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DOCKET NO. 52435

PETITION BY LEGACY	§	PUBLIC UTILITY COMMISSION
EQUESTRIAN CENTER LLC FOR	§	
EXPEDITED RELEASE FROM	§	OF TEXAS
WATER CCN NO. 10150 HELD BY	§	
MARILEE SPECIAL UTILITY	§	
DISTRICT IN COLLIN COUNTY	§	

**MARILEE SPECIAL UTILITY DISTRICT'S VERIFIED RESPONSE TO
PETITION FOR EXPEDITED RELEASE FROM WATER CCN NO. 10150**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE TA:

COMES NOW, MARILEE SPECIAL UTILITY DISTRICT ("Marilee") and files this Verified Response ("Response") to Legacy Equestrian Center LLC's ("Petitioner") Petition for Expedited Release Pursuant to Texas Water Code § 13.2541 ("Petition"), filed in this docket, and respectfully shows as follows:

I. BACKGROUND

1. On August 16, 2021, Petitioner filed its Petition for streamlined expedited release seeking to use the Public Utility Commission's ("Commission") streamlined expedited release process, Texas Water Code ("TWC") § 13.2541, to extract approximately 67.696 acres ("Property") from the water utility service area Marilee serves under Certificate of Convenience and Necessity ("CCN") No. 10150 in Collin County, Texas.¹ The Petition alleges that the Property is greater than 25 acres, is not receiving water or sewer service, and is entirely within Collin County.²

2. On August 17, 2021, the Commission entered Order No. 1, requiring Commission Staff to file comments regarding the administrative completeness of the Petition and notice by September 15, 2021, and permitting the CCN holder, Marilee, to file a verified response, supported by notarized affidavit, by September 22, 2021.³

¹ Petition at 1 (Aug. 16, 2021).

² *Id.* at 2.

³ Order No. 1 – Requiring Comments on Administrative Completeness, Notice, and Other Matters, and Establishing Procedural Schedule (Aug. 20, 2021).

3. On August 25, 2021, Marilee filed a Motion to Intervene, which Honorable Administrative Law Judge (“ALJ”) Ta granted on September 16, 2021.⁴

4. On September 14, 2021, Commission Staff filed its Recommendation on Administrative Completeness, recommending that the Petition be found administratively complete and that notice be found sufficient.⁵ The ALJ found the Petition administratively complete on September 15, 2021.⁶

5. After Marilee requested clarification of the deadline for its Response, the ALJ clarified that the deadline was October 4, 2021.⁷ Marilee’s Response is timely filed.

II. RESPONSE

A. Streamlined Expedited Release Under TWC § 13.2541

6. Marilee is a retail public utility and political subdivision of the State of Texas and the holder of CCN No. 10150. Marilee is the successor of the CCN and all plant, equipment and customers of the former Gunter Rural Water Supply Corporation (“Gunter”). Marilee currently provides retail water service to approximately 2,592 active connections.

7. Petitioner is Legacy Equestrian Center LLC, a Texas limited liability company. Petitioner’s president is Jody O’Donnell.⁸ Mr. O’Donnell is a Marilee customer.⁹

8. Before discussing why decertification is not permitted in this case, it may be helpful to generally discuss the procedure for decertification from a CCN by streamlined expedited

⁴ Marilee Special Utility District’s Motion to Intervene (Aug. 25, 2021); Order No. 3 – Granting Intervention (Sept. 16, 2021).

⁵ Commission Staff’s Recommendation on Administrative Completeness and Notice (Sept. 14, 2021).

⁶ Order No. 2 – Finding Petition Administratively Complete and Notice Sufficient, and Establishing Procedural Schedule (Sept. 15, 2021).

⁷ Marilee Special Utility District’s Motion for Clarification (Sept. 16, 2021); Order No. 4 – Clarifying Deadline (Sept. 20, 2021).

⁸ Petition at Exhibit A, Affidavit in Support of Petition by Legacy Equestrian Center LLC for Expedited Release Pursuant to Texas Water Code Section 13.2541. Mr. O’Donnell is also the agent and sole general partner, through his limited liability company Badger Limited Investments, LLC, of Celina Partners, Ltd., which is the entity that is seeking to decertify property from Marilee’s CCN in PUC Docket 52434. *See Petition of Celina Partners, Ltd. to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52434, Petition of Celina Partners Ltd. To Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release, Exhibit A (Affidavit by Jody O’Donnell in Support of Petition) (Aug. 16, 2021).

⁹ *See* Exhibit A (Affidavit of Donna Loiselle) at ¶¶ 8-13 (stating that Marilee Meter Nos. 227 and 344 (the “Meters”) are in Jody O’Donnell’s name and describing history of water service to the Meters); *see also* Exhibits A-1 to A-5 (documentation reflecting the transfer of the Meters to Mr. O’Donnell, membership certificates, and billing documentation showing continual use of the Meters to provide water service to Petitioner).

release.¹⁰ To obtain the release of property from a CCN holder under TWC § 13.2541, a landowner must demonstrate with affirmative evidence that the landowner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN.¹¹ The statutory mechanism allows landowners who meet those criteria to decertify their property from the service area of the CCN holder, depriving the CCN holder of the opportunity to serve that landowner's property.

9. Public policy considerations are important in these cases, on both sides. On one hand, it is important for landowners to have the right to choose a new CCN holder if the CCN holder for their geographic area is not or cannot provide service to their property.¹² On the other hand, it is important for a CCN holder who has invested in the infrastructure to readily provide service to be able to preserve their customer base. Just as it would be poor policy to force a landowner to remain in a CCN service area which is not and cannot serve their property, it is also poor policy to remove property from a CCN service area that is providing or can readily provide service to the property.¹³

10. In order to foster and perpetuate these important public policies, the Texas legislature created, among other decertification mechanisms in the TWC, the expedited release process, located at TWC § 13.254, and the streamlined expedited release process, located at TWC § 13.2541, together with 16 Texas Administrative Code ("TAC") § 24.245(h). The process, when properly followed, honors both the policy of providing an efficient and cost-effective

¹⁰ Streamlined expedited release was created in 2019 to be a simplified offshoot of expedited release that better codified the way CCN holders should be compensated for property decertified from their CCN service area. *See, e.g.*, Acts 2019, 86th Leg., R.S., Ch. 688, General and Special Laws of Texas (enrolled bill to be codified at TWC § 13.2541). The policies considered by the legislature regarding the substance of both TWC §§ 13.254 and 13.2541 are best reflected by the legislative history for TWC § 13.254, which was enacted in 2005 in House Bill 2876.

¹¹ TWC § 13.2541(b).

¹² *See, e.g.*, House Comm. Bill Analysis at 4-5, C.S.H.B. 2876, 79th Leg., R.S. (May 11, 2005) (noting in support that the bill would "would protect private property rights by unwanted imposition of a CCN on a landowner" and "address problems where residents of MUDs with substandard service are unable to receive improvements" due to the CCN holder's exclusive right to provide service in its area).

¹³ *See, e.g., id.* at 4-5 (stating that TWC § 13.254 was designed to prevent "abuses of CCN authority" where "a landowner looking to develop his or her land might find that although the land was in a CCN, that utility was unable or unwilling to extend service to his or her property." Section 13.254 was not meant to arbitrarily deprive CCN holders of property they are actively servicing.)

decertification process for a landowner who is not or cannot receive service, and the policy of protecting the CCN service area of a utility that is or can readily provide service to the property.

i. What Is “Service” Under TWC § 13.2541?

11. The Water Code authorizes the decertification or expedited release only for property “that is not receiving water or sewer service.”¹⁴ The Water Code broadly defines “service” 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.”¹⁵

12. Whether or not a tract is “receiving water or sewer service” under TWC § 13.2541 is a fact question. According to the plain text of that definition and how both the Commission and Texas courts have interpreted it, the question of whether or not a tract is receiving “service” is not dependent on whether water or sewer is being used or has been requested on the tract sought to be decertified. Instead, a tract is “receiving” water or sewer service if either of the following conditions are met:

- Any facilities or lines are committed or used in the performance of the CCN holder’s duties as a retail public utility providing service to the property; or
- Any lines are committed or used in the performance of the CCN holder’s duties as a retail public utility.¹⁶

13. The inquiry into whether a tract is “receiving service” requires the Commission to consider any lines or facilities committed to providing water to the tract of land. As defined by TWC § 13.002(9), “facilities” includes “all 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.” In

¹⁴ TWC § 13.2541(b).

¹⁵ TWC § 13.002(21); *see also* 16 TAC § 24.3(33) (same definition).

¹⁶ *See id.*; *see also Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 137 (Tex. App.—Austin 2014, pet. denied).

the *Crystal Clear* decision, the Austin Court of Appeals held that facilities or lines “used” or “committed” to providing such service might cause a property to “receive service” under the statutory and regulatory definition.¹⁷ But where water lines are actually present within a tract and “committed” to the property in that manner, the tract is unquestionably “receiving service,” so a streamlined expedited release petition may not be granted under TWC § 13.2541 when such facts are present.

ii. *What Is Petitioner’s Burden of Proof?*

14. Under the Commission’s procedural rules, the petitioner in a proceeding brought under TWC § 13.2541 has the burden to prove that the area requested to be decertified is not receiving service.¹⁸ It is improper for the Commission to decertify property from a CCN when a petitioner fails to set forth facts to establish that the property is not receiving service, and it is improper for the Commission to grant a petition for decertification where the property is or can readily receive service. It is also improper for the Commission to reverse the burden of proof and decertify property unless the CCN holder establishes that the property is receiving or can readily receive service. In this case, for example, Petitioner has provided no facts to support the sworn contention that the property is not receiving or cannot receive service, when in fact (1) there are *two* Marilee water meters, Meter No. 227 and Meter No. 344 (the “Meters”), currently providing water service to the Property; (2) both meters are in the name of Jody O’Donnell, the same person who has sworn that Petitioner, which he controls, has never requested service; and (3) Marilee has been providing water service to the Property for over 20 years.

15. The proper analysis of a Petitioner’s burden is reflected in *Johnson County Special Utility District v. Public Utility Comm’n of Texas*.¹⁹ The petitioner in that case provided a detailed affidavit by a land broker on the grounds of the property to be decertified, in which the broker stated that he searched the property, which was inhabited, for several hours and found no district water meters or facilities, only “two shuttered ground well heads” and a “small, elevated water storage tank . . . implying that any dwelling on the [p]roperty required that water pressure be

¹⁷ *Crystal Clear*, 449 S.W.3d at 140.

