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PUBLIC UTILITY COMMISSION OF TEXAS
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PETITION OF SIG MAGNOLIA LP §
TO AMEND DOBBIN PLANTERSVILLE §
WATER SUPPLY CORPORATION'S §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN MONTGOMERY COUNTY §
EXPEDITED RELEASE §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

DOBBIN PLANTERSVILLE WATER SUPPLY CORPORATION'S
RESPONSE TO SIG MAGNOLIA LP'S PETITION
FOR STREAMLINED EXPEDITED RELEASE,
AND MOTION TO DISMISS

COMES NOW, Dobbin Plantersville Water Supply Corporation ("Dobbin Plantersville") and files its Response to Sig Magnolia LP's ("Sig Magnolia" or "Petitioner") Petition for Streamlined Expedited Release, and Motion to Dismiss. In support hereof, Dobbin Plantersville respectfully shows the following:

I. PROCEDURAL BACKGROUND

On April 5, 2021, Sig Magnolia filed with the Public Utility Commission of Texas ("PUC," "PUCT," or "Commission") a petition for a streamlined expedited release ("SER") of approximately 665.8 acres of Dobbin Plantersville's Certificate of Convenience and Necessity ("CCN") No. 11052 service area ("SER Property"). In his April 6, 2021, Order No. 1, the administrative law judge ("ALJ") established a deadline of May 5 for the Staff of the PUC ("Staff") to file comments on the administrative completeness of the petition and notice. Order No. 1 also set a deadline of May 12, which is a week after Staff's deadline, for Dobbin Plantersville to file a response to the petition.

In his May 12, 2021, Order No. 4, the ALJ granted Dobbin Plantersville's Motion to Intervene. After extending the Staff's deadline to file comments on the administrative completeness of the petition, in Order No. 5 the ALJ also extended Dobbin Plantersville's deadline for responding to an administratively complete petition. The deadline is June 17, 2021; therefore, this response is timely filed.

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II. BACKGROUND

Dobbin Plantersville provides water service in Montgomery and Grimes counties, Texas, under CCN No. 11052. Dobbin Plantersville has structured its debt, infrastructure construction, and planning based on providing water service to undeveloped areas within its CCN, including the SER Property.

III. THE PETITION MUST BE DENIED BECAUSE PETITIONER IS “RECEIVING WATER SERVICE” FROM DOBBIN PLANTERSVILLE

The Commission must deny the Sig Magnolia Petition because the SER requested cannot lawfully be granted under Texas Water Code section 13.2541 and 16 Texas Administrative Code section 24.245. The SER Property is receiving water service from Dobbin Plantersville and is not eligible for SER.

Only property “that is not receiving water service” may be released from an existing CCN under Texas Water Code section 13.2541.¹ A determination of whether the SER Property receives water service from Dobbin Plantersville is a fact-specific inquiry and the lack of active water taps or facilities on the SER Property itself is not determinative,² although in this case facilities are located on the SER Property.³ An analysis of the facts begins with the definitions of “service” and “facilities” in the Texas Water Code. “Service” is defined as:

any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties...to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.

Tex. Water Code § 13.002(21); *see also*, 16 TAC § 24.3(33) (same definition). The term “facilities” is defined as:

the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.

¹ See Tex. Water Code § 13.2541(b).

² See *Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 140 - 141 (Tex. App.- Austin 2014, pet. denied).

³ See Exhibit A, Duncan Affidavit at Item 12, and Attachment 2.

Tex. Water Code § 13.002(9); *see also*, 16 Tex. Admin. Code § 24.3(15) (same definition).

Under these statutory definitions, a property can “receive water service” even before development and delivery of water to active water taps.⁴ In the cited *Texas General Land Office v. Crystal Clear* (Tex. App. 2014) decision, the court stated that facilities or lines “used” or “committed” to providing such service might cause a property to “receive service” under the statutory and regulatory definition.⁵ Dobbin Plantersville has constructed infrastructure and developed water supply “committed” to the Property and a 6-inch distribution line traverses the SER Property; therefore, the SER Property is “receiving service.”⁶ As discussed here, Dobbin Plantersville has adequate facilities to provide service to the area within a reasonable time after a request for service is made and the legal right to provide service.

As shown by the attached Exhibit A, the affidavit of Steve Duncan (“Duncan Affidavit”),⁷ Dobbin Plantersville’s outside engineering consultant, and *contrary* to the Petitioner’s statement:

(1) A few years ago, Dobbin Plantersville began planning for service to the area, including the SER Property.⁸

(2) An additional water plant was to be constructed in the area once development pressure required it. The Water Plant 9 site was dedicated with the Section 7 plat in 2019. With each section of development, the water lines were planned for their future extension into the adjoining undeveloped tracts of the High Meadows area, ultimately connecting the 6-inch existing water lines on Jackson Road and FM 1486 with 6-inch and 8-inch interior lines. The SER Property is located in the High Meadows area.⁹

⁴ *See Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 140 - 141 (Tex. App.- Austin 2014, pet. denied).

⁵ *See Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 140 - 141 (Tex. App.- Austin 2014, pet. denied).

⁶ *Green Valley Special Util. Dist. v. City of Schertz, Texas*, 969 F.3d 460, 477 (5th Cir. 2020). (“[W]e adopt the ‘physical ability’ test as articulated in *Le-Ax Water Dist. V. City of Athens, Ohio*,] 346 F.3d [701,] at 705-07 [6th Cir. 2003], albeit with one small alteration. [citation omitted] To make the test easy to apply to both water and sewer service, we hold that a utility must show that it has (1) adequate facilities to provide service to the area within a reasonable time after a request for service is made and (2) the legal right to provide service.”).

⁷ *See* Exhibit A, Affidavit of Steve Duncan (“Duncan Affidavit”).

⁸ *See* Exhibit A, Duncan Affidavit at Item 6; Exhibit B, Affidavit of Janie Legge (“Legge Affidavit”) at Item 7.

⁹ *See* Exhibit A, Duncan Affidavit at Items 6 and 8 and Attachments 2 and 3; Exhibit B, Legge Affidavit at Items 8 and 10.

(3) Water Plant 9 was originally planned to be part of a larger system-wide project, but because of development pressure within the High Meadows original tracts, primarily Sig Magnolia's, part of the plan was brought forward. This part is referred to as the Water Plant 9 Project which was designed to serve the High Meadows original tracts including the Sig Magnolia tract. To be ready to serve Sig Magnolia under its stated timeline, Dobbin Plantersville could not wait for financing of the entire system-wide plan and therefore had to obtain a \$1,250,000.00 loan from CoBank which they hope to later roll into a USDA loan to finance the entire system-wide plan.¹⁰

(4) Existing 6-inch and 8-inch water lines are available near the SER Property (Magnolia Crossing); two 6-inch lines terminate just prior to the SER Property with easements in place for the future extension to the SER Property; another 6-inch line stops at the parcel to the east of the SER Property and is planned to continue through that property to the SER Property when that property develops; the 8-inch line south of the SER Property running roughly parallel to the southern property line was planned to be extended into the Magnolia Crossing subdivision with routing to be determined by the High Meadows and Magnolia Crossing subdivision layouts; the location of Water Plant 9 was selected for its ability to serve the High Meadows/Magnolia Crossing area. The plans and specs for the public water supply well have been approved by the Texas Commission on Environmental Quality (TCEQ). The project has been bid and awarded and Dobbin Plantersville is awaiting the availability of the water well driller to begin construction. Dobbin Plantersville has received groundwater permits from Lonestar Groundwater Conservation District. The plans and specs for Water Plant 9 are currently under review by the TCEQ.¹¹

(5) If the SER Petition is granted, the three 6-inch lines described above must be permanently capped-off making three dead-ends in the distribution system. These dead-end 6-inch lines increase maintenance costs and water loss; to prevent contamination to the system, the lines must be periodically flushed requiring use of water that would otherwise be provided to customers. By introducing dead-ends into the system at these locations, Dobbin Plantersville also loses other benefits of a looped distribution system in this area, such as flexibility with maintenance and operations.¹²

¹⁰ See Exhibit A, Duncan Affidavit at Item 7, and Attachment 3; Exhibit B, Legge Affidavit at Items 7 and 8.

¹¹ See Exhibit A, Duncan Affidavit at Items 9 and 15 and Attachment 2.

¹² See Exhibit A, Duncan Affidavit at Item 10, and Attachment 2.

(6) Water Plant 9 provides additional water system capacity that is not currently needed by Dobbin Plantersville if the SER Property is released. Water Plant 9 will include a public water supply well, ground storage tank, booster pumps, and a pressure tank that will tie into the existing distribution system. The plant design includes components for a minimum capacity of 500 connections and an alternate capacity of 750 connections. Water Plant 9 was specifically located and sized to serve the High Meadows/Magnolia Crossing subdivision areas.¹³

(7) There are no outstanding requests for service from the undeveloped portions of the subject CCN area that will use the remainder of the existing capacity.¹⁴

Thus, Dobbin Plantersville has performed various acts and supplied funds in furtherance of service to the SER Property and Dobbin Plantersville's CCN No. 11052 area that includes the SER Property, including obtaining approval from the Texas Commission on Environmental Quality for the new well, PWS ID No. 1700178. These acts and funding are detailed in Exhibit A, the Duncan Affidavit and the site map appended to the Affidavit.¹⁵ These facilities - and the acts planning, funding, installing, and maintaining them - are all plainly "committed" or "used" by Dobbin Plantersville in the performance of its duties to supply water service to the SER Property as part of Dobbin Plantersville's CCN area. The SER Property "receives water service from Dobbin Plantersville" through its commitments to serve, and its existing facilities and capacity sized to serve, the SER Property. Mr. Duncan's affidavit describes all the different ways Dobbin Plantersville has served the SER Property through its various service acts and funds supplied. Under these facts, the Commission must deny the Petitioner's request to release the SER Property from Dobbin Plantersville's CCN No. 11052 because approval would violate Texas Water Code section 13.2541.

IV. IN THE ALTERNATIVE, MOTION TO DISMISS

Sig Magnolia's Petition is premised on 16 Texas Administrative Code section 24.245(h) and Texas Water Code section 13.2541 and must be dismissed because Dobbin Plantersville has "provided or made service available and enjoys protection" under Title 7 United States Code section 1926(b) ("Section 1926(b)") such that the SER Property cannot be removed from Dobbin Plantersville's territory. Dobbin Plantersville is providing this information regarding its Section 1926(b) rights to

¹³ See Exhibit A, Duncan Affidavit at Items 11 and 13; Exhibit B, Legge Affidavit at Item 10.

¹⁴ See Exhibit A, Duncan Affidavit at Item 14; Exhibit B, Legge Affidavit at Item 10.

¹⁵ See Exhibit A, Duncan Affidavit and Attachment 2.

inform the PUC about Dobbin Plantersville's federal rights, but Dobbin Plantersville is not seeking a determination of those rights by the Commission; rather, Dobbin Plantersville has filed its “England Reservation” (see Section VI, below), reserving all federal issues to be decided by a federal court. Sig Magnolia’s Petition must be dismissed to allow a federal court to resolve this issue.

A. The SER Property Cannot Be Released From Dobbin Plantersville's CCN Territory Under Federal Law, including Section 1926(b).

Dobbin Plantersville is indebted on several loans that qualify it for the protections of Section 1926(b). Although Texas Water Code section 13.2541(d) provides that the Commission may not deny the Petition based on the fact that Dobbin Plantersville is a borrower under a federal loan program, releasing the SER Property by granting the Petition while ignoring Dobbin Plantersville’s indebtedness on two outstanding United States Department of Agriculture (“USDA”) loans and a CoBank loan guaranteed by the USDA, violates Dobbin Plantersville’s protection under Section 1926(b).

Dobbin Plantersville’s USDA and CoBank loans are loans as contemplated by Section 1926(b), which reads:

(b) Curtailment or limitation of service prohibited.

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event (emphasis added).

7 U.S.C. § 1926(b).

As stated in *Crystal Clear v. Marquez* (5th Cir. 2018), a rural water association seeking the protections of Section 1926(b) must establish that (1) it is an "association" as defined in Section 1926; (2)

it has an outstanding qualifying loan; and (3) the utility provided or made water service available.¹⁶ Dobbin Plantersville satisfies these requirements.

Dobbin Plantersville is a rural water association under Section 1926. It is a non-profit, member-owned, and member-controlled water supply corporation and a retail public utility operating under Chapter 67 of the Texas Water Code. Water supply corporations generally serve rural areas in Texas and Dobbin Plantersville is no exception. Dobbin Plantersville provides water service to areas that are or historically have been rural in Grimes and Montgomery counties. The SER Property is located in Montgomery County in an historically rural area that is now being urbanized.¹⁷

Dobbin Plantersville has outstanding qualifying loans contemplated by Section 1926(b). The term "such loan" in Section 1926(b) quoted above includes not only a loan under a federal loan program, but also loans guaranteed or insured by the federal government. Dobbin Plantersville currently has two USDA loans and one CoBank loan and has initiated the application process for an additional CoBank loan,¹⁸ all of which are qualifying loans contemplated under Section 1926(b); therefore, Dobbin Plantersville qualifies for the protections under Section 1926(b). Janie Legge, General Manager of Dobbin Plantersville, attests to the funding that qualifies Dobbin Plantersville for Section 1926(b) protection and that the debt remains outstanding.¹⁹

In *Crystal Clear v. Marquez* (5th Cir. 2018), the court concluded that an affidavit of the association's general manager, along with ancillary documents that confirmed a qualifying loan remained outstanding, were sufficient to establish the association's indebtedness.²⁰ Janie Legge attests that CoBank is the lender and Dobbin Plantersville is the borrower of a \$1,250,000.00 loan that later will be rolled into a USDA loan to finance the entire plan as described in Section III, above. She further states that the loan application process has been initiated.²¹ She further attests that Dobbin Plantersville currently has two outstanding

¹⁶ *Crystal Clear Special Utility District v. Marquez*, 316 F. Supp. 3d 965, 969 (5th Cir. 2018) (referring to *El Oso Water Supply Corp. v. City of Karnes City, Texas*, No. SA-10-CA-0819-0LG, 2011WL9155609, at *5 (W.D. Tex. Aug. 30, 2011)).

¹⁷ See Exhibit B, Legge Affidavit at Item 2.

¹⁸ See Exhibit B, Legge Affidavit at Items 7 through 9 and Attachment 3.

¹⁹ See Exhibit B, Legge Affidavit at Items 7 through 9 and Attachment 3.

²⁰ *Crystal Clear Special Utility District v. Marquez*, 316 F. Supp. 3d 965, 969 (5th Cir. 2018) (referring to *El Oso Water Supply Corp. v. City of Karnes City, Texas*, No. SA-10-CA-0819-0LG, 2011WL9155609, at *5 (W.D. Tex. Aug. 30, 2011)).

²¹ See Exhibit B, Legge Affidavit at Items 8 and 9 and Attachment 3.

USDA loans and another outstanding CoBank loan. The utility expects to apply for an additional USDA loan by the end of the year. Based on Ms. Legge's affidavit and supporting documents attached as Exhibit B, there is no question that Dobbin Plantersville has loans contemplated by Section 1926(b) and enjoys its protection.

