on my email to him outlining what we will need.

cid:image002.png@01CF80D6.B4532BE0

**Brandi B. Karl, P.E.**  
*Project Engineer*

[brandib@urbaneng.com](mailto:brandib@urbaneng.com)  
[www.urbaneng.com](http://www.urbaneng.com)

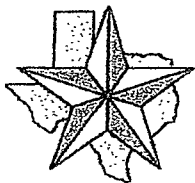
**Urban Engineering**  
411 S. Pearl St.  
Rockport, TX 78382

work: 361-790-7225  
mobile: 361-774-4534  
fax: 361-729-7933

*mlb copy*

**From:** Paulette Fay [<mailto:fayipfayiii@aol.com>]  
**Sent:** Wednesday, March 29, 2017 10:57 AM  
**To:** Brandi Karl <[BrandiK@urbaneng.com](mailto:BrandiK@urbaneng.com)>  
**Subject:** water line update

7.28.17



# J. Schwarz & Associates, Inc.

---

## Professional Engineering Solutions

May 11, 2017

Jim Fay  
P.O. Box 1152  
Portland, TX 78374

Re: Engineering Services Proposal for Waterline Project West of Portland

J. Schwarz & Associates, Inc. (JSA) is pleased to offer the following proposal for engineering services for the above referenced project. The Scope of Services to be provided per this proposal shall consist of the following:

Project Scope of Services:

1. Engineering design, layout and horizontal control for construction of the waterline improvements on CR 3463, CR 2202, and within your 80 acre project site;
2. Technical specifications for waterline improvements;
3. Construction details for the plan set;
4. Submit drawings and specifications to Rincon Water Supply Corporation for review and approval;

Project Deliverables:

- Electronic set of ANSI C or ANSI D pdf drawings for reproduction by Owner

Exceptions and Clarifications:

- Construction staking is not included in the project scope;
- Utility easement preparation is not included in the project scope;
- Permitting is not included in the project scope;
- Construction administration and inspection is not included in the project scope;

Fees for our services will be invoiced on a lump sum basis, using the following schedule:

Total fees Items 1-4:                    \$10,500.00

The engineering fee will be payable upon approval of the plans by Rincon Water. Sealed construction drawings and specifications to be delivered to owner upon receipt of fee.

Thank you for the opportunity to provide you with this proposal. If you have any questions, please do not hesitate to contact us. We look forward to assisting you on this project.

Sincerely,  
J. Schwarz & Associates, Inc. (F-8138)

Brandi B. Karl, P.E.  
Project Engineer



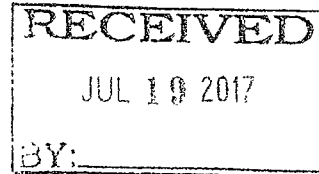
NATHAN A. EAST  
ATTORNEY AT LAW

ONE CEDAR PLACE  
101 CEDAR DRIVE, SUITE F  
PORTLAND, TEXAS 78374  
(361) 643-8541 Phone  
(361) 777-0491 Fax

Mailing Address:  
P. O. BOX 1333  
PORTLAND, TEXAS 78374

e-mail: nathan@nstitle.net

July 17, 2017



Mr. David Conoly  
Attorney at law  
1930 Glenoak Drive  
Corpus Christi, Texas 78418

RE: Rincon Water Supply Corporation  
Jim Fay development west of Portland, San Patricio County

Dear David:

I have been instructed to return the \$1,300.00 paid by Mr. Fay to reserve memberships in the corporation.

This money was deposited many months ago. Application forms and service agreements paperwork have not been returned and there is no way for Rincon to account for the money being held.

Please find enclosed a check made payable to your client.

Sincerely,

A handwritten signature in black ink, appearing to be "Nathan A. East", written over a horizontal line.

Nathan A. East

NAE:jg  
Enclosure

cc Mr. Kenneth L. Johnson  
Rincon Water Supply Corporation  
P. O. Drawer 7  
Taft, Texas 78390

From: David Z. Conoly <dzc@dzclaw.com>  
To: Jim Fay (fayjpfayiii@aol.com) <fayjpfayiii@aol.com>  
Cc: Brandi Karl <brandi@jsatx.com>  
Subject: Nueces Bay Tracts - Confidential  
Date: Mon, Jul 24, 2017 9:42 pm

James M. Fay, III  
224 Sutherland  
Portland, TX 78374

RE: Nueces Bay Tracts; My File No. 2393-004

Jim:

This confirms my recommendation to you earlier today, in an effort to improve your relationship with the Rincon Water District, to obtain from your engineer, Brandi Karl, a letter addressed to the Rincon Water District, verifying:

- a. She has been engaged by you to prepare engineering plans;
- b. The scope of the plans will cover the construction involved to install the water system for your development; and
- c. The date by which the engineering plans will be completed and delivered to you.

With your permission, I am sending a copy of this email to Brandi.

Please let me know should you have any questions.

Best Regards,

David

---

David Z. Conoly  
David Z. Conoly, P.C. 1930 Glenoak Dr. Corpus Christi TX 78418  
PH: 361.937.6400 FX: 361.937.6846 CELL: 361 548.2431 EMAIL: [dzc@dzclaw.com](mailto:dzc@dzclaw.com)  
Fellow, American College of Real Estate Lawyers



From: Paulette Fay <fayjpfayiii@aol.com>

To: dzc <dzc@dzclaw.com>

Subject: Tele call with Brandi

Date: Wed, Jul 26, 2017 9:19 pm

---

Called Brandi @ 4:58. She called back about 5:20, said she just finished talking to you. Brandi & I discussed:

1. Something about Rincon needs to annex(?) area prior to awarding any taps. Rincon only water Co in area, we have had Rincon water since 1960. Grandfathered in? City of Portland trying to annex entire area west of Portland - may have something to do with this.
2. She will not do engineering work. Schwartz talked to her.
3. She promised 3 times to write letter tomorrow to Rincon explaining terms, dates of K between her and us. I asked her to copy to Nathan East in case Ken "forgets" to mention to Nathan. We will see.
4. She said Schwartz "afraid when attorneys involved." I told her Ken was problem.

I recommend we proceed as follows:

1. Brandi said we need to have water line and taps anyway so go ahead with getting plans, laying line now full speed ahead. Test when water available. I absolutely agree.
2. I am meeting with Tommy Fox of J J Fox Const next week. He submitted proposal for line some months back - he will help me.
3. Brandi worked at Urban prior to moving to Schwartz.
4. I suggest you call Urban Eng your contact- briefly explain situation. Try to arrange meeting between me and Urban personnel early next week (not Tu 8-2). I will bring copy Brandi's K, show diagrams of project.

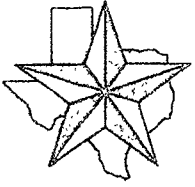
Assuming Urban will do plans, have them write Rincon, Nathan explaining they are taking over project and time frame will be approximately same.

If Urban will not help - try Naismith. I have talked to them before about project.

We need to keep on working—

Thanks

Jim



# J. Schwarz & Associates, Inc.

*Professional Engineering Solutions*

July 31, 2017

Jim Fay  
PO Box 1152  
Portland, TX 78374

Re: JSA Engineering Contract #2017004 Termination

Mr. Fay:

As of July 31, 2017, the contract for engineering services for the above referenced project is terminated. This letter shall serve as your formal notice of termination for the contract. Should you have any questions or require any additional information, please do not hesitate to call on us.

Sincerely,  
J. Schwarz & Associates, Inc.

*James*

*JS*

Digitally signed by  
James Schwarz P.E.

*JS*

JAMES SCHWARZ, P.E.  
Date: 2017.07.31  
10:13:53 -05'00'

James Schwarz, P.E.  
Project Engineer

encl.:  
C:\JSA\Rincon\Jimfayterminationletter Doc

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**(No subject)**

**Brandi B. Karl, P.E.** to you show details show image slideshow

31

jimfayterminationletter.pdf (251 KB)

Jim,

Here is the letter terminating the contract. I will send a second email with the letter to Ken Johnson.

