



Control Number: 51979



Item Number: 19

Addendum StartPage: 0

PUC DOCKET NO. 51979

RECEIVED

2021 JUN 24 PM 4:49

**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**

PUBLIC UTILITY COMMISSION
PHILIP CLARK

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

COMES NOW, SIG Magnolia LP ("SIG Magnolia" or "Petitioner") and files Response to Dobbin Plantersville Water Supply Corporation's ("Dobbin Plantersville") Response to SIG Magnolia LP's Petition for Streamlined Expedited Release and Motion to Dismiss and would show the following:

I. BACKGROUND

SIG Magnolia LP owns approximately 665.8 acres of land in Montgomery County, Texas that is the subject of SIG Magnolia's petition for streamlined expedited release. Grand Prairie Investments, LLC (Grand Prairie) purchased the property in 2009. In 2019, Grand Prairie entered into a partnership agreement with Sig Magnolia GP, LLC, a Signorelli owned entity, and formed SIG Magnolia, LP. Ownership of the property was transferred from Grand Prairie to SIG Magnolia LP in 2019. Signorelli, via its Sig Magnolia GP entity, is the general partner of SIG Magnolia LP. See Affidavit of Juanita Orsak, attached hereto and incorporated for all purposes herein.

By January of 2021, SIG Magnolia finalized its development plan for 330 of the 665 acres. At full build out of the 665 acres, approximately 1500 homes will be constructed. It is anticipated that the full build out will take approximately 7 to 10 years, with the first approximately 550 lots being developed by 2023. The development of the property will begin on the western end of the property. The eastern portion of the property will not likely be developed for another 5 to 10 years.

Because the SIG Magnolia development will be a dense development, the water system must be capable of providing fire flows in addition to potable water service. *See* Affidavit of Juanita Orsak.

While SIG Magnolia was fairly certain that Dobbin Plantersville did not have the facilities to provide potable water service and fire flows to the SIG Magnolia tract, representatives for SIG Magnolia, Juanita Orsak and Ryan Wade, met with representatives from Dobbin Plantersville on January 14, 2021 to understand Dobbin Plantersville's capabilities to provide service as part of SIG Magnolia's due diligence. From that conversation, SIG Magnolia understood that:

- a. the 6-inch water line along FM 1486 only had capacity to serve an additional 15-20 connections and is not able to provide fire flows;
- b. Water Plant No. 9 was being constructed to serve the High Meadows Estates subdivision and that the developer of High Meadows Estates had platted the water plant site within that subdivision;
- c. Water Plant No. 9 was planned for years, but it wasn't platted until 2020 because there was a delay in selecting a location for the plant with the High Meadows Estates developer; and
- d. Water Plant No. 9 was not being designed to provide fire flows.

Based on this, and other information, SIG Magnolia concluded that Dobbin Plantersville did not have the facilities needed to provide potable water service and fire flows to the SIG Magnolia development. *See* Affidavit of Juanita Orsak.

The representatives for SIG Magnolia did not have any other additional conversations with Dobbin Plantersville before Ms. Orsak called the general manager for Dobbin Plantersville on March 9, 2021 to ask that the SIG Magnolia tract be decertified from Dobbin Plantersville certificate of convenience and necessity (CCN) and that SIG Magnolia's request for decertification be placed on the Dobbin Plantersville's March 17, 2021 board of directors' agenda. Ms. Orsak sent an email confirming the request on March 9, 2021. *See* Affidavit of Juanita Orsak, Attachment No. 3. The March 17 board meeting was canceled and rescheduled for March 23, 2021, which Ms.

Orsak attended. At the meeting, Ms. Orsak gave Dobbin Plantersville a written offer of \$20,000 for the decertification of the SIG Magnolia tract from the Dobbin Plantersville certificate of convenience and necessity (CCN). On March 25, 2021, Ms. Orsak requested a copy of an application for decertification and received from Dobbin Plantersville a copy of a non-standard service agreement. On March 29, 2021, Ms. Orsak reiterated that SIG Magnolia was requesting to be released from Dobbin Plantersville's CCN and informed Dobbin Plantersville if they did not respond by March 31, 2021, SIG Magnolia would file a petition for expedited release. After receiving no response regarding the request for decertification, SIG Magnolia filed its petition for expedited decertification on April 5, 2021. *See* Affidavit of Juanita Orsak, Attachment No. 4. At no point did SIG Magnolia request water service from Dobbin Plantersville or make other statements between January and March of 2021 that suggested that SIG Magnolia intended to obtain water service from Dobbin Plantersville or that SIG Magnolia would enter into a non-standard service agreement. SIG Magnolia specifically told Dobbin Plantersville that SIG Magnolia does not want service from Dobbin Plantersville. *See* Affidavit of Juanita Orsak.