¹⁸ 16 TAC § 24.245(h) (requiring that a Petitioner provide a “statement of facts that demonstrate that the property is not currently receiving service.”).

¹⁹ No. 03-17-00160-CV, 2018 WL 2170259 (Tex. App—Austin May 11, 2018, pet. denied) (mem. op.).

generated locally and not from a retail water utility service provider.”²⁰ The Commission, based on these facts, properly decertified the property as having not water service from at least 2005.²¹

16. In this case, Petitioner has not set out a recitation of facts similar to that in the *Johnson County* case to prove that it is not receiving service—instead, Petitioner has provided a conclusory one-page affidavit.²² Petitioner has not met its burden of proof to decertify the Property under TWC § 13.2541.

17. Marilee is currently defending against the decertification of 17 tracts of land in its service area, representing a total acreage of approximately 4,519.839 acres.²³

²⁰ *Id.* at **6-7.

²¹ *Id.* at **9-10 (citing Commission’s Finding of Fact No. 24).

²² Had Petitioner provided a proper recitation of facts, Petitioner would have had to admit that the Requested Area is wholly within a tract that currently receives service from the Meters and that Marilee has wells and waterlines dedicated to serve the Property, as described in detail in Section B, *infra*.

²³ In addition to this case, Marilee is the CCN holder in 16 other streamlined decertification cases currently before the Commission. See *Petition of Sterling Deason O’Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O’Donnell DD 2012 Trust Under Agreement of the DD 2014-B Grantor Retained Annuity Trust to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 50404 (pending); *Petition of CCD-North Sky, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52101 (pending); *Petition of Celina Partners, Ltd. to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52434 (pending); *Petition of Legacy Equestrian Center LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52435 (pending); *Petition of Huffines Ranch, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52490 (pending); *Petition of HC Celina 414, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52497 (pending); *Petition of Belknap, FP, Ltd. to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52515 (pending); *Petition of CCD-COIT Land, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52516 (pending); *Petition of AJ Malone to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52517 (pending); *Petition of Clifton Van McKnight and Bryan Jeffery McKnight to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52518 (pending); *Petition of East Tioga 581 LP to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Grayson County by Expedited Release*, Docket No. 52529 (pending); *Petition of E Real Estate, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 5)*, Docket No. 52530 (pending); *Petition of E Real Estate, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 4)*, Docket No. 52531 (pending); *Petition of E Real Estate, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 3)*, Docket No. 52532 (pending); *Petition of E Real Estate, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 2)*, Docket No. 52533 (pending); *Petition of Central Frisco, Ltd. to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52534 (pending); *Petition of E Real Estate, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release (Mesouaokee Ranch)*, Docket No. 52536 (pending); *Petition by Mesouaokee Ranch, LLC for Expedited Release from Water CCN No. 10150 Held by Marilee Special Utility District in Collin County*, Docket No. 52542 (pending).

18. The petitions in many of the 17 dockets are supported by conclusory, barebones affidavits like that provided in this case, even where—as in this case—there is ample evidence that the requested area is and has been receiving water service from Marilee. Marilee respectfully submits that it is inequitable and procedurally improper for Marilee to have to affirmatively prove, via verified response, that each of the properties is receiving or is capable of readily receiving water service from Marilee. Rather, the petitioner should be held to its statutory burden of proof to set out a verified statement of facts proving that the requested area is not receiving service before the petition may be granted. Some petitioners in decertification cases under TWC § 13.2541 “artfully plead” that their property is not receiving service by carefully drawing their requested area to deliberately “cut out” waterlines and meters that are dedicated to the requested area. For example, a petitioner will disingenuously swear that that the “requested area” is not receiving service, when the meter that is dedicated to providing service is just outside of the requested area.²⁴ If petitioners are permitted by the Commission to decertify property that the CCN holder can service and is servicing, then the Commission is not taking into account the important public policy of preserving a CCN holder’s service area, and is subjecting CCN holders to abusive tactics of landowners that were not intended by the legislators.²⁵ Such “artful pleading” should not be permitted to succeed because such a property is still receiving or capable of receiving “service” as defined by the TWC and *Crystal Clear*.²⁶

19. For the reasons above, Marilee respectfully requests that the Petition be denied because it presents insufficient facts to prove that it is not receiving service from Marilee under TWC § 13.2541 and Texas law.

²⁴ Compare Docket No. 52101, Petition of CCD-North Sky, LLC, at 2 (May 10, 2021) (seeking to decertify 219.976 acres of property), to Docket 52101, First Amended Petition of CCD-North Sky, LLC, at 2 (seeking to decertify 219.67 acres of property, reduced to remove the area of property where Marilee’s meter is located) (July 6, 2021); compare Docket 50404, Petition of Sterling Deason O’Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O’Donnell DD 2012, at 2 (Jan. 2, 2020) (seeking to decertify 260.372 acres of property), to Docket 50404, First Amended Petition of Sterling Deason O’Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O’Donnell DD 2012, at 2 (Apr. 27, 2021) (seeking to decertify 259.504 acres of property, reduced to remove the area of property where Marilee’s meter is located).

²⁵ See *supra* nn.12-13 and accompanying text.

²⁶ See *supra* nn.14-16 and accompanying text.

B. Petitioner Cannot Meet Its Burden of Proof Because the Requested Area is Receiving Water Service

20. Marilee’s General Manager, Donna Loiselle, and engineer of record, DBI Engineers, are familiar with the Property, and the history of Marilee’s service to the Property. Ms. Loiselle has provided an affidavit, attached hereto as “**Exhibit A**” to provide details about the service being provided to the Property. Jacob Dupuis, engineer for DBI Engineers, has provided an affidavit, attached hereto as “**Exhibit B**” to map the Property and the meters, waterlines, and other Marilee facilities surrounding it and serving it.

21. The Property in this proceeding is home to an equestrian center featuring a horse stable, known to Marilee as “Legacy Stables” or “Legacy Equestrian.”²⁷ Petitioner began receiving water service from Marilee, then Gunter, in July 2001 through the two Meters.²⁸ Ms. Loiselle, who has been General Manager for Marilee since 1996, handled the transfer of the Meters from the former owner, Bobby Davis, to the current owner, Jody O’Donnell.²⁹

22. Contrary to Mr. O’Donnell’s affidavit,³⁰ he is a Marilee customer and was a member of Gunter before it became Marilee. Mr. O’Donnell initiated service to the Property by applying for the transfer of the two Gunter memberships from Mr. Davis, one for each of the Meters (the “Memberships”).³¹

23. Marilee’s billing statements reflect that both of the Meters have been supplying water service continually since Mr. O’Donnell transferred the Memberships to his name.³² The most recent meter reading date is September 20, 2021 for each of the Meters.

24. Marilee has work orders in its files reflecting maintenance work performed on both Meters.³³ Marilee does not have any records indicating a request for termination of water service or of the Memberships.

²⁷ See Exhibit A, Affidavit of Donna Loiselle, at ¶¶ 12-13; see also Exhibit B, Affidavit of Jacob Dupuis, at ¶ 6.

²⁸ Exhibit A, Affidavit of Donna Loiselle, at ¶¶ 6, 8-10; Exhibit B, Affidavit of Jacob Dupuis, at ¶ 6.

²⁹ Exhibit A, Affidavit of Donna Loiselle, at ¶¶ 2, 9-10.

³⁰ See Petition at 2 & Exhibit A, Affidavit of Jody O’Donnell, at ¶ 3 (stating that the “Property is not receiving water service,” that “Petitioner has not requested water service . . . or paid any fees or charges to initiate or maintain water service,” and no “billing records or other documents” exist for the Property).

³¹ See Exhibit A, Affidavit of Donna Loiselle, at ¶¶ 11-12 (stating that Mr. O’Donnell became a member of Marilee, then Gunter, in 2001 with Meter Nos. 227 and 344 providing continuous service to the property).

³² *Id.* at ¶¶ 12-13.

³³ *Id.* at ¶ 13.

25. Marilee has ample waterlines and facilities near the Property to provide it with water service. These waterlines and facilities include, but are not limited to, the following:

- Well No. 7, east of the Property;
- A 10" waterline, east of the Property;
- An 8" waterline on the south side of the Property;
- A 6" well line, east of the Property;
- A 2" waterline on the southeast corner of the Property; and
- A 1 ½" waterline on the east side of the Property.³⁴

26. In the *Crystal Clear* decision, the Austin Court of Appeals held that facilities or lines "used" or "committed" to providing such service might cause a property to "receive service" under the statutory and regulatory definition. Where water lines are actually present within a tract and "committed" to the property in that manner, the tract is unquestionably "receiving service" and the Commission has determined that a streamlined expedited release petition may not be granted under TWC § 13.2541, as interpreted by *Crystal Clear*, when such facts are present. Marilee, through the Meters, waterlines, and other facilities, is providing water service to the Property under TWC §§ 13.002(21) and 13.2541(b) as interpreted by *Crystal Clear*. Accordingly, under the facts presented and sworn by Marilee, streamlined expedited release is not available to Petitioner because the Property is receiving service, and the Petition must be denied.

C. Decertifying the Requested Area Will Impair Marilee's Ability to Service Its Federal Debt

27. Pursuant to the Consolidated Farm and Rural Development Act of 1961 and 7 U.S. Code § 1926, the USDA may make or insure loans to associations and public and quasi-public agencies. In order to protect a USDA debtor's ability to service its debt, it is prohibited by federal law to "curtail or limit" the service area of a USDA debtor. The statute provides:

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

³⁴ These waterlines and facilities are reflected in the maps of a portion of Marilee's water system encompassing the Property, attached to the affidavit of Jacob Dupuis, Exhibit B, as Exhibits B-1 and B-2.

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.³⁵

28. On July 12, 2021, Marilee received approval from the United States Department of Agriculture (“USDA”) for a Water and Wastewater Guaranteed loan of \$1,553,000.³⁶ Marilee has not closed on the USDA loan, but is working diligently to do so.