**Brandi B. Karl, P.E.**

Project Engineer

m: 361.774.4534



**J. Schwarz & Associates, Inc.**

PO Box 60733, Corpus Christi, TX 78466

[www.JSATX.com](http://www.JSATX.com) | [Brandi@JSATX.com](mailto:Brandi@JSATX.com)

From: David Z. Conoly <dzc@dzclaw.com>

To: Paulette Fay <fayjpfayiii@aol.com>

Subject: RE: Water Line Questions - Nueces Bay Tracts - Confidential

Date: Fri, Aug 4, 2017 4:47 pm

---

James M. Fay, III  
224 Sutherland  
Portland, TX 78374

RE: Nueces Bay Tracts; My File No. 2393-004

Jim:

I spoke with Nathan East, and from that conversation I understand the following:

1. Rincon requests a letter from Urban that they are being retained to prepare the engineering plans for the development.
2. Rincon requests a letter from Fox Construction that they are being retained for the development construction work.
3. The development land is not currently in the Rincon District Service Area. A Certificate of Convenience and Necessity needs to be obtained from the appropriate state agency to allow the Rincon Water District to add the development land to its service area (which Rincon is willing to do). Nathan suggested that you discuss this with Urban Engineering for the purpose of obtaining the appropriate certificate to present to the Rincon Water District. When the certificate is issued by the state, and accepted by Rincon, the reservations will be re-issued.
4. I advised Nathan that, while I will recommend you pursue these channels, you are not waiving your claim to the reservations, and you continue to object that the reservations were improperly cancelled without written notice and a right to cure.

Let me know if you have any questions. If you are okay with this, let me know and I will call Jim Urban to set up a meeting. Is there any reason a Fox representative should be at the meeting with Jim Urban?

Best Regards,

David

---

David Z. Conoly

David Z. Conoly, P.C. 1930 Glenoak Dr. Corpus Christi TX 78418

PH: 361.937.6400 FX: 361.937.6846 CELL: 361.548.2431 EMAIL: [dzc@dzclaw.com](mailto:dzc@dzclaw.com)

Fellow, American College of Real Estate Lawyers



Texas Board of Legal Specialization

COMMERCIAL REAL ESTATE LAW  
FARM AND RANCH REAL ESTATE LAW  
RESIDENTIAL REAL ESTATE LAW

---

**From:** James Schwarz [mailto:[jjis@jsabx.com](mailto:jjis@jsabx.com)]

**Sent:** Thursday, August 10, 2017 3:44 PM

**To:** David Z. Conoly

**Subject:** Fay Property

David: I spoke with Ken Johnson with Rincon W.S.C. regarding our conversation and he agreed that it would make matters much simpler if Rincon handled the CCN expansion, waterline design and construction. You will likely need to get with Ken regarding the method for reimbursement for each of the phases of the project. Let me know if you have any questions or need any additional information. Thanks.

James Schwarz, P.E.  
J. Schwarz & Associates, Inc.  
(361) 906-2430

From: David Z. Conoly <dzc@dzclaw.com>  
To: Jim Fay (fayjpfayiii@aol.com) <fayjpfayiii@aol.com>  
Subject: FW: Fay Property - Nueces Bay Tracts - Confidential  
Date: Thu, Aug 10, 2017 4:08 pm

---

James M. Fay, III  
224 Sutherland  
Portland, TX 78374

RE: Nueces Bay Tracts; My File No. 2393-004

Jim,

I am forwarding to you the email comment I received from James Schwarz, Rincon's engineer.

We discussed working out a game plan with Rincon, including

a. What needs to be done:

1. Expand the service area to include your land.
2. Prepare Engineering Plans.
3. Select a contractor and get the construction done.

b. How will each item be handled? You will be paying for it, so I would expect a discussion on how prices are established, how the work is billed, and how payment is to be made.

c. Get started.

One way to do this is for you to call Ken Johnson and work through these matters. Another way would be for me to work with James Schwarz (acting for Rincon) to work through this process (James would be coordinating with Ken, and James would communicate the process to you and me).

Let me know what you want to do.

Best Regards,

David

---

David Z. Conoly  
David Z. Conoly, P.C. 1930 Glenoak Dr. Corpus Christi TX 78418  
PH: 361.937.6400 FX: 361.937.6846 CELL: 361.548.2431 EMAIL: [dzc@dzclaw.com](mailto:dzc@dzclaw.com)  
Fellow, American College of Real Estate Lawyers



From: David Z. Conoly <dzc@dzclaw.com>

To: James Schwarz - Engineer <jjs@jsatx.com>

Cc: Nathan East (nandrew75@aol.com) <nandrew75@aol.com>; Brandi Karl <brandi@jsatx.com>; Rincon Water Supply Corporation <rinconwatercorp@gmail.com>; Jim Fay (fayjpfayiii@aol.com) <fayjpfayiii@aol.com>

Subject: Fay Property - Nueces Bay Tracts - Confidential

Date: Mon, Aug 14, 2017 12:25 pm

---

James Schwarz, P.E.  
Project Engineer  
PO Box 60733  
Corpus Christi, TX 78466

RE: Fay Property - Nueces Bay Tracts; My File No. 2393-004

James,

I have confirmed with Jim Fay that we are on-board with your recommendation that Rincon take the lead role in amending the District's Boundary, developing the plans through the District's engineers, and oversee construction by a third-party contractor engaged by the District. This decision is subject to Rincon's ability to move forward in a timely manner and prosecute the work without delay.

Please know that time is of the essence. There was a substantial delay in notifying the developer that the District would first be required to expand its jurisdiction through the PUC.

Please proceed with the application as soon as possible.

Jim Fay was in the process of hiring Fox Construction when notice was received of the boundary requirement, and the Fay property water tap reservations were withdrawn. Jim Fay is willing for the construction phase of the project to use Fox Construction for the construction work, subject to the cost being in the ball-park of what Fay and Mr. Fox were discussing before the supervision change occurred.

I will be out of the office for the balance of the week, after today. Therefore, I would like to have a conference call with you, Ken Johnson, Jim Fay (if Jim is available) and me, today if possible.

Please call me on my cell, 361-548-2431.

Best Regards,

David

---

David Z. Conoly

David Z. Conoly, P.C. 1930 Glenoak Dr. Corpus Christi TX 78418

PH: 361.937.6400 FX: 361.937.6846 CELL: 361.548.2431 EMAIL: [dzc@dzclaw.com](mailto:dzc@dzclaw.com)

Fellow, American College of Real Estate Lawyers

**NUECES BAY TRACTS, LLC**

**224 Sutherland**

**Portland, TX 78374**

September 26, 2017

Rincon Water Supply Corporation

Attn: Mr. Kenneth Johnson, General Manager

*via email to [rinconwatercorp@gmail.com](mailto:rinconwatercorp@gmail.com)*

8896 CR 1458 (CR 102)

Taft, Texas 78390

RE: Request for Expansion of Jurisdiction to Include Development of Nueces Bay Tracts

Dear Mr. Johnson:

Please accept this request for Rincon Water Supply Corporation ("**Water District**") to expand its water supply jurisdiction to include the Nueces Bay Tracts development land being developed by Nueces Bay Tracts, LLC ("**Developer**"). The land being developed (called the "**Nueces Bay Tracts**") is described as Tract Fifteen (15) of Section Seventy-Six (76), George H. Paul Subdivision of the Coleman-Fulton Pasture Company Lands, San Patricio, Texas, as shown by map or plat of same of record in Volume 1, Page 32, of the Map Records of San Patricio County, Texas. Legal title to the Nueces Bay Tracts is currently in the name of the Developer, Nueces Bay Tracts, LLC.

This request is being made after working with the Water District since [FILL IN DATE OR MONTH OR YEAR], and after having paid the Water District a reservation deposit to reserve taps for water to the Nueces Bay Tracts. The Water District later returned the reservation deposit and the Developer was advised that the Water District does not yet have jurisdiction to provide water to the Nueces Bay Tracts.

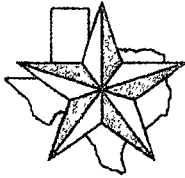
On August 9, 2017, the Water District's contract engineer, James Schwarz, P.E. of J. Schwarz & Associates, Inc., informed the Developer, through the Developer's attorney, that the application to the PUC must be made in the name of the Water District.