II. ARGUMENTS AND AUTHORITIES

A. **The SIG Magnolia property is not receiving water service from Dobbin Plantersville Water Supply Corporation.**

Texas Water Code § 13.2541 provides that an owner of a tract of land that is 25 acres or larger and located in certain counties, including Montgomery County, may petition for, and is entitled to, expedited release of that tract from a certificated area if the tract is “not receiving water or sewer service.” Tex. Water Code § 13.2541(b); *see also General Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 133 (Tex. App. – Austin 2014, pet. denied) (citing to Water Code § 13.254 (a-5), now § 13.2451). In the instant proceeding, there is no dispute that SIG Magnolia is the owner of at least 25 acres and that the tract is in Montgomery County, a qualifying

county. Here the issue is whether SIG Magnolia’s property to be decertified is receiving water service from Dobbin Plantersville.

The Austin Court of Appeals in its review of challenges to PUC decisions on what constitutes “receiving service” has articulated the relevant inquiry when upholding decertification. The Court frames the question that should be before the Commission to be not whether the utility, in this case Dobbin Plantersville, “was *providing* water service to customers within the certificated area . . . but whether the Decertified Property was *receiving* water service . . .” *Johnson County Special Utility District v. Public Utility Commission of Texas*, No. 03-17-00160-CV, 2018 WL 2170259 (Tex. App. – Austin May 11, 2018, pet. denied) (mem. op.) at *8 (citing *Crystal Clear Water*). The determination of whether a tract of land is receiving service is a “fact-based inquiry requiring the Commission to consider whether the [utility] has facilities or lines committed to providing water *to the particular tract* . . . in furtherance of its obligation to provide water to that tract pursuant to its CCN.” *Crystal Clear Water*, 449 S.W. 3d at 140 (emphasis in original); *Mountain Peak Special Utility District v. Public Utility Commission of Texas*, No. 03-16-00796-CV; 2017 WL 507834 (Tex. App. – Austin, Nov. 2, 2017, pet. denied) (mem. Op.) at *5.

The appropriate inquiry focuses on:

- The mere existence of water lines or facilities on or near a tract does not necessarily mean that the tract is receiving water service.
- Are there water facilities or lines committed to serving *the particular property* or used to provide water to that tract?
- Has the entity to be decertified performed any act or supplied anything to *the particular property* related to providing water?

Johnson County Special Utility District at *8. None of the facts presented by Dobbin Plantersville demonstrate that the SIG Magnolia property is receiving water service from Dobbin Plantersville.

To start, the mere fact that Dobbin Plantersville has existing facilities on or near the SIG Magnolia property does not mean the SIG Magnolia tract is receiving water service from Dobbin Plantersville. In fact, Dobbin Plantersville incorrectly asserts that it has a 6-inch water line located in a utility easement across the SIG Magnolia property. That 6-inch water line is located in the FM 1486 right-of-way, not in a utility easement on the SIG Magnolia property. *See* Affidavit of Juanita Orsak. Further, the 6-inch water line along FM 1486 is not committed to serving the SIG Magnolia tract and the SIG Magnolia tract is not receiving water from the 6-inch water line. It provides water service to Dobbin Plantersville customers not located on the SIG Magnolia tract. And, based on SIG Magnolia's understanding from its conversation with the general manager of Dobbin Plantersville in January 2021, that the 6-inch water line only has capacity to serve an additional 15-20 connections. *See* Affidavit of Juanita Orsak. The water line does not have capacity to serve the over 1500 connections expected in the SIG Magnolia development, and the line does not have the capacity to provide the SIG Magnolia development with fire flow. *See* Affidavit of Ryan Wade, attached hereto and incorporated for all purposes herein.