Dobbin Plantersville has "provided or made service available" to the SER Property. Under prevailing law, as discussed in Section III, above, Dobbin Plantersville has "provided or made service available" to the SER Property. The detailed facts presented in Section III and in Exhibits A and B conclusively support this statement. Not only did Dobbin Plantersville expect to provide service to the SER Property, Sig Magnolia led them to this belief. On January 13, 2021, the Sig Magnolia developer contacted Dobbin Plantersville to set up a meeting to discuss service to the planned subdivision called Magnolia Crossing located within Dobbin Plantersville's CCN area. They met the next day, discussed Sig Magnolia's plans and the level of service needed, and the utility offered options for the development and stated that it was able to meet the water service demands. Dobbin Plantersville has adequate facilities to provide service to the SER Property within a reasonable time after a request for service is made and the legal right under its CCN to provide service.²²

In November 2020, the Board of Directors of Dobbin Plantersville approved going forward with a CoBank loan to pay for the Water Plant #9 Project so it could be started sooner rather than waiting for financing of the entire upgrade, replacement, and addition plan.²³ Dobbin Plantersville, relying on the Sig Magnolia statements and actions, began spending money on the improvements that would be needed to its system to serve the SER Property under the schedule presented by Sig Magnolia.²⁴ It was not until a few days prior to the regularly planned meeting of the Dobbin Plantersville Board of Directors that Sig Magnolia informed the Dobbin Plantersville Board of Directors it was petitioning the PUC to release the SER Property from Dobbin Plantersville CCN No. 11052.²⁵ It was not until the Petition was filed that Dobbin Plantersville became aware that a municipal utility district had been created to provide service to the SER Property.²⁶

²² See Exhibit B, Legge Affidavit at Item 3, and Attachment 1.

²³ See Exhibit B, Legge Affidavit at Item 7; Exhibit A, Duncan Affidavit at Item 6.

²⁴ See Exhibit B, Legge Affidavit at Items 8 and 11.

²⁵ See Exhibit B, Legge Affidavit at Item 4.

²⁶ See Sig Magnolia Petition at Exhibit A, Item 3.

Sig Magnolia communicated with Dobbin Plantersville throughout the spring of 2021 about entering a non-standard water utility service contract for service to the SER Property.²⁷ In summary, Dobbin Plantersville took steps to expand its system including obtaining the CoBank loan. Sig Magnolia's decision to instead seek a release from the Dobbin Plantersville CCN came as a surprise, Dobbin Plantersville having used its resources including loan proceeds to meet the deadlines provided by Sig Magnolia.²⁸

These undisputed facts show that Dobbin Plantersville has “provided or made service available” to the SER Property; Dobbin Plantersville has adequate facilities to provide service to the SER Property within a reasonable time after a request for service is made and the legal right under its CCN to provide service. Considered in conjunction with facts establishing that Dobbin Plantersville is an “association” as defined in Section 1926 and has outstanding qualifying loans, it must be afforded protection from decertification under Section 1926(b).²⁹

B. Texas Water Code Section 13.2541(d) Directly Conflicts with Section 1926(b); the Supremacy Clause Directs the Petition be Dismissed.

As stated above, Dobbin Plantersville is providing this information regarding its Section 1926(b) rights so as to inform the PUC about Dobbin Plantersville's federal rights. Dobbin Plantersville is not seeking a determination of those rights by the Commission; rather, Dobbin Plantersville has filed its “England Reservation” (see Section VI, below), reserving all federal issues to be decided by a federal court.

The court in *Crystal Clear v. Walker* (W.D. Tex 2018 & 2019) determined that Section 1926(b) preempted Texas Water Code sections 13.254(a-5) and (a-6) (replaced by 13.2541(b) – (d)).³⁰ Although the Fifth Circuit has vacated the decision in *Crystal Clear v. Marquez* (5th Cir. 2020),³¹ the recommendation and opinion of Magistrate Judge Andrew W. Austin in *Crystal Clear v. Walker* (W.D. Tex 2018 & 2019)

²⁷ See Exhibit B, Legge Affidavit at Items 3 and 11.

²⁸ See Exhibit B, Legge Affidavit at Item 10, and Attachments 1 and 3. See also Exhibit A, Duncan Affidavit.

²⁹ See *Crystal Clear Special Utility District v. Marquez*, 316 F.Supp.3d 965, 969 (5th Cir. 2018) (referring to El Oso Water Supply Corp. v. City of Karnes City, Texas, No. SA-10-CA-0819-0LG, 2011WL9155609, at *5 (W.D. Tex. Aug. 30, 2011)).

³⁰ *Crystal Clear Spec. Util. Dist v Walker*, No. A-17-CV-00254-LY, 2018 WL 6242370, at *3-4 (W.D. Tex. Nov. 29, 2018), report and recommendation adopted as modified sub nom *Crystal Clear Special Util. Dist. v. Walker*, No. 1: 17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019).

³¹ *Crystal Clear Spec. Util. Dist. v. Marquez*, No. 19-50556 (5th Cir. Nov. 6, 2020) (per curiam).

still validly point out that the Commissioners of the Public Utility Commission have incorrectly suggested federal law should be ignored:

The Court cannot complete this discussion without noting that the PUC Officials' brief contains the unsettling suggestion that it does not recognize federal law as the supreme law of the United States. Specifically, PUC Officials state that *even if* the Court strikes § 13.254(a-6),

Section 13.254(a-5) states that the PUCT "shall grant" a petition meeting [(a-5)'s] three requirements, and, being a creature of statute, the PUCT may not consider an extrastatutory factor-such as the utility's status as a debtor to the USDA-regardless of that portion of 13.254(a-6) reaffirming that principle.

Dkt. No. 72 at 15. The Constitution begs to differ. Though it should not be necessary, the Court reminds PUC Officials that Article VI of the Constitution provides:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; **and the judges in every state shall be bound thereby**, anything in the Constitution or laws of any State to the contrary notwithstanding.

U.S. Const. Art. VI (emphasis added). **Thus, regardless of whether § 13.254(a-5) explicitly directs the PUC to consider the provisions of 7 U.S.C. § 1926(b), the PUC has no choice in the matter, as the Constitution compels it to consider that applicable federal law. The fact that the PUC suggests otherwise is troubling.** Generally, a court should be as circumscribed as possible when it determines the scope of a ruling invalidating a statute, and this is particularly true when there are both separation of powers and federalism issues implicated, as there are here. But the PUC Officials' suggestion that they have no choice but to follow state law even in the face of a directly contrary federal law-despite the fact that the agency has a general counsel and a staff full of attorneys-supports Crystal Clear's argument that the Court should go further than simply enjoining enforcement of § 13.254(a-6). Accordingly, the Court has added in its recommended relief, a declaration regarding § 13.254(a-5) as well.³²

³² *Crystal Clear Spec. Util. Dist v. Walker*, No. A-17-CV-00254-LY, 2018 WL 6242370, at *3-4 (W.D. Tex. Nov. 29, 2018) (emphasis added), *report and recommendation adopted as modified sub nom. Crystal Clear Special Util. Dist. v. Walker*, No. 1:17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019).

If the Commission relies on the state statute, Texas Water Code section 13.2541(d), and ignores the federal statute, Section 1926(b), the Commission will be directly violating the Supremacy Clause - by which its administrative law judges and Commissioners are bound. Therefore, the Petition should be denied because Dobbin Plantersville enjoys Section 1926(b) protections, and the Supremacy Clause does not allow the Commission to have jurisdiction to grant the Petition because Texas Water Code section 13.2541(d) directly conflicts with Section 1926(b).

C. The Commission Must Adhere to Other Federal Decisions on State Laws Preempted by Section 1926(b).

Indeed, under the Supremacy Clause state courts cannot ignore the decisions of federal courts on preemption. Dobbin Plantersville's enjoyment of Section 1926(b) protection is a federal issue to be decided by federal courts, where state courts cannot ignore those decisions on preemption. Although the Fifth Circuit has vacated *Crystal Clear v. Marquez*, the Tenth Circuit provides:

In addition to these principles defining the protection § 1926(b) affords rural water districts from competition, **state law cannot change the service area to which the protection applies, after that federal protection has attached.** See *Pittsburg County*, 358 F.3d at 715. For instance, "**where the federal § 1926 protections have attached, § 1926 preempts local or state law that can be used to justify a municipality's encroachment upon disputed area in which an indebted association is legally providing service under state law.**" *Pittsburg County*, 358 F.3d at 715 (quotation, alternation omitted).³³

There is no question that Dobbin Plantersville enjoys Section 1926(b) protections with the issuance of two USDA loans and a CoBank loan guaranteed by the USDA. As confirmed by the Tenth Circuit, Dobbin Plantersville's territory, including the SER Property, cannot be removed because Section 1926(b) preempts Texas Water Code section 13 2541(b) - (d). Thus, the Petition cannot be granted to release the SER Property from Dobbin Plantersville's CCN, and the PUC is required to dismiss Sig Magnolia's Petition to allow a federal court to decide this issue.

³³ *Rural Water Sewer & Solid Waste Mgmt. v. City of Guthrie*, 344 F. App'x 462, 465 (10th Cir. 2009), *certified question answered sub nom. Rural Water Sewer & Solid Waste Mgmt., Dist No 1, Logan Cty, Oklahoma v City of Guthrie*, 2010 OK 51, 253 P.3d 38 (emphasis added).

**V. IN THE FURTHER ALTERNATIVE, DOBBIN PLANTERSVILLE
MUST BE COMPENSATED IF THE SER PROPERTY IS REMOVED
FROM DOBBIN PLANTERSVILLE'S CCN AREA**

Dobbin Plantersville is entitled to a determination of just and adequate compensation if its CCN area is reduced.³⁴ Under the Texas Water Code and the PUC's implementing regulations, "the value of real property owned and utilized by the retail public utility for its facilities shall be determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain," and compensation for personal property is to be based on several factors, including the following: the amount of the retail public utility's "debt allocable for service to the area in question; . . . the amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question; . . . any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification; . . . necessary and reasonable legal expenses and professional fees; and other relevant factors."³⁵

If the SER Property is removed from Dobbin Plantersville's CCN No. 11052, Dobbin Plantersville would be entitled to compensation under several of these factors including, but not limited to, the costs of obtaining permits, planning, design, and construction of facilities, and the necessary and reasonable legal expenses and professional fees that are incurred as a result of the decertification Petition.³⁶ Dobbin Plantersville would also be compelled to spend time and resources to make the filing required by Texas Water Code section 13.257(r)-(s).³⁷ Further, Dobbin Plantersville would need compensation for oversizing improvements to its system attributable to future development of the SER Property. If required, the monetary amount shall be determined by an appraiser, either one agreed upon by the retail public utilities involved, or one hired by each retail public utility, and a third appointed by the Commission.³⁸

³⁴ See Tex. Water Code §§13.254(d), (g), and 13.2541(a), (h). See also, 16 Tex. Admin. Code § 254(j).

³⁵ See Tex. Water Code §§13.254(g), 13.2541(h). See also, 16 Tex. Admin. Code § 254(j).

³⁶ See Exhibit A, Duncan Affidavit.

³⁷ See Tex. Water Code § 13.257 (r) [filing amended CCN description and maps in county real property records] and (s) [filing must be accomplished within 31 days after the order amending the CCN]. See also, Exhibit A, Duncan Affidavit at Item 18.

³⁸ See Tex. Water Code § 13.2541(g), (i). See also, 16 Tex. Admin. Code § 254(i).

VI. ENGLAND RESERVATION

Dobbin Plantersville hereby submits its "England Reservation" reserving all of its federal rights and remedies and its entitlement to have such rights and remedies resolved/adjudicated in a federal forum in accordance with *England v. Louisiana State Board of Medical Examiners*, 375 U.S. 411, 421 (1964).

CONCLUSION AND PRAYER

Dobbin Plantersville respectfully requests the Commission to deny the Petition because it cannot lawfully be granted under Texas Water Code section 13.2541. Alternatively, if the Commission is inclined to grant the Petition, Dobbin Plantersville requests that the Petition be dismissed to allow adjudication of the issue of Section 1926(b) protection from encroachment on Dobbin Plantersville CCN 11052. Dobbin Plantersville does not seek a Commission decision on such pre-emption, relying on the "England Reservation." In the further alternative, if the Commission grants the Petition, Dobbin Plantersville seeks just and adequate compensation for the decertification of portions of its water CCN No. 11052.³⁹ Dobbin Plantersville also seeks all and further relief to which it may be justly entitled at law or in equity.

Respectfully submitted,

Mary K. Sahs

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**ATTORNEY FOR DOBBIN
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COMPANY**

³⁹ Tex. Water Code §13.2541(g), (i).

CERTIFICATE OF SERVICE

Pursuant to Docket No. 50664, Second Order Suspending Rules (July 16, 2020) the undersigned hereby certifies that a copy of foregoing Dobbin Plantersville Water Supply Corporation's Response to Petition and Motion to Dismiss was served on all parties of record in this proceeding on June 17, 2021, by electronic mail.

Mary K. Sahs

Mary K. Sahs

DOCKET NO. 51979

**PETITION BY SIG MAGNOLIA LP
FOR EXPEDITED RELEASE
FROM WATER CCN NO. 11052
HELD BY DOBBIN PLANTERSVILLE
WATER SUPPLY CORPORATION**

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§
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§

**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

AFFIDAVIT OF STEVE DUNCAN

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

BEFORE ME, the undersigned official, on this day personally appeared Steve Duncan, who is personally known to me and first being duly sworn according to law, upon his oath deposed and said:

1. My name is Steve Duncan. I am over the age of 18 years and reside in Brazos 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.
2. I am an engineer and the employee of Bleyl Engineering ("Bleyl"). The company serves as the engineering consultant for Dobbin Plantersville Water Supply Corporation ("Dobbin Plantersville"), the Intervenor in this matter, and I am the engineer for the utility. I have been in that position for over 15 years, first with Pledger Kalkomey, Inc, then with Jones & Carter, Inc. and now with Bleyl. A copy of my resume is attached as Attachment 1.
3. I am authorized to make this affidavit on behalf of Dobbin Plantersville in Docket 51979 in support of its response to Sig Magnolia, LP's ("Petitioner") request for a streamlined expedited release ("SER") of approximately 665.8 acres in Montgomery County, Texas ("the SER Property") from Dobbin Plantersville water certificate of convenience and necessity ("CCN") No. 11052.
4. The attached map, Attachment 2, shows the SER Property that the Petition in Docket No. 51979 seeks to remove through SER from water CCN No. 11052. I prepared Attachment 2 as part of this affidavit.
5. Through the work that I and my employers have done for Dobbin Plantersville, I am familiar with Dobbin Plantersville's facilities designed to serve the SER Property and the vicinity and their location in relation to the SER Property and the service area under CCN No. 11052. Attachment 2 shows the SER

Property and the location of Dobbin Plantersville's water facilities built and sized to provide water to the SER Property, some of which traverse the SER Property in a utility easement. These are part of Dobbin Plantersville's water system (PWS ID No. 1700178).

6. The SER Property was originally part of the land area owned by the developer of High Meadows, the development of which began a few years ago. Dobbin Plantersville began water system planning for this entire High Meadows area at that time. An additional water plant was to be constructed in the area once development pressure required it. The Water Plant 9 site was dedicated with the Section 7 plat in 2019. With each section of development, the water lines were planned for their future extension into the adjoining undeveloped tracts of the High Meadows area, ultimately connecting the 6-inch existing water lines on Jackson Road and FM 1486 with 6-inch and 8-inch interior lines.

7. Water Plant 9 was originally planned to be part of a larger system-wide project, but because of development pressure within the High Meadows original tracts, primarily Sig Magnolia's, part of the plan was brought forward. This part is referred to as the Water Plant 9 project which was designed to serve the High Meadows original tracts which includes the Sig Magnolia tract. To be ready to serve Sig Magnolia under its stated timeline, Dobbin Plantersville could not wait for financing of the entire system-wide plan and therefore had to obtain a \$1,250,000.00 loan from CoBank which they hope to later roll into a USDA loan to finance the entire system-wide plan.

8. The Water Plant 9 Project called for building infrastructure in the service area where growth and development were anticipated, beginning with service to Sig Magnolia. The CCN boundary map, Attachment 3, shows the area addressed by the Water Plant 9 Project in reference to the entire CCN No. 11052 service area; and shows the SER Property in reference to both. I prepared Attachment 3 as part of this affidavit. The base map, the boundary of CCN No. 11052, is from the records of the Public Utility Commission.