29. To be eligible for protection under § 1926(b), Marilee must show, in addition to federal indebtedness, that it satisfies the “physical abilities” test, as adopted by the U.S. Court of Appeals for the Fifth Circuit, sitting en banc in *Green Valley Special Utility District v. City of Schertz*.³⁷ Judge Smith, writing for the majority, characterized the “physical abilities” test this way:

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. A utility cannot satisfy that test if it has no nearby infrastructure. But ‘pipes in the ground’ is a colloquial shorthand, not a strict requirement.³⁸

30. The en banc court cited with approval precedent from the U.S. Court of Appeals for the Sixth Circuit that to satisfy the “physical abilities” test, the utility must have “something in place to merit § 1926(b)’s protection.”³⁹ The Court further explained, “Service may be ‘available’ even if it cannot be immediately used. No water or sewer utility can make service immediately available to rural, undeveloped land; providing such service involves building or installing facilities, which necessarily takes time to accomplish.”⁴⁰

³⁵ 7 U.S.C § 1926(b).

³⁶ Exhibit A, Affidavit of Donna Loiselle, at ¶¶ 15-16.

³⁷ 969 F.3d 460 (5th Cir. 2020) (en banc).

³⁸ *Id.* at 477.

³⁹ *Id.* at 477 & n.36 (quoting *Lexington—S. Elkhorn Water Dist. v. City of Wilmore*, 93 F.3d 230, 238 (6th Cir. 1996)).

⁴⁰ *Id.* at n.38.

31. Under *Green Valley*, a federally indebted CCN holder has an equitable cause of action for prospective injunctive relief, preventing ongoing or future limitation or curtailment of its service area by the Commissioners.

32. Marilee's ability to provide service to Petitioner satisfies the "physical abilities" test. Marilee can provide and has provided water service to the Property through its existing Meter #1344 and its waterline—Marilee placed the Meters for the specific purpose of serving the Property.⁴¹

33. With the scheduled closing of Marilee's USDA loan approaching, equity favors granting Marilee protection from the limiting or curtailment of its service area.

D. Alternatively, Marilee Must Be Compensated if the Petition is Granted.

34. The Petition should be dismissed for the reasons Marilee has given; however, if the Commission does decertify the Property and reduce Marilee's CCN No. 10150, Marilee is entitled to a determination of just and adequate compensation.

35. The TWC prohibits a retail public utility from "in any way render[ing] retail water or sewer service directly or indirectly to the public in an area that has been decertified ... unless just and adequate compensation ... has been paid to the decertified retail public utility," in this case, Marilee.⁴² Under the TWC and the Commission'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,"⁴³ and the value of personal property shall be determined according to the factors in that subsection. The factors ensuring that the compensation to a retail public utility is just and adequate shall include:

The amount of the retail public utility's debt allocable for service to the area in question; the value of the service facilities of the retail public utility located within 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; the

⁴¹ Exhibit B, Affidavit of Jacob Dupuis, at ¶ 7.

⁴² TWC § 13.254(d); see also TWC § 13.2541(a) (providing that "Sections 13.254(a-7), (c), (d), and (h) apply to a proceeding under this section.").

⁴³ TWC § 13.254(g); see also TWC § 13.2541(h) (providing that "Section 13.254(g) applies to a determination of the monetary amount of compensation under this section.").

amount of the retail public utility's contractual obligations allocable 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; the impact on future revenues lost from existing customers; necessary and reasonable legal expenses and professional fees; and other relevant factors.⁴⁴

36. If the Property is removed from Marilee's CCN No. 10150, Marilee is 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 Petition. Marilee would also be compelled to spend time and resources to make the filing required by TWC section 13.257(r)-(s).⁴⁵

37. The monetary amount required to provide just and reasonable compensation to Marilee shall be determined by an appraiser, either one agreed upon by Petitioner and Marilee, or one hired by each Petitioner and Marilee, and a third appointed by the Commission.⁴⁶

III. PRAYER


WHEREFORE, PREMISES CONSIDERED, Marilee respectfully requests the Commission to deny the Petition because it cannot lawfully be granted under Texas Water Code § 13.2541. Alternatively, if the Commission approves the Petition, Marilee seeks just and adequate compensation for the reduction of its CCN No. 10150. Marilee also seeks all other and further relief to which it may be justly entitled at law or in equity.

⁴⁴ See TWC § 13.254(g) ("The utility commission shall adopt rules governing the evaluation of these factors.").

⁴⁵ See TWC § 13.257(r)-(s) (requiring notices).

⁴⁶ TWC § 13.2541(i).

Respectfully submitted,

By: 

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ATTORNEYS FOR MARILEE SPECIAL
UTILITY DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this 4th day of October 2021.



John J. Carlton

EXHIBIT A

**AFFIDAVIT OF DONNA LOISELLE,
MARILEE'S GENERAL MANAGER**

DOCKET NO. 52435

PETITION BY LEGACY	§	PUBLIC UTILITY COMMISSION
EQUESTRIAN CENTER LLC FOR	§	
EXPEDITED RELEASE FROM	§	OF TEXAS
WATER CCN NO. 10150 HELD BY	§	
MARILEE SPECIAL UTILITY	§	
DISTRICT IN COLLIN COUNTY	§	

**SUPPORTING AFFIDAVIT OF DONNA LOISELLE,
GENERAL MANAGER OF MARILEE SPECIAL UTILITY DISTRICT**

STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

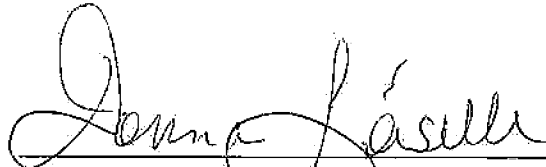
BEFORE ME, the undersigned authority, on this date personally appeared Donna Loiselle, who being by me first duly sworn, on her oath deposed and testified as follows:

1. “My name is Donna Loiselle. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.
2. “Since 1996, I have been the duly appointed General Manager of Marilee Special Utility District (“Marilee”) and I am the custodian of the records of Marilee. Marilee is the successor to Gunter Rural Water Supply Corporation (“Gunter”).
3. “I am authorized to make this affidavit on behalf of Marilee in Docket 52435 in support of its response to Legacy Equestrian Center LLC’s (“Petitioner”) request to remove 67.696 acres of Property (“Property”) from areas for which Marilee holds water certificate of convenience and necessity (“CCN”) No. 10150.
4. “I have read Marilee Special Utility District’s Verified Response to Petition for Expedited Release from Water CCN No. 10150 in Docket No. 52435 (the “Response”) and each and every factual statement contained therein is true and correct to the best of my knowledge.
5. “Attached as Exhibits B-1 and B-2 to the Response are true and correct copy of a portion of Marilee’s water system map prepared by Marilee’s engineer of record, DBI Engineers. The Property that is the subject matter of Docket No. 52435, being 67.696 acres of contiguous property acres, is accurately located on the map according to the metes and bounds of Exhibit “B” to the Petition filed in this docket on August 16, 2021.
6. “Marilee provides water service to the Property, specifically through Meter Nos. 227 and 344 (“the Meters”), which are marked on Exhibit B-2. The Meters were placed with the intent to serve the Property by Gunter, Marilee’s predecessor.
7. “The Meters receive water service from Marilee through an 8” waterline that serves the Property, which waterline is extended from off the 10” waterline at the intersection of County Road 128 and County Road 130. All of these waterlines are marked on Exhibit B-

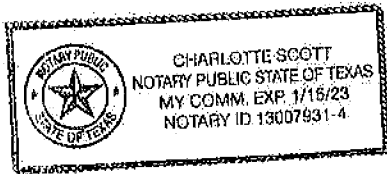
2. Also dedicated to serve the area where the Property is located are two wells, which are marked on Exhibit B-2.
8. “The Meters are both in the name of Jody O’Donnell. The Certificates of Membership for Jody O’Donnell for both Meters, both dated July 9, 2001, are attached to this affidavit as Exhibit A-5.
9. “Before the Meters were transferred into Jody O’Donnell’s name, they belonged to Gunter member Bobby Davis. The Meters were transferred from Mr. Davis to Mr. O’Donnell in July 2001. A true and correct copy of Jody M. O’Donnell’s Service Application and Agreement with Gunter, Marilee’s predecessor, is attached to this affidavit as Exhibit A-2. A true and correct copy of the Membership Transfer Information form that was filled out, signed, and notarized by Mr. Davis and Mr. O’Donnell, dated June 23, 2001, is attached to this affidavit as Exhibit A-3.
10. “A true and correct copy of the check for the transfer fee for both Meters, made out in the amount of \$225.00 to Gunter, Marilee’s predecessor, by Jody O’Donnell d/b/a Gateway Stables, is attached to this affidavit as Exhibit A-4.
11. “After he completed the requirements to have the Meters transferred to his name and to become a member of Gunter for each, Jody O’Donnell became the record owner of two memberships, one for each of the Meters. Gunter’s Certificates of Membership for Jody O’Donnell for both Meters, both dated July 9, 2001, are attached to this affidavit as Exhibit A-5.
12. “Gunter, and then Marilee, have supplied continuous water service through the Meters to Petitioner since July 2001. A true and correct copy of the details of the accounts for each Meter are attached to this affidavit as Exhibit A-1. Exhibit A-1 reflects that Meter No. 227 is currently in service, dedicated to Jody O’Donnell with Legacy Equestrian Center, and was last read on September 20, 2021. Exhibit A-1 also reflects that Meter No. 344 is currently in service, dedicated to Jody O’Donnell with Legacy Equestrian Center, and was last read on September 20, 2021.
13. “Attached as Exhibit A-6 to this affidavit are true and correct copies of Gunter and Marilee work orders pertaining to the Meters (“Work Orders”), spanning a time period of May 2001 to November 2010. The Work Orders reflect that Gunter and then Marilee performed maintenance as requested on both Meters before and after they were transferred from Mr. Davis to Mr. O’Donnell. The Work Orders also reflect that the Meters are dedicated to Petitioner, which is named in the Work Orders as “Legacy Stables” or “Legacy Equestrian.” Marilee has not received a request to terminate service to either Meter.
14. “On February 11, 2021, the Board of Directors of Marilee authorized me, as General Manager for the District, to prepare and submit application documents as needed to Live Oak Banking Company (“Live Oak”) in an effort to secure funding for construction of a 300,000-gallon water tank. Attached as Exhibit A-7 is a true and correct copy of the Board’s resolution.