There are no other Dobbin Plantersville water facilities committed to serving this particular property and Dobbin Plantersville has not performed any act or supplied anything to *the particular property* related to providing water service. Dobbin Plantersville mischaracterizes that Water Plant No. 9 and other facilities within the High Meadows Estates subdivision are *committed* to serving the SIG Magnolia tract. SIG Magnolia has no request for service with Dobbin Plantersville and has no contractual, either verbal or written, arrangement whereby Dobbin Plantersville has committed to constructing facilities, including Water Plant No. 9, to serve the SIG Magnolia tract. *See* Affidavit of Juanita Orsak. The general manager of Dobbin Plantersville admits in her affidavit that these facilities are not committed to providing water service to the SIG Magnolia

property: “Plans were underway for a new water plant that would supply demand *in the area and the surrounding area.*” See Paragraph 3 in Affidavit of Janie Legge, Exhibit B to Dobbin Plantersville’s Response. This admission demonstrates that the new water plant is not committed to serving the *particular* SIG Magnolia tract. Similarly, during the January 14, 2021 meeting, Dobbin Plantersville told SIG Magnolia that Water Plant No. 9 was being constructed to serve High Meadows. See Affidavit of Juanita Orsak. Additionally, it appears that as of March 26, 2021, Dobbin Plantersville was uncertain as to its ability to serve SIG Magnolia, as the general manager stated in her March 26, 2021 email to Ms. Orsak, “We will have our Engineer review them and at that point will respond to you with the ability to serve or not.” See Affidavit of Juanita Orsak, Attachment 4. This statement is inconsistent with Dobbin Plantersville’s claim that facilities are committed to serving the SIG Magnolia tract.

Moreover, Water Plant No. 9 could not be committed to serving the particular SIG Magnolia tract, as its construction was approved in November 2020 *before* SIG Magnolia representatives met with Dobbin Plantersville in January of 2021. In November 2020, Dobbin Plantersville had no information on the development of the SIG Magnolia tract, or when and how it would be developed. It is difficult to believe that Dobbin Plantersville would authorize the expenditure of money to construct facilities *committed* to a development for which Dobbin Plantersville had no knowledge of in November 2020.

It is also disingenuous to suggest that Dobbin Plantersville was making these plans and investments to serve the SIG Magnolia because the SIG Magnolia tract was originally part of the High Meadows tract. The SIG Magnolia tract was separated and sold to an investment company over ten years ago, thereby ending any connection to the High Meadow tract. There were no agreements or other commitments that were part of the SIG Magnolia property when SIG

Magnolia acquired the property. *See* Affidavit of Juanita Orsak. Any “planning” done by Dobbin Plantersville would have been done without having received a request for service, and more importantly, without knowing how or when the SIG Magnolia property would be developed. It seems imprudent to make “planning” decisions for serving a piece of property without this information.

Moreover, Water Plant No. 9 and the other water lines within the High Meadows subdivision are not sufficiently sized to provide potable water service and fire flows to the over 1500 connections that are ultimately planned for the SIG Magnolia development. *See* Affidavit of Ryan Wade. Had these facilities been “committed” to providing water service to the SIG Magnolia property, they would have been sized to provide potable water service and fire flows to the development.

It should also be noted that SIG Magnolia intends to develop its property from west to east. Water Plant No. 9 is located almost two miles southeast of the western portion of the SIG Magnolia property, and there are several hills and creeks that must be crossed to reach the western part of the property. To move water from Water Plant No. 9 to the western portion of the SIG Magnolia property would require a significant investment in water infrastructure to serve the development. *See* Affidavit of Ryan Wade. This indicates that the facilities are not committed to serving the SIG Magnolia tract. Otherwise, the development plan for the SIG Magnolia property would have been considered as part of the location of Water Plant No. 9. These facilities are instead intended to provide water service to the High Meadow Estates development, which platted the location of the plant site. *See* Affidavit of Juanita Orsak.

For all of these stated reasons, SIG Magnolia is not receiving water service from Dobbin Plantersville.

B. The SIG Magnolia petition for expedited release is not preempted by 7 U.S.C. § 1926(b)

Dobbin Plantersville incorrectly argues that the Commission is preempted by 7 U.S.C. section 1926(b) from adhering to and performing its duties clearly laid out in Texas Water Code section 13.2541. There is no direct conflict between the federal and state law that would give rise to a preemption issue. The existence of a federally guaranteed loan does not prohibit the Commission from properly amending a certified area. Further, the Petitioner is not receiving water service from Dobbin Plantersville nor has it been provided or made available. Accordingly, Dobbin Plantersville's motion to dismiss on the basis that it enjoys protection under Title 7 United States Code section 1926(b) must be denied.

i. Though the language in 7 USC § 1926(b) does not conflict with Tex. Water Code § 13.2541(b), the Commission cannot make a preemption determination.

Nothing in the text of section 1926(b) expressly preempts or conflicts with Water Code section 13.2541(d).¹ Further, the plain text of section 1926(b) applies to curtailment by municipal corporations and public bodies. SIG Magnolia is a private landowner and limited partnership, not a municipality or public body. Regardless, the Commission cannot make a preemption determination and must process SIG Magnolia's petition in accordance with Chapter 13 of the

¹ Section 1926(b) reads in full:

(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.