9. As is clearly shown on the site drawing map attached as Attachment 2, existing 6-inch and 8-inch water lines are available near the SER Property (Magnolia Crossing). The existing lines are shown in blue and their proposed future extensions are shown in green on the attachment. Two 6-inch lines terminate just prior to the SER Property with easements in place for the future extension to the SER Property. Another 6-inch line stops at the parcel to the east of the SER Property and is planned to continue thru that property to the SER property when that property develops. The 8-inch line south of the SER Property running roughly parallel to the southern property line was planned to be extended into the Magnolia Crossing subdivision with routing to be determined by the High Meadows and Magnolia Crossing subdivision layouts. The location of Water Plant 9 was selected for its ability to serve the High Meadows

/Magnolia Crossing area. The plans and specs for the public water supply well have been approved by the Texas Commission on Environmental Quality (TCEQ). The project has been bid and awarded and Dobbin Plantersville is awaiting the availability of the water well driller to begin construction. The plans and specs for Water Plant 9 are currently under review by the TCEQ.

10. If the SER Petition is granted, the three 6-inch lines described in No. 9, above, must be permanently capped-off making three dead-ends in the distribution system. These dead-end 6-inch lines increase maintenance costs and water loss; to prevent contamination to the system, the lines must be periodically flushed requiring use of water that would otherwise be provided to customers. By introducing dead-ends into the system at these locations, Dobbin Plantersville also loses other benefits of a looped distribution system in this area, such as flexibility with maintenance and operations.

11. Water Plant 9 provides additional water system capacity that is not currently needed by Dobbin Plantersville if the SER Property is released.

12. An existing 6-inch line is shown on Attachment 2 as a blue line from north to south running through the SER Property on its western boundary along FM 1486. That line traverses the SER Property within a utility easement.

13. Water Plant 9 will include a public water supply well, ground storage tank, booster pumps, and a pressure tank that will tie into the existing distribution system. The plant design includes components for a minimum capacity of 500 connections and an alternate capacity of 750 connections. Water Plant 9 was specifically located and sized to serve the High Meadows/Magnolia Crossing subdivision areas.

14. To respond quickly to the SER Property and other areas in the vicinity, the facilities described in Item 13, above, were designed and built with capacity that exceeds immediate need. There are no outstanding requests for service from the undeveloped portions of the subject CCN area that will use the remainder of the existing capacity.

15. Dobbin Plantersville has provided for water service to the SER Property in several ways: (1) performing acts and supplying funds to permit, plan, design, construct, own, and operate the facilities described in Items 8 - 14, above; (2) performing acts and supplying funds necessary to obtain and maintain the water CCN No. 11052 service area covering the SER Property under prevailing regulations; and (3) performing acts and supplying funds necessary to obtain and maintain permits and approvals for PWS No. 1700178 including groundwater permits from Lonestar Groundwater Conservation District and construction approval from TCEQ, so that it may be used to serve the SER Property and CCN No. 11052 area that includes the SER Property.

16. CCNs, groundwater permits, and TCEQ approvals have value that purchasers of utilities will pay for when acquiring a utility because of the rights to serve the public that they provide and because the time and expense to acquire the CCNs and permits has already been spent.

17. Dobbin Plantersville is incurring legal and professional expenses and is likely to incur other legal and professional expenses because of the decertification and Petition.

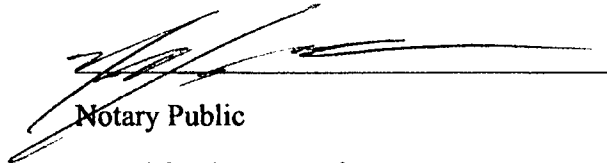
18. If the decertification is approved, Dobbin Plantersville will be compelled to spend time and resources to make the filing required by Texas Water Code section 13.257(r)-(s), which requires it to file in county records a description and maps of its certificated area after its amendment.

FURTHER AFFIANT SAYETH NOT.



Steve E. Duncan

SUBSCRIBED AND SWORN TO BEFORE ME the undersigned authority on this the ___ day of June 2021 to certify which witness my hand and seal of office.



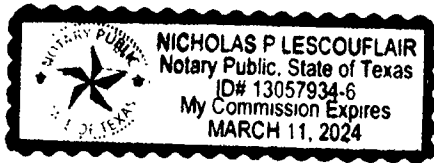
Notary Public

In and for the State of Texas

Nicholas P Lescofflair

Printed Name of Notary Public

SEAL:



My Commission Expires: March 11, 2024

Steve Duncan, PE, LEED AP



Senior Director
Bryan Office

EXPERTISE

- Water Systems
- Wastewater Systems
- Streets
- Drainage
- Grant Funding
- Public Works Engineering

QUALIFICATIONS

B.S., Civil Engineering 1993
Texas A&M University
magna cum laude
Licensed Professional Engineer
Texas No. 83252
Oklahoma No. 23360

LEED AP

AFFILIATIONS

TSPE Brazos Chapter

2013 Engineer of the Year
2000 Past President
1998 Young Engineer of the Year

Project Management Institute
WEAT
Chi Epsilon
Tau Beta Pi

COMMUNITY SERVICE

Family Promise Brazos Valley
Board Member, 2017 to present

Lions Club of Bryan
Member, 2003 to present
Club President, 2015-16

KOR Educational School
Coach, 2009 to Present
Board President, 2014-2016

Parkway Baptist Church
Member, 1989 to present
Deacon, 1998 to present
Trustee, 2010 to present

SUMMARY

With over 25 years of experience, Steve has garnered invaluable insight in the field of civil engineering with a focused emphasis on public works projects. He has generated numerous comprehensive plans, feasibility reports, and specialized civil engineering studies. His fields of expertise include project design, project management, and construction management for public water systems, wastewater systems, street paving and drainage systems. Steve has also worked with numerous grant funding agencies.

EMPLOYMENT

Pledger Kalkomey, Inc.- Brenham

- Graduate Engineer, 1993-1998

Pledger Kalkomey, Inc. - Bryan

- Principal, Bryan Office Manager, 1998-2007

Pledger Kalkomey, Inc., a Jones & Carter Company - Bryan

- Vice President, Bryan Office Manager, 2008

Jones & Carter, Inc - Bryan/College Station

- Vice President, Bryan/College Station Office Manager, 2008-2015
- Vice President, Municipal & District Services, 2015-2019
- Vice President, Water Services, 2019-2020

Bleyl Engineering - Bryan/College Station

- Senior Director, 2020-Current

DOBBIN-PLANTERSVILLE WSC EXPERIENCE

- Water Plant 5 Upgrade, Dacus
- Water Plant 7, CR 331
- Water Well 8, Catahoula, Mount Mariah Cut Off
- Water Plant 8, Mount Mariah Cut Off
- Water Well 9, Jaspur, High Meadows
- Water Plant 9, High Meadows
- 2015 CDBG Water Line Addition
- TxDOT Water Line Relocations
- Various Individual TxDOT Road Bores
- Various Subdivision Reviews

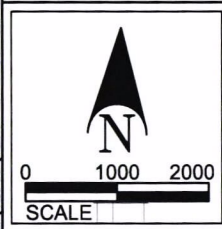
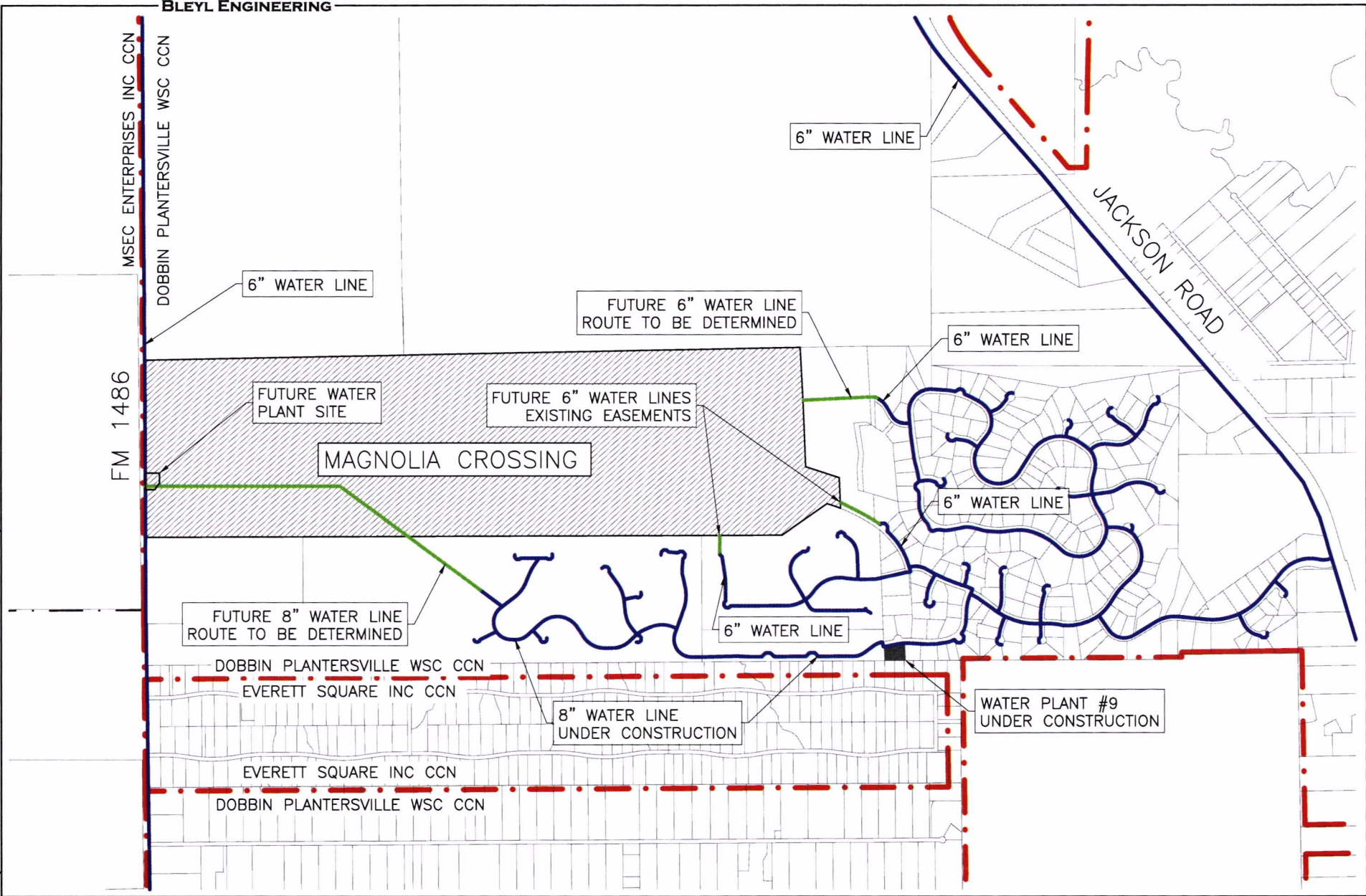
OTHER PUBLIC WATER SYSTEM CLIENTS

- City of Bryan
- City of Calvert
- City of College Station
- City of Franklin
- City of Navasota
- Anderson Water Company
- Cooks Point WSC
- North Zulch MUD

ORIGINAL LAYOUT SIZE - 8.5X11

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BLEYL ENGINEERING



PROJECT NAME:	MAGNOLIA CROSSING
PROJECT NUMBER:	12707
PREPARED FOR:	DOBBIN PLANTERSVILLE WSC
DATE:	JUNE 16, 2021

DOBBIN PLANTERSVILLE WSC FACILITIES

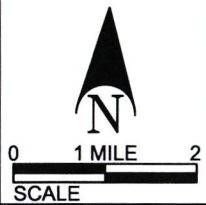
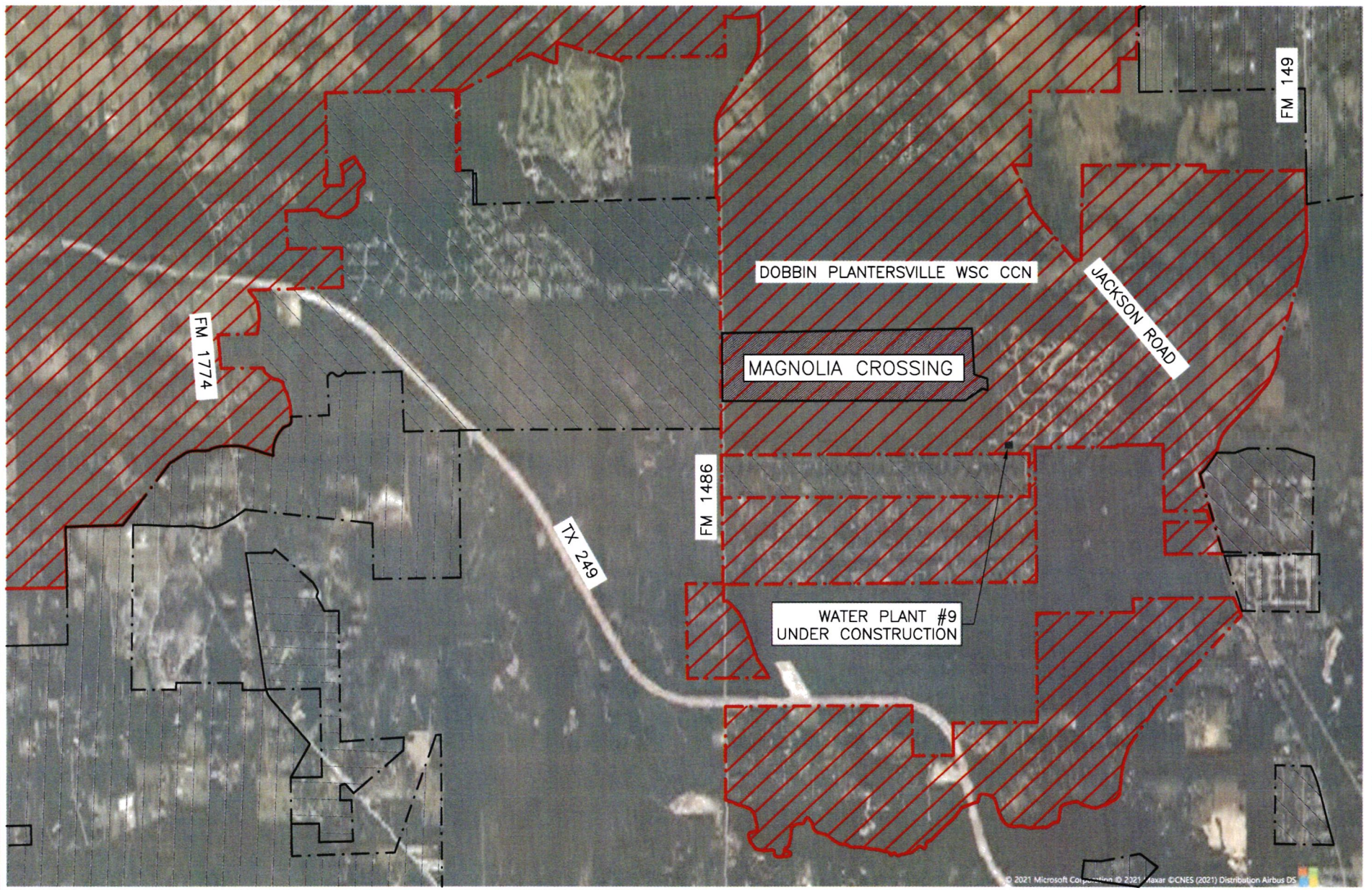
BLEYL ENGINEERING
 TEXAS FIRM REGISTRATION NO. F-678
 WWW.BLEYLENGINEERING.COM

1722 BROADMOOR, STE 210
 BRYAN TEXAS 77802
 PHONE 979-268-1125

ORIGINAL LAYOUT SIZE - 8.5X11

BLEYL ENGINEERING

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PROJECT NAME:	MAGNOLIA CROSSING
PROJECT NUMBER:	12707
PREPARED FOR:	DOBBIN PLANTERSVILLE WSC
DATE:	JUNE 16, 2021

DOBBIN PLANTERSVILLE WSC CCN MAP



BLEYL ENGINEERING
 TEXAS FIRM REGISTRATION NO. F-678
 WWW.BLEYLENGINEERING.COM

1722 BROADMOOR, STE 210
 BRYAN TEXAS 77802
 PHONE 979-268-1125

DOCKET NO. 51979

**PETITION BY SIG MAGNOLIA LP
FOR EXPEDITED RELEASE
FROM WATER CCN NO. 11052
HELD BY DOBBIN PLANTERSVILLE
WATER SUPPLY CORPORATION**

§
§
§
§
§

**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

AFFIDAVIT OF JANIE LEGGE

THE STATE OF TEXAS

§

§

COUNTY OF MONTGOMERY

§

BEFORE ME, the undersigned official, on this day personally appeared Janie Legge, who is personally known to me and first being duly sworn according to law, upon her oath deposed and said:

1. My name is Janie Legge. I am over the age of 18 years and reside in Grimes 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.