The Developer's attorney has advised the Developer, after consulting with the Water District's contract engineer, on a prospective "hoped for" time-line. The Developer is therefore hopeful that: (i) a decision might be made by the PUC on the application before the end of 2017; and (ii) plans might be prepared by the Water District's engineer, and contracts for construction work executed, by March of 2018.

Respectfully,

---

**James E. Fay, III, Managing Member**  
**For Nueces Bay Tracts, LLC**



# J. Schwarz & Associates, Inc.

---

## Professional Engineering Solutions

October 10, 2017

Ken Johnson  
Rincon Water Supply Corporation  
PO Drawer 7  
Taft, TX 78390

Re: Engineering Services Proposal for Jim Fay Property

J. Schwarz & Associates, Inc. (JSA) is pleased to offer the following proposal for engineering services for the above mentioned project.

Project Scope of Services:

1. Preparation and submittal of CCN expansion application to Texas Public Utilities Commission on behalf of Rincon WSC.
2. Design of a preliminary alignment of new waterline
3. Design of final layout of waterline for approval by Rincon
4. Design Storm Water Pollution Prevention Plan for project
5. Design Horizontal Control for proposed improvements
6. Develop contract documents and plans for competitive bidding of project
7. Provide Construction administration for completion of project

Project Deliverables:

- Electronic set of ANSI C pdf drawings for reproduction by Owner

Exceptions and Clarifications:

- Construction staking is not included in the project scope

Fees for our services will be invoiced on an hourly basis, using the following schedule:

CCN Expansion Application – 40 hours @ \$150.00/hour	\$ 6,000.00
Preliminary Design – 20 hours @ \$150.00/hour	\$ 3,000.00
Final Design – 40 hours @ \$150.00/hour	\$ 6,000.00
Bid Phase – 20 hours @ \$150.00/hour	\$ 3,000.00
<u>Construction Administration – 20 hours @ \$150.00/hour</u>	<u>\$ 3,000.00</u>
TOTAL	\$21,000.00

Thank you for the opportunity to provide you with this proposal. If you have any questions, please do not hesitate to contact us. We look forward to assisting you on this project.

Sincerely,  
J. Schwarz and Associates, Inc.

Digitally signed by  
James Schwarz, P.E.  
Date: 2017.10.10  
15:55:25 -05'00'

James Schwarz, P.E.  
Project Engineer  
C:\JSA\Rincon\proposaljimfay.doc



# PROSPERITY BANK®

Visit us online at ProsperityBankUSA.com

Statement Date

12/31/2017

11377 1 AV 0.373  
NUECES BAY TRACTS  
PO BOX 1152  
PORTLAND TX 78374-1152

Account No

Page 1 of 6



### STATEMENT SUMMARY

12/01/2017	Beginning Balance		\$22,081.44
	4 Deposits/Other Credits	+	\$27,700.00
	12 Checks/Other Debits	-	\$40,198.97
12/31/2017	Ending Balance	31 Days in Statement Period	\$9,582.47
	Total Enclosures		14

### DEPOSITS/OTHER CREDITS

Date	Description	Amount
12/08/2017	Deposit	\$17,000.00
12/08/2017	Transfer Deposit	\$10,000.00
12/15/2017	Deposit	\$400.00
12/22/2017	Deposit	\$300.00

### CHECKS

Check Number	Date	Amount	Check Number	Date	Amount	Check Number	Date	Amount
1235	12-08	\$21,000.00	1245	12-14	\$50.00	1249	12-19	\$1,203.13
1241*	12-06	\$1,200.00	1246	12-18	\$224.68	1250	12-18	\$10,000.00 ✓
1243*	12-11	\$3,685.00	1247	12-18	\$120.00			
1244	12-14	\$36.62	1248	12-19	\$44.54			

### OTHER DEBITS

Date	Description	Amount
12/18/2017	ACH Payment	\$2,600.00 ✓

### TOTAL OVERDRAFT FEES

	Total For This Period	Total Year-to-Date
Total Overdraft Fees	\$35.00	\$108.00
Total Return Item Fees	\$0.00	\$0.00

### DAILY ENDING BALANCE

Date	Balance	Date	Balance	Date	Balance
12-01	\$22,081.44	12-08	\$26,846.44	12-14	\$23,074.82
12-06	\$20,881.44	12-11	\$23,161.44	12-15	\$23,474.82

MEMBER FDIC



NYSE Symbol "PB"

**DEPOSIT TICKET** PROSPERITY BANK

PREPARED BY: [Signature] DATE: 12.8.17

NAME: Nueces Bay Tracts

ACCOUNT NUMBER: [Redacted]

CASH: \$ 17,000.00

TOTAL FROM OTHER SIDE: [Redacted]

SUB TOTAL: [Redacted]

LESS CASH RECEIVED: [Redacted]

12/8/2017 \$17,000.00

**CREDIT** PROSPERITY BANK

ACCOUNT TITLE: Nueces Bay Tracts

DATE: 12/8/17

DOLLAR AMOUNT: \$ 10,000.00

ACCOUNT NUMBER: [Redacted]

12/8/2017 \$10,000.00

**DEPOSIT TICKET** PROSPERITY BANK

DATE: 12-15-17

TOTAL: \$ 400.00

NUECES BAY TRACTS

12/15/2017 \$400.00

**DEPOSIT TICKET** PROSPERITY BANK

DATE: 12-22-17

TOTAL: \$ 300.00

NUECES BAY TRACTS

12/22/2017 \$300.00

**NUECES BAY TRACTS** 1235

DATE: 11-17

PAY TO THE ORDER OF: Brunco Water Supply Corp

AMOUNT: \$ 21,000.00

FOR: [Redacted]

12/7/2017 1235 \$21,000.00

**NUECES BAY TRACTS** 1241

DATE: 11-28-17

PAY TO THE ORDER OF: Native Sewing Co

AMOUNT: \$ 620.00

FOR: [Redacted]

12/6/2017 1241 \$1,200.00

**NUECES BAY TRACTS** 1243

DATE: 12-8-17

PAY TO THE ORDER OF: Custom Machine Shop

AMOUNT: \$ 3,685.00

FOR: [Redacted]

12/11/2017 1243 \$3,685.00

**NUECES BAY TRACTS** 1244

DATE: 12-10-17

PAY TO THE ORDER OF: Polman water

AMOUNT: \$ 36.62

FOR: [Redacted]

12/14/2017 1244 \$36.62

**NUECES BAY TRACTS** 1245

DATE: 12-14-17

PAY TO THE ORDER OF: Cash

AMOUNT: \$ 50.00

FOR: [Redacted]

12/14/2017 1245 \$50.00

**NUECES BAY TRACTS** 1246

DATE: 12-14-17

PAY TO THE ORDER OF: Pantette Fay

AMOUNT: \$ 224.68

FOR: [Redacted]

12/18/2017 1246 \$224.68

**NUECES BAY TRACTS** 1247

DATE: 12-14-17

PAY TO THE ORDER OF: Pantette Fay

AMOUNT: \$ 120.00

FOR: [Redacted]

12/18/2017 1247 \$120.00

**NUECES BAY TRACTS** 1248

DATE: 12-14-17

PAY TO THE ORDER OF: Airgas

AMOUNT: \$ 44.54

FOR: [Redacted]

12/19/2017 1248 \$44.54

# RINCON WATER SUPPLY CORPORATION

P.O. DRAWER 7 TAFT, TEXAS 78390

(361) 528-3969 PWS ID. NO. 205-0078 CCN #11440

[rinconwatercorp@gmail.com](mailto:rinconwatercorp@gmail.com)

Rincon Water Supply Corporation is an Equal Employment Opportunity Employer

Rincon Water Supply Corporation does not discriminate based on sex, religious belief, race, national origin, or ethnic background



October 23, 2017

Mr. Jim Fay  
224 Sutherland  
Portland, TX 78374

Re: Engineering Proposal

Dear Mr. Fay,

Enclosed you will find the engineering proposal for your subdivision located at CR 2202 & CR 3463 in San Patricio County, Texas. You need to look over the proposal. If you choose to proceed you will need to send a check to cover the engineering services as indicated. Make the check payable to Rincon Water Supply Corporation and mail it to Rincon Water Supply Corporation PO Box 7 Taft, TX 78390. It is important to note that this is a proposal and the final cost may increase as the project progresses. When Rincon Water Supply Corporation receives payment for the proposed engineering services I will instruct J. Schwartz & Associates, Inc. to proceed with the amendment of the Corporation's CCN (Certificate of Convenience and Necessity) thus including your subdivision in our existing CCN and allowing Rincon Water to provide water service.