7 USC § 1926(b). There is a presumption against preemption, unless there is a "clear and manifest purpose of Congress" within the text to preempt a state's regulatory authority. *See generally, Altria Group, Inc v Good*, 555 U.S. 70, 77 (2008). When there is more than one possible interpretation, courts accept the interpretation that disfavors preemption. *Id.*

Texas Water Code.² The Commission is bound by Texas Water Code section 13.2541(d), which states that the “utility commission may not deny the petition based on the fact that the certificate holder is a borrower under a federal loan program.”³ Because section 1926(b) does not impair the Commission’s mandate to release the property in question from Dobbin Plantersville’s CCN, the existence of Dobbin Plantersville’s current USDA and CoBank loans and loan applications are immaterial.

ii. No binding precedent exists that Tex. Water Code § 13.2541(d) is preempted by 7 USC § 1926(b) pursuant to the Supremacy Clause

Dobbin Plantersville’s claim of protection under 7 U.S.C. § 1926(b) is unsupported by law. Although a federal district court in *Crystal Clear v. Marquez* had previously held that 7 U.S.C. section 1926(b) preempted Texas Water Code section 13.2541 (formerly, sections 13.254(a-5) and (a-6)), Dobbin Plantersville also correctly points out that that decision has been vacated by the Fifth Circuit.⁴ A vacated ruling is no longer valid law.

But Dobbin Plantersville, even after recognizing the Fifth Circuit’s vacation, nevertheless attempts to assert that the Commission is bound by courts in other circuits – with no binding authority over Texas – that allegedly have held a Texas Water Code provision has been preempted. That is not the case. The Tenth Circuit case⁵ cited by Dobbin Plantersville is distinguishable both factually and on the basis that the Tenth Circuit was not considering the Texas statute in question. The more than a decade old case that examined an *Oklahoma* law and Oklahoma *municipality* has

² A court, not an agency, must make a constitutional determination. *See Cent. Power & Light Co. v. Sharp*, 960 S.W.2d 617, 618 (Tex. 1997) (“Where, as here, the final agency order is challenged in the trial court on the ground that the underlying statute is unconstitutional, the agency lacks the authority to decide that issue.”).

³ Tex. Water Code § 13.2541(d).

⁴ *See Order, Crystal Clear Spec. Utility District v. Marquez*, No. 19-50556 (5th Cir. Nov. 6, 2020 (per curium)).

⁵ *Rural Water Sewer & Solid Waste Mgmt., Dist. No. 1 v. City of Guthrie*, 344 Fed. Appx. 462 (10th Cir.2009)

no bearing on a *Texas* law or a *Texas limited partnership*.⁶ Regardless, the recent Fifth Circuit decision in *Green Valley Special Utility District v City of Schertz* specifically dismissed Green Valley SUD's preemption claim for *this* statute and determined that the court lacked jurisdiction to consider such a claim.⁷ It is by no means settled that the existing law is preempted.

The fact remains that no court with binding authority over the Commission has ruled on the preemption question raised by Dobbin Plantersville. As such, there is no Supremacy Clause issue. The PUC must comply with the valid state law section 13.2541(d), which clearly states that the Commission may not take Dobbin Plantersville's federally indebted status into consideration.

iii. 7 U.S.C. § 1926(b) could not protect the property in question because service has not been provided or made available to SIG Magnolia.

Setting aside the preemption issue, the mere existence of a loan is not enough. Section 1926(b) requires that a rural water association asserting protection show: (1) qualifying federal indebtedness; and (2) that service has been provided or made available. *See* 7 U.S.C. § 1926(b). In *Green Valley SUD v. Schertz*, the Fifth Circuit held that whether a service has been "provided or made available" depends upon a "physical capability" test, which requires the service provider to have (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. *See Green Valley Special Utility District v. City of Schertz, Texas*, 969 F.3d. 460 (5th. Cir. 2020) (overturning the Fifth Circuit's 1996 decision in *North Alamo Water Supply Corporation v. City of San Juan*). Here, Dobbin Plantersville does not have adequate facilities to provide service to the area. As detailed above in Section II.A., the SIG Magnolia property is not receiving water service from Dobbin Plantersville Water Supply

⁶ The decision does in fact conform with the Commission's argued position in *Green Valley Spec. Utility District v. City of Schertz* that section 1926(b) applies to local governments, but not to the regulatory authority of an arm of the state, like the Commission. *See* Br. For Appellant Pub. Utility Comm'n *et al.*, at 30-31, *Green Valley Spec Utility District v City of Schertz*, 2019 WL 2250158 (5th Cir. 2019).