2. I am the general manager of Dobbin Plantersville Water Company also known as Dobbin Plantersville Water Supply Corporation. Dobbin Plantersville holds certificate of convenience and necessity No. 11052 for water service in Montgomery County and parts of Grimes County. As stated on our website, Dobbin Plantersville provides water service to areas that are or historically have been rural.

3. On January 13, 2021, the Sig Magnolia LP developer contacted Dobbin Plantersville by email to set up a meeting to discuss service to a planned subdivision called Magnolia Crossing located within Dobbin Plantersville's CCN area. A copy of the email communication, which includes a site plan, is attached as Attachment 1. The Sig Magnolia developers and Dobbin Plantersville development staff met the next day and discussed Sig Magnolia's proposed plans and the level of service needed. Dobbin Plantersville offered options for their development and stated they were able to meet the demands of the water service needs of the development. Plans were underway for a new water plant that would supply the demand in the area and the surrounding area. We also discussed alternatives for their

wastewater needs. Communications continued for a couple of months back and forth on providing service to the development, often by telephone.

4. Before the monthly scheduled meeting in March, Sig Magnolia sent an email asking that decertification of the subdivision be put on the agenda for that meeting. This was the first time they mentioned decertification. At the March 24, 2021, Dobbin Plantersville's Board of Directors' meeting, Sig Magnolia informed the Board that it intended to file with the Public Utility Commission a petition for release of its property from Dobbin Plantersville CCN.

5. On April 6, 2021, I received a copy of the petition.

6. The attached map, Attachment 2, shows the streamlined expedited release property ("SER Property") that the Petition in Docket No. 51979 seeks to remove through SER from water CCN No. 11052. Attachment 2 was prepared by Dobbin Plantersville's engineer, Steve Duncan.

7. Several years ago, the Board of Directors approved a plan developed with our consulting engineer firm, Bleyl Engineering, for facilities upgrades, replacements, and additions throughout our entire water system. This included water system planning for the entire High Meadows area, including the area that is now called "Magnolia Crossing." Dobbin Plantersville intended to seek a U.S.D.A. loan to finance these activities and infrastructure.

8. The Water Plant #9 Project, which was part of the overall plan described in Item 7, above, would provide service to the High Meadows area, including Magnolia Crossing. In November 2020, the Board approved going forward with a CoBank loan to pay for the Water Plant #9 Project so it could be started sooner rather than waiting for financing of the entire upgrade, replacement, and addition plan. Dobbin Plantersville has applied for a loan of \$ 1,250,000.00 from CoBank to finance the Water Plant #9 Project, which later will be rolled into a U.S.D.A. loan to finance the entire plan described in No. 7, above. We have not yet closed on this loan. A copy of some of the CoBank loan documents are attached as Attachment 3. These are true and correct copied of the original documents.

9. Dobbin Plantersville currently has two outstanding U.S.D.A. loans and an outstanding CoBank loan. It expects to apply for an additional U.S.D.A. loan by the end of the year.

10. The Water Plant #9 Project was designed and built with capacity that exceeds immediate need to respond quickly to the SER Property and other areas in the vicinity. There are no outstanding requests for service from other undeveloped portions of the subject CCN area that will use the remainder of the existing capacity.

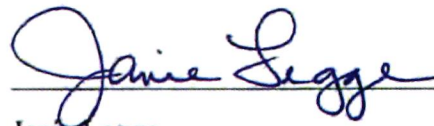
11. Dobbin Plantersville believed that Sig Magnolia would seek water service to Magnolia Crossing (the SER Property) because of the email shown in Attachment 1, the meeting with Dobbin Plantersville development staff, and other conversations. Dobbin Plantersville relied on that impression to move forward with the Water Plant #9 Project construction so it would be ready when a service application was received.

12. CCNs and Lone Star Groundwater Conservation District groundwater permits have value that purchasers of utilities will pay for when acquiring a utility because of the rights to serve the public that they provide and because the time and expense to acquire the CCNs and permits has already been spent.

13. Dobbin Plantersville is incurring legal and professional expenses and is likely to incur other legal and professional expenses because of the decertification and Petition.

14. If the decertification is approved, Dobbin Plantersville will be compelled to spend time and resources to make the filing required by Texas Water Code section 13.257(r)-(s), which requires it to file in county records a description and maps of its certificated area after its amendment.

FURTHER AFFIANT SAYETH NOT.

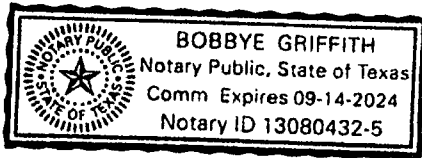

Janie Legge

SUBSCRIBED AND SWORN TO BEFORE ME the undersigned authority on this the ____ day of January 2021 to certify which witness my hand and seal of office.

Bobbie Griffith

Notary Public

In and for the State of Texas



Bobbie Griffith

Printed Name of Notary Public

SEAL:

My Commission Expires: 09-14-2024

From: [Janie Legge](#)
To: [Mary Saks](#)
Subject: FW: Magnolia Springs
Date: Thursday, May 27, 2021 2:24:23 PM
Attachments: [Magnolia Springs Overall Land Plan.pdf](#)

The original email

Janie Legge

Dobbin-Plantersville WSC
PO Box 127
8829 Phillips Road
Plantersville, Texas 77363-0127
Office:(936) 894-2506
Fax: (936) 894-3152
Emergency: (936) 672-3734

From: Juanita Orsak <jorsak@signorellicompany.com>
Sent: Wednesday, January 13, 2021 9:49 AM
To: Janie Legge <janie@dpwater.com>
Cc: Mitch Watkins <mwatkins@elevationlandsolutions.com>; Ryan Wade <rwade@elevationlandsolutions.com>
Subject: Magnolia Springs

Janie:

Attached please find the overall exhibit of our 665 acre parcel located on the east side of FM 1486 north of Magnolia and South of the Crown Ranch Blvd.

We look forward to meeting you tomorrow.

Juanita Orsak
Development Manager
Direct: 713.452.1705
jorsak@signorellicompany.com



1401 Woodlands Parkway

ATTACHMENT 1

The Woodlands, Tx. 77380
713.452.1700
www.signorellicompany.com

<https://pages.lls.org/ltn/tvg/montcty20/jorsak>



TOTAL NUMBER OF HOMES = 1,889

a conceptual development plan for
MAGNOLIA CROSSING
 ±665.9 ACRES OF LAND
 prepared for
SIGNORELLI COMPANY

META 24275 Kuly Freeway, Ste. 200
 Katy, Texas 77494
 Tel: 281-810-1422

SCALE
 0 200 400 800

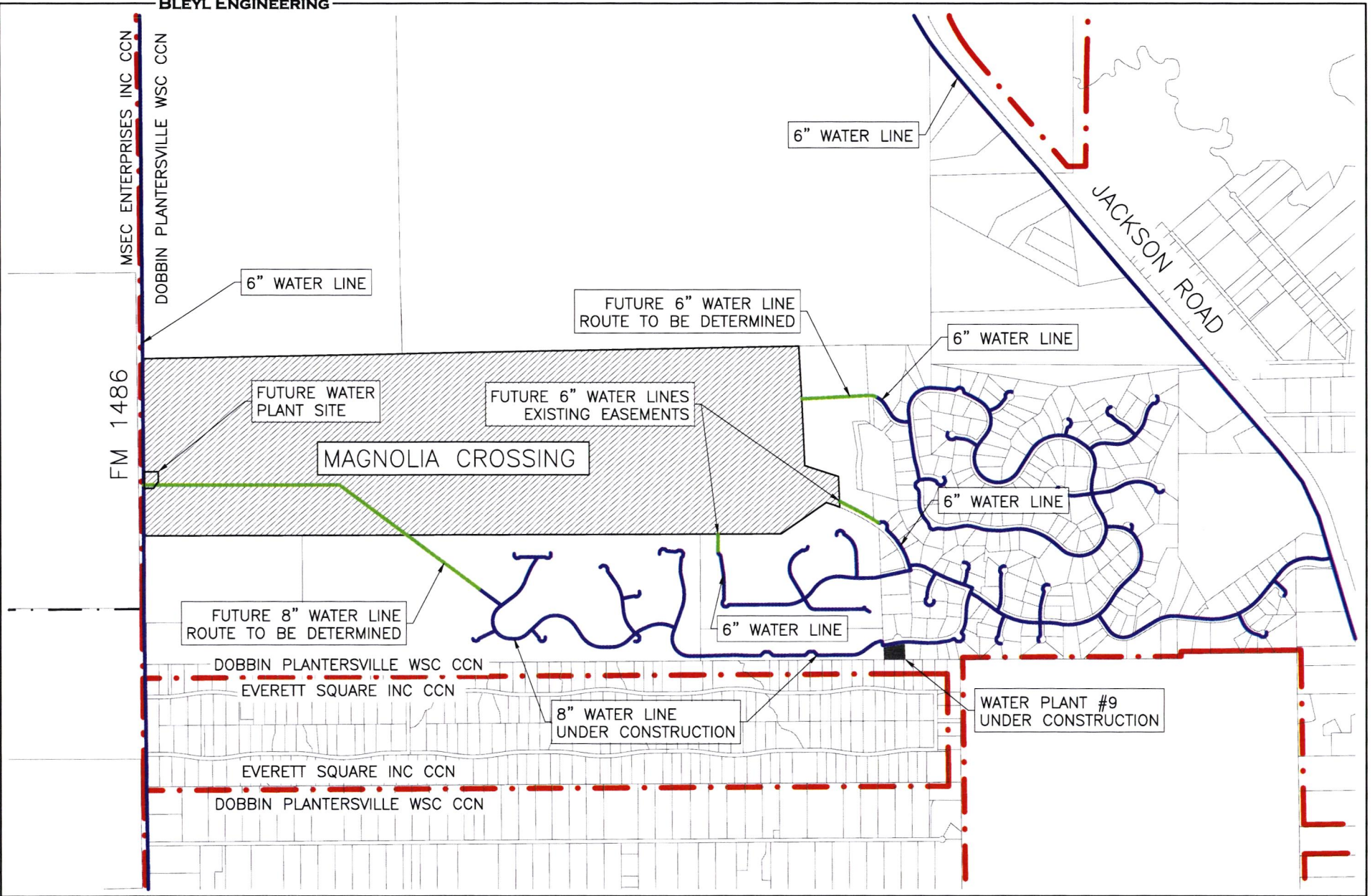
MTA-06223
 SEPTEMBER 22, 2020

THIS DRAWING IS A GRAPHIC REPRESENTATION FOR PRESENTATION PURPOSES ONLY AND IS NOT FOR COMPUTATION OR CONSTRUCTION PURPOSES. SAID DRAWING IS A SCANNED IMAGE ONLY AND IS SUBJECT TO CHANGE WITHOUT NOTICE. META PLANNING - DESIGN MAY OR MAY NOT INTEGRATE ADDITIONAL INFORMATION PROVIDED BY OTHER CONSULTANTS, INCLUDING BUT NOT LIMITED TO THE TOPICS OF ENGINEERING AND DRAINAGE, FLOODPLAINS, AND/OR ENVIRONMENTAL ISSUES AS THEY RELATE TO THIS DRAWING. NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE PHYSICAL DESIGN, LOCATION, AND CHARACTER OF THE FACILITIES SHOWN ON THIS MAP ARE INTENDED. ADDITIONALLY, NO WARRANTY IS MADE TO THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

ORIGINAL LAYOUT SIZE - 8.5X11

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BLEYL ENGINEERING



  SCALE	PROJECT NAME:	MAGNOLIA CROSSING	<h2>DOBBIN PLANTERSVILLE WSC FACILITIES</h2>
	PROJECT NUMBER:	12707	
	PREPARED FOR:	DOBBIN PLANTERSVILLE WSC	BLEYL ENGINEERING TEXAS FIRM REGISTRATION NO. F-678 WWW.BLEYLENGINEERING.COM
	DATE:	JUNE 16, 2021	



Agreement No. 00094969SLA

CREDIT AGREEMENT

THIS CREDIT AGREEMENT (this “**Agreement**”), dated as of May 14, 2021 is entered into by and between **DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION**, Plantersville, Texas, a non-profit corporation (the “**Borrower**”), and **COBANK, ACB**, a federally-chartered instrumentality of the United States (“**Lender**”).

RECITALS

(A) The Borrower and Lender are parties to that certain Master Loan Agreement dated as of February 26, 2015 (the “**Existing Agreement**”). Pursuant to the terms of the Existing Agreement, the parties entered into one or more Supplement(s) and/or Promissory Note(s) and Supplement(s) thereunder (the “**Existing Promissory Note(s) and Supplement(s)**”). The Borrower and Lender now desire to amend and restate the Existing Agreement and to apply this Agreement to the Existing Promissory Note(s) and Supplement(s), as well as any new Promissory Note(s) that may be issued hereunder. For that reason and for valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Borrower and Lender hereby agree that the Existing Agreement will be amended and restated by this Agreement, provided, however, this Agreement is not a novation of the Existing Agreement and all security under the Existing Agreement shall remain in full force and effect under this Agreement.

In consideration of the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and Lender agree as follows:

ARTICLE 1 Defined Terms; Accounting Principles. Certain capitalized terms used in this Agreement bear the definitions given to them in this Agreement. References to accounting standards are to United States generally accepted accounting principles, or those required of the regulatory agency having jurisdiction over the Borrower, including but not limited to the system of accounts established by the United States Department of Agriculture acting through Rural Development or the Rural Utilities Service or their predecessors (“**RD/RUS**”), if applicable, or such other commission or body as may be agreeable to Lender (the “**Accounting Standards**”).

ARTICLE 2 The Facilities.

2.1 Promissory Note. In the event the Borrower desires to borrow from Lender and Lender is willing to lend to the Borrower, or in the event the parties desire to consolidate any existing loans hereunder, the parties will enter into a promissory note (a “**Promissory Note**”). Each Promissory Note will set forth Lender’s commitment to make a loan or loans to the Borrower, the amount of the loan(s), the purpose of the loan(s), the interest rate or rate options applicable to the loan(s), the repayment terms of the loan(s), and any other terms and conditions applicable to the particular loan(s). Each Promissory Note will also contain the Borrower’s promise to make payments of interest on the unpaid principal balance of the loan(s), and fees and premiums, if any, and to repay the principal balance of the loan(s). Each loan will be governed by the terms and conditions contained in this Agreement and in the Promissory Note relating to that loan.

2.2 Availability. Loans will be made available on any day on which Lender and the Federal Reserve Banks are open for business (a “**Business Day**”) upon the telephonic or written request of an

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
Agreement No. 00094969SLA

authorized employee of the Borrower. Requests for loans must be received by 12:00 p.m. Denver, Colorado time on the date the loan is desired. Loans will be made available by wire transfer of immediately available funds. Wire transfers will be made to such account or accounts as may be authorized by the Borrower.

