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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

**SIG MAGNOLIA LP’S RESPONSE TO DOBBIN
PLANTERSVILLE WATER SUPPLY CORPORATION’S CORRECTIONS
AND EXCEPTIONS TO PROPOSED ORDER**

COMES NOW, SIG Magnolia LP (“SIG Magnolia” or “Petitioner”) and files Response to Dobbin Plantersville Water Supply Corporation’s (“Dobbin Plantersville”) Corrections and Exceptions to the Proposed Order and would show the following:

I. BACKGROUND

On April 5, 2021, SIG Magnolia LP, the owner approximately 665.8 acres of land in Montgomery County, Texas filed a petition for streamlined expedited release under Texas Water Code § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245 from Dobbin Plantersville’s certificate of convenience and necessity (CCN) No. 11052. Daniel K. Signorelli, the manager of SIG Magnolia LP, attested that the property to be released is not receiving service from Dobbin Plantersville, among other qualifying facts. *See* Affidavit of Daniel K. Signorelli attached to the Petition by SIG Magnolia LP for Expedited Release Pursuant to Texas Water Code § 13.2541.

On September 22, 2021, the Administrative Law Judge (ALJ) issued a proposed order and provided the parties with the opportunity to submit corrections and exceptions. On September 30, 2021, Dobbin Plantersville filed its corrections and exceptions. On October 3, 2021, the Public Utility Commission (PUC) Staff submitted its correction. On October 5, 2021, the ALJ filed with the Commission the ALJ’s Proposed Order Memo recommending that two minor non-substantive

changes be made to the Proposed Order, but rejecting all of the other changes requested by Dobbin Plantersville.

II. ARGUMENT

SIG Magnolia requests that, except for the changes proposed by the ALJ, all of Dobbin Plantersville’s corrections and exceptions be denied. Dobbin Plantersville has not demonstrated that it has “facilities committed to providing service to the *particular* [SIG Magnolia] tract” *See General Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 133 (Tex. App.–Austin, 2014, pet. denied). The mere fact that Dobbin Plantersville has existing and theoretical future facilities near the SIG Magnolia property does not mean the SIG Magnolia tract is receiving water service from Dobbin Plantersville or that those facilities are committed to providing service to the SIG Magnolia tract. Moreover, the proposed changes to the findings and conclusions are self-serving and reflect an attempt to induce the Commission to make certain unsupported findings that might bolster Dobbin Plantersville’s legal position in the federal lawsuit it has filed against the Commissioners, the Commission, and SIG Magnolia. *See Dobbin Plantersville Water Supply Corp. v. Lake, et al.*, No. 1:21-CV-00612-RP (W.D. Texas filed July 13, 2021). For these reasons, Dobbin Plantersville’s Corrections and Exceptions should be denied.

SIG Magnolia owns approximately 665 acres of land in Montgomery County, Texas that is the subject of SIG Magnolia’s streamlined expedited decertification petition. In 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. 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 attached to SIG Magnolia's Response to Dobbin Plantersville Water Supply Corporation's Motion to Dismiss (*Interchange* at Item No. 19).

Nothing in the record demonstrates that Dobbin Plantersville has committed facilities or made other contractual commitments to provide potable water service to the SIG Magnolia development within any reasonable amount of time. Dobbin Plantersville admits in its Corrections and Exceptions that it is not providing actual water service to the SIG Magnolia property. Moreover, 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. Water Plant No. 9 is intended to serve the High Meadows subdivision, which is an entirely separate development than the SIG Magnolia development.¹ *See* Affidavit of Juanita Orsak attached to SIG Magnolia's Response to Dobbin Plantersville Water Supply Corporation's Motion to Dismiss (*Interchange* at Item No. 19). In fact, Dobbin Plantersville's assessment of the facilities it has to provide service to the SIG Magnolia tract show that there is no tangible commitment to provide service – that is, Dobbin Plantersville's existing facilities are insufficiently sized to meet the water service and fire flow needs of the SIG Magnolia development, and SIG Magnolia, at its own cost, would be required to make substantial improvements to the Dobbin Plantersville's system for it to be able to provide those services at some indeterminate time in the future. *See* Affidavit of Ryan Wade attached to

¹ The SIG Magnolia tract was separated from the High Meadow tract and sold to an investment company over ten years ago, thereby ending any connection to the High Meadow tract. *See* Affidavit of Juanita Orsak attached to SIG Magnolia's Response to Dobbin Plantersville Water Supply Corporation's Motion to Dismiss (*Interchange* at Item No. 19).

SIG Magnolia's Response to Dobbin Plantersville Water Supply Corporation's Motion to Dismiss (*Interchange* at Item No. 19).

Additionally, 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 about the SIG Magnolia tract, including 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 in November 2020. *See* Affidavit of Juanita Orsak attached to SIG Magnolia's Response to Dobbin Plantersville Water Supply Corporation's Motion to Dismiss (*Interchange* at Item No. 19).

III. CONCLUSION AND PRAYER

Wherefore, the Petitioner respectfully requests that the Commission deny Dobbin Plantersville's exceptions and corrections.

Respectfully submitted,

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BY: Emily W. Rogers
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CERTIFICATE OF SERVICE

I certify that this Response to Dobbin Plantersville Water Supply Corporation's Corrections and Exception to the Proposed Order was provided to all parties of record via electronic mail or regular mail on October 8, 2021, in accordance with the Order Suspending Rules, issued in Project No 50664.

Emily W. Rogers
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