⁷ *See Green Valley Special Util Dist. v. City of Schertz*, 969 F.3d 460, 411 and 478 (5th Cir. Aug. 7, 2020) (en banc).

Corporation and Dobbin Plantersville's facilities do not have the capacity to serve the SIG Magnolia's development with potable water service and fire flows.

III. CONCLUSION AND PRAYER

Wherefore, the Petitioner respectfully requests that the Commission deny Dobbin Plantersville's motion to dismiss.

Respectfully submitted,

Emily W. Rogers
State Bar No. 24002863
erogers@bickerstaff.com

Kimberly G. Kelley
State Bar No. 24086651
kkelley@bickerstaff.com

Bickerstaff Heath Delgado Acosta LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746
Telephone: (512) 472-8021
Facsimile: (512) 320-5638

BY: *Emily W. Rogers*
Emily W. Rogers

CERTIFICATE OF SERVICE

I certify that this Response to Dobbin Plantersville Water Supply Response to SIG Magnolia LP's Petition for Streamlined Expedited Release and Motion to Dismiss was provided to all parties of record via electronic mail or regular mail on June 24, 2021, in accordance with the Order Suspending Rules, issued in Project No 50664.

Emily W. Rogers
Emily W. Rogers

PUC DOCKET NO. 51979

PETITION BY SIG MAGNOLIA LP	§	BEFORE THE
FOR EXPEDITED RELEASE	§	
FROM WATER CCN NO. 11052	§	PUBLIC UTILITY COMMISSION
HELD BY DOBBIN PLANTERSVILLE	§	
WATER SUPPLY CORPORATION	§	OF TEXAS

AFFIDAVIT OF JUANITA ORSAK

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned notary, personally appeared Juanita Orsak, the affiant, a person who is known to me. After administering an oath, the affiant testified that:

1. “My name is Juanita Orsak. I am over eighteen years of age, of sound mind and am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. I am the Vice President of Land Development for the Signorelli Company, which is the general partner of SIG Magnolia LP, a Texas limited partnership, and the Petitioner in the above-captioned matter. I was the Development Manager overseeing the SIG Magnolia development from March 2020 through June 2021 and am still intricately involved in all matters related to water and sewer for the SIG Magnolia community. As Development Manager, I was in charge of developing the land use plan for the SIG Magnolia development. I also work with the engineers and other professionals to plan for the provision of water and sewer service to the developments and to ensure those services are reasonable and feasible.

3. SIG Magnolia LP owns approximately 665.8 acres of land in Montgomery County, Texas. Grand Prairie Investments, LLC purchased the property in 2009. In 2019, Grand Prairie Investments entered into a partnership agreement with Sig Magnolia GP, LLC, a Signorelli owned entity, and formed SIG Magnolia LP. Ownership of the property was transferred from Grand Prairie Investments to SIG Magnolia LP. Signorelli, via its Sig Magnolia GP entity, is the general partner of SIG Magnolia LP. There were no agreements or other commitments that were part of the SIG Magnolia property when the SIG Magnolia partnership was formed.

4. I am familiar with the SIG Magnolia property, its topography, the easements located on the property, and its proximity to Dobbin Plantersville’s water lines and the location of Water Plant No. 9.

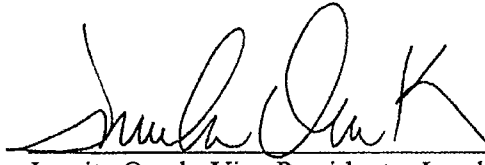
5. By January of 2021, SIG Magnolia finalized its development plans for the first approximate 300 of the 665 acres. At full build out of the 665 acres, approximately 1500 homes will be

constructed. It is anticipated that the full build out will take approximately 7 to 10 years, with the first approximately 550 lots being developed by 2023.