Following notification from the Public Utilities Commission that the application is administratively complete and of the approval of the CCN amendment, I will instruct J. Schwartz & Associates, Inc. to proceed with the design of the water system improvements needed to accommodate your sub-division.

Upon completion of the design work, job specifications, and bid documents, Rincon Water Supply Corporation will place the project out for competitive bid. When the bids have been received, tabulated, and evaluated, the bidder that is considered the "best value bidder" (Rincon Water Supply Corporation is not bound by low bid requirements and as such may choose the best value bidder) will be awarded the job. At that time you will need to place on deposit with Rincon Water Supply an amount of money equal to the awarded bid to pay for the construction of the water system improvements. Should there be the need for change orders during the construction of the water system improvements, you will need to place funds on deposit with Rincon Water Supply Corporation equal to the value of the change order prior to the commencement of the change order.

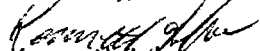
Rincon Water Supply will oversee the construction of the improvements to the water distribution system. Any expenses associated with the process of overseeing and inspection of the construction will be documented and billed to you following the completion of the construction phase.

Upon completion of the project you will be responsible for surveying and filing all easements and permits required to complete the installation of the water distribution system improvements. Upon filing the easements a copy of the filed easements and permits must be forwarded to Rincon Water.

Following the completion of the water system improvements and before water service is provided to the sub-division you will need to complete the Application for Service and Service Agreement for each connection in the sub-division. You will also need to place with Rincon Water Supply Corporation the applicable membership fee and administrative fee for each connection in the sub-division. Additionally, each water service connection must be equipped with the proper backflow prevention device as specified by Rincon Water Supply Corporation.

Additionally, I feel it is important to note, as for this project, James Schwartz and Associates, Inc. works for Rincon Water Supply Corporation. I have visited with James Schwartz and we are on the same page, all communication with the engineer and/or his staff regarding this project must go through this office of Rincon Water Supply Corporation.

Sincerely,

  
Kenneth Johnson

General Manager

Rincon Water Supply Corporation

PO Box 7

Taft, TX 78390

CC: Nathan East, Attorney, David Conley, Attorney, James Schwartz, P.E.

November 6, 2017

Kenneth Johnson  
General Manager  
Rincon Water Supply Corporation  
P. O. Box 7  
Taft, Texas 78390

Dear Mr. Johnson:

Enclosed is a check #1235 for \$21,000.00 covering engineering costs for the Nueces Bay Tracts project. I do need some clarification on several items as follows:

1. From your first paragraph in the October 23, 2017, letter to me I understand expanding Rincon's CCN will cover Nueces Bay Tracts acreage only.
2. Since Nueces Bay Tracts will be the ultimate payer for construction of water system improvements as stated in paragraph three, Nueces Bay Tracts should be notified of bids received prior to selection of construction company chosen. I have spoken to you previously about my preference for J. J. Fox Construction Company to complete this project, provided they submit a bid.
3. Rincon Water Supply Corporation has already received copies of easements previously filed for this project. However, I will review these easements with Mike MacInnis, RPLS, to insure all easements are complete, and will forward a new set for your files.
4. Should additional pipe, fittings, etc. be needed in addition to materials already on hand, I will purchase those items locally as needed.
5. I need to proceed with building two roads to access tracts. Since the main water supply line will go under both roads and eight tract supply lines will go under these roads also, I will be laying "sleeves" under these roads so as to not disturb these finished roads later. Please forward this information to J. Schwarz Engineering so they can incorporate this into construction plans.

There is no mention of completion dates for the engineering phase of this project. I am assuming the completion dates agreed on by James Schwarz and David Conoly remain in effect.

Sincerely yours,

Jim Fay  
Nueces Bay Tracts



From: Paulette Fay <fayjpfayiii@aol.com>  
To: ken.rinconwsc <ken.rinconwsc@gmail.com>  
Subject: Follow-up questions from this mornings discussion.  
Date: Mon, Apr 16, 2018 8:41 pm

Joe Sutherland of Fast Flow had the following questions;

(360) 853-0441

1. On the pipes he is constructing, what type of ends would Rincon want: (two forty foot lengths)  
mj adapter ends  
flange and ring ends  
  
if mj ends, should end on pipe be male or female?

Also, the individual supply lines to tracts, what size line should they be - 3/4, 1" or what? My question.

I gave these questions to the secretary and she was to relay them to you.

Let me know .

Thanks, Jim

Shri

MJ \$ 24 x 4

Flange/Ring - \$ 53 x 4

If MJ - what type ends -  
3" or 4"

Supply lines to tracts -  
3/4, 1" - ?

calls Soc. left message - Monday N 10:00  
E-mail - Mon night -  
called again - ~~Wed~~ wed 10:00 AM

D/N call back -

**Nueces Bay Tracts LLC**

**P O Box 1152**

**Portland, Texas 78374**

July 11, 2019

Kenneth Johnson  
Manager, Rincon Water Supply Corporation  
Taft, Texas

Dear Ken:

I talked to David Brink at TxDOT July 9 on steps needed to re-activate the original Approval to bore under FM 893. He said the process is simple and would not take much time, either you or the Secretary could complete the process, and a security code and one other item would be needed. When you or the Secretary are ready give David a call at 361-808-2498 and he "would walk you thru the process."

Since nothing has changed TxDOT in Austin will assign a new number and mail the approved application back to Rincon and David. I will need a copy to keep in my truck as insurance when construction begins. I am enclosing paperwork David said you would need.

At the meeting in Nathan East's office a year and half ago between you, Nathan, David Conoly, and me the subject of Kim Hunt came up. Nathan said when the time comes up for construction to begin he would meet with Kim, show her engineering plans and easements and she would not be able to stop construction at that point.

With that in mind I met with Nathan Wednesday (July 10) afternoon to show him copies of engineering drawings, copies of Haliburton Cement easement to Rincon for waterlines and Deed of Trust from Centex Cement (Haliburton) to Jeff Hunt when Jeff bought the 200 acres from from Centex; these are the same copies I gave you at our June 20 meeting at Portland Library.

Nathan said there were some resent developments with Kim Hunt and her son Cody. In January this year Kim and Cody had a big disagreement of some kind and Cody moved out of Kim's house. Kim in turn had some severe psychological problems (basically a nervous breakdown) and Kim's older brother Dan Byrne Jr. is in the process of becoming

her legal guardian and control of her legal and other affairs.

Nathan went to GPHS with Dan and knows him well and decided to call Dan to find out what was going on. Basically Kim is doing fine as long as she takes her medication and follows thru with her treatments, and she is at a place where people make sure she does that. It appears no-one not even the family can contact Cody or knows where he is.

Nathan described the waterline situation to Dan and gave him locations, directions, where it was going to go under FM 893, replacing the 3" with a 4", etc. Dan did not have any problem with any of that and only wanted to make sure no construction would begin until the farmer finished harvesting the crop, cut stalks, and plowed out the roots. I assured Dan no construction would begin until all that work was done.

I also told Dan I was sending him copies of engineering plans, waterline easements, and a copy of Deed of Trust to verify what Nathan had told Dan earlier. I will get those copies out today.

To summarize, when time allows give David Brink a call and it appears the Kim Hunt situation is resolved. I am going to meet with Ward McCampbell next week to fill him in on construction plans (as far as I know still "speaks for the McCampbell property directly west of ours). I will keep you aware of any new developments.

Sincerely yours,

Jim Fay

From: Rincon Water Supply Corporation <ken.rinconwsc@gmail.com>

To: Paulette Fay <fayjpfayiii@aol.com>

Subject: Re: Rincon B of D Meeting Next Tuesday Night

Date: Thu, Aug 15, 2019 5:00 pm

8-15-19

Jim,

1. The bid was opened yesterday so that I could prepare for the BOD meeting Tuesday. I only received one bid to do the construction on your subdivision, JD Underground bid \$103,565.00 for the labor only.

Schwarz - Engineer for Rincon.

2. I have not been in contact with TxDOT. That responsibility is with James. When the bid is officially awarded I will notify James and he will proceed with the TxDOT.