15. "Live Oak sent a commitment letter to Marilee's Board on April 13, 2021, committing to provide Marilee with a \$1,553,000 loan through the USDA Water and Environmental Guaranteed Loan Program (the "Loan"). A true and correct copy of that letter is attached to this affidavit as Exhibit A-8.
16. "The United States Department of Agriculture ("USDA") sent correspondence to me, dated July 19, 2021, stating that USDA Rural Development approved the Loan on July 12, 2021. A true and correct copy of that letter is attached to this affidavit as Exhibit A-9.
17. "Exhibits A-1 through A-9 attached to this affidavit were made at or near the time of each act, event or condition set forth. Exhibits A-1 through A-9 were made by or from information transmitted by persons with knowledge of the matters set forth.
18. "Exhibits A-1 through A-9 are records that have been kept in the course of regularly conducted business activity of Marilee. It is the regular practice of Marilee to make the records reflected in Exhibits A-1 through A-9.

FURTHER, AFFIANT SAYETH NOT.


Donna Loiselle
General Manager of Marilee Special Utility
District

SWORN TO AND SUBSCRIBED before me by Donna Loiselle on this 1 day of October 2021.




Notary Public in and for the State of Texas

EXHIBIT A-1

Marilee SUD

Customer Detail

Mowles, Charles

Account Number

227

Mowles, Charles
9298 Myrtle DrLegacy Equestrian Center
c/o Jody O'Donnell
1437 Halsey WayCelina TX
75009 (817)891-0989
Service Address: 8380 CR# 130Carrollton TX
75007 (972)382-3383

Months On System 333

Total Usage 13,873,500

Average Usage 41,662

Sequence Number 11730

Meter Serial Number 200589871

Route Number 2

Last Read Date 9/20/2021

12 Month Average 700

Last Year Average 2,800

Previous Year Average 13,400

Last 'Paid On Time' Date 9/13/2021

Last Late Charge Date 7/16/2020

Number Of Late Months 19

Next Due Date 10/15/2021

Year To Date Charges \$238.93

Date Turned On
Date Turned Off
Meter Check Date 8/12/2020

Rate Code 1

Pump/Well Number 5

Last Reading 7

Previous Reading 7

Usage 0

of Units 1

Meter 120619880J

Old Account # 227

Servicezipcode 75,009.00

Readresolution

0.01 brand&size

Badger .625

Deposit Information

Deposit Amount \$100.00

Deposit Date

Certificate Number 0

Deposit Amount 2 \$0.00

Deposit 2 Date

Services

Current Balance

0

Usage

Charges

Read Date

Reading

Water

\$29.40

January 0 29.55 1/18/2021 0

February 700 32.08 2/23/2021 7

March 0 29.55 3/18/2021 7

April 0 29.55 4/19/2021 7

May 0 29.55 5/19/2021 7

June 0 29.55 6/21/2021 7

July 0 29.55 7/19/2021 7

August 0 29.55 8/18/2021 7

September 0 28.54 9/21/2020 0

October 0 28.54 10/19/2020 0

November 0 28.54 11/17/2020 0

December 0 28.54 12/17/2020 0

Tax \$0.15

Previous Charges \$29.55

Paid This Month \$29.55

Current Balance 29.55

Last Payment 9/13/2021 \$29.55 Check Number 273,751,480

Age 1 \$0.00 Age 2 \$0.00 Age 3 \$0.00

Legacy Equestrian # (214) 876-5310 gate code 2764

Mr. Mowles deposit on account 721 ne2momo@yahoo.com

Marilee SUD

Customer Detail

Mowles, Charles

Account Number

344

Mowles, Charles
9298 Myrtle DrLegacy Equestrian Center
c/o Jody O'Donnell

1437 Halsey Way

Carrollton

TX

75007

(972)446-0020

Celina

TX

75009

(817)891-0989

(972)382-2655

Service Address:

8380 CR# 130

Months On System

333

Total Usage

8,933,200

Average Usage

26,826

Sequence Number

11740

Meter Serial Number

33413522

Route Number

2

Last Read Date

9/20/2021

12 Month Average

69,375

Last Year Average

58,000

Previous Year Average

24,700

Last 'Paid On Time' Date

9/13/2021

Last Late Charge Date

7/16/2020

Number Of Late Months

20

Next Due Date

10/15/2021

Year To Date Charges

\$5,732.41

Date Turned On

Date Turned Off

Meter Check Date

11/24/2015

Rate Code

1

Pump/Well Number

5

Last Reading

27141

Previous Reading

26224

Usage

91,700

of Units

1

Meter

86318300 Z

Old Account #

344

Servicezipcode

75,009.00

Readresolution

1.00 brand&size

Badger .625

Deposit Information

Deposit Amount \$100.00

Deposit Date

Certificate Number

0

Deposit Amount 2 \$0.00

Deposit 2 Date

Services

Current Balance

0

Usage

Charges

Read Date

Reading

Water

\$1,068.05

GW Con fee

\$9.17

January

82,700

950.51

1/18/2021

21761

February

120,900

1,511.00

2/22/2021

22970

March

39,000

356.86

3/18/2021

23360

April

51,500

492.73

4/19/2021

23875

May

45,900

428.28

5/19/2021

24334

June

51,400

491.26

6/21/2021

24848

July

48,000

450.02

7/19/2021

25328

August

89,600

1,051.75

8/18/2021

26224

September

69,400

730.94

9/18/2020

18593

October

65,900

681.35

10/19/2020

19252

November

97,300

1,126.29

11/17/2020

20225

December

70,900

752.20

12/17/2020

20934

Tax

\$5.34

Previous Charges

\$1,051.75

Paid This Month

\$1,051.75

Current Balance**1,082.56**

Last Payment 9/13/2021 \$1,051.75 Check Number 273,751,480

Age 1 \$0.00 Age 2 \$0.00 Age 3 \$0.00

deposit for Mr. Mowles on 721 ne2momo@yahoo.com

EXHIBIT A-2

RUS-TX Bulletin 1780-9 (revised 4/99)

GUNTER RURAL
WATER SUPPLY CORPORATION
SERVICE APPLICATION AND AGREEMENT

CORPORATION USE ONLY

Date Approved _____
 Service Classification _____
 Cost _____
 Work Order Number _____
 Eng. Update _____
 Account Number _____
 Service Inspection Date _____

Please Print: DATE 6/23/01APPLICANT'S NAME Jody M. O'Donnell

CO-APPLICANT'S NAME _____

CURRENT BILLING ADDRESS:

FUTURE BILLING ADDRESS:

1437 Halsey Way
Carrollton, TX 75007-4410
PHONE NUMBER - Home (972) 838-2570 Work (972) 446-0020

PROOF OF OWNERSHIP PROVIDED BY _____

DRIVER'S LICENSE NUMBER OF APPLICANT 04915238 Texas

LEGAL DESCRIPTION OF PROPERTY (Include name of road, subdivision with lot and block number)

8380 County Road 130

PREVIOUS OWNER'S NAME AND ADDRESS (If transferring Membership)

Bobby Davis, 8380 County Road 130
Celina, Texas 75009
ACREAGE 192

HOUSEHOLD SIZE _____

NUMBER IN FAMILY _____

LIVESTOCK & NUMBER _____

SPECIAL SERVICE NEEDS OF APPLICANT: _____

NOTE: FORM MUST BE COMPLETED BY APPLICANT ONLY. A MAP OF SERVICE LOCATION REQUEST MUST BE ATTACHED.

The following information is requested by the Federal Government in order to monitor compliance with Federal laws prohibiting discrimination against applicants seeking to participate in this program. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, we are required to note the race/national origin of individual applicants on the basis of visual observation or surname.

☐ White, Not of Hispanic Origin ☐ Black, Not of Hispanic Origin ☐ American Indian or Alaskan Native ☐ Hispanic ☐ Asian or Pacific Islander ☐ Other (Specify) ☐ Male ☐ Female

RUS-TX Bulletin 1780-9 (4/99)

Service Application and Agreement
page 2 of 4

AGREEMENT made this ____ day of _____, 19____, between

_____ Water Supply Corporation, a corporation organized under the laws of the State of Texas (hereinafter called the Corporation) and _____
(hereinafter called the Applicant and/or Member),

Witnesseth:

The Corporation shall sell and deliver water and/or wastewater service to the Applicant and the Applicant shall purchase, receive, and/or reserve service from the Corporation in accordance with the bylaws and tariff of the Corporation as amended from time to time by the Board of Directors of the Corporation. Upon compliance with said policies, including payment of a Membership Fee, the Applicant qualifies for Membership as a new applicant or continued Membership as a transferee and thereby may hereinafter be called a Member.

The Member shall pay the Corporation for service hereunder as determined by the Corporation's tariff and upon the terms and conditions set forth therein, a copy of which has been provided as an information packet, for which Member acknowledges receipt hereof by execution of this agreement. A copy of this agreement shall be executed before service may be provided to the Applicant.

The Board of Directors shall have the authority to discontinue service and cancel the Membership of any Member not complying with any policy or not paying any utility fees or charges as required by the Corporation's published rates, fees, and conditions of service. At any time service is discontinued, terminated or suspended, the Corporation shall not re-establish service unless it has a current, signed copy of this agreement.

If this agreement is completed for the purpose of assigning utility service as a part of a rural domestic water and/or wastewater system loan project contemplated with the Rural Development, an Applicant shall pay an Indication of Interest Fee in lieu of a Membership Fee for the purposes of determining

- a. The number of taps to be considered in the design and
- b. The number of potential ratepayers considered in determining the financial feasibility of constructing
 - 1) a new water system or
 - 2) expanding the facilities of an existing water system.

The Applicant hereby agrees to obtain, utilize, and/or reserve service as soon as it is available. Applicant, upon qualification for service under the terms of the Corporation's policies, shall further qualify as a Member and the Indication of Interest Fee shall then be converted by the Corporation to a Membership Fee. Applicant further agrees to pay, upon becoming a Member, the monthly charges for such service as prescribed in the Corporation's tariff. Any breach of this agreement shall give cause for the Corporation to liquidate, as damages, the fees previously paid as an indication of interest. In addition to any Indication of Interest Fees forfeited, the Corporation may assess a lump sum of \$300.00 as liquidated damages to defray any losses incurred by the Corporation. If delivery of service to said location is deemed infeasible by the Corporation as a part of this project, the Applicant shall be denied Membership in the Corporation and the Indication of Interest Fee, less expenses, shall be refunded. The Applicant may re-apply for service at a later date under the terms and conditions of the Corporation's policies. For the

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Service Application and Agreement
page 3 of 4

purposes of this agreement, an Indication of Interest Fee shall be of an amount equal to the Corporation's Membership Fees.