2.3 Security. The Borrower's obligations under this Agreement and each Promissory Note will be secured by a statutory first lien on all equity that the Borrower may now own or hereafter acquire or be allocated in Lender. In addition, except as otherwise provided in a Promissory Note or in a closing instruction letter signed by the parties (an "**Instruction Letter**"), the Borrower's obligations hereunder and under each Promissory Note will be:

(a) secured by a first priority lien (subject only to exceptions approved in writing by Lender) and shared pro rata through an intercreditor or parity agreement with RD/RUS on all material real and all personal property of the Borrower, whether now existing or hereafter acquired. The Borrower agrees to take such steps, including, without limitation, the execution and recordation or filing, as applicable, of mortgages, deeds of trust, security agreements, intercreditor or parity agreements, pledge agreements, control agreements, financing statements, and amendments to any of the foregoing, and such other instruments and documents as Lender may require to enable Lender to obtain, perfect, and maintain a lien on such property, and the payment of any applicable mortgage recording, documentary stamp, or intangible taxes; and

(b) guaranteed by an unsecured or secured, limited or continuing guarantee of payment, in form and substance and from such parties as may be required by Lender from time to time. If Lender requires such guarantee(s) to be secured by a lien on the real and/or personal property of a guarantor (a "**Guarantor**"), Borrower will cause each Guarantor to take such steps, including, without limitation, the execution and recordation or filing, as applicable, of mortgages, deeds of trust, security agreements, pledge agreements, control agreements, financing statements, and amendments to any of the foregoing, and such other instruments and documents as Lender may require to enable Lender to obtain, perfect, and maintain a lien on such property, and the payment of any applicable mortgage recording, documentary stamp, or intangible taxes.

2.4 Payments Generally. The Borrower's obligation to repay each loan will be evidenced by a Promissory Note. Lender will maintain a record of all loans, the interest accrued thereon, and all payments made with respect thereto, and such record will, absent proof of manifest error, be conclusive evidence of the outstanding principal and interest on the loans. Payments under each Promissory Note will be made by wire transfer of immediately available funds, by check, or by automated clearing house (ACH) or other similar cash handling processes as specified by separate agreement between the Borrower and Lender. Notwithstanding the foregoing, payments under each Promissory Note will be made by automated clearing house (ACH), unless otherwise agreed in writing by Lender. Wire transfers will be made to ABA No. 307088754 for advice to and credit of "CoBANK" (or to such other account as Lender may direct by notice). The Borrower will give Lender telephonic notice no later than 12:00 p.m. Denver, Colorado time on the day the Borrower intends to pay by wire of such intent, and funds received after 3:00 p.m. Denver, Colorado time will be credited on the next Business Day. Checks will be mailed to CoBANK, Department 167, Denver, Colorado 80291-0167 (or to such other place as Lender may direct by notice). Credit for payment by check will not be given until the later of the next Business Day after receipt of the check or the day on which Lender receives immediately available funds. If any installment of principal or interest is due on a date that is not a Business Day, then such installment will be due and payable on the next Business Day.

2.5 Broken Funding Surcharge. Notwithstanding the terms of any Promissory Note giving the Borrower the right to repay any loan prior to the date it would otherwise be due and payable, the Borrower agrees to provide three Business Days' prior written notice for any prepayment of a fixed rate balance and to pay to Lender a broken funding surcharge in the amount set forth below in the event the Borrower: (a) repays any fixed rate balance prior to the last day of its fixed rate period (whether such payment is made voluntarily, as a result of an acceleration, or otherwise); (b) converts any fixed rate balance to another fixed rate or to a variable rate prior to the last day of the fixed rate period applicable to such balance; or (c) fails to borrow any fixed rate balance on the date scheduled therefor. The surcharge will be in an amount equal to the greater of (1) the sum of: (i) the present value of any funding losses imputed by Lender to have been incurred as a result of such payment, conversion or failure; plus (ii) a per annum yield of 0.50% of the amount repaid, converted or not borrowed for the period such amount was scheduled to have been outstanding at such fixed rate, or (2) \$300.00. Any surcharge will be determined and calculated in accordance with methodology established by Lender, a copy of which will be made available upon request. Notwithstanding the foregoing, in the event of a conflict between the provisions of this section and of the broken funding charge section of a forward fix agreement between Lender and the Borrower, the provisions of the forward fix agreement will control.

2.6 Taxes; Change in Law. Any payment by the Borrower to Lender will be made net of any taxes (other than income and similar taxes imposed on or measured by Lender's overall net income). If any change in any law, rule, regulation, code, ordinance, order or the like to which the Borrower is subject, including, without limitation, all laws relating to environmental protection, and taxes (collectively, "Laws"), increases the cost of making or maintaining any loan (or any associated commitment to lend), or reduces the amount received or receivable by Lender hereunder then, upon request, the Borrower will pay to Lender such additional amount as will compensate Lender for such additional costs incurred or reduction suffered.

ARTICLE 3 Conditions Precedent.

3.1 Conditions to Initial Promissory Note. Lender's obligation to extend credit under the initial Promissory Note hereunder is subject to the condition precedent that Lender receive, in form and substance satisfactory to Lender, each of the following, except as otherwise provided in the Promissory Note or in an Instruction Letter:

(a) **This Agreement.** A duly executed copy of this Agreement, the other Loan Documents (as defined below), the Instruction Letter accompanying this Agreement, and all instruments and documents contemplated hereby and thereby.

(b) **Banking Service Agreements.** A duly completed and executed copy of any banking service agreement, including any agreement relating to the provision by Lender of cash management services, required by Lender from time to time. Lender will be entitled to rely on (and will incur no liability to the Borrower in acting on) any request or direction furnished in accordance with the terms thereof.

3.2 Conditions to Each Promissory Note. Lender's obligations to extend credit under each Promissory Note hereunder, including the initial Promissory Note, is subject to the condition precedent that Lender receive, in form and substance satisfactory to Lender, each of the following, except as otherwise provided in the Promissory Note or in an Instruction Letter:

(a) **Promissory Note.** A duly executed copy of the Promissory Note and all instruments and documents contemplated by the Promissory Note.

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- (b) **Instruction Letter.** Any and all items or requirements detailed in an Instruction Letter.
- (c) **Evidence of Perfection.** Such evidence as Lender may require that it has duly perfected liens as required under this Agreement.
- (d) **Evidence of Authority.** Such certified board resolutions, certificates of incumbency, and other evidence that Lender may require that the Promissory Note, all instruments and documents executed in connection therewith, and, in the case of the initial Promissory Note hereto, this Agreement, the other Loan Documents (as defined below) and all instruments and documents executed in connection herewith and therewith, including any security documents, have been duly authorized and executed.
- (e) **Fees and Other Charges.** Any fees or other charges provided for herein, in the Promissory Note or in any invoice provided by Lender.
- (f) **Insurance.** Such evidence as Lender may require that the Borrower is in compliance with Section 5.4 below.
- (g) **Consents and Approvals.** Evidence as Lender may require that all regulatory and other consents and approvals referred to in Section 4.6 below have been obtained and are in full force and effect.
- (h) **Opinion of Counsel.** An opinion of counsel to the Borrower (which counsel must be acceptable to Lender).

3.3 Conditions to Each Loan. Lender's obligation under each Promissory Note to make any loan to the Borrower thereunder is subject to the condition that no "Event of Default" (as defined in Section 8.1 below) or event that, with the giving of notice and/or the passage of time and/or the occurrence of any other condition, would ripen into an Event of Default (a "Potential Default") will have occurred and be continuing or would be caused by the making of such loan.

ARTICLE 4 Representations and Warranties. The execution by the Borrower of this Agreement and each Promissory Note hereunder, or any renewal or extension by Lender of any Promissory Note hereunder, will constitute a representation and warranty by the Borrower that:

4.1 Instruction Letter; Loan Documents. Each representation and warranty and all information set forth in any Instruction Letter and/or any of the Loan Documents (as defined below) and/or any other document submitted in connection with, or to induce Lender to enter into, such Promissory Note is correct in all material respects as of the date of such Promissory Note.

4.2 Compliance; Legal Proceedings. The Borrower and its subsidiaries and all property owned or leased or proposed to be acquired with the proceeds of any Promissory Note hereunder by the Borrower and/or its subsidiaries and all of its/their operations are in compliance with all applicable Laws and the terms of the Loan Documents and no Event of Default or Potential Default exists or is continuing. In addition, there are no pending legal, arbitration, or governmental actions or proceedings to which the Borrower or any subsidiary is a party or to which any of its or any subsidiaries' property is subject which, if adversely determined, might have a material adverse effect on the financial condition, operations, properties, profits, or business of the Borrower or any subsidiary, and to the best of the Borrower's knowledge, no such actions or proceedings are threatened or contemplated.

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4.3 Organization; Good Standing. The Borrower (a) is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, (b) has the lawful power to own or lease its properties and to engage in the business it conducts or proposes to conduct, and (c) is duly qualified and in good standing in each jurisdiction where the property owned or leased by it or the nature of the business transacted by it makes such qualification necessary.

4.4 Binding Agreement. The Loan Documents constitute legal, valid, and binding obligations of the Borrower that are enforceable in accordance with their terms.

4.5 Conflicting Agreements. Neither this Agreement nor any Promissory Note, or other instrument or document securing or otherwise relating hereto or to any Promissory Note (each a "**Loan Document**" and collectively, at any time, the "**Loan Documents**") conflicts with, or constitutes (with or without the giving of notice and/or the passage of time and/or the occurrence of any other condition) a default under, any other agreement to which the Borrower is a party or by which it or any of its property may be bound or affected, and does not conflict with any provision of its bylaws, articles of incorporation or other organizational documents.

4.6 Consents and Approvals. No consent, permission, authorization, order or license of any governmental authority or of any party to any agreement to which the Borrower is a party or by which it or any of its property may be bound or affected, is necessary in connection with the project, acquisition or other activity being financed by such Promissory Note, or the execution, delivery, performance or enforcement of any Loan Document, except as have been obtained and are in full force and effect.

4.7 Budgets; Full Disclosure. All budgets, projections, feasibility studies, and other documentation submitted by the Borrower to Lender in connection with, or to induce Lender to enter into, such Promissory Note are based upon assumptions that are reasonable and realistic, and as of the date of such Promissory Note, no fact has come to light, and no event has occurred, that would cause any assumption made therein to not be reasonable or realistic. No Loan Document or other certificate, statement, agreement, or document furnished to Lender in connection with this Agreement or any other Loan Document (a) contains any untrue statement of a material fact, or (b) fails to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. The Borrower is not aware of any Material Adverse Change that has not been disclosed in writing to Lender. A "**Material Adverse Change**" means any material adverse change, as reasonably determined by Lender, in the condition, financial or otherwise, operations, business, liabilities (actual or contingent) or properties of the Borrower or in its ability to perform its obligations hereunder, under any security instrument or document, or under any other Loan Document.

4.8 Accurate Financial Information. Each submission of financial information or documents relating to the Borrower will constitute a representation and warranty by the Borrower that such information and documents (a) are true and accurate in all material respects, and (b) do not fail to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

4.9 ERISA. The Borrower and its subsidiaries are in compliance in all material respects with the applicable provisions of the Employee Retirement Income Security Act of 1974, and the regulations and published interpretations thereunder from time to time ("**ERISA**").

4.10 Margin Stock. The Borrower is not engaged or intends to engage principally, or as one of its important activities, in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U, T or X as

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promulgated by the Board of Governors of the Federal Reserve System of the United States of America (the "Board"). No part of the proceeds of any loan made by Lender to the Borrower has been or will be used, immediately, incidentally or ultimately, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or in any way that is inconsistent with the provisions of the regulations of the Board. Neither the Borrower nor any subsidiary, if any, of the Borrower holds or intends to hold margin stock in such amounts that more than 25% of the reasonable value of the assets of the Borrower or subsidiary, if any, of the Borrower are or will be represented by margin stock.

4.11 Water Rights and System Condition. The Borrower has water rights with such amounts, priorities and qualities as are necessary to service adequately the Borrower's customers and members. The Borrower controls, owns, or has access to all such water rights free and clear of the interest of any third party and has not suffered or permitted any transfer or encumbrance of such water rights, has not abandoned such water rights, or any of them, and has not done any act or thing which would impair or cause the loss of any such water rights. The Borrower's utility facilities reasonably meet present demand in all material respects, are constructed in a good and professional manner, are in good working order and condition, and comply in all material respects with all applicable law.

4.12 Rate Matters. The Borrower's rates for the provision of water have been approved, if applicable, by any and all necessary governmental regulatory authorities, including, without limitation, each public service commission or public utilities commission that may have jurisdiction over the operations and rates of the Borrower. Further, there is no pending, and to the Borrower's knowledge, no threatened proceeding before any governmental authority, the objective or result of which is or could be to materially reduce or otherwise materially adversely change any of the Borrower's rates for the provision of water and/or waste water services, or otherwise have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower.

ARTICLE 5 Affirmative Covenants. Unless otherwise agreed to in writing by Lender, while this Agreement is in effect, the Borrower agrees to, and with respect to Sections 5.3, 5.4, 5.5, and 5.8, agrees to cause each subsidiary, if any, to:

5.1 Reports and Notices. Furnish to Lender:

(a) **Annual Financial Statements.** As soon as available, but in no event more than 180 days after the end of each fiscal year of the Borrower occurring during the term hereof, annual consolidated and consolidating financial statements of the Borrower and its consolidated subsidiaries, if any, prepared in accordance with the Accounting Standards. Such financial statements will: (1) be audited by independent certified public accountants selected by the Borrower and acceptable to Lender; (2) be accompanied by a report of such accountants containing an opinion thereon acceptable to Lender; (3) be prepared in reasonable detail and form; and (4) include a balance sheet, a statement of income, a statement of retained earnings, a statement of cash flows, and all notes and schedules relating thereto.

(b) **Interim Financial Statements.** Such interim financial statements as Lender may from time to time request, which statements must be prepared on an unconsolidated basis in accordance with the Accounting Standards and, if required by written notice from Lender, (1) on a consolidated and consolidating basis for the Borrower and its consolidated subsidiaries, if any, in accordance with the Accounting Standards, and/or (2) certified by an authorized officer or employee of the Borrower acceptable to Lender.

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(c) **Notice of Default.** Promptly after becoming aware thereof, notice of the occurrence of an Event of Default or a Potential Default, including, without limitation, any error in the Borrower's financial information previously provided to Lender and the occurrence of any breach, default, event of default or event that, with the giving of notice and/or the passage of time and/or the occurrence of any other condition, would become a breach, default or event of default under any loan agreement, indenture, mortgage, or other credit or security agreement or instrument to which the Borrower is a party or by which it or any of its property may be bound or affected.

(d) **Notice of Litigation, Environmental Matters, Etc.** Promptly after becoming aware thereof, notice of: (1) the commencement of any action, suit or proceeding before any court, arbitrator or governmental department, commission, board, bureau, agency, or instrumentality having jurisdiction over the Borrower, that, if adversely decided, could result in a Material Adverse Change; (2) the receipt of any notice, indictment, pleading or other communication alleging a condition that may require the Borrower to undertake or to contribute to a clean-up or other response under any environmental Law, or that seeks penalties, damages, injunctive relief, criminal sanctions or other relief as a result of an alleged violation of any such Law, or that claims personal injury or property damage as a result of environmental factors or conditions; and (3) any matter that could cause a Material Adverse Change, including any decision of any regulatory authority or commission.

(e) **Notice of Certain Events.** (1) Notice at least 30 days prior thereto, of any change in the Borrower's name or corporate structure; (2) notice at least 30 days prior thereto, of any change in the Borrower's organizational documents which changes must be approved in writing by Lender in its reasonable discretion; (3) notice at least 30 days prior thereto, of any change in the principal place of business of the Borrower or the office where its records concerning its accounts are kept; and (4) as soon as available after any changes thereto, copies of the Borrower's organizational documents certified by the Borrower's Secretary or equivalent officer acceptable to Lender.

5.2 Instruction Letter. Comply with any and all requirements detailed in an Instruction Letter.

5.3 Corporate Existence, Etc. Preserve and keep in full force and effect its existence and good standing in the jurisdiction of its incorporation or formation, qualify and remain qualified to transact business in all jurisdictions where such qualification is required, and obtain and maintain all licenses, certificates, permits, authorizations, approvals, and the like that are material to the conduct of its business or required by any Law.