3. I don't think the gaskets are damaged, I have had pipe that was in stock for years and had no trouble with gaskets. As for sun damage the reality is that the damage (bleaching) only affects the surface. Once again, I have had pipe in stock for years that got sun damaged or bleached and had no problem. However, the contractor will be able to check the pipe and make that determination.

4. As for the service applications, to get the water service to the lot we must have a completed Service Application and Service Agreement, since you are the owner at this time that means for the interim the service must be in your name, therefore, the forms must be completed by you. When you sell a lot a membership transfer will be completed to put the service in the name of the new owner. Additionally, under today's rules once the service is established there is a requirement for a specific type of backflow prevention device to be installed at the meter on your side.

Your conversation with TCEQ is only partially correct. A 4" water line will support up to 100 equivalent dwelling units (5/8 x 3/4" meter). However, that is only if there is nothing else between the pump station and the subdivision being served. In your case the water service is being delivered through a 6" line that is providing service to approximately 225 other customers. Once we install your 13-16 services we will be at maximum capacity on the 6" line.

I need you to remember this, this is cotton picking season and 4 of my 7 Board of Directors are farmers that are picking cotton. There is a better than average chance that we will not have a meeting.

Thank you,  
Kenneth Johnson  
General Manager  
Rincon Water Supply Corporation  
PO Box 7  
Taft, TX 78390  
361-528-3969



8-15-19

On Thu, Aug 15, 2019 at 3:40 PM Paulette Fay <fayjpfayiii@aol.com> wrote:  
Ken:

I will be attending the Board of Directors meeting next Tuesday night. Some items I need to discuss with them are:

1. Opening bids for water line construction. See following page.

2. Have you contacted TxDOT - David Brink - to renew permit for FM 893 crossing? That permit is for a six month time period I believe so it needs to be done shortly.

3. Water pipe. I wrote a check for \$26,000 on July 11, 2016, for 4" water pipe, valves, etc. Even though that pipe has been under tarps (actually rubber raceway liner material) for this entire time, I am worried the rubber gaskets at pipe ends have deteriorated to point of being worthless. I will add that some of the pipe had "sun damage" from sun exposure when it was taken off the truck. All joints need to be examined to see what we have to work with and go from there.

4. Water taps. I wrote a check to Rincon for 13 water taps on February 21, 2017. Most of that money was returned along with a letter from Nathan East on July 17 stating "Application forms and service agreements paperwork have not been returned and there and there is no way for Rincon to account for money being held."

Being a CPA in private practice, I have completed thousands of local, state, and federal forms on a wide range of subjects. When Paulette brought the forms home we took one out and read it. It was obvious to me the person completing the form must be the ultimate consumer - the individual buying a tract. We put them back into the envelope took them to my lock box where they remain today.

Real estate agents are telling us 6.67 acre tracts are not selling at all, much like 5 acre or even 4 acre tracts. We need to sell one to two acre tracts now with larger tracts available in case anyone needs one later. As such, we need more taps - how many more I do not know but definitely more. I checked with TCEQ and was told a 4" loop water line could support 100 homes; that seems high to me. There are currently seven taps on the 3" "dead end" water line so the 4" loop can support many more. Anyway, I will be discussing the tap situation with them.

5. I have personally discussed with each property owner, including Ward McCampbell to the west, the path for construction. As things progress with construction I will keep all informed on dates and such and when we will be crossing their property. As soon as I know details I will relay that info to them.

This is all I can think of for now. If you know of any other topics to discuss let me know. I understand this is harvesting season and was wondering if a quorum is not present to have an official meeting what could be done? I need to arrange financing but am not going forward until more details are known.

Thanks

Jim Fay

**From:** Rincon Water Supply Corporation <ken.rinconwsc@gmail.com>

**To:** Paulette Fay <fayjpfayiii@aol.com>

**Subject:** Water line

**Date:** Wed, May 22, 2019 5:57 pm

**Attachments:** Cover sheet.pdf (758K), Easement.pdf (591K)

---

Jim,

I have attached the cover sheet of the water line construction plans as drawn by James Schwartz. The plans appear to be complete and acceptable to RWSC.

The next step is for you to obtain easements from Hunt and Ailee Dubose. The easement from Hunt must allow us to construct inside the property on the east and south side of the property. The easement from Dubose must allow us to construct along the south side of his property. Both must be dedicated easements allowing for RWSC to construct a water line inside the property. We absolutely will not use county right-of-way other than at crossings. I have attached a copy of our standard easement form that you will need to print as is and have the property owner complete, this form requires signatures before a notary. Additionally, I will need a signed easement from you for construction of the water lines and the placement of meters on the tracts.

Once the easements are returned to me I will file them with the county and at that time James will apply to TxDOT for a permit to cross FM893. He will also apply to San Patricio County for permits to cross CR 2202 with water distribution lines and the roads within your project with service lines.

Once all of the easements and permits are in place James will prepare the bid documents and we will go out for bid. Once again, RWSC is not bound by lowest bid, we go by best value bid. When the bids are opened James and I will determine the best value bid.

Thanks,

Kenneth Johnson

General Manager

Rincon Water Supply Corporation

PO Box 7

Taft, TX 78390

361-528-3969

June 26, 2019

Kenneth Johnson  
Michael MacInnis

Items discussed at a meeting on June 20, 2019 held at City of Portland Library between Jim Fay representing Nueces Bay Tracts LLC, Kenneth Johnson representing Rincon Water Supply Corporation, and Michael MacInnis, Registered Professional Land Surveyor of Texas.

1. Jim gave Kenneth copies of following utility (water) easements following either the waterline currently installed or to be installed shortly:

Easement to RWSC from Nueces Bay Tracts LLC across 89.880 acres of land...recorded in file no.494572 dated June 13, 2019, more specifically a 15 foot easement out of Lots 6 and 7, Sec.76.

Image No. 37857 File No. 327508 Atlee McCampbell to RWSC water line easement over 160 acres recorded Vol. 457, Pg. 265, Deed of Records, San Patricio County, January 12, 1984.

USDA FHA File No. 266351 Citizens State Bank, Trustee for Thomas Ward McCampbell to RWSC perpetual waterline easement over 20 acres land recorded Vol. 561, Pg. 192-193, Deed of Records, San Patricio County, August 30, 1977.

USDA FHA File No. 266350 Thomas A. McCampbell, individually and as a agent ro Edith H. McCampbell,..... to RWSC a perpetual easement over 150 acres land recorded Vol. 509, Pg. 13-16, Deed of Records, San Patricio County on April 12, 1977.

USDA FHA File No. 106219 William P. McCampbell , Individually and as Independent Exec. for Estate of Robert F. McCampbell to RWSC perpetual easement across 448.37 acres land recorded Vol. 609, Pg. 172-173, Deed of Records , San Patricio County dated July 13, 1979.

USDA FHA File No. 369955 Centex Cement Corporation to RWSC a perpetual easement over 200 acres of land recorded Vol. 260, Pg. 317 Deed of Records, San Patricio County on April 10, 1987.

WARRANTY DEED File No. 400467 Centex Cement Corporation sells 200 acres of land originally purchased from May Green Watson by Haliburton Portland Cement Company on September 10, 1960 to Jeff Hunt on November 25, 1991.

2. Jim stated to Kenneth that Atlee DuBose owns no property that the current or proposed waterline will cross or touch.

3. Kenneth stated that “the Board of Directors of RWSC were requiring a “fresh” waterline easement from Hunt and DuBose prior to construction of waterlines.”

Both Jim Fay and Mike MacInnis said they had not heard of a “fresh” waterline easement, that a filed Utility Easement was a perpetual easement as stated in each easement, that copies of those easements are being supplied to Kenneth Johnson at this meeting, and to Jim and Michael knowledge and belief no additional easements were required for construction to begin.

4. Jim stated as he had stated before in an email dated May 2, 2019, that he (Jim) had been in contact with David Brink of TxDOT concerning the permit to bore under CR 893. In fact Jim had an extended meeting of 45 minutes on June 13 with David whereby David stated the current permit would need to be “refreshed” to cover change of dates and re-approved with a current date. No new application is required. Jim will follow-up with David and get the process started.