All water shall be metered by meters to be furnished and installed by the Corporation. The meter and/or wastewater connection is for the sole use of the Member or customer and is to provide service to only one (1) dwelling or one (1) business. Extension of pipe(s) to transfer utility service from one property to another, to share, resell, or submeter water to any other persons, dwellings, businesses, or property, etc., is prohibited.

The Corporation shall have the right to locate a water service meter and the pipe necessary to connect the meter on the Member's property at a point to be chosen by the Corporation, and shall have access to its property and equipment located upon Member's premises at all reasonable and necessary times for any purpose connected with or in the furtherance of its business operations, and upon discontinuance of service the Corporation shall have the right to remove any of its equipment from the Member's property. The Member shall install at their own expense any necessary service lines from the Corporation's facilities and equipment to the point of use, including any customer service isolation valves, backflow prevention devices, clean-outs, and other equipment as may be specified by the Corporation. The Corporation shall also have access to the Member's property for the purpose of inspecting for possible cross-connections, potential contamination hazards, and illegal lead materials.

The Corporation is responsible for protecting the drinking water supply from contamination or pollution which could result from improper plumbing practices. This service agreement serves as notice to each customer of the plumbing restrictions which are in place to provide this protection. The Corporation shall enforce these restrictions to ensure the public health and welfare. The following undesirable plumbing practices are prohibited by state regulations:

- a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an airgap or an appropriate backflow prevention assembly in accordance with state regulations.
- b. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the proper installation of an airgap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for annual inspection and testing by a certified backflow prevention device tester.
- c. No connection which allows condensing, cooling or industrial process water to be returned to the public drinking water supply is permitted.
- d. No pipe or pipe fitting which contains more than 8.0 % lead may be used for the installation or repair of plumbing on or after July 1, 1988, at any connection which provides water for human consumption.
- e. No solder or flux which contains more than 0.2 % lead may be used for the installation or repair of plumbing on or after July 1, 1988, at any connection which provides water for human consumption.

The Corporation shall maintain a copy of this agreement as long as the Member and/or premises is connected to the public water system. The Member shall allow his property to be inspected for possible cross-connections, potential contamination hazards, and illegal lead materials. These inspections shall be conducted by the Corporation or its designated agent prior to initiating service and periodically thereafter. The inspections shall be conducted during the Corporation's normal business hours.

The Corporation shall notify the Member in writing of any cross-connections or other undesirable practices which have been identified during the initial or subsequent inspection. The Member shall immediately correct any undesirable practice on their premises. The Member shall, at his expense, properly install, test, and maintain any backflow prevention device required by the Corporation. Copies of all testing and maintenance records shall be provided to the Corporation as required. Failure to comply with the terms of this service agreement shall cause the Corporation to either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Member.

In the event the total water supply is insufficient to meet all of the Members, or in the event there is a shortage of water, the Corporation may initiate the Emergency Rationing Program as specified in the Corporation's Tariff. By execution of this agreement, the Applicant hereby shall comply with the terms of said program.

By execution hereof, the Applicant shall hold the Corporation harmless from any and all claims for damages caused by service interruptions due to waterline breaks by utility or like contractors, tampering by other Member/users of the Corporation, normal failures of the system, or other events beyond the Corporation's control.


The Member shall grant to the Corporation, now or in the future, any easements of right-of-way for the purpose of installing, maintaining, and operating such pipelines, meters, valves, and any other equipment which may be deemed necessary by the Corporation to extend or improve service for existing or future Members, on such forms as are required by the Corporation.

By execution hereof, the Applicant shall guarantee payment of all other rates, fees, and charges due on any account for which said Applicant owns a Membership Certificate. Said guarantee shall pledge any and all Membership Fees against any balance due the Corporation. Liquidation of said Membership Fees shall give rise to discontinuance of service under the terms and conditions of the Corporation's tariff.

By execution hereof, the Applicant agrees that non-compliance with the terms of this agreement by said Applicant shall constitute denial or discontinuance of service until such time as the violation is corrected to the satisfaction of the Corporation.

Any misrepresentation of the facts by the Applicant on any of the four pages of this agreement shall result in discontinuance of service pursuant to the terms and conditions of the Corporation's tariff.

Witnesseth



Applicant Member

Approved and Accepted

Date Approved

EXHIBIT A-3

**BEFORE TRANSFER WILL BE ACCEPTED BY
GUNTER RURAL WSC, THE FOLLOWING MUST
BE RETURNED WITH THE TRANSFER FORM:**

- (1) Both parties must fill out information requested and sign transfer form before a notary public.**
- (2) Stock certificate must be returned. If unable to locate certificate, a letter from Transferor stating such must accompany transfer form.**
- (3) Transferee must sign Service Agreement and right-of-way form.**
- (4) A check or money order for \$25.00 must accompany transfer form. If Transferor requests the membership refund (\$100.00), the Transferee must place same on deposit with the Corporation.**

**If you have any questions, please call our office
at 972-382-3222.**

**RETURN TO: Gunter Rural WSC
P O Box 1017
Celina, Tx 75009-1017**

Post-It® Fax Note	7671	Date	6-6-01	# of pages	7
To	Jodie O'Donnell	From	Gunter Water		
Co./Dept.		Co.			
Phone #		Phone	972-382-3222		
Fax #	972-446-6028	Fax #	972-382-4264		

MEMBERSHIP TRANSFER AUTHORIZATION


Transferor hereby surrenders Membership in the Gunter Rural Water Supply Corporation ("GRWSC") by execution of the attached Stock Certificate. Water service rights granted by Membership and other qualification hereby cease contingent upon further qualification of the Transferee in accordance with the policies of the GRWSC.

By execution hereof, the undersigned hereby acknowledges that the Membership Transfer complies with the terms of one of the following items (1) through (4), thereby qualifying for transfer of Membership in accordance with the laws of the State of Texas.

- (1) The Membership is transferred by will to a person related to the Transferor within the second degree by consanguinity; or
- (2) The Membership is transferred without compensation to a person related to the Transferor within the second degree by consanguinity; or
- (3) The Membership is transferred without compensation or by sale to the Corporation; or
- (4) The Membership is transferred as a part of the conveyance of real estate from which the Membership arose.

Transferee understands that qualification for Membership is not binding on the Corporation and does not qualify Member for continued water service unless the following terms and conditions are met:

- (1) This Membership Transfer Authorization Form is completed by the Transferor and Transferee;
- (2) The Transferee has completed the required Application Packet;
- (3) All indebtedness due the Corporation has been paid;
- (4) The Membership Certificate has been surrendered, properly endorsed, by the record Transferor;
- (5) The Transferee demonstrates satisfactory evidence of ownership of the property designated to receive service and from which the Membership originally arose; and
- (6) Any other terms and conditions of the Corporation's Tariff are properly met.


Signature of Transferor
Signature of Transferee

Sheet 2 of 2

MEMBERSHIP TRANSFER AUTHORIZATION (CONTINUED)

Transferor's Name _____

Transferee's Name _____

Forwarding Address _____

Current Address _____

City, State, Zip Code _____

City, State, Zip Code _____

Phone _____

Phone _____

Account Number _____

Final Reading _____

Reading Date _____

Location of Meter _____

Note: A fee of \$ _____.00 is charged to the Transferor on all transfers.

Transferor may be due a refund of the Membership Fee, and Transferee understands that he/she must place on deposit a refundable Membership Fee with the Corporation.

ACKNOWLEDGEMENT

The State of Texas

County of Dallas

IN WITNESS WHEREOF the said Transferor and Transferee have executed this instrument this ____ day of June 23, 2001.

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Bobby Davis & Jody O'Donnell known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledge to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 23 day of June, 2001.

(SEAL)



Toni J. Reitsinger
Notary Public in and for the State of Texas

EXHIBIT A-4

JODY M O'DONNELL 06-01
DBA GATEWAY STABLES
27 TRAILRIDGE DR
MELISSA, TX 75454

1013

7/5/01 DATE

88-123/1119
BRANCH 15

PAY TO THE
ORDER OF

Gunter Rural WSC

\$ 225⁰⁰

Two hundred twenty-five dollars & 00/100

DOLLARS



Security
Features
Detailed on
Back



LEGACY BANK
OF TEXAS

Legacy Bank
P.O. Box 889111
Plano, TX 75088
972-461-1300

F08

[Signature]

M

⑆111901234⑆ ⑈08 7387 7⑈ 1013

© HARLAND 2000

EXHIBIT A-5

INCORPORATED



No. 11-9-10

ONE
MEMBERSHIP

227

GUNTER
WATER SUPPLY CORPORATION

(Limitations as to transferability set forth on reverse side)

This Certifies that

Jody C. Donnelly

is the owner of

One Membership of

GUNTER

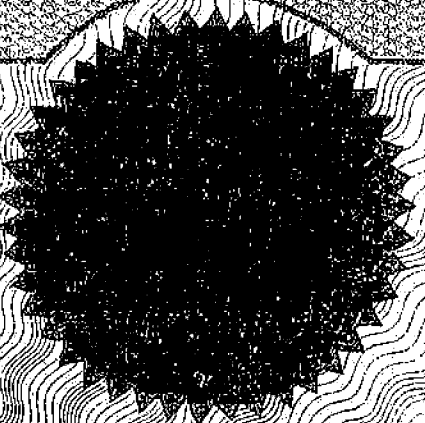
at an initial

WATER SUPPLY CORPORATION

Membership fee of one hundred

Dollars

a corporation organized under the laws of the State of Texas, transferable only on the books of the Corporation by the holder hereof in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed. IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation this 22nd day of JULY A.D. 2001



President

INCORPORATED

No. 344

ONE
MEMBERSHIP
344

GUNTER
WATER SUPPLY CORPORATION

(Limitations as to transferability set forth on reverse side)

This Certifies that
One Membership of

Joshy O. Donnelly

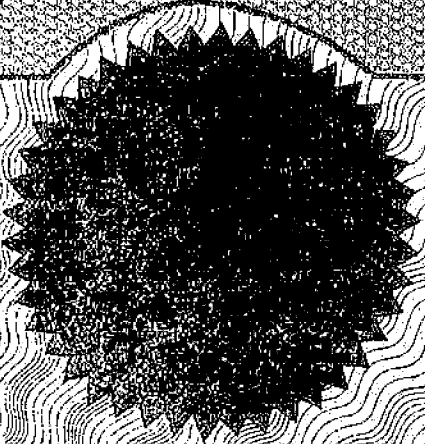
GUNTER

is the owner of
at an initial

WATER SUPPLY CORPORATION

Membership Fee of one hundred Dollars

a corporation organized under the laws of the State of Texas, transferable only
on the books of the Corporation by the holder hereof in person or by duly
authorized Attorney, upon surrender of this Certificate properly endorsed. IN
WITNESS WHEREOF, the said Corporation has caused this Certificate to be
signed by its duly authorized officers and to be sealed with the Seal of the
Corporation this 2 day of July A.D. 2001.