6. The development of the property will begin on the western end of the property. The eastern portion of the property will not likely be developed for another 5 to 10 years. Because the SIG Magnolia development will be a dense development, the water system must be capable of providing fire flows in addition to potable water service.
7. Attachment 1 is a true and correct copy of the conceptual development plan for the SIG Magnolia property.
8. Ryan Wade, the engineer for SIG Magnolia, and I met with representatives from Dobbin Plantersville Water Supply Corporation (Dobbin Plantersville) on January 14, 2021 to understand Dobbin Plantersville's capabilities to provide service as part of SIG Magnolia's due diligence.
9. Attachment 2 is a true and correct copy of my email to Janie Legge sending the conceptual development plan and confirming the January 14, 2021 meeting.
10. From that January 14, 2021 meeting, I was told that:
 - a. the 6-inch water line along FM 1486 only had capacity to serve an additional 15-20 connections and is not able to provide fire flows;
 - b. the Water Plant No. 9 was being constructed to serve the High Meadows Estates subdivision and that the developer of High Meadows Estates had platted the water plant site within that subdivision; and
 - c. Water Plant No. 9 was planned for years, but it wasn't platted until 2020 because there was a delay in selecting a location for the plant with the High Meadows Estates developer.
11. From that January 14, 2021 meeting, my understanding was Water Plant No. 9 was not being designed to provide fire flows.
12. Based on this, and other information, SIG Magnolia concluded that Dobbin Plantersville did not have the facilities needed to provide potable water service and fire flows to the SIG Magnolia development.
13. I did not have any other additional conversations with Dobbin Plantersville before I called the general manager for Dobbin Plantersville on March 9, 2021 to ask that the SIG Magnolia tract be decertified from Dobbin Plantersville certificate of convenience and necessity (CCN) and that SIG Magnolia's request for decertification be placed on the Dobbin Plantersville's March 17, 2021 board of directors' agenda. I sent an email confirming the request on March 9, 2021.

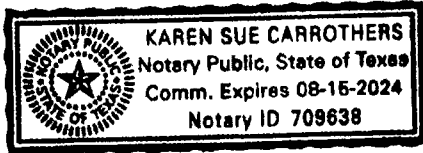
14. Attachment No. 3 is a true and correct copy of the March 9, 2021 email.
15. The March 17 board meeting was canceled and rescheduled for March 23, 2021. I attended the March 23, 2021 meeting and gave Dobbin Plantersville a written offer of \$20,000 for decertification.
16. On March 25, 2021, I requested an application for deannexation from Dobbin Plantersville. I intended to request an application for decertification.
17. On March 26, 2021, Janie Legge sent me an email with the non-standard service agreement attached. In said email, Janie stated "We will have our Engineer review them and at that point will respond to you with the ability to serve or not".
18. On March 29, 2021, I informed Dobbin Plantersville if we don't receive a response by March 31, 2021, SIG Magnolia will file a petition for expedited release. After receiving no response regarding the request for decertification, I directed SIG Magnolia's attorney to file a petition for expedited decertification. That petition was filed April 5, 2021.
19. Attachment 4 is a true and correct copy of the email exchanges between March 25 and March 29, 2021.
20. At no point did I request, on SIG Magnolia's behalf, water service from Dobbin Plantersville or make other statements between January and March of 2021 that suggested that SIG Magnolia intended to obtain water service from Dobbin Plantersville or that SIG Magnolia would enter into a non-standard service agreement. In addition, I specifically told Dobbin Plantersville, including Janie Legge, SIG Magnolia does not want service from Dobbin Plantersville.
21. Dobbin Plantersville's 6-inch water line located along FM 1486 is located in the FM 1486 right-of-way, and not in a utility easement on the SIG Magnolia property.
22. SIG Magnolia has no request for service with Dobbin Plantersville and has no contractual, either verbal or written, arrangement whereby Dobbin Plantersville has committed to constructing facilities, including Water Plant No. 9, to serve the SIG Magnolia tract.
23. The first time I saw Dobbin Plantersville's plans for service to the SIG Magnolia tract was on June 17, 2021, when I received Attachment 2 to Steve Duncan's Affidavit. The water plant site on the SIG Magnolia's property is SIG Magnolia's water plant, not Dobbin Plantersville's water plant. There is no existing easement for the location of the proposed 8-inch line across the SIG Magnolia property. Dobbin Plantersville has never requested easements from SIG Magnolia for a water plant site or water lines.

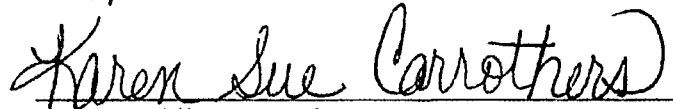
FURTHER AFFIANT SAYETH NOT.



Juanita Orsak, Vice President – Land Development
Signorelli Company

SWORN AND SUBSCRIBED TO BEFORE ME by
Juanita Orsak, on 6/23, 2021.