5.4 Insurance. Maintain insurance with reputable and financially sound insurance companies or associations, including self-insurance to the extent customary, acceptable to Lender in such amounts and covering such risks as are usually carried by companies engaged in the same or similar business and similarly situated, and make such increases in the type or amount of coverage as Lender may reasonably request. All such policies insuring any collateral for the Borrower's obligations to Lender will have additional insured, mortgagee and lender's loss payee clauses or endorsements, as applicable, in form and substance satisfactory to Lender. At Lender's request, the Borrower agrees to deliver to Lender such proof of compliance with this section as Lender may require.

5.5 Property Maintenance. Maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the general practice of other businesses of similar character and size, all of those properties useful or necessary to its business, and make all alterations, replacements, and improvements thereto as may from time to time be necessary in order to ensure that its properties

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remain in good working order and condition. The Borrower agrees that at Lender's request, which request may not be made more than once a year, the Borrower will furnish to Lender a report on the condition of the Borrower's property prepared by a professional engineer satisfactory to Lender.

5.6 Inspection. Permit Lender or its agents, upon reasonable notice and during normal business hours or at such other times as the parties may agree, to inspect and visit any of its properties, examine and make excerpts from its books and records, and to discuss its business affairs, finances and accounts with its officers, directors, employees, and independent certified public accountants and to conduct reviews of any collateral.

5.7 Books and Records. Maintain and keep proper books and records of account in which full, true and correct entries of all its dealings, business and financial affairs will be made in accordance with the Accounting Standards.

5.8 Compliance With Laws. Comply in all material respects with all Laws and any patron or member investment program applicable to the Borrower. In addition, the Borrower agrees to cause all persons occupying or present on any of its properties to comply in all material respects with all Laws relating to such properties.

5.9 Further Assurances and Other Information. From time to time and at its expense, execute and deliver such documents and do such other acts and things as Lender in its sole discretion may deem necessary or advisable from time to time in order to more fully carry out the provisions and purpose of the Loan Documents, including delivery of such other information regarding the condition or operations, financial or otherwise, of the Borrower as Lender may from time to time reasonably request, including, but not limited to, copies of all pleadings, notices and communications referred to in Section 5.1(d) above.

5.10 Capital. Maintain its status as an entity eligible to borrow from Lender and acquire equity in Lender in such amounts and at such times as Lender may from time to time require in accordance with its Bylaws and Capital Plan (as each may be amended from time to time), except that the maximum amount of equity that the Borrower may be required to purchase in connection with a loan may not exceed the maximum amount permitted by the Bylaws at the time the Promissory Note relating to such loan is entered into or such loan is renewed or refinanced by Lender. The rights and obligations of the parties with respect to such equity and any patronage or other distributions made by Lender will be governed by Lender's Bylaws and Capital Plan (as each may be amended from time to time).

5.11 Delivery of Original Loan Documents. If copies of any executed Loan Documents are delivered to Lender as provided in Article 3 above, immediately deliver to Lender the original executed versions of such Loan Documents.

5.12 Indemnity for Taxes. At all times indemnify and hold and save Lender harmless from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage or expense of whatsoever kind and nature incurred by Lender as a result of the non-payment of any documentary stamp tax, intangible tax, interest or penalties associated therewith or any other local, state or federal assessment required to be paid, but not paid in conjunction with the indebtedness evidenced by the Loan Documents. The Borrower agrees to pay to Lender, its successors and assigns, all sums of money requested by Lender hereunder within ten days of such request, which Lender will or may advance, pay or cause to be paid, or become liable to pay, on account of or in connection with failure to pay as required by the regulations of the governmental authority so imposing said payment. Lender will be entitled to charge for any and all disbursements made by it in good faith, under the reasonable belief that it or the Borrower

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is or was liable for the amount so assessed. Any default by the Borrower in making any payments required under this covenant will constitute a payment Event of Default under the Loan Documents and Lender may, at its option, declare the entire amount of principal plus accrued interest thereon due and payable without notice or demand.

5.13 ERISA. The Borrower and its subsidiaries, for so long as this Agreement remains outstanding, will remain in compliance in all material respects with the applicable provisions of **ERISA**, the failure to comply with which has or may cause a Material Adverse Change.

5.14 Water Rights and/or Supplies. Maintain or procure water rights and/or supplies with such amounts, priorities and qualities as are necessary to service adequately the Borrower's customers and members. The Borrower will continue to control, own or have access to all such water rights and/or supplies free and clear of the interest of any third party, will not suffer or permit any transfer or encumbrance of such water rights and/or supplies, will not abandon such water rights and/or supplies, or any of them, and will not do any act or thing that would impair or cause the loss of any such water rights and/or supplies.

ARTICLE 6 Negative Covenants. Unless otherwise agreed to in writing by Lender, while this Agreement is in effect, the Borrower will not:

6.1 Other Indebtedness. Create, incur, assume or allow to exist, directly or indirectly, any indebtedness or liability for borrowed money (including trade or bankers' acceptances), letters of credit, or for the deferred purchase price of property or services (including leases that should be capitalized on the books of the lessee in accordance with the Accounting Standards), except for:

- (a) debt to Lender
- (b) accounts payable to trade creditors incurred in the ordinary course of business.
- (c) current operating liabilities (other than for borrowed money) incurred in the ordinary course of business.
- (d) debt of the Borrower to Texas Water Development Board ("TWDB").
- (e) debt of the Borrower to RD/RUS.
- (f) purchase money security indebtedness, provided that such indebtedness does not exceed 100.000% of the purchase price of the asset(s) being acquired.

6.2 Contingent Liabilities. Assume, guarantee, become liable as a surety, endorse, contingently agree to purchase, or otherwise be or become liable, directly or indirectly (including, but not limited to, by means of a maintenance agreement, an asset or stock purchase agreement, or any other agreement designed to ensure any creditor against loss), for or on account of the obligation of any person or entity, except by the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of the Borrower's business.

6.3 Liens. Create, incur, assume, or allow to exist any mortgage, deed of trust, pledge, lien (including the lien of an attachment, judgment, or execution), security interest, or other encumbrance of any kind upon any of its property, real or personal (collectively, "**Liens**"). The foregoing restrictions will not apply to:

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- (a) Liens in favor of Lender .
- (b) Liens in favor of TWDB to secure indebtedness permitted hereunder.
- (c) Liens in favor of RD/RUS to secure indebtedness permitted hereunder.
- (d) Liens for taxes, assessments, or governmental charges that are not past due.
- (e) pledges and deposits under workers' compensation, unemployment insurance, and social security Laws.
- (f) pledges and deposits to secure the performance of bids, tenders, contracts (other than contracts for payment of money), and like obligations arising in the ordinary course of business as conducted on the date hereof.
- (g) Liens imposed by Law in favor of mechanics, material suppliers, warehouses, and like persons that secure obligations that are not past due.
- (h) easements, rights-of-way, restrictions, and other similar encumbrances that, in the aggregate, do not materially interfere with the occupation, use, and enjoyment of the property or assets encumbered thereby in the normal course of business or materially impair the value of the property subject thereto.
- (i) purchase money Liens to secure indebtedness permitted hereunder.

6.4 Transactions with Affiliates. Enter into any transaction with any affiliate except in the ordinary course of and pursuant to the reasonable requirements of its business and upon fair and reasonable terms no less favorable to it than it would obtain in a comparable arm's-length transaction with a person or entity that was not an affiliate.

6.5 Loans and Investments. Make any loan or advance to, or make any investment in, or make any capital contribution to, or purchase or make any commitment to purchase any stock, bonds, notes or other securities of any person or entity, except for:

- (a) securities or deposits issued, guaranteed or fully insured as to payment by the United States of America or any agency thereof.
- (b) equity in, or obligation of, Lender.

6.6 Dividends and Distributions. Declare or pay any dividends or make any other distribution of assets to shareholders of the Borrower, or retire, redeem, purchase or otherwise acquire for value any capital stock of the Borrower.

6.7 Mergers, Acquisitions, Etc. Merge or consolidate with any other entity or acquire all or a material part of the assets of any other person or entity, or form or create any new subsidiary, or commence operations under any other name, organization, or entity, including any joint venture.

6.8 Transfer of Assets. Sell, transfer, lease, or otherwise dispose of any of its assets, except: (a) in the ordinary course of business; and (b) the sale, transfer or disposal of any obsolete or worn-out assets that are no longer necessary or required in the conduct of the Borrower's business.

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6.9 Change in Business. Engage in any business activities or operations substantially different from or unrelated to the Borrower's present business activities or operations.

6.10 Use of Proceeds. Use the proceeds of any loan made by Lender to the Borrower, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

ARTICLE 7 Financial Covenants. Unless otherwise agreed to in writing by Lender, while this Agreement is in effect:

7.1 Debt Service Coverage Ratio. The Borrower and its consolidated subsidiaries, if any, will have at the end of each fiscal year of the Borrower a Debt Service Coverage Ratio (as defined below) for such year of not less than 1.25 to 1.00. For purposes hereof, the term "**Debt Service Coverage Ratio**" means the ratio of: (a) net income (after taxes and after eliminating any gain or loss on sale of assets or other extraordinary gain or loss), plus depreciation expense, amortization expense, and interest expense, minus non-cash patronage, and non-cash income from subsidiaries and/or joint ventures, and grant income; to (b) all principal payments due within the period on all Long-Term Debt (as defined below) plus interest expense (all as calculated on a consolidated basis for the applicable period in accordance with the Accounting Standards). For purposes hereof, "**Long-Term Debt**" means, for the Borrower, on a consolidated basis, the sum of (1) all indebtedness for borrowed money, (2) obligations that are evidenced by notes, bonds, debentures or similar instruments, and (3) that portion of obligations with respect to capital leases or other capitalized agreements that are properly classified as a liability on the balance sheet in conformity with Accounting Standards or that are treated as operating leases under regulations applicable to them but that otherwise would be required to be capitalized under Accounting Standards, in each case having a maturity of more than one year from the date of its creation or having a maturity within one year from such date but that is renewable or extendible, at the Borrower's option, to a date more than one year from such date or that arises under a revolving credit or similar agreement that obligates the lender(s) to extend credit during a period of more than one year from such date, including all current maturities in respect of such indebtedness whether or not required to be paid within one year from the date of its creation.

ARTICLE 8 Default.

8.1 Each of the following will constitute an "Event of Default" hereunder:

(a) **Payment Default.** The Borrower should fail to make any payment to Lender when due.

(b) **Representations and Warranties.** Any representation, warranty, certification or statement of fact made at any time by the Borrower, herein or in any other Loan Document, or in any certificate, other instrument or statement furnished to Lender by or on behalf of the Borrower, will have been false or misleading in any material respect as of the time it was made or furnished.

(c) **Covenants.** The Borrower will default in the observance or performance of any covenant set forth in Article 5 (other than Sections 5.1(c), 5.1(d), 5.1(e)(1), 5.1(e)(2), and 5.2 above), and such default continues for 30 days after written notice thereof will have been delivered to the Borrower by Lender.

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(d) **Other Covenants and Agreements.** The Borrower will default in the observance or performance of Sections 5.1(c), 5.1(d), 5.1(e)(1), 5.1(e)(2), and 5.2 or any other covenant or agreement contained herein or in any other Loan Document or if Borrower uses the proceeds of any loan for any unauthorized purpose.

(e) **Cross Default.** The Borrower should, after any applicable grace period, breach or be in default under the terms of any other Loan Document (including, without limitation, any security instrument or document) or any other agreement between the Borrower and Lender, or between the Borrower and any affiliate of Lender, including without limitation Farm Credit Leasing Services Corporation.

(f) **Other Indebtedness.** The Borrower should fail to pay when due any indebtedness to any other person or entity for borrowed money or any long-term obligation for the deferred purchase price of property (including any capitalized lease), or any other event occurs that, under any agreement or instrument relating to such indebtedness or obligation, has the effect of accelerating or permitting the acceleration of such indebtedness or obligation, whether or not such indebtedness or obligation is actually accelerated or the right to accelerate is conditioned on the giving of notice, the passage of time, or otherwise.

(g) **Judgments.** A judgment, decree, or order for the payment of money will have been rendered against the Borrower and either: (1) enforcement proceedings will have been commenced; (2) a Lien prohibited by this Agreement, any security instrument, or any other Loan Document, will have been obtained; or (3) such judgment, decree, or order will continue unsatisfied and in effect for a period of 30 consecutive days without being vacated, discharged, satisfied, bonded, or stayed pending appeal.

(h) **Loan Document Unenforceable.** Any of the Loan Documents ceases to be a legal, valid, and binding agreement enforceable against the Borrower or any Guarantor, if any or is in any way terminated (except in accordance with its terms) or becomes or is declared ineffective or inoperative.

(i) **Revocation of Guaranty.** Any guaranty, suretyship, subordination agreement, maintenance agreement, or other agreement furnished in connection with the Borrower's obligations hereunder and under any Promissory Note will, at any time, cease to be in full force and effect, or will be revoked or declared null and void, or the validity thereof will be contested by the Guarantor, surety or other maker thereof, or the Guarantor will deny any further liability or obligations thereunder, or will fail to perform its obligations thereunder, or any representation or warranty set forth therein will be breached, or the Guarantor will breach or be in default under the terms of any other agreement with Lender (including any loan agreement or security agreement), or a default set forth in sections (f) through (h) will occur with respect to the Guarantor.

(j) **Insolvency, Etc.** The Borrower will: (1) become insolvent or will generally not, or will be unable to, or will admit in writing its inability to, pay its debts as they become due; or (2) suspend its business operations or a material part thereof or make an assignment for the benefit of creditors; or (3) apply for, consent to, or acquiesce in the appointment of a trustee, receiver, or other custodian for it or any of its property; or (4) have commenced against it any action or proceeding for the appointment of a trustee, receiver, or other custodian and such action or proceeding is not dismissed within 30 days of the date thereof, or a trustee, receiver, or other custodian is appointed for all or any part of its property; or (5) receive notice from any regulatory or governmental authority to the effect that such authority intends to replace the management of the Borrower or assume control over the Borrower; or (6) commence or

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have commenced against it any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law of any jurisdiction.

(k) **Material Adverse Change.** Any Material Adverse Change occurs, as reasonably determined by Lender.

8.2 Remedies. Upon the occurrence and during the continuance of an Event of Default or Potential Default, Lender will have no obligation to extend or continue to extend credit to the Borrower and may discontinue doing so at any time without prior notice or other limitation. In addition, upon the occurrence and during the continuance of any Event of Default, Lender may, upon notice to the Borrower:

(a) **Termination and Acceleration.** Terminate any commitment and declare the unpaid principal balance of the loans, all accrued interest thereon, and all other amounts payable under this Agreement, each Promissory Note, and all other Loan Documents to be immediately due and payable. Upon such a declaration, the unpaid principal balance of the loans and all such other amounts will become immediately due and payable, without protest, presentment, demand, or further notice of any kind, all of which are hereby expressly waived by the Borrower.

(b) **Enforcement.** Proceed to protect, exercise, and enforce such rights and remedies as may be provided by this Agreement, any security instrument or document, any other Loan Document, or under Law. Each and every one of such rights and remedies will be cumulative and may be exercised from time to time, and no failure on the part of Lender to exercise, and no delay in exercising, any right or remedy will operate as a waiver thereof, and no single or partial exercise of any right or remedy will preclude any future or other exercise thereof, or the exercise of any other right. Without limiting the foregoing, Lender may hold and/or set off and apply against the Borrower's obligations to Lender the proceeds of any equity in Lender, any cash collateral held by Lender, or any balances held by Lender for the Borrower's account (whether or not such balances are then due).

(c) **Application of Funds.** Lender may apply all payments received by it to the Borrower's obligations to Lender in such order and manner as Lender may elect in its sole discretion.