President

EXHIBIT A-6

Gunter Rural Water Supply Corp.

P.O. Box 1017 • Celina Texas 75009

(972) 382-3222

No. 00593

WORK ORDER

Account #

221-344

Date

5.8.01

Name

Bobby Davis

Previous

Reading

2617

8380 CR#130

Celina, TX 75009

Current

Reading

2776

Person Issuing Order:

Cause of Complaint:

Need to take final read
on 6-4-01. May need to turn off
if we don't hear from new owner.
7-1-01

Action Taken:

Called in (David)

2776

6-11-01

15,900 gal - 69⁰⁰

deducted from Membership

Date Completed:

6-11-01

Signed:

[Signature]

Gunter Rural Water Supply Corp.

P.O. Box 1017 • Celina Texas 75009

(972) 382-3222

No. 1656

WORK ORDER

227
Acct. # 344

Date 12-30-02

Meter Reading

Previous: _____

Current: _____

Name: Legacy Stables

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order _____

Instructions:

Possible leak, low water pressure
I told him to check his meter - and
we would check our lines sat we
haven't had any other calls!

Action taken and time spent: LOOK FOR LEAK & HAVEN'T
FOUND ANYTHING

Parts and equipment used: _____

Date Completed: 1-3-02 Signed: [Signature]

Gunter Rural Water Supply Corp.

P.O. Box 1017 • Celina Texas 75009

(972) 382-3222

No. 2201

WORK ORDER

Acct. # _____

Date 11-10-03

Meter Reading

Previous: _____

Current: _____

Name: _____

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order _____

Instructions: _____

Leak at meter (far west meter inside horse paddock).

Action taken and time spent: _____

REPLACE METER W/SHEN

Parts and equipment used: _____

Date Completed: _____

Signed: _____

T. J. H. 11/10/03

Gunter Rural Water Supply Corp.

P.O. Box 1017 • Celina Texas 75009

(972) 382-3222

No. 2187

WORK ORDER

Acct. # 227

Date 12-26-03

Meter Reading

Previous: 0517

Current: 0

Name Legacy Equestrian
9390 CR#150
Celina TX

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order _____

Instructions:

Do a meter change-out
meter not working.

Action taken and time spent: Set New Badger

New S/N 19655965

OLD S/N 35592782

Parts and equipment used: _____

Date Completed: 12-26-03

Signed: David

Gunter Special Utility District

P.O. Box 1017 • Celina Texas 75009

(972) 382-3222

YJA

No. 4517

WORK ORDER

Acct. # 227 ON 344

Date 10-9-06

Meter Reading

Previous: _____

Current: _____

214-876-5310

Name: Randolph D. Delgado

Cust. Concern: _____

8380 CC #130

Line Locate: _____

Other: _____

Person Issuing Order J. Hall

Instructions: Water gages at meter

JASON SMITH & DAVID STOKES

See Travis

Action taken and time spent: _____

(LEAK)

Curb STOP BROKEN

METAL STOP BROKEN

Parts and equipment used: _____

Date Completed: 10/9/06

Signed: 10/11/08

Marilee Special Utility District

P.O. Box 1017 • Celina Texas 75009

(972) 382-3222

AB

No. 6443

WORK ORDER

Acct. #

344

Date

3-25-09

Meter Reading

Previous: _____

Current: _____

Name

Legacy Equestrian
8380 CR #130
Celina

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order _____

Instructions:

This meter has showed zero
usage for several months, please
see if meter is still registering &
working

meter # 71079141

Action taken and time spent:

Meter is turned off
I think it's there Traction
meter

Parts and equipment used: _____

Date Completed:

3-28-09

Signed: _____

[Signature]

Marilee Special Utility District

P.O. Box 1017 • Celina Texas 75009

(972) 382-3222

No. 6923

WORK ORDER

Acct. # 344

Date 12/3/09

Meter Reading

Previous: _____

Current: _____

Name: Legacy Equestrian
OR 133

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order _____

Instructions: Across from Billy Herrin's
there's a ROW trough & they can't
get water turned off

Action taken and time spent: Turned Meter
Off Water Around meter
Back is Run Off

Parts and equipment used: _____

Date Completed: 12-3-09

Signed: [Signature]

Marilee Special Utility District

P.O. Box 1017 • Celina Texas 75009
(972) 382-3222

CE

No. 7706

Acct. # 227/344

WORK ORDER

Date 11/22/10

Meter Reading

Previous: _____

Current: _____

Name: Legacy Equestrian

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order CE

Instructions: Leak at barn & can't get
meter turned off. Please turn it
off.

Jacked to David

Action taken and time spent: _____

Turned meter off

Parts and equipment used: _____

Date Completed: 11-22-10

Signed: [Signature]

Marilee Special Utility District

P.O. Box 1017 • Celina, Texas 75009
(972) 382-3222

No 12410

WORK ORDER

Acct. # 344

Date 11-23-15

Meter Reading

Previous: _____

Current: 37964

Phone#: _____

Name: Legacy Equestrian
8380 QR #130
Celina

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order _____

Instructions: Jump code trans # 710 79141

Did not read.

Meter 33413522

Action taken and time spent: _____



86318300

changed trans

Parts and equipment used: _____

Completed
11-24-15

Date Completed: 11/23/15

Signed: Bobby Chalker

Marilee Special Utility District

P.O. Box 1017 • Celina, Texas 75009
(972) 382-3222

Q

No 12490

WORK ORDER

Acct. # 227/344

Date 12-9-15

Meter Reading

Previous: _____

Current: _____

Phone#: _____

Name: Legacy Equestrian
8380 CR 130

Cust. Concern: _____

Line Locate: _____

Other: _____

Person Issuing Order CE

Instructions: Has 2 meters - the one farthest west needs
new lid - lid won't close.

Action taken and time spent: replaced meter box & lid

Parts and equipment used: _____

Date Completed: 12/14/15

Signed: Jyl Chalker

EXHIBIT A-7

RESOLUTION NO. 2021-001

A RESOLUTION OF THE BOARD OF DIRECTORS OF MARILEE SPECIAL UTILITY DISTRICT, COLLIN AND GRAYSON COUNTIES, TEXAS (THE DISTRICT), DESIGNATING THE GENERAL MANAGER AS AUTHORIZED REPRESENTATIVE OF THE DISTRICT REGARDING ANY APPLICATION TO LIVE OAK BANKING COMPANY FOR FUNDING OF THE DISTRICT'S 300,000 GALLON TANK AT PUMP STATION 3E; AND PROVIDING FOR AN EFFECTIVE DATE.

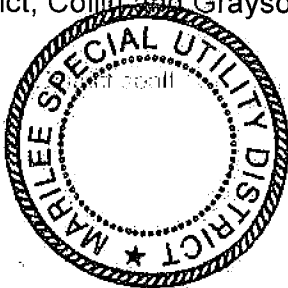
WHEREAS, the Board of Directors of Marilee Special Utility District (the "District") approved initiating an application to Live Oak Banking Company, a North Carolina financial institution ("Live Oak"), for funding of a 300,000 gallon tank at the District's Pump Station 3E (the "Project"), among other actions related thereto, at its monthly meeting on February 1, 2021, open to the public; and

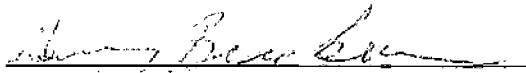
WHEREAS, the Board of Directors finds it is in the best interest of the District and its customers, including for efficiency of the application process, to designate the District's General Manager Donna Loiselle as the authorized representative on behalf of the District to conduct the preparation and submission of any and all documents and information related to any application to Live Oak for funding of the Project.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF MARILEE SPECIAL UTILITY DISTRICT THAT:

The District's General Manager, Donna Loiselle is hereby approved and designated as the authorized representative on behalf of the District, and she shall conduct the preparation and submission of any and all documents and information related to any application to Live Oak Banking Company for funding of a 300,000 gallon tank at the District's Pump Station 3E. This Resolution is effective immediately upon its passage.

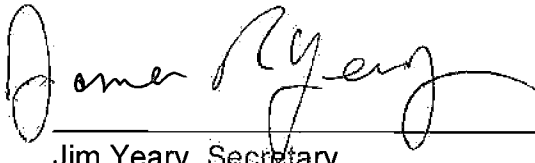
APPROVED and PASSED by the Board of Directors of Marilee Special Utility District, Collin and Grayson Counties, Texas, on this the 11th day of February, 2021.




Denny Brackeen, President

ATTEST:

APPROVED AS TO FORM:



Jim Yeary, Secretary
or Donna Loiselle, Assistant Secretary

Maria Huynh, Attorney

EXHIBIT A-8



LOAN COMMITMENT LETTER

April 13, 2021

Board of Directors
Marilee Special Utility District
230 W. Pecan Street
Celina, TX 75009

Dear Board of Directors:

Live Oak Banking Company dba Live Oak Bank ("Live Oak") is pleased to commit to provide Marilee Special Utility District (Borrower), a credit facility (Loan) in the principal amount of \$1,553,000 through the USDA Water and Environmental Guaranteed Loan Program. The following credit facility described is subject to all the terms and conditions contained herein, provided there has been no material adverse change in Borrower's financial condition as determined by the Bank.

Borrower: Marilee Special Utility District

Borrowing Amount: \$1,553,000; funded under USDA Water and Environmental Program Guaranteed term loan

Purpose: To provide funds to finance a new 300,000-gallon elevated storage tank; related soft costs and closing costs.

Construction Phase

Interest Rate: The loan will have an interest rate that is adjusted quarterly during the construction phase based on Wall Street Journal Prime plus 2.00% at the time of closing. If the loan were to close today, the fully indexed rate would be 5.25%. The interest rate will continue to adjust quarterly at the then current index plus applicable spread until the loan is converted to the permanent phase.

Floor Rate: 5.00%

Repayment: Interest only during the construction phase up to a maximum of 12 months.

Prepayment Penalty: A 10% penalty will be applied on any amount prepaid prior to conversion to the permanent phase.