Notary Public, State of Texas



THIS DRAWING IS A GRAPHIC REPRESENTATION FOR PRESENTATION PURPOSES ONLY AND IS NOT FOR CONSTRUCTION OR CONTRACT DOCUMENTS. ANY INFORMATION SHOWN HEREON IS SUBJECT TO CHANGE WITHOUT NOTICE. META PROVIDES A DESIGN AND/OR CONSTRUCTION SERVICE. META DOES NOT PROVIDE ARCHITECTURAL, ENGINEERING, SURVEYING, OR OTHER PROFESSIONAL SERVICES. META IS NOT RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY STRUCTURES, UTILITIES, OR OTHER FACILITIES. META IS NOT RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY STRUCTURES, UTILITIES, OR OTHER FACILITIES. META IS NOT RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY STRUCTURES, UTILITIES, OR OTHER FACILITIES. META IS NOT RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY STRUCTURES, UTILITIES, OR OTHER FACILITIES.

TOTAL NUMBER OF HOMES = 1,889

a conceptual development plan for
MAGNOLIA CROSSING
 ± 665.9 ACRES OF LAND
 prepared for
SIGNORELLI COMPANY
 24275 Katy Freeway, Ste. 200
 Katy, Texas 77494
 Tel: 281-810-1422
META
 META-00323
 SEPTEMBER 23, 2020

From: [Juanita Orsak](#)
To: janie@dpwater.com
Cc: [Mitch Watkins](#); [Ryan Wade](#)
Subject: Magnolia Springs
Date: Wednesday, January 13, 2021 9:47:00 AM
Attachments: [Magnolia Springs Overall Land Plan.pdf](#)

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

The Woodlands, Tx. 77380

713.452.1700

www.signorellicompany.com

<https://pages.ils.org/ltn/txg/montcty20/jorsak>

From: [Juanita Orsak](mailto:janie@dpwater.com)
To: janie@dpwater.com
Subject: RE: Magnolia Springs - 665 acres
Date: Wednesday, March 17, 2021 2:28:00 PM

Janie:

I wasn't able to find the agenda online. Please advise if the meeting is tonight still and at 6:30.

Juanita Orsak

Vice President - Land Development

Direct: 713.452.1705

jorsak@signorellicompany.com



1401 Woodlands Parkway

The Woodlands, Tx. 77380

713.452.1700

www.signorellicompany.com

From: Juanita Orsak
Sent: Tuesday, March 9, 2021 11:20 AM
To: janie@dpwater.com
Subject: Magnolia Springs - 665 acres

Janie:

Thank you for taking my call the other day. We have the 665 acres off of FM1486 that we would like to be placed on the agenda for the March 17th meeting for approval to request a decertification.

Our land plan is attached.

Please let me know if you need anything additional if not I look forward to meeting the board on the 17th.

Juanita Orsak

Development Manager

Direct: 713.452.1705

jorsak@signorellicompany.com



1401 Woodlands Parkway
The Woodlands, Tx. 77380
713.452.1700
www.signorellicompany.com

From: [Juanita Orsak](mailto:juanita.orsak@dpwater.com)
To: janie@dpwater.com
Subject: FW: Decertification Application
Date: Monday, March 29, 2021 3:10:00 PM
Attachments: [I 4 Non-Standard Service Contract.doc](#)

Janie:

Thank you very much for forwarding this over. This is a Non Standard Service Contract which we cannot fill out as we are not requesting service. My impression from the meeting on Wednesday was I would be receiving a document to request the decertification of our tract from Dobbins Plantersville CCN not a request for service.

Our offer on the table from last week is \$20,000 for the decertification request of our 665.9 Acres off of FM1486. We need to know if Dobbins Plantersville has any interest in accepting that offer by Wednesday this week. If you all have no interest or we do not hear from you all we are choosing to file the Petition for Expedited Release with the PUC by Friday, April 2. Once we submit the decertification application to the PUC our offer is being revoked.

Please let me know what the Boards position is from the meeting of last week and my comments above.

Juanita Orsak

Vice President - Land Development
Direct: 713.452.1705
jorsak@signorellicompany.com



1401 Woodlands Parkway
The Woodlands, Tx. 77380
713.452.1700
www.signorellicompany.com

From: Janie Legge <janie@dpwater.com>
Sent: Friday, March 26, 2021 8:07 AM
To: Juanita Orsak <jorsak@signorellicompany.com>
Subject: RE: deannexation Application

Good Morning

Attached is the non-standard meter application which will need to be completed and returned with a processing fee of \$1000.00. We will have our Engineer review them and at that point will respond to you with the ability to serve or not. We have not DE annexation form, that will have to be with the TCEQ in the event we are unable to provide service.