(d) **Interest upon default.** In addition to the rights and remedies set forth above and notwithstanding any Promissory Note: (1) upon the occurrence and during the continuance of an Event of Default, at Lender's option in each instance, the entire indebtedness outstanding hereunder and under each Promissory Note will bear interest from the date of such Event of Default until such Event of Default will have been waived or cured in a manner satisfactory to Lender at 4.00% per annum in excess of the rate(s) of interest that would otherwise be in effect on that loan under the terms of the applicable Promissory Note; and (2) after the maturity of any loan (whether as a result of acceleration or otherwise), the unpaid principal balance of such loan (including without limitation, principal, interest, fees and expenses) will automatically bear interest at 4.00% per annum in excess of the rate(s) of interest that would otherwise be in effect on that loan under the terms of the Promissory Note. All interest provided for herein will be payable on demand and will be calculated on the basis of a year consisting of 360 days.

ARTICLE 9 Expenses; Indemnification; Damage Waiver.

9.1 Costs and Expenses. To the extent allowed by Law, the Borrower agrees to pay all reasonable out-of-pocket costs and expenses (including the fees and expenses of counsel retained or employed by Lender) incurred by Lender and any participants of Lender in connection with the origination, administration, collection and enforcement of this Agreement and the other Loan Documents, including, without limitation, all costs and expenses incurred in obtaining, perfecting, maintaining,

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determining the priority of, and releasing any security for the Borrower's obligations to Lender, and any stamp, intangible, transfer or like tax incurred in connection with this Agreement or any other Loan Document or the recording hereof or thereof

9.2 Indemnification. The Borrower indemnifies Lender, its affiliates and its and their respective officers, directors, employees, agents and advisors (each an "Indemnitee") against, and holds each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including fees and expenses of employed or retained counsel) incurred by any Indemnitee or asserted against any Indemnitee by any third party arising out of or as a result of (a) the execution or delivery of any Loan Document, the performance or nonperformance by the Borrower of its obligations under any Loan Document or the consummation of the transactions contemplated thereby, including the use of the proceeds therefrom, (b) breach of representations, warranties or covenants of the Borrower under any Loan Document, or (c) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, including any such items or losses relating to or arising under environmental Laws or pertaining to environmental matters, regardless whether any Indemnitee is a party thereto; provided that such indemnity will not, as to an Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

9.3 Waiver of Consequential Damages. To the fullest extent permitted by applicable Law, the Borrower will not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages arising out of, in connection with, or as a result of, any Loan Document, the transactions contemplated thereby or the use of the proceeds thereof.

ARTICLE 10 Miscellaneous.

10.1 Amendments; Waivers; Etc. No amendment, modification, or waiver of any provision of this Agreement or the other Loan Documents, and no consent to any departure by the Borrower herefrom or therefrom, will be effective unless approved by Lender and contained in a writing signed by or on behalf of Lender, and then such waiver or consent will be effective only in the specific instance and for the specific purpose for which given. In the event this Agreement is amended or restated, each such amendment or restatement will be applicable to all Promissory Notes hereto.

10.2 Notices. All notices hereunder will be in writing and will be deemed to have been duly given when addressed to the party intended to receive the same at the address of such party set forth below (or such other address either party may specify by like notice), (a) upon delivery if personally delivered to a party at such address, (b) three days after the same is deposited in the United States mail as first class, certified mail, return receipt requested, postage paid, (c) one business day after the same has been deposited with Federal Express or another nationally recognized overnight courier service if designated for next-day delivery, and (d) upon delivery if sent by facsimile or electronic mail with confirmation of delivery of the same:

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If to Lender, as follows:

For general correspondence purposes:
P.O. Box 5110
Denver, Colorado 80217-5110

For direct delivery purposes, when desired:
6340 South Fiddlers Green Circle
Greenwood Village, Colorado 80111-1914

Attention: Credit Information Services
Fax No.: (303) 224-6101

If to the Borrower, as follows:

Dobbin-Plantersville Water Supply Corporation
P O BOX 127
PLANTERSVILLE, Texas 77363

8829 Phillips Road
Plantersville, Texas 77363

Attention: General Manager
Fax No.: (936) 894-3152

10.3 Survival. Notwithstanding anything to the contrary in this or any other Loan Document, Sections 5.12, 8.2, all of Article 9, and Section 10.7 will survive the termination of this Agreement, repayment of every Promissory Note, and the foreclosure, or any other enforcement action, of any and all security pledged pursuant to Section 2.3 above. The representations, warranties, acknowledgments, and agreements set forth herein will survive the date of this Agreement, but not its termination unless otherwise agreed.

10.4 Effectiveness and Severability. This Agreement will continue in effect until: (a) all indebtedness and obligations of the Borrower under this Agreement and the other Loan Documents have been paid or satisfied; (b) Lender has no commitment to extend credit to or for the account of the Borrower under any Promissory Note; and (c) either party sends written notice to the other party terminating this Agreement. Any provision of this Agreement or any other Loan Document that is prohibited or unenforceable in any jurisdiction will be ineffective to the extent of such prohibition or unenforceable without invalidating the remaining provisions hereof or thereof.

10.5 Successors and Assigns.

(a) **Successors and Assigns Generally.** This Agreement and the other Loan Documents will be binding upon and inure to the benefit of the Borrower and Lender and their respective successors and assigns, except that the Borrower may not assign or transfer its rights or obligations under this Agreement or the other Loan Documents without the prior written consent of Lender.

(b) **Participations, Etc.** From time to time, Lender may sell to one or more banks, financial institutions, or other lenders a participation in one or more of the loans or other extensions of credit made pursuant to this Agreement. However, no such participation will relieve Lender of any commitment made to the Borrower hereunder. In connection with the foregoing, Lender may disclose information concerning the Borrower and its subsidiaries, if any, to any participant or prospective participant, provided that such participant or prospective participant agrees to keep such information confidential. Patronage distributions in the event of a sale of a participation interest will be governed by Lender's Bylaws and Capital Plan (as each may be amended from time to time). A sale of a participation interest may include certain voting rights of the participants regarding the loans hereunder (including without limitation the administration, servicing, and enforcement thereof). Lender agrees to give written notification to the Borrower of any sale of a participation interest.

10.1 Integration; Other Types of Credit; Counterparts; Electronic Signatures.

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(a) **Integration.** The Loan Documents are intended by the parties to be a complete and final expression of their agreement. Each Promissory Note will be deemed to incorporate all of the terms and conditions of this Agreement as if fully set forth therein. Without limiting the foregoing, any capitalized term utilized in any Promissory Note (or in any amendment to this Agreement or Promissory Note) and not otherwise defined in the Promissory Note (or amendment) will have the meaning set forth herein or, if applicable, in the Accounting Standards. In the event the Accounting Standards are changed after the date hereof, then all such changes will be applicable hereto, unless Lender otherwise specifies in writing.

(b) **Other Types of Credit.** From time to time, Lender may issue letters of credit or extend other types of credit to or for the account of the Borrower. In the event the parties desire to do so under the terms of this Agreement, then the agreement of the parties with respect thereto may be set forth in a Promissory Note and this Agreement will be applicable thereto.

(c) **Counterparts; Electronic Signatures.** This Agreement, each Promissory Note and any other Loan Document may be executed in counterparts, each of which will constitute an original, but all of which when taken together will constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement, any Promissory Note or any other Loan Document by facsimile or other electronic means will be as effective as delivery of a manually executed counterpart of each such Agreement, Promissory Note or Loan Document. The parties agree that the electronic signature of a party to this Agreement, any Promissory Note or any other Loan Document shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement or such Loan Document. The parties agree that any electronically signed Loan Document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. The parties presently intend to authenticate any Loan Documents to which they are a party by either signing such Loan Document or attaching thereto or logically associating therewith an electronic sound, symbol or process as their respective electronic signature. The words "execution," "signed," "signature," and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, or any similar state Laws based on the Uniform Electronic Transactions Act.

10.2 Applicable Law; Submission to Jurisdiction; Service of Process; Waiver of Venue; Waiver of Jury Trial.

(a) **Applicable Law.** Without giving effect to the principles of conflict of laws and except to the extent governed by federal law, the Laws of the State of Colorado, without reference to choice of law doctrine, will govern this Agreement, each Promissory Note and any other Loan Document for which Colorado is specified as the applicable law, and all disputes and matters between the parties to this Agreement, including all disputes and matters whatsoever arising under, in connection with or incident to the lending and/or leasing or other business relationship between the parties, and the rights and obligations of the parties to this Agreement or any other Loan Document by and between the parties for which Colorado is specified as the applicable law.

(b) **Submission to Jurisdiction; Service of Process.** The Borrower hereby irrevocably consents to the nonexclusive jurisdiction of any state or federal court in Denver, Colorado, and consents that Lender may effect any service of process in the manner and at the Borrower's address set forth herein

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for providing notice or demand; provided that nothing contained in this Agreement will prevent Lender from bringing any action, enforcing any award or judgment or exercising any rights against the Borrower individually, against any collateral or against any property of the Borrower within any other county, state or other foreign or domestic jurisdiction.

(c) **Waiver of Venue.** The Borrower acknowledges and agrees that the venue provided above is the most convenient forum for the Borrower and Lender. The Borrower waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Agreement.

(d) **Waiver of Jury Trial.** The Borrower and Lender each hereby irrevocably waives any right it may have to a trial by jury in connection with any action directly or indirectly arising out of or relating to this Agreement or any other Loan Document. Each party hereto (1) certifies that no representative, administrative agent or attorney of any other person has represented, expressly or otherwise, that such other person would not, in the event of litigation, seek to enforce the foregoing waiver and (2) acknowledges that it and the other parties hereto have been induced to enter into this Agreement and other Loan Documents by, among other things, the mutual waivers and certifications in this section.

10.3 USA Patriot Act Notice. Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify, and record information that identifies the Borrower in accordance with the USA Patriot Act. The Borrower covenants and agrees it will not, and agrees to cause each of its subsidiaries not to, at any time, directly or indirectly be (a) a person with whom Lender is restricted from doing business under any Anti-Terrorism Law, (b) engaged in any business involved in making or receiving any contribution of funds, goods or services to or for the benefit of such a person or in any transaction that evades or avoids, or has the purpose of evading or avoiding, the prohibitions set forth in any Anti-Terrorism Law, or (c) otherwise in violation of any Anti-Terrorism Law (the Borrower will and will cause each of its subsidiaries to provide to Lender any certifications or information that Lender requests to confirm compliance by the Borrower and its subsidiaries with any Anti-Terrorism Law). "**Anti-Terrorism Law**" means any Law relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by the United States Treasury Department's Office of Foreign Asset Control, as any of the foregoing Laws may from time to time be amended, renewed, extended, or replaced

SIGNATURE PAGE FOLLOWS

ATTACHMENT 3

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
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SIGNATURE PAGE TO CREDIT AGREEMENT

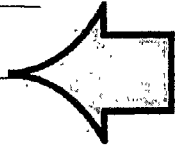
IN WITNESS WHEREOF, the parties hereto, by their duly authorized officers, have executed this Agreement.

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION

By: *Jason Keasling*

Name: Jason Keasling

Title: President



DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
Agreement No. 00094969SLA

SIGNATURE PAGE TO CREDIT AGREEMENT

IN WITNESS WHEREOF, the parties hereto, by their duly authorized officers, have executed this Agreement.

COBANK, ACB

By: _____

Name: _____

Title: _____

REVOLVING CREDIT PROMISSORY NOTE

THIS REVOLVING CREDIT PROMISSORY NOTE (this "**Promissory Note**") to the Credit Agreement dated May 14, 2021 (such agreement, as may be amended, hereinafter referred to as the "**Credit Agreement**"), is entered into as of May 14, 2021 between **COBANK, ACB**, a federally-chartered instrumentality of the United States ("**Lender**"), and **DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION**, Plantersville, Texas, a non-profit corporation (together with its permitted successors and assigns, the "**Borrower**"). Capitalized terms not otherwise defined in this Promissory Note will have the meanings set forth in the Credit Agreement.

SECTION 1. REVOLVING CREDIT COMMITMENT. On the terms and conditions set forth in the Credit Agreement and this Promissory Note, Lender agrees to make loans to the Borrower during the period set forth below in an aggregate principal amount not to exceed \$250,000.00, at any one time outstanding (the "**Commitment**"). Within the limits of the Commitment, the Borrower may borrow, repay and re-borrow.

SECTION 2. PURPOSE. The purpose of the Commitment is to finance general corporate purposes.

SECTION 3. TERM. The term of the Commitment will be from the date hereof, up to and including June 30, 2022, or such later date as Lender may, in its sole discretion, authorize in writing (the "**Term Expiration Date**"). Notwithstanding the foregoing, the Commitment will be renewed for an additional year only if, on or before the Term Expiration Date, Lender provides to the Borrower a written notice of renewal for an additional year (a "**Renewal Notice**"). If on or before the Term Expiration Date, Lender grants a short-term extension of the Commitment, the Commitment will be renewed for an additional year only if Lender provides to the Borrower a Renewal Notice on or before such extended expiration date. All annual renewals will be measured from, and effective as of, the same day as the Term Expiration Date in any year.

SECTION 4. LIMITS ON ADVANCES, AVAILABILITY, ETC. The loans will be made available as provided in Article 2 of the Credit Agreement.

SECTION 5. INTEREST. The Borrower agrees to pay interest on the unpaid balance of the loan(s) in accordance with the following interest rate option(s):

(A) **Weekly Quoted Variable Rate.** At a rate per annum equal at all times to the rate of interest established by Lender on the first Business Day of each week. The rate established by Lender will be effective until the first Business Day of the next week. Each change in the rate will be applicable to all balances subject to this option and information about the then current rate will be made available upon telephonic request.

Interest will be calculated on the actual number of days each loan is outstanding on the basis of a year consisting of 360 days and will be payable monthly in arrears by the 20th day of the following month or on such other day as Lender will require in a written notice to the Borrower ("**Interest Payment Date**").

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SECTION 6. PROMISSORY NOTE. The Borrower promises to repay the unpaid principal balance of the loans on the Term Expiration Date, as the term may be extended from time to time.

In addition to the above, the Borrower promises to pay interest on the unpaid principal balance of the loans at the times and in accordance with the provisions set forth herein.

SECTION 7. SECURITY. The Borrower's obligations hereunder and, to the extent related hereto, under the Credit Agreement, will be secured as provided in Section 2.3 of the Credit Agreement.

SECTION 8. FEES. INTENTIONALLY OMITTED.

SECTION 9. LETTERS OF CREDIT. INTENTIONALLY OMITTED.

SIGNATURE PAGE FOLLOWS

ATTACHMENT 3

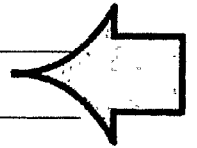
DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
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SIGNATURE PAGE TO PROMISSORY NOTE

IN WITNESS WHEREOF, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION

By: *Jason Keasling*
Name: Jason Keasling
Title: President



DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
Promissory Note No. 00094969S01

SIGNATURE PAGE TO PROMISSORY NOTE

IN WITNESS WHEREOF, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

COBANK, ACB

By: _____

Name: _____

Title: _____



Loan No. 00094969T01

AMENDED AND RESTATED MULTIPLE ADVANCE TERM PROMISSORY NOTE

THIS AMENDED AND RESTATED MULTIPLE ADVANCE TERM PROMISSORY NOTE (this "**Promissory Note**") to the Credit Agreement dated May 14, 2021 (such agreement, as may be amended, hereinafter referred to as the "**Credit Agreement**"), is entered into as of May 14, 2021 between **COBANK, ACB**, a federally-chartered instrumentality of the United States ("**Lender**"), and **DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION**, Plantersville, Texas, a non-profit corporation (together with its permitted successors and assigns, the "**Borrower**"). Capitalized terms not otherwise defined in this Promissory Note will have the meanings set forth in the Credit Agreement.

RECITALS

(A) This Promissory Note amends, restates, replaces and supersedes, but does not constitute payment of the indebtedness evidenced by, the promissory note set forth in the Promissory Note and Multiple Advance Term Loan Supplement (as amended) numbered RI1377T01, dated as of February 26, 2015, between Lender and the Borrower (the "**Existing Promissory Note**").