**DEDICATED
TO THE
DOERS™**

1741 Tiburon Dr
Wilmington, NC 28403
liveoakbank.com

©2020 Live Oak Banking Company. All rights reserved. Member FDIC. Equal Housing Lender. 



Construction Origination Fee: 1% of the total loan amount

Permanent Phase

Interest Rate: The loan will have an interest rate that fixed for fifteen years based on the Fifteen-Year LIBOR (or similar index if that index becomes unavailable) plus 3.75%, adjusting at the end of the initial fixed rate period based on the then current index (or index equivalent) plus the original spread. If the loan were to close today, the fully indexed rate would be 5.71%.

Repayment: 348 regular monthly payments (29 years) of principal and interest payments. If the loan were to fund today, the monthly payments of principal and interest would be \$9,225.

Prepayment Penalty: There will be a sliding prepayment allowed over the life of the proposed loan request (10% in year one, 9% in year two, 8% in year three, 7% in year four, 6% in year five, 5% in year six, 4% in year seven, 3% in year eight, 2% in year nine, 1% in year 10). The ten-year prepayment timeline begins once the loan is fully disbursed.

Maturity Date: 360 months from the date the loan closes.

USDA Fee: 1.00% of the guaranteed portion of the loan

Origination Fee: 1% of the total loan amount

USDA Annual Renewal Fee: N/A – The USDA does not charge an annual renewal fee on WEP Guaranteed Loans per Fiscal Year 2021 Annual Notice.

Source and Use of Proceeds:

Use of Proceeds:	Total
Construction – Elevated Tank	\$ 1,057,500
Contingency	\$ 106,317
Engineering, Testing, Inspection	\$ 171,525
Interest Reserve	\$ 92,644
USDA Guaranty Fee	\$ 12,424
LOB Origination Fee	\$ 31,060
Closing Costs & Other Misc.	\$ 81,530
Total	\$ 1,553,000

Borrower acknowledges that they must notify Live Oak Bank before proceeding with any changes as it relates to the use of funds as referenced above. All loan funds are to be used to cover cost



associated with the expansion of the facility and cannot be used for any capital expenditures that have not been approved. (Initial)

CA

Collateral: The loan will be evidenced by a water and sewer revenue bond issued by the District. The bond will be payable from and secured by a pledge of net revenues of the District's water and sewer system, on parity with the Districts outstanding Water and Sewer Revenue Bonds; UCC-1 financing statement on all business assets in best available position.

Insurance: Business Personal Property Insurance
Borrower to provide Business Personal Property Insurance (Business Contents) in the amount of the replacement cost of the business assets collateral listed above with a Mortgagee Clause, or a Lender's Loss Payable Endorsement in favor of Live Oak Banking Company, ISAOA (satisfactory to the bank) prior to final disbursement of the loan. A Loss Payable Endorsement equivalent to a Lender's Loss Payable may be permissible if a copy of the endorsement on the policy is received and approved by the Bank.

Worker's Compensation Insurance
Worker's Compensation Insurance in an amount meeting the state law requirement and with an insurance company satisfactory to Live Oak Bank.

General Liability Insurance
General Liability Insurance policy in an amount meeting typical requirements for a manufacturing facility of similar size and an amount that is deemed acceptable by the USDA.

Disbursements: The loan will be disbursed over 12 months following closing. All disbursements from the control account will be made in accordance with the USDA authorization and as defined in the Loan Agreement.

Financial Reporting:

Quarterly:

- Internally prepared financial statements in accordance with GAAP within 45 days of quarter end for the borrowing entity and consolidated.

Annually:

- Audited financial statements prepared in accordance with GAAP within 120 days after fiscal year end for the borrowing entity and consolidated.
- Officer Compliance Certificate
- Annual approved operating budget



Covenants:

- Minimum DSCR $\geq 1.10x$ (tested annually based on audited financial statements)
- Borrower must obtain approval from Live Oak Bank prior to any purchases over \$5,000,000 related to fixed assets

**Power of Attorney
For UCC Filings:**

Borrower appoints Live Oak its true attorney in fact to prepare, execute, file, record, or deliver financing statements, continuation statements, termination statements, statements of assignment, applications for registration, or like papers to perfect, preserve, or release Live Oak's interests in the Collateral; cause any Collateral to be transferred to Live Oak's name or the name of Live Oak's nominee; and execute all documents in the name of Borrower or otherwise as Live Oak deems necessary, proper, or convenient in order to preserve, perfect, or enforce its rights in the Collateral.

**Material Adverse
Change:**

Live Oak's obligations and Commitments under this letter are subject to the accuracy of all information, representations, and materials submitted with or in support of the Borrower's request for the Loan and any material and inaccuracy, omission or change therein, shall, in the Live Oak's discretion, operate to terminate this offer and the Live Oak's Commitment hereunder. This Commitment letter may also be terminated by Live Oak upon the occurrence of any material adverse change in the financial condition, business, prospects, properties, or management of the Borrower or the occurrence of any other event as a result of which Live Oak believes that the prospect of the Borrower repaying its liabilities to Live Oak as contemplated herein may be impaired. Without limiting the generality of the foregoing, the Commitment hereunder shall immediately terminate in the event the Borrower becomes the subject of any proceeding under the United States Bankruptcy Code or any other insolvency, reorganization, liquidation, or moratorium of law.

Expenses:

The Loan shall be made and administered without cost to the Live Oak. The Borrower's and any guarantor acceptance of this Commitment shall constitute the unconditional agreement, jointly and severally, whether or not the Loan closes, to pay all reasonable fees, expenses, taxes, costs and charges incurred in connection with the Loan, or in any way incident to the making of or the ongoing administration of the Loan, including, but not limited to, reasonable attorneys' fees and expenses (including fees and expenses of the Live Oak's counsel), appraisal fees, title searching fees, title or other insurance premiums, fees and costs for environmental tests and studies, engineer's and architect's fees, inspector's fees, surveyor's fees, recording costs, and recordation and transfer taxes. The Live Oak shall not pay any brokerage fees or commissions arising from the Loan, and the borrower and all guarantors agree, jointly and severally, to defend, indemnify, and hold the Live Oak harmless against any and all expenses,



liabilities and losses (including attorneys' fees) arising from any such claims. The Borrower and each of the guarantors, jointly and severally, promise to pay to the Live Oak on demand all costs and expenses incurred by the Live Oak in connection with the enforcement of this Commitment or any of the Live Oak's rights hereunder or any defense of the Live Oak against any claim made in connection with or arising out of this Commitment, including, without limitation, all of the Live Oak's reasonable attorneys' fees and expenses and court costs, whether or not proceedings are brought.

LIBOR

Replacement:

Notwithstanding any provision to the contrary set forth in this letter, the applicable interest rate for this loan shall be subject to LIBOR replacement rate language, stating that, in the event the Lender determines that reasonable means do not exist for ascertaining the applicable LIBOR rate and the Lender determines that the syndicated loan market has broadly accepted a replacement standard for the LIBOR rate, then the Lender may, without the consent of the borrower, apply such new broadly accepted market standard and make such other changes as shall be necessary or appropriate in the good faith determination of the Lender in order to implement such new market standard.

Commitment Fee: A \$10,000 commitment fee is required upon execution of the commitment letter and due within fourteen days from the date of this letter; otherwise, this commitment will have expired. The commitment fee will be applied to engage legal counsel and any other third-party costs incurred. The deposit held by Live Oak will be applied to any expenses incurred by Live Oak in connection with the Loan, including without limitation, lien and judgement searches, title searching fees, appraisals, business valuations, surveys, environmental tests and studies, and reasonable attorneys' fees and expenses, should the Loans not close. At the time the Loan closes, any unused portion of the deposit, if any, shall be returned to the borrower.

This Commitment letter is addressed solely to you, it is solely for your benefit, and may not be relied upon or used by any other person or entity and may not be disclosed by you without LOB's prior written consent to any person other than your attorneys and other advisors. This Commitment letter and the Commitment evidenced herein may not be assigned by you to any other person or entity.

This Commitment letter shall be governed by the laws of the state of North Carolina.

Live Oak's obligations and/or Commitments as contained in this letter are also subject to approval by the United States Department of Agriculture and the issuance of a written loan authorization by the USDA setting forth the terms and conditions of such Loan. In the event that there is any discrepancy between the terms of the Commitment as contained herein and the loan authorization as issued and approved by the USDA for this Loan, then the terms of the USDA loan authorization shall control. In the event that the USDA should fail or refuse to issue a Loan Note Guarantee as to this Loan, then this



Commitment shall terminate, and Live Oak shall have no further obligations or responsibilities hereunder. Furthermore, Live Oak's obligations hereunder are contingent upon the Borrower and/or Guarantor(s) being in compliance with all terms and conditions of any USDA Conditional Commitment which may be issued as to this Loan, and failure to comply with such will likewise terminate the terms and conditions of the Commitment letter and Live Oak shall have no further obligations hereunder in such event.

This credit accommodation is made available subject to the terms, conditions, and provisions of comprehensive loan documents to be executed within 180 days from Live Oak's Credit approval dated **April 12, 2021**. Should the loan not close within 180 days of same approval, updated financials and re-approval will be required.

If the terms outlined in this commitment letter are acceptable to you, please execute and return a copy to Live Oak Bank.

Sincerely,

Anna West
Loan Officer
Live Oak Bank

Accepted By:

Name: Donna Loiselle
Title: General Manager
Date:

Other Conditions:

Please note that a detailed checklist will be prepared for use during the closing process by your closing specialist.

EXHIBIT A-9



JUL 19 2021

Ms. Donna Loiselle
Marilee Special Utility District (SUD)
P. O. Box 1017
Celina, TX 75009

Dear Ms. Loiselle:

Congratulations on being selected to receive a \$1,553,000 Water and Waste Guaranteed Loan for Marilee SUD.

We have enclosed a copy of USDA-RD Form RD 1940-3, "Request for Obligation of Funds Guaranteed Loan." This form indicates that on July 12, 2021, USDA Rural Development approved loan of \$1,553,000 for Marilee SUD.

USDA Rural Development works to support the sustainable development of rural communities and to improve the quality of life in rural areas.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Torres", written over a horizontal line.

