



Control Number: 51842



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DOCKET NO. 51842

**PETITION BY BERNADINE C. KING, §
TRUSTEE OF THE HINSVARK §
FAMILY TRUST TO AMEND AQUA §
TEXAS, INC.'S CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
BASTROP COUNTY BY EXPEDITED §
RELEASE §**

BEFORE THE PUBLIC UTILITY

COMMISSION OF TEXAS

2021 JUN 25 PM 1:33

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PUBLIC UTILITY COMMISSION
CLERK

**AQUA TEXAS, INC.'S SUPPLEMENTAL RESPONSE TO PETITION
OF BERNADINE C. KING, TRUSTEE OF THE HINSVARK
FAMILY TRUST FOR STREAMLINED EXPEDITED RELEASE**

Aqua Texas, Inc. (Aqua) files this Supplemental Response to the Petition of Bernadine C. King, Trustee of the Hinsvark Family Trust (Applicant or Petitioner) to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Bastrop County by Expedited Release (the Petition).¹ In support, Aqua shows as follows.

I. PROCEDURAL BACKGROUND

On February 26, 2021, Applicant filed the Petition seeking streamlined expedited release (SER) to extract approximately 217.9 acres of property in Bastrop County (Property) from Aqua certificate of convenience and necessity (CCN) No. 21116. The presiding Commission Administrative Law Judge (ALJ) deemed the Petition administratively complete on May 19, 2021, and set a deadline of June 7, 2021, for Aqua to file its response to same.² Aqua filed its response on June 7, 2021. On June 22, 2021, Petitioner filed a reply to Aqua's response. Petitioner has identified factual errors in Aqua's response that Aqua corrects here, but those errors do not affect Aqua's overall response position.

¹ For purposes of this proceeding, the Petition is considered the Application as defined in the Commission's Procedural Rules under 16 TAC § 22.2(6).

² Order No. 3 Finding Petition Administratively Complete and Notice Sufficient, and Establishing Procedural Schedule (May 19, 2021).

II. SUPPLEMENTAL INFORMATION

Aqua maintains that the Commission should deny the Petition because the SER requested cannot lawfully be granted under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245. The Property receives sewer service from Aqua and is not eligible for SER.³ Alternatively, if the Commission releases the Property despite these facts, Aqua is entitled to just and adequate compensation.

As detailed in the attached corrected affidavit of Brent C. Reeh, Area Manager – Central Texas (also known as Aqua’s Southwest Region), Aqua maintains that it has wastewater system facilities nearby that are available to the Property.⁴ Aqua has also performed various acts and supplied funds in furtherance of service to the Property and Aqua’s CCN No. 21116 areas that include the Property.⁵ Mr. Reeh’s corrected affidavit includes a corrected map showing the location of its Briar Creek Wastewater Treatment Facility system (TPDES Permit No. WQ0014061-001) facilities which serve the Property and a nearby subdivision in relation to the Property.⁶

Mr. Reeh’s corrected affidavit, while incorporating a corrected map accurately identifying the Property in relation to Aqua’s nearby wastewater facilities, does not alter any of the legal arguments or factual contentions made in Aqua’s response. Aqua stands by the remainder of its response.

³ TWC § 13.2541(b) (allowing streamlined expedited release of a tract of land that “is not receiving water or sewer service.”); *see also* 16 TAC § 24.245(h)(1)(B).

⁴ *See Exhibit A* – Corrected Affidavit of Brent C. Reeh.

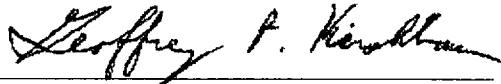
⁵ *Id*

⁶ *Id*

CONCLUSION AND PRAYER

Aqua respectfully requests the Commission deny the Petition because the Property receives sewer service from Aqua precluding SER under TWC § 13.2541. Alternatively, if the Commission approves the Petition, Aqua seeks just and adequate compensation for the decertification of a portion of its sewer CCN No. 21116. Aqua also seeks all and further relief to which it may be justly entitled at law or in equity.