5. Jim completed the San Patricio County Proposed Utility Line Activity permit application to bore under CR 2202 at two locations shown on 4” Waterline Project Rincon Water Supply Corporation April 2019. San Patricio County Commissioners Court approved this permit application on June 24, 2019, and a copy of the approved permit was given to Kenneth at this meeting by Jim.

6. Jim visited with AEP in their Corpus Christi office to see how much space was needed between AEP poles and digging activity to lay a waterline alongside those poles; that distance was four (4) feet. Kenneth stated that will not be a problem with this construction.

7. Jim visited with Gregory Hauger, R.P.L.S. San Patricio County Surveyor with King and Petrus , and asked how wide was a normal road easement for County roads in a rural setting. He stated that barring any special arrangements, that width was 40 feet. Jim stated that any waterlines constructed would not be within that 40 foot road easement.

8. Jim Fay asked Kenneth Johnson when a “final” set of engineering plans would be available, since the set of plans sent to Jim in early June 2019 stated “For Interim Review Not For Construction, Bidding, or Permitting Purposes.”

Kenneth stated he would request James Schwarz to begin preparing those plans but that he (Kenneth) did not want to pressure James because James “was busy with the Exxon project.”

Jim Fay protested; Jim stated this engineering contract with James Schwarz was dated



October 10, 2017, signed and returned by Jim Fay , and that the \$21,000 check for payment as requested was cashed December 8, 2017. In addition Jim Fay stated he has made innumerable inquiries, emails, discussions, letters, etc. etc. as to when these "final" engineering plans would be completed and the bidding process take place.

Kenneth stated he would contact James Schwarz and have him (James) complete those final plans .

The meeting was completed.

Going down the list of needed items as outlined in Kenneth Johnson's email to me dated May 22, 2019, I have supplied easements, will supply a current TxDOT Approved Permit, am supplying San Patricio permit to bore under CR 2202. As such James Schwarz should be able "to prepare the bid documents and we will go out for bid" as stated in Kenneth's email mentioned above.

Sincerely yours,

Jim Fay

ATTCH - 87 04-10 Contex-Rincon ROW

Form FmHA-Tx 442-9  
(Rev. 4-77)

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION

FILE NO 369955

RIGHT OF WAY EASEMENT  
(General Type Easement)

KNOW ALL MEN BY THESE PRESENTS, that Contex Cement Corp.  
(hereinafter called "Grantors"), in consideration of one dollar (\$1.00) and other good and valuable consideration paid by  
Rincon Water Supply Corp. (hereinafter called "Grantee"), the receipt and sufficiency of  
which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors, and  
assigns, a perpetual easement with the right to erect, construct, install, and lay and thereafter use, operate, inspect, repair,  
maintain, replace, and remove \_\_\_\_\_ over and across \_\_\_\_\_ acres of land,  
more particularly described in instrument recorded in Vol. 260, Page 317, Deed Records, San Patricio  
County, Texas, together with the right of ingress and egress over Grantors' adjacent lands for the purpose for which the above  
mentioned rights are granted. The easement hereby granted shall not exceed 15' in width, and Grantee is hereby authorized  
to designate the course of the easement herein conveyed except that when the pipe line(s) is installed, the easement herein  
granted shall be limited to a strip of land 15' in width the center line thereof being the pipe line as installed.

The consideration recited herein shall constitute payment in full for all damages sustained by Grantors by reason of the  
installation of the structures referred to herein and the Grantee will maintain such easement in a state of good repair and  
efficiency so that no unreasonable damages will result from its use to Grantors' premises. This Agreement together with other  
provisions of this grant shall constitute a covenant running with the land for the benefit of the Grantee, its successors, and  
assigns. The Grantors covenant that they are the owners of the above described lands and that said lands are free and clear of  
all encumbrances and liens except the following:

The easement conveyed herein was obtained or improved through Federal financial assistance. This easement is subject  
to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the  
easement continues to be used for the same or similar purpose for which financial assistance was extended or for so long as  
the Grantee owns it, whichever is longer.

IN WITNESS WHEREOF the said Grantors have executed this instrument this \_\_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_\_.

David Freeman

ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF San Patricio

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared

David Freeman

known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing instrument, and acknowledged to me  
that he (she) (they) executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 10th day of

April, 19 87



Wingard P. Freeman  
Notary Public in and for

San Patricio Texas

189862

369955

THE STATE OF TEXAS  
COUNTY OF SAN PATRICIO

NOTARY PUBLIC IN AND FOR THE COUNTY OF SAN PATRICIO

I, DOTIE HALLY, County Clerk of San Patricio County, Texas, do hereby certify that the  
recording of the above instrument was in strict accordance with Article 1641a, Vernon's Texas Civil Statutes, and that  
each page is a true, correct and exact copy of the page or pages of the instrument  
of writing, legal document, paper, or record which has been filed for record on the date and  
at the time stamped on each; that no notice was made in the original instrument between the  
Title Page and this Certificate.

I do further certify that the preceding instrument are part of the Official Public Record of  
Real Property of San Patricio County, Texas, ending with

THE STATE OF TEXAS  
COUNTY OF SAN PATRICK

TITLE PAGE  
OFFICIAL PUBLIC RECORDS OF REAL ESTATE

I, DOTTIE MALEY, County Clerk of San Patrick County, Texas, do hereby certify that the following images are part of the Official Public Records of Real Property of San Patrick County.

Texas, starting with File No. 369955 and Identification No. 189833

WITNESS MY HAND AND SEAL OF OFFICE, this the 9th day of May 1988.



*Dottie Maley*  
DOTTIE MALEY, County Clerk  
San Patrick County, Texas.

*R/W Easement*  
FILE NO 369955 COMPARED  
*- David Overman,*  
*Central Cement Corp*  
*to*  
*Pineau Water Supply Corp*

FILED FOR RECORD

MAY 6 1988

DOTTIE MALEY  
COUNTY CLERK - SAN PATRICK CO., TEX.  
*Janis Foerster* Deputy

Janis Foerster *pid 500*

*Ret David Vickus*

THE STATE OF TEXAS  
COUNTY OF SAN PATRICK  
I HEREBY CERTIFY  
THAT THIS INSTRUMENT WAS FILED ON THE DATE AND  
THE STAMPED HEREON BY ME AND WAS FULLY RECORDED  
ON THE 4th DAY OF May 1988 FILE NO.  
369955  
IN THE REAL PROPERTY RECORDS  
OF SAN PATRICK COUNTY, TEXAS.  
DOTTIE MALEY  
COUNTY CLERK  
SAN PATRICK  
COUNTY, TEXAS  
DEPUTY  
Janis Foerster

Citizens Bank  
Ward McCampbell  
(Grantor)

Rincon Water  
(Grantee)

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration

RIGHT OF WAY EASEMENT (General Type Easement)

KNOW ALL MEN BY THESE PRESENTS, that CITIZENS STATE BANK OF CORPUS CHRISTI, TRUSTEE FOR THOMAS WARD McCAMPBELL, hereinafter called Grantor, in consideration of One Dollar (\$1.00) and other good and valuable consideration paid by Rincon Water Supply Corp., hereinafter called Grantee, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors, and assigns, a perpetual easement with the right to erect, construct, install, and lay and thereafter use, operate, inspect, repair, maintain, replace, and remove water supply line over and across 20 acres of land, more particularly described in instrument recorded in Volume 561, Page 192-193, Deed Records, San Patricio County, Texas, together with the right of ingress and egress over Grantor's adjacent lands for the purpose for which the above mentioned rights are granted. The easement hereby granted shall not exceed 15' in width, and Grantee is hereby authorized to designate the course of the easement herein conveyed except that when the pipe line is installed, the easement herein granted shall be limited to a strip of land 15' in width the center line thereof being the pipe line as installed.

The consideration recited herein shall constitute payment in full for all damages sustained by Grantor by reason of the installation of the structures referred to herein and the Grantee will maintain such easement in state of good repair and efficiency so that no unreasonable damages will result from its use to Grantor's premises. This Agreement, together with other provisions of this grant, shall constitute a covenant running with the land for the benefit of the Grantee, its successors, and assigns. The Grantor covenants that it is the owner of the above described lands and that said lands are free and clear of all encumbrances and liens except the following:

NONE

IN WITNESS WHERE the said Grantor has executed this instrument this 30th day of August, 1977.