Thank you

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: Thursday, March 25, 2021 12:56 PM

To: Janie Legge <janie@dpwater.com>

Subject: deannexation Application

Janie:

I'm sending this from my cell so I may have overlooked the email from you today but can you please send the deannexation application?

Thank you

Juanita Orsak

Get [Outlook for iOS](#)

PUC DOCKET NO. 51979

PETITION BY SIG MAGNOLIA LP § BEFORE THE
FOR EXPEDITED RELEASE §
FROM WATER CCN NO. 11052 § PUBLIC UTILITY COMMISSION
HELD BY DOBBIN PLANTERSVILLE §
WATER SUPPLY CORPORATION § OF TEXAS

AFFIDAVIT OF RYAN WADE

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned notary, personally appeared Ryan Wade, the affiant, a person who is known to me. After administering an oath, the affiant testified that:

1. “My name is Ryan Wade. I am over eighteen years of age, of sound mind and am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I am the Senior Project Manager for this project, and Partner, at Elevation Land Solutions, LLC. I am a licensed Professional Engineer in the State of Texas, with over 13 years’ experience in the Civil Engineering field focusing on land development and municipal engineering and have worked on numerous single family residential communities and municipal utility districts including start up districts and mature districts located in Harris County and Montgomery County.
3. I am familiar with the SIG Magnolia property, its topography, the easements located on the property, its development plans, its water and wastewater infrastructure needs, and its proximity to Dobbin Plantersville’s water lines, Water Plant No. 9, and other Dobbin Plantersville Water Supply Corporation’s (Dobbin Plantersville) facilities. I have reviewed Dobbin Plantersville’s Response to SIG Magnolia LP’s Petition for Streamlined Expedited Release, and Motion to Dismiss and the Affidavits of Janie Legge and Steve Duncan and the attachments to those affidavits.
4. At full build out of the SIG Magnolia property, approximately 1500 homes will be constructed. Because the SIG Magnolia development will be a dense development, the water system must be capable of providing fire flows in addition to potable water service.
5. Juanita Orsak and I met with representatives from Dobbin Plantersville on January 14, 2021 to understand Dobbin Plantersville’s capabilities to provide service as part of SIG Magnolia’s due diligence.

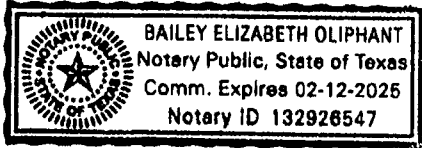
6. From that January 14, 2021 meeting, we were told that:
 - a. the 6-inch water line along FM 1486 only had capacity to serve an additional 15-20 connections and is not able to provide fire flows;
 - b. the Water Plant No. 9 was being constructed to serve the High Meadows Estates subdivision and that the developer of High Meadows Estates had platted the water plant site within that subdivision; and
 - c. Water Plant No. 9 was planned for years, but it wasn't platted until 2020 because there was a delay in selecting a location for the plant with the High Meadows Estates developer.
7. From that January 14, 2021 meeting, my understanding was Water Plant No. 9 was not being designed to provide fire flows.
8. Based on this, and other information, I advised SIG Magnolia that Dobbin Plantersville did not have the facilities needed to provide potable water service and fire flows to the SIG Magnolia development.
9. The existing 6 inch water line that runs along FM 1486 does not have capacity to provide potable water service and fire flows to the SIG Magnolia tract.
10. Water Plant No. 9 is not sufficiently sized to serve High Meadows Estates, the subdivision in which the facility is located, *and* to serve SIG Magnolia.
11. Water Plant No. 9 is located almost two miles southeast of the property, and due to the topography, there are several hills and creeks that must be crossed to reach the western part of the SIG Magnolia property.
12. To move water from Water Plant No. 9 would require a significant investment in water infrastructure facilities to serve the western part of the development, which is where the first phases of the development will occur.
13. The first time I saw Dobbin Plantersville's plans for service to the SIG Magnolia tract was on June 17, 2021, when I received Attachment 2 to Steve Duncan's Affidavit, other than the 6 inch line that is on FM 1486.
14. The proposed 8-inch line and 6-inch lines identified on Attachment 2 to Steve Duncan's Affidavit are not large enough to serve the SIG Magnolia development with potable water service and with fire flows.

FURTHER AFFIANT SAYETH NOT.

Ryan Wade

Ryan Wade
Elevation Land Solutions

SWORN AND SUBSCRIBED TO BEFORE ME by
Ryan Wade, on June 24th, 2021.



Bailey Oliphant

Notary Public, State of Texas