Respectfully submitted,

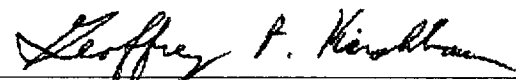
By: 

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ATTORNEY FOR AQUA TEXAS, INC.

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on June 25, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.


Geoffrey P. Kirshbaum

PETITION BY BERNADINE C. KING, § BEFORE THE PUBLIC UTILITY
TRUSTEE OF THE HINSVARK FAMILY §
TRUST TO AMEND AQUA TEXAS, § COMMISSION OF TEXAS
INC.'S CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
BASTROP COUNTY BY EXPEDITED §
RELEASE

THE STATE OF TEXAS
COUNTY OF TRAVIS

My name is Brent C. Reeh. I am over the age of 18 years and reside in Travis County, Texas. I am of sound mind and fully competent to make this affidavit. I have personal knowledge of the facts stated herein, and they are true and correct.

I am the Central Texas Area Manager for Aqua Texas, Inc. dba Aqua Texas ("Aqua"), Intervenor in the above styled and numbered case, and I am authorized to make this affidavit on behalf of Aqua.

I created the attached corrected map, **Attachment 1**, based on my familiarity with Aqua's facilities in the vicinity of the property tract (the "Property") for which Bernadine C. King, Trustee of the Hinsvark Family Trust ("Petitioner") seeks a streamlined expedited release ("SER") decertification from Aqua sewer certificate of convenience and necessity ("CCN") No. 21116 in PUC Docket No. 51842. **Attachment 1** shows the Property and the proximate location of Aqua's wastewater facilities. Those facilities comprise what Aqua calls its Briar Creek Wastewater

Treatment Facility system (TPDES Permit No. WQ0014061-001). Aqua's Briar Creek facility is available to the Property via a procedure we call "hold and haul."

Aqua has provided and is providing sewer service to the Property in several ways: (1) performing acts and supplying funds to permit, plan, design, construct, own, and operate its Briar Creek Wastewater Treatment Facility system (TPDES Permit No. WQ0014061-001) which is northwest of the Property and which could be used to respond to a Property service request within a reasonable amount of time using hold and haul procedures (Aqua could also seek a separate TPDES permit and build a separate facility for the Property as originally planned); (2) performing acts and supplying funds necessary to obtain, transfer, and maintain the sewer CCN No. 21116 service area covering the Property and other nearby CCN No. 21116 service areas and Aqua's Briar Creek Wastewater Treatment Facility system permit (TPDES Permit No. WQ0014061-001) under prevailing regulations; and (3) maintaining a regional office in Austin, Texas with personnel specifically dedicated to operations within Aqua's geographic Southwest Texas Region sewer CCN No. 21116 service areas, including the Property. I will also note that CCNs have value that purchasers of utilities will pay for when acquiring a utility because of the rights to serve the public that they accord and because the time and expense to acquire the CCNs has already been spent.

In sum, Aqua has performed numerous acts, supplied funds, and committed facilities to the Property and proximate areas within CCN No. 21116, and Aqua is serving the Property. Aqua is incurring legal expenses and is likely to incur other professional expenses as a result of the decertification and Petition. If the decertification is approved, Aqua will be compelled to spend time and resources to make the filing required by TWC § 13.257(r)-(s). Aqua is actively supplying sewer service to nearby properties and the Property receives service from Aqua through the acts, supplied funds, and facilities I have described. Aqua stands ready to perform additional acts of service and

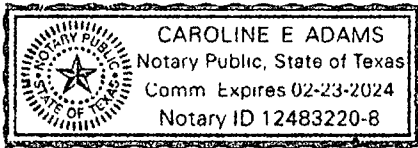
commit additional facilities to the Property as necessary.

Further Affiant sayeth not.

Brent C. Reeh

Brent C. Reeh
Central Texas Area Manager
Aqua Texas, Inc.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 25 day of June, 2021, to which
witness my hand and official seal.



Caroline E. Adams



Notary Public in and for
The State of Texas

Briar Creek WWTP

Attachment

1

Legend

-  Briar Creek
-  Webberville

Briar Creek WWTP

Webberville

Hinsvark Property

Google Earth

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