DANIEL TORRES
Acting State Director

Enclosure

Rural Development • Texas State Office
101 South Main Street, Suite 102, Temple, Texas 76501
Voice 254.742-9789 • Fax 844.767.7087

USDA is an equal opportunity provider, employer, and lender.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

**REQUEST FOR OBLIGATION OF FUNDS
GUARANTEED LOANS**

INSTRUCTIONS: Complete Items 1 through 25 and applicable Items 26 through 35. See FMI.			
1. CASE NUMBER ST CO BORROWER ID 49-093-*****8804		2. LOAN NUMBER 40	3. FISCAL YEAR 21
4. SOURCE OF FUNDS 1 (See FMI)			
5. BORROWER NAME Marilee Special Utility District			
		6. NUMBER NAME FIELDS (1, 2, or 3 from Item 5)	
7. STATE NAME Texas		8. COUNTY NAME Collin	
9. RACE CODE 1 - WHITE 4 - HISPANIC 2 - BLACK 5 - A/PI 3 - AI/IN 1	10. EMPLOYEE RELATIONSHIP CODE (See FMI)	11. SEX CODE 1 - MALE 4 - ORGANIZATION MALE OWNED 2 - FEMALE 5 - ORGANIZATION FEMALE OWNED 3 - FAMILY UNIT 6 - PUBLIC BODY 6	12. MARITAL STATUS 1 - MARRIED 2 - SEPARATED 3 - UNMARRIED (INCLUDES WIDOWED OR DIVORCED) 1
13. VETERAN CODE 1 - YES 2 - NO 1	14. TYPE OF PAYMENT 3 1 - MONTHLY 3 - SEMI-ANNUALLY 2 - ANNUALLY 4 - QUARTERLY	15. COMMUNITY SIZE 1 - 10,000 OR LESS (FOR SFH ONLY) 2 - OVER 10,000 1	
16. TYPE OF ASSISTANCE 061 (See FMI)	17. PURPOSE CODE 1	18. GUARANTEE PERCENT OF LOAN 1 %	
19. TERM OF INTEREST ASSISTANCE	20. SUBMISSION CODE 2 1 - INITIAL 2 - SUBSEQUENT	21. AMOUNT OF LOAN 1,553,000.0	
22. APPROVAL DATE MO DA YR JUL 12 2021	23. NOTE INTEREST RATE 5.7100 %	24. BORROWER EFFECTIVE INTEREST RATE %	
25. REPAYMENT PERIOD 30	26. INCOME CATEGORY 1 - VERY LOW 2 - LOW 3 - MODERATE 3	27. ADJUSTED FAMILY INCOME	
28. TYPE OF UNIT 1 - FARM TRACT 2 - NON-FARM TRACT 1	29. DWELLING TYPE USE OF FUNDS CODE (See FMI)	30. INTEREST ASSISTANCE CODE 1 - ELIGIBLE FOR INTEREST ASSIST PROGRAM 2 - INELIGIBLE FOR INTEREST ASSIST PROGRAM 1	
31. PERCENT OF INTEREST ASSISTANCE %	32. HIGH COST AREA Y = YES N = NO N	33. BORROWER HISTORY CODE (See FMI)	
34. AMOUNT AGENCY DIRECT DEBT REFINANCE		35. OBLIGATION DATE (Finance Office use only) MO DA YR JUL 12 2021	
36. BEGINNING FARMER/RANCHER (See FMI)			

ORIGINAL - Borrower's Case Folder

COPY 1 - Applicant

COPY 2 - Lender

COPY 3 - State Office

CERTIFICATION APPROVAL

APPROVAL CONDITIONS:

(1) (Farm Loan Programs Only) This loan guarantee is approved subject to the availability of funds. If this loan guarantee is not issued for any reason within 90 calendar days from the date of approval on this document, the approval official may request updated information concerning the lender and the loan applicant. The approval official will have 14 working days to review any updated information and decide whether to submit this document for obligation of funds.

(2) This loan guarantee is approved subject to the conditions on the Conditional Commitment.

37. COMMENTS AND REQUIREMENTS OF CERTIFYING OFFICIAL

38. I HEREBY CERTIFY that all determinations and certifications required by the respective United States Department of Agriculture (USDA) Agency regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, subject to the availability of funds, and subject to conditions prescribed by Agency regulations applicable to this type of assistance.

I further certify that USDA has complied with the applicable provisions of Title XI, Public Law 95-630, seeking financial information regarding the applicant.


(Signature of Approval Official)

Typed or Printed Name: Daniel Torres

JUL 12 2021

Date Approved _____

Title: Acting State Director

39. TO THE APPLICANT/LENDER: As of this date JUL 12 2021, this is notice that your application for the above loan guarantee/Interest Assistance from USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the respective USDA Agency. If you have any questions contact the Approval Official.



**Assurance Regarding Felony Conviction
or Tax Delinquent Status for Corporate Applicants**

AD-3031

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). The authority for requesting the following information for U.S. Department of Agriculture (USDA) agencies and staff offices is in § 744 and 745 of the Consolidated Appropriations Act, 2019, Pub. L. 116-6 as amended and/or subsequently enacted. The information will be used to confirm applicant status concerning entity conviction of a felony criminal violation, and/or unpaid Federal tax liability status.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0025. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal, civil, fraud, privacy, and other statutes may be applicable to the information provided.

This award is subject to the provisions contained in the Consolidated Appropriations Act, 2019, Pub. L. 116-6, Division E, Title VII, sections § 744 and 745, as amended and/or subsequently enacted for U.S. Department of Agriculture (USDA) agencies and offices regarding corporate felony convictions and corporate federal tax delinquencies.

Accordingly, by accepting this award the corporation recipient acknowledges: (1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, **and/or** (2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debarring official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.

Donna Loiselle

APPLICANT'S SIGNATURE

Gen. Mgr

TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A
REPRESENTATIVE CAPACITY

Manlee Special Utility District

BUSINESS NAME

7-27-2021

DATE SIGNED (MM-DD-YYYY)

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint (<https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442.

ACCEPTANCE OF CONDITIONS

To: USDA

Address:

U.S.D.A Rural Development
101 South Main Street, Suite 1.1
Temple, Texas 76501

The conditions of this Conditional Commitment for Guarantee including attachments are acceptable and the undersigned intends to proceed with the loan transaction.

(Execute and complete Form RD 5001-1, "Application for Loan Guarantee" using the version dated 1-2021.)

(Name of Lender)

Date: _____

By _____

(Signature for Lender)

Date: 7-27-2021

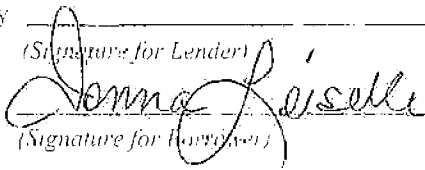

(Signature for Lender)

EXHIBIT B

**AFFIDAVIT OF JACOB DUPUIS, PE NO. 133398
MARILEE'S ENGINEER OF RECORD**

DOCKET NO. 52435

PETITION BY LEGACY	§	PUBLIC UTILITY
EQUESTRIAN CENTER LLC FOR	§	
EXPEDITED RELEASE FROM	§	
WATER CCN NO. 0150 HELD BY	§	COMMISSION OF TEXAS
MARILEE SPECIAL UTILITY	§	
DISTRICT IN COLLIN COUNTY	§	

**SUPPORTING AFFIDAVIT OF JACOB DUPUIS,
PROFESSIONAL ENGINEER FOR MARILEE SPECIAL UTILITY DISTRICT**

STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

BEFORE ME, the undersigned authority, on this date personally appeared Jacob Dupuis, who being by me first duly sworn, on her oath deposed and testified as follows:

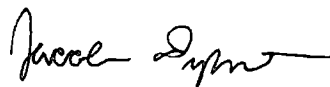
1. "My name is Jacob Dupuis. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.
2. "I am an engineer and employee of DBI Engineers. The company serves as the engineer of record for Marilee Special Utility District, the Intervenor in this matter, and I am the project engineer for the utility. I have been in that position for seven years.
3. "I am authorized to make this affidavit on behalf of Marilee in Docket 52435 in support of its response to Legacy Equestrian Center LLC's ("Petitioner") request to remove 67.696 acres of Property ("Property") from areas for which Marilee holds water certificate of convenience and necessity ("CCN") No. 10150.
4. "I have read Marilee Special Utility District's Verified Response to Petition for Expedited Release from Water CCN No. 10150 in Docket No. 52435 (the "Response") and each and every factual statement contained therein is true and correct to the best of my knowledge.
5. "I prepared the maps of Marilee's water system attached to this affidavit as Exhibits B-1 and B-2. The Property that is the subject matter of Docket No. 52435, being 67.696 acres of contiguous property acres, is accurately located on the maps according to the metes and bounds of Exhibit "B" to the Petition filed in this docket on August 16, 2021.
6. "Marilee provides water service to the Property, on which a horse stable is located, specifically through Meter Nos. 227 and 344 ("the Meters"), which are marked on Exhibit B-2.

7. The Meters were placed with the intent to serve the Property.
8. The Meters receive water service from Marilee through an 8" waterline that serves the Property, which waterline is extended from off the 10" waterline at the intersection of County Road 128 and County Road 130. All of these waterlines are marked on Exhibit B-2. Also dedicated to serve the area where the Property is located are two wells, which are marked on Exhibit B-2.
9. "Additional facilities that are available to provide water service to the Property are:
 - Well No. 7, east of the Property;
 - A 10" waterline, east of the Property;
 - An 8" waterline on the south side of the Property;
 - A 6" well line, east of the Property;
 - A 2" waterline on the southeast corner of the Property; and
 - A 1 ½" waterline on the east side of the Property.

These facilities are marked on Exhibit B-2.

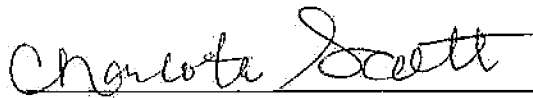
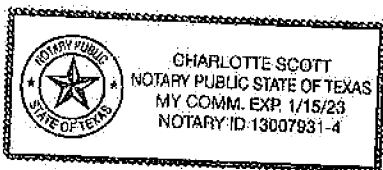
10. "In my professional opinion, Marilee provides and has the ability and facilities dedicated to continue to provide water service to the Property.

FURTHER, AFFIANT SAYETH NOT.



Jacob Dupuis
Engineer of Record for Marilee Special Utility
District

SWORN TO AND SUBSCRIBED before me by Jacob Dupuis on this 1 day of October 2021.

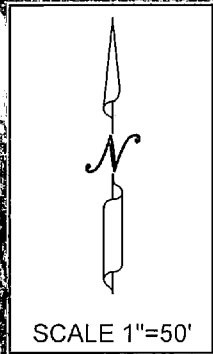