CITIZENS STATE BANK OF CORPUS CHRISTI:

By: [Signature]  
Vice-President & Senior Trust Officer

THE STATE OF TEXAS    X

COUNTY OF NUECES    X

BEFORE ME, the undersigned authority, on this day, personally appeared DONALD L. ZIMMERMAN, known to me to be the person whose name is subscribed to the foregoing instrument,

R/W Easement

266351

Thomas Ward McLampbell  
by Trustee

to

Rincon Water Supply Corp.

3  
P  
1978  
Patricio W. Texas  
Kocumak

3<sup>00</sup> Pd + not:

@ M. Henkel III  
City Bank Plaza

May 12, 2020

Ken:

I am enclosing a copy of Phase I of Nueces Bay Tracts. As you can see this initial Phase runs parallel to 2202 going east and west.

Original plan was to make a rectangle across field to south; this is no longer needed. All we now need is to cross under CR 2202 at original locations, go parallel to 2202, and add two extensions to service tracts on each side of this main line.

Crossings under FM 893 and CR 2202 will not change. Joining 4 inch line to west will not change. Original direction and location with new 4 inch line thru Hunt's and from west will not change.

I have completed all paperwork for AEP construction and location of underground cable for Phase I and will begin laying conduit by next week. This Phase I includes a utility easement for all utilities as part of this Plat.

I would like to suggest using a 6 inch pipe connecting entry points under CR 2202 for the crossing line parallel to 2202 in the middle section. This will allow increased water supply for future Tracts to the south. Supply lines for those tracts will run north to south off this center supply section. See enclosed map.

San Patricio County has said for Subdivision Application purposes a letter from Rincon stating Rincon will supply water for this project is all that is needed now. I will need this letter as soon as possible because that letter goes with the application. County Offices are closed now but I can still submit paperwork and Applications by appointment now. I plan to submit my Subdivision Application within two weeks.

Please make James Schwarz aware of these plans. I have enclosed two copies of the Plat and a small map, one for you and one for James. Please see he gets one ASAP. I will keep everyone informed as things go along.

Thanks,

Jim Fay

# RINCON WATER SUPPLY CORPORATION



P.O. DRAWER 7 TAFT, TEXAS 78390

(361) 528-3969 PWS ID. NO. 205-0078 CCN #11440

[rinconwatercorp@gmail.com](mailto:rinconwatercorp@gmail.com)

Rincon Water Supply Corporation is an Equal Employment Opportunity Employer  
Rincon Water Supply Corporation does not discriminate based on sex, religious belief, race, national origin, or ethnic background

May 13, 2020

Nueces Bay Tracts  
Attn. Jim Fay  
224 Sutherland  
Portland, TX 78374

Re: Plat

Jim,

I received your phase I plat in the mail this morning. I have reviewed and will send this over to James Schwartz as you requested.

There are a couple of changes that you need to be aware of since last November. First of all your property is now inside the City of Portland ETJ and as such we must now abide by the sub-division policies of the city. Therefore, you need to get the approval of the city as well as the county before Rincon can even act on your water service request. Second, the county Fire Marshal, as well as the city of Portland, now requires fire protection to be included in any new developments. As a result we must now include fire hydrants in the design of the water system improvements. Since we are now required to include fire hydrants we must also include a minimum water supply size of 6" to accommodate fire flows. The water supply must be sized for a minimum flow of 500 gallons per minute with a residual pressure of 20psi even if one side of the loop is out of service.

Additionally, in your letter you indicate that there is a single utility easement for all utilities. Rincon requires a single dedicated easement that is a minimum of 15' wide with no other utilities in the easement.

Sincerely,



Kenneth Johnson

General Manager

Rincon Water Supply Corporation

PO Box 7

Taft, TX 78390

May 19, 2020

Bryan:

Delette, Asst. City Mgr., City Portland

I sent Ken a letter 5-12-20 along with a copy of a plat and small map (see enclosed). I received back Ken's letter 5-13-20. Following are some thoughts.

1. This odyssey began with Rincon 3-6-15. If this does not qualify for "grandfathered in" provisions there is not such an animal.
2. As such - there is no need to "abide by sub-division policies of the City". Obviously, this will complicate matters above and beyond what is already required by San Patricio County Subdivision Application. My application with the County has been moving along for the past year, and I plan to submit it within weeks.
3. Fire protection. Ken stated to me over and over that 4" supply lines will not support fire hydrants due to suction forces collapsing 4" water lines. Ken states "As a result we must now include fire hydrants in the design ..." We can design fire hydrants into the system now - and, if in the future, additional water supply from City of Portland or whomever becomes available install water hydrants at a later date. We have two sources of water - a 4" line from under FM 893 to north and a 4" line from the west, and that is it.

I suggested a 6" line in center section to supply more water for bay shore tracts and additional Phases, not for water hydrants.

4. I have asked Mike MacInnis to change wording on plat to 7 feet for AEP and 15 feet for Rincon instead of a 25 foot utility easement.

Obviously this is another attempt to delay or derail my project which I am not going to allow. My tractor is not working and I am going to take tomorrow to work on it. I have a meeting with a contractor Thursday morning I hope but nothing else. Please give me a call Thursday whenever you can so we can discuss this.

Thank you

Jim Fay



5/26/2020

Nueces Bay Tracts Phase 1

**From:** brian.delatte@portlandtx.com,

**To:** fayjpfayiii@aol.com,

**Cc:** rwright@portlandtx.com, halgeorge@sbcglobal.net,

**Subject:** Nueces Bay Tracts Phase 1

**Date:** Fri, May 22, 2020 9:17 am

**Attachments:** image011.png (7K), image012.png (1K), image013.png (1K), image014.png (2K), image015.jpg (962)

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Good morning Mr. Fay,

I received your letter dated May 19, 2020 concerning Nueces Bay Tracts Phase 1. Your letter indicated that you were informed by the Rincon Water Supply Corporation that you would be required to receive City of Portland approval for your plans and follow City of Portland construction specifications since the project is now within the City of Portland's extraterritorial jurisdiction.

After reviewing with the City Attorney, this email confirms for you that City of Portland approval is not needed for your project since it is vested under state law. Texas Local Government Code Sec. 245.002 provides that regulations in effect at the time the development plan is filed govern your project. Since your development process began before the City's ETJ extended to this property on May 6, 2019, City of Portland regulations do not apply to your construction.

As I mentioned on the phone, the City of Portland and Rincon are currently negotiating for the expansion of Rincon's Certificate of Convenience and Necessity (CCN) with the Public Utilities Commission. In the event that an agreement is reached, projects within Rincon's service area that are in Portland's ETJ may be required to be constructed to Portland's standards. It is unclear whether your project could be "grandfathered" under such an arrangement.

Thanks,

Brian



<cid:image011.png@01D30639.A71DFFFE0>

**Brian DeLatte, P.E.**

*Deputy City Manager*

1900 Billy G Webb

Portland, Texas 78374

P (361) 777-4516

F (361) 777-4502

NUECES BAY TRACTS, LLC.

224 Sutherland

Portland, Texas 78374

May 26, 2020

Kenneth Johnson  
Rincon Water Supply Corporation  
P O Box 7  
Taft, Texas 78390

Dear Ken:

I got in touch with Brian DeLatte about your May 13, 2020, letter. His Response is enclosed.

I met with Monte Estes of Backhoe Lease Service, Inc. about my project. Monte has done quite a bit of work for Rincon in the past. I am requesting Monte be contacted when updated bid documents are ready. Monty and I met last week to go over the "lay of the land" and he sees not problems. He also has worked with James Schwarz before on other jobs. A copy of his card is enclosed.

I am waiting on your letter to San Patricio County on supplying water to Nueces Bay Tracts so I can include it with my subdivision application. The application is done and I need to meet with San Patricio County employees when they open to finalize things. Please send the letter as soon as possible.

I will keep you informed as things happen. I am almost done with AEP and construction will start soon. Please expedite the process with James Schwarz. Mike MacInnis is changing the Plat to designate separate AEP and Rincon easements as requested by AEP and you. It should be ready shortly, and I will send an updated version when ready.