SECTION 1. MULTIPLE ADVANCE TERM COMMITMENT. On the terms and conditions set forth in the Existing Agreement and the Existing Promissory Note, Lender made loans to the Borrower in an aggregate principal amount not to exceed \$3,000,000.00 (the "**Commitment**"). Lender's obligation to extend credit to the Borrower has expired and as of April 30, 2021, the unpaid principal balance of the loans is \$1,012,045.36.

SECTION 2. PURPOSE. The purpose of the Commitment was and remains to provide financing for capital expenditures and system improvements and related closing costs.

SECTION 3. TERM. The term of the Commitment shall be from the date hereof, up to and including January 31, 2017, or such later date as CoBank may, in its sole discretion, authorize in writing (the "**Term Expiration Date**").

SECTION 4. LIMITS ON ADVANCES, AVAILABILITY, ETC. INTENTIONALLY OMITTED.

SECTION 5. INTEREST. The Borrower agrees to pay interest on the unpaid balance of the loan(s) in accordance with the following interest rate option(s):

(A) **Weekly Quoted Variable Rate.** At a rate per annum equal at all times to the rate of interest established by Lender on the first Business Day of each week. The rate established by Lender will be effective until the first Business Day of the next week. Each change in the rate will be applicable to all balances subject to this option and information about the then current rate will be made available upon telephonic request.

(B) **Quoted Rate.** At a fixed rate per annum to be quoted by Lender in its sole discretion in each instance. Under this option, rates may be fixed on such balances and for such periods, as may be agreeable to Lender in its sole discretion in each instance, provided that: (1) the minimum fixed period

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will be 365 days; (2) amounts may be fixed in an amount not less than \$100,000.00; and (3) the maximum number of fixes in place at any one time will be five.

The Borrower will select the applicable rate option at the time it requests a loan hereunder and may, subject to the limitations set forth above, elect to convert balances bearing interest at the variable rate option to one of the fixed rate options. If the Borrower fails to elect an interest rate option, interest will accrue at the variable interest rate option. Upon the expiration of any fixed rate period, interest will automatically accrue at the variable rate option unless the amount fixed is repaid or fixed for an additional period in accordance with the terms hereof. Notwithstanding the foregoing, rates may not be fixed for periods expiring after the maturity date of the loans and rates may not be fixed in such a manner as to cause the Borrower to have to break any fixed rate balance in order to pay any installment of principal. All elections provided for herein will be made telephonically or in writing and must be received by 12:00 p.m. Denver, Colorado time. Interest will be calculated on the actual number of days each loan is outstanding on the basis of a year consisting of 360 days and will be payable monthly in arrears by the 20th day of the following month or on such other day as Lender will require in a written notice to the Borrower ("**Interest Payment Date**").

SECTION 6. PROMISSORY NOTE. The Borrower promises to repay the unpaid principal balance of the loans in 240 consecutive, monthly installments, payable on the 20th day of each month, with the first installment due on February 20, 2017, and the last installment due on January 20, 2037. The amount of each installment will be the same principal amount that would be required to be repaid if the loan(s) were scheduled to be repaid in level payments of principal and interest and such schedule was calculated utilizing the rate of interest in effect on the Term Expiration Date. Principal due on the first payment date will constitute a month's amortization, regardless of any partial month's interest due in accordance with the provisions set forth herein.

In addition to the above, the Borrower promises to pay interest on the unpaid principal balance of the loans at the times and in accordance with the provisions set forth herein.

SECTION 7. PREPAYMENT. Subject to the broken funding surcharge provision of the Credit Agreement, the Borrower may, on one Business Day's prior written notice, prepay all or any portion of the loan(s). Unless otherwise agreed by Lender, all prepayments will be applied to principal installments in the inverse order of their maturity and to such balances, fixed or variable, as Lender will specify.

SECTION 8. SECURITY. The Borrower's obligations hereunder and, to the extent related hereto, under the Credit Agreement, will be secured as provided in Section 2.3 of the Credit Agreement.

SECTION 9. FEES. INTENTIONALLY OMITTED.

SECTION 10. FINANCIAL COVENANT. While this Promissory Note is in effect and unless Lender otherwise consents in writing, the Borrower maintains a debt service reserve account (the "**Reserve**") in the amount of \$67,500.00. The funds in the Reserve will be held in a financial institution acceptable to Lender, or in a cash investment services account at Lender and invested in obligations of Lender. The Borrower hereby pledges and grants to Lender a security interest in the Reserve (including all interest earned thereon) as security for the Borrower's obligations to Lender under the Loan Documents. If requested by Lender, the Borrower will cooperate with Lender in obtaining control with respect to the Reserve if it is maintained with a financial institution other than Lender (the "**Bank**") including entering into a written agreement among the Bank, the Borrower and Lender that the Bank will comply with instructions originated by Lender directing disposition of funds in the Reserve without

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Plantersville, Texas
Promissory Note No. 00094969T01

further consent by the Borrower. However, as long as no Event of Default or Potential Default will have occurred and be continuing, interest on the Borrower's investments in the Reserve may be paid to the Borrower in the ordinary course. Investments in Lender are uninsured and unsecured general obligations of Lender. Lender is regulated by the Farm Credit Administration and exempt from registration under federal law.

SIGNATURE PAGE FOLLOWS


DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
Promissory Note No. 00094969T01

SIGNATURE PAGE TO PROMISSORY NOTE

IN WITNESS WHEREOF, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION

By: Jason Keasling
Name: Jason Keasling
Title: President



DOBBI-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
Promissory Note No. 00094969T01

SIGNATURE PAGE TO PROMISSORY NOTE

IN WITNESS WHEREOF, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

COBANK, ACB

By: _____

Name: _____

Title: _____

MULTIPLE ADVANCE TERM PROMISSORY NOTE

THIS MULTIPLE ADVANCE TERM PROMISSORY NOTE (this “**Promissory Note**”) to the Credit Agreement dated May 14, 2021 (such agreement, as may be amended, hereinafter referred to as the “**Credit Agreement**”), is entered into as of May 14, 2021 between **COBANK, ACB**, a federally-chartered instrumentality of the United States (“**Lender**”), and **DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION**, Plantersville, Texas, a non-profit corporation (together with its permitted successors and assigns, the “**Borrower**”). Capitalized terms not otherwise defined in this Promissory Note will have the meanings set forth in the Credit Agreement.

SECTION 1. MULTIPLE ADVANCE TERM COMMITMENT. On the terms and conditions set forth in the Credit Agreement and this Promissory Note, Lender agrees to make loans to the Borrower from time to time during the period set forth below in an aggregate principal amount not to exceed \$1,000,000.00 (the “**Commitment**”). Under the Commitment, amounts borrowed and later repaid may not be re-borrowed.

SECTION 2. PURPOSE. The purpose of the Commitment is to finance capital improvements and related closing costs.

SECTION 3. TERM. The term of the Commitment will be from the date hereof, up to 12:00 p.m. Denver, Colorado time on June 30, 2022, or on such later date as Lender may, in its sole discretion, authorize in writing (the “**Term Expiration Date**”).

SECTION 4. LIMITS ON ADVANCES, AVAILABILITY, ETC. The loans will be made available as provided in Article 2 of the Credit Agreement.

SECTION 5. INTEREST. The Borrower agrees to pay interest on the unpaid balance of the loan(s) in accordance with the following interest rate option(s):

(A) **Weekly Quoted Variable Rate.** At a rate per annum equal at all times to the rate of interest established by Lender on the first Business Day of each week. The rate established by Lender will be effective until the first Business Day of the next week. Each change in the rate will be applicable to all balances subject to this option and information about the then current rate will be made available upon telephonic request.

(B) **Quoted Rate.** At a fixed rate per annum to be quoted by Lender in its sole discretion in each instance. Under this option, rates may be fixed on such balances and for such periods, as may be agreeable to Lender in its sole discretion in each instance, provided that: (1) the minimum fixed period will be 365 days; (2) amounts may be fixed in an amount not less than \$100,000.00; and (3) the maximum number of fixes in place at any one time will be five.

The Borrower will select the applicable rate option at the time it requests a loan hereunder and may, subject to the limitations set forth above, elect to convert balances bearing interest at the variable rate option to one of the fixed rate options. If the Borrower fails to elect an interest rate option, interest will accrue at the variable interest rate option. Upon the expiration of any fixed rate period, interest will

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
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automatically accrue at the variable rate option unless the amount fixed is repaid or fixed for an additional period in accordance with the terms hereof. Notwithstanding the foregoing, rates may not be fixed for periods expiring after the maturity date of the loans and rates may not be fixed in such a manner as to cause the Borrower to have to break any fixed rate balance in order to pay any installment of principal. All elections provided for herein will be made telephonically or in writing and must be received by 12:00 p.m. Denver, Colorado time. Interest will be calculated on the actual number of days each loan is outstanding on the basis of a year consisting of 360 days and will be payable monthly in arrears by the 20th day of the following month or on such other day as Lender will require in a written notice to the Borrower ("**Interest Payment Date**").

SECTION 6. PROMISSORY NOTE. The Borrower promises to repay the unpaid principal balance of the loans in 240 consecutive, monthly installments, payable on the 20th day of each month, with the first installment due on July 20, 2022, and the last installment due on June 20, 2042. The amount of each installment will be the same principal amount that would be required to be repaid if the loan(s) were scheduled to be repaid in level payments of principal and interest and such schedule was calculated utilizing the rate of interest in effect on the Term Expiration Date. Principal due on the first payment date will constitute a month's amortization, regardless of any partial month's interest due in accordance with the provisions set forth herein.

In addition to the above, the Borrower promises to pay interest on the unpaid principal balance of the loans at the times and in accordance with the provisions set forth herein.

SECTION 7. PREPAYMENT. Subject to the broken funding surcharge provision of the Credit Agreement, the Borrower may, on one Business Day's prior written notice, prepay all or any portion of the loan(s). Unless otherwise agreed by Lender, all prepayments will be applied to principal installments in the inverse order of their maturity and to such balances, fixed or variable, as Lender will specify.

SECTION 8. SECURITY. The Borrower's obligations hereunder and, to the extent related hereto, under the Credit Agreement, will be secured as provided in Section 2.3 of the Credit Agreement.

SECTION 9. FEES. INTENTIONALLY OMITTED.

SECTION 10. FINANCIAL COVENANT. While this Promissory Note is in effect and unless Lender otherwise consents in writing, the Borrower will establish by December 31, 2021 and maintain a debt service reserve account (the "**Reserve**") in the amount of \$67,500.00. The funds in the Reserve will be held in a financial institution acceptable to Lender, or in a cash investment services account at Lender and invested in obligations of Lender. The Borrower hereby pledges and grants to Lender a security interest in the Reserve (including all interest earned thereon) as security for the Borrower's obligations to Lender under the Loan Documents. If requested by Lender, the Borrower will cooperate with Lender in obtaining control with respect to the Reserve if it is maintained with a financial institution other than Lender (the "**Bank**") including entering into a written agreement among the Bank, the Borrower and Lender that the Bank will comply with instructions originated by Lender directing disposition of funds in the Reserve without further consent by the Borrower. However, as long as no Event of Default or Potential Default will have occurred and be continuing, interest on the Borrower's investments in the Reserve may be paid to the Borrower in the ordinary course. Investments in Lender are uninsured and unsecured general obligations of Lender. Lender is regulated by the Farm Credit Administration and exempt from registration under federal law.

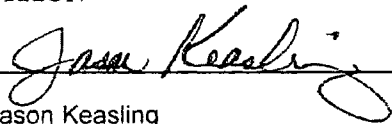
SIGNATURE PAGE FOLLOWS

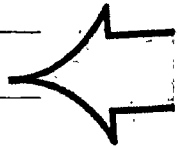
DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
Promissory Note No. 00094969T02

SIGNATURE PAGE TO PROMISSORY NOTE

IN WITNESS WHEREOF, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION

By: 
Name: Jason Keasling
Title: President



DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION
Plantersville, Texas
Promissory Note No. 00094969T02

SIGNATURE PAGE TO PROMISSORY NOTE

IN WITNESS WHEREOF, the parties have caused this Promissory Note to the Credit Agreement to be executed by their duly authorized officer(s).

COBANK, ACB

By: _____

Name: _____

Title: _____

REQUEST FOR LOAN

TO: COBANK, ACB
Attention: Closing

FROM: DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION (00094969)

DATE: May 14, 2021

SUBJECT: REQUEST FOR LOAN

Reference is hereby made to the Promissory Note(s) listed below (the “**Promissory Note(s)**”) between **DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION** (the “**Borrower**”) and **COBANK, ACB** (“**CoBank**”) for the refinance of **AMEGY BANK** (the “**Refinanced Lender**”) debt. All capitalized terms used herein shall have the meanings given to them in the Instruction Letter, Promissory Note(s) and the Agreement.

Refinanced Lender Existing Loan Number(s)	CoBank Loan Number(s)
	00094969S01

In accordance with the Instruction Letter, the undersigned, a duly authorized officer of the Borrower, on behalf of the Borrower, hereby requests that CoBank make the loan or loans (individually or collectively, the “**Loan(s)**”) to the Borrower on the Closing Date evidenced by the Promissory Note(s).

To induce CoBank to make the Loan(s), the undersigned hereby certifies as follows: (1) upon receipt by Refinanced Lender of the payoff amount wired to the Refinanced Lender by CoBank, all of the Borrower’s obligations to Refinanced Lender for and on account of the Existing Loan(s) will be paid in full; (2) no Event of Default has occurred and is continuing; (3) each of the representations and warranties set forth in the Agreement and the Promissory Note(s) is true and correct as of the date hereof; and (4) the Borrower has satisfied all conditions precedent set forth in the Instruction Letter, Promissory Note(s) and the Agreement to CoBank’s obligation to make the Loan(s).

The undersigned hereby (please check and complete the appropriate box if applicable):

certifies that the Borrower has remitted \$ _____ to CoBank, by wire transfer of immediately available funds to CoBank’s account identified in the Agreement to pay all interest accrued on the Existing Loan(s) through the Closing Date, together with all prepayment premiums, surcharges, and other amounts necessary to discharge all of the Borrower’s obligations to the Refinanced Lender (for or on account of the Existing Loan(s) (collectively, the “**Additional Payment**”).

Borrower authorizes CoBank to pay, on the Closing Date, from the proceeds of the CoBank Loan, all principal outstanding and interest accrued, all prepayment premiums, surcharges, and other amounts necessary, on the Existing Loan through the Closing Date, together with the Additional Payment, if any, to discharge all of the Borrower’s obligations to Refinanced Lender for or on account of the Existing Loan(s) to Refinanced Lender using the wiring instructions below.

REFINANCED LENDER	If an Intermediary Bank will be used to route the wire
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DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION (00094969)
PLANTERSVILLE, Texas
REQUEST FOR LOAN

WIRING INSTRUCTIONS:		to the Beneficiary's Bank, complete the following:	
Beneficiary's Bank Name		Intermed. Bank Name	
Bank's Location (City, State/Country)		Intermed. Bank's Location (City and State)	
Bank's ABA/Fed Routing No.		Intermed. Bank's ABA/Routing No.	
Beneficiary's Name		Identifying No. of Destination Bank	
Beneficiary's Account No.		Type of Identifying No. (check one)	<input type="checkbox"/> Account no. at Intermed. Bk <input type="checkbox"/> SWIFT code <input type="checkbox"/> ABA/Fed routing no.
Beneficiary's Address			
Special Instructions:			
Ref	Dobbin-Plantersville Water Supply Corporation		

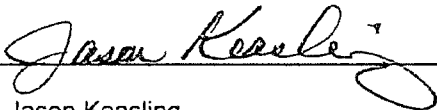
The authorizations provided for herein shall be deemed to be a special wire and electronic transfer authorization for all purposes, including within the meaning of the Borrower's banking service agreements, if applicable.

SIGNATURE PAGE FOLLOWS

DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION (00094969)
PLANTERSVILLE, Texas
REQUEST FOR LOAN

SIGNATURE PAGE TO REQUEST FOR LOAN

**DOBBIN-PLANTERSVILLE WATER SUPPLY
CORPORATION**

By: 
Name: Jason Keasling
Title: President