Sincerely yours,

James M. Fay III  
Managing Partner  
Nueces Bay Tracts, LLC

**From:** ken.rinconwsc@gmail.com,  
**To:** fayjpfayiii@aol.com,  
**Date:** Thu, Jun 11, 2020 2:03 pm

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Jim,

I received your letter addressing the grandfathering of your subdivision by the City of Portland.

So this is where we are now. I need you to present a final plat (Phase 1) to the Board of Directors so that they can grant approval. Then I can send your plat, the approval from the Board, and our design criteria over to James Schwartz for design of the water system improvements and securing the permits. We will design and construct the water system in accordance with the current Tariff and the City of Portland standards. I have no problem with you letting Monte Estes do the work if the Board approves. Once the Board gives approval and our attorney gives me the green light I can put together the letter the county needs. The only problem I see with the letter is that according to the annexation plan from the City that they plan to have this area annexed by the end of 2021. This may affect the letter I provide to the county.

The agenda for the June 2020 meeting of the Board of Directors has already been completed and posted. The next meeting should be July 21, 2020. Let me know if you want to be included on the agenda no later than July 15, 2020 so that I can include you.

Ken

NUECES BAY TRACTS, LLC

P O BOX 1152

PORTLAND, TEXAS 78374

July 27, 2020

Kenneth Johnson  
General Manager  
Rincon Water Supply Corporation  
P O Box 7  
Taft, Texas 78390

Dear Ken:

Enclosed is a Certified Copy of PLAT OF NUECES BAY TRACTS PHASE I. The only difference in this Certified Copy and the proposed Plat I I mailed to both you and James Schwarz on May 26, 2020 is a drainage district easement which has no effect on Phase I or later Phases.

How are updated waterline plans from James Schwarz coming along that I described in my May 12, 2020 letter to you and also my May 26, 2020 letters to you and James. As stated in the May 26 letters to you and James this is an updated plan but the main components are unchanged. My letter of May 12, 2020 better explain changes needed. Is a 6 in center section I mentioned an advantage?

Please put me and my project on the August 2020 agenda for Rincon monthly meeting. I believe this is the fourth time I have addressed the Board on this project.

No letter to San Patricio County from Rincon Water is needed.

I want to state again that this project may require bids to be legal, but I am requesting Monte Estes of Backhoe Lease Service Inc. do all construction work.

To save time and trouble I am sending James Schwarz a Certified Copy of PHASE I also.

Sincerely

James M. Fay III  
Managing Partner

NUECES BAY TRACTS, LLC

P O BOX 1152

PORTLAND, TEXAS 78374

October 6 2020

Kenneth Johnson  
Rincon Water Supply Corporation  
P O Box 7  
Taft, Texas 78390

Dear Ken:

Today I am hand delivering two Certified Copies of AMENDING PLAT OF NUECES BAY TRACTS PHASE 1 dated September 29, 2020, one for Rincon Water and one for engineer James Schwarz. As I stated at the Rincon Water Supply Corporation monthly meeting September 15, 2020, when I presented for Board Approval my original Plat Of PHASE 1, the only changes between UPDATED and ORIGINAL PLAT was placing tracts alongside CR 2202 perpendicular to (running north to south) versus parallel to (east to west) that county road. I also made some changes to signature blocks which was needed. I am submitting this AMENDING PLAT for Board approval at the earliest possible date.

I was surprised to learn at that September 15 meeting that the fifteen or so taps (household connections) I have been promised on numerous occasions for at least two years were suddenly gone - sold to other applicants because "Rincon could not hold those taps for my project." Also, it was all my fault since I had taken too much time to submit my PLAT for approval.

I was also told "the Board was ready to approve my original application for water line construction and service at the November 19, 2019 Board meeting, but I had "changed everything up out there" and therefore my application was tabled. Actually, as I stated at that meeting, nothing had changed in the waterline plans for bringing service to my property, but only my distribution plan for that water once it arrived at my subdivision.

My original development plan was to sell six plus acre tracts without the Platting process. However, my real estate listing agents strongly suggested I change that plan due to many more buyers asking for smaller tracts and San Patricio County personnel stating the most frequently asked for size county tract was two and one-half acres.

Therefore, I changed to smaller tract sizes which required a PLAT be prepared. I have also completed a SUBDIVISION/DEVELOPMENT APPLICATION, San Patricio

County, Texas, and this process should be completed in a week.

At the September 15 Rincon Board of Directors meeting that “the six inch waterline supplying my project was “maxed out at 250 connections and therefore could not accept any additional connections.” Up until that meeting I have never been notified in any fashion previously by Rincon personnel that there was a six inch waterline that was to supply water to my project.

Also at that September 15 meeting I stated I had discussions with engineers who had discussed my need for additional taps with Rincon’s engineer James Schwarz and that “for somewhere in the \$75,000.00 range” improvements to Rincon’s pumps could be made which would make additional taps available for my project. I also stated I would need additional taps past that \$75,000.00 investment and, as the developer, I would be responsible for paying for those improvements.

I was then asked if I wanted Rincon’s engineer to develop an estimate for “short term” solution of fifteen or so taps or for a “long term” solution of substantial capital improvements for somewhere in the estimated two hundred taps I would ultimately need. My answer was “long term” because I did not want to spend \$75,000.00 only to replace that equipment a year later by other equipment.

My position has changed. My financing lender has instructed me to complete the “short term” option now to sell some tracts, with the “long term” option in 2021. Please have Rincon’s engineer prepare an estimate - with a plus or minus amount of \$5,000.00, of improvements needed for fifteen to twenty taps as originally promised to me for my project. Please make this estimate available as soon as possible.

How are the changes to the July 2019 Waterline Plans I first requested in my letter to you dated May 12, 2020 coming along? I mailed you a preliminary PLAT and small map outlining changes needed to be in going from a rectangle across the 80 acre field to service alongside CR 2202. This was followed up by correspondence of May 26 and July 27, 2020, again asking about progress on changing those plans.

What we are dealing with is two distinct issues - one being securing fifteen to twenty water service connections and the other updating the waterline plans. Obviously the waterline must be installed this winter while no crops are in the field. I estimate we have six months or so at least to upgrade pumping equipment before actual water service by homeowners is requested. Your cooperation in these matters is greatly appreciated.

Sincerely yours,

James M. Fay III

# SAN PATRICK COUNTY

## E-911 Coordinator

313 N. Rachal Street  
Sinton, Texas 78387  
Phone: (361) 587-3564  
Fax: (361) 587-3764



ANN BRYAN  
Addressing Agent  
9/29/2020

James M. Fay, III  
Nueces Bay Tracts, LLC

RE: addresses for REPLAT Phase 1 dated 9/29/2020

The following physical addresses have been assigned to the 22 lots of Phase 1:

BLK 1 LT 1 2688 CR 2202, TAFT, TX 78390  
LT 2 2680 CR 2202, TAFT, TX 78390  
LT 3 2672 CR 2202, TAFT, TX 78390  
LT 4 2664 CR 2202, TAFT, TX 78390  
LT 5 2656 CR 2202, TAFT, TX 78390  
LT 6 2650 CR 2220, TAFT, TX 78390

BLK 3 LT 1 2616 CR 2202, TAFT, TX 78390  
LT 2 2608 CR 2202, TAFT, TX 78390  
LT 3 2600 CR 2202, TAFT, TX 78390  
LT 4 2594 CR 2202, TAFT, TX 78390  
LT 5 2588 CR 2202, TAFT, TX 78390  
LT 6 2580 CR 2202, TAFT, TX 78390

BLK 2 LT 1 2644 CR 2202, TAFT, TX 78390  
LT 2 2640 CR 2202, TAFT, TX 78390  
LT 3 2636 CR 2202, TAFT, TX 78390  
LT 4 2630 CR 2202, TAFT, TX 78390  
LT 5 2624 CR 2202, TAFT, TX 78390

BLK 4 LT 1 2564 CR 2202, TAFT, TX 78390  
LT 2 2558 CR 2202, TAFT, TX 78390  
LT 3 2550 CR 2202, TSFT, TX 78390  
LT 4 2538 CR 2202, TAFT, TX 78390  
LT 5 2516 CR 2202, TAFT, TX 78390

If you have any further questions or concerns, please contact me.

Sincerely,  
Ann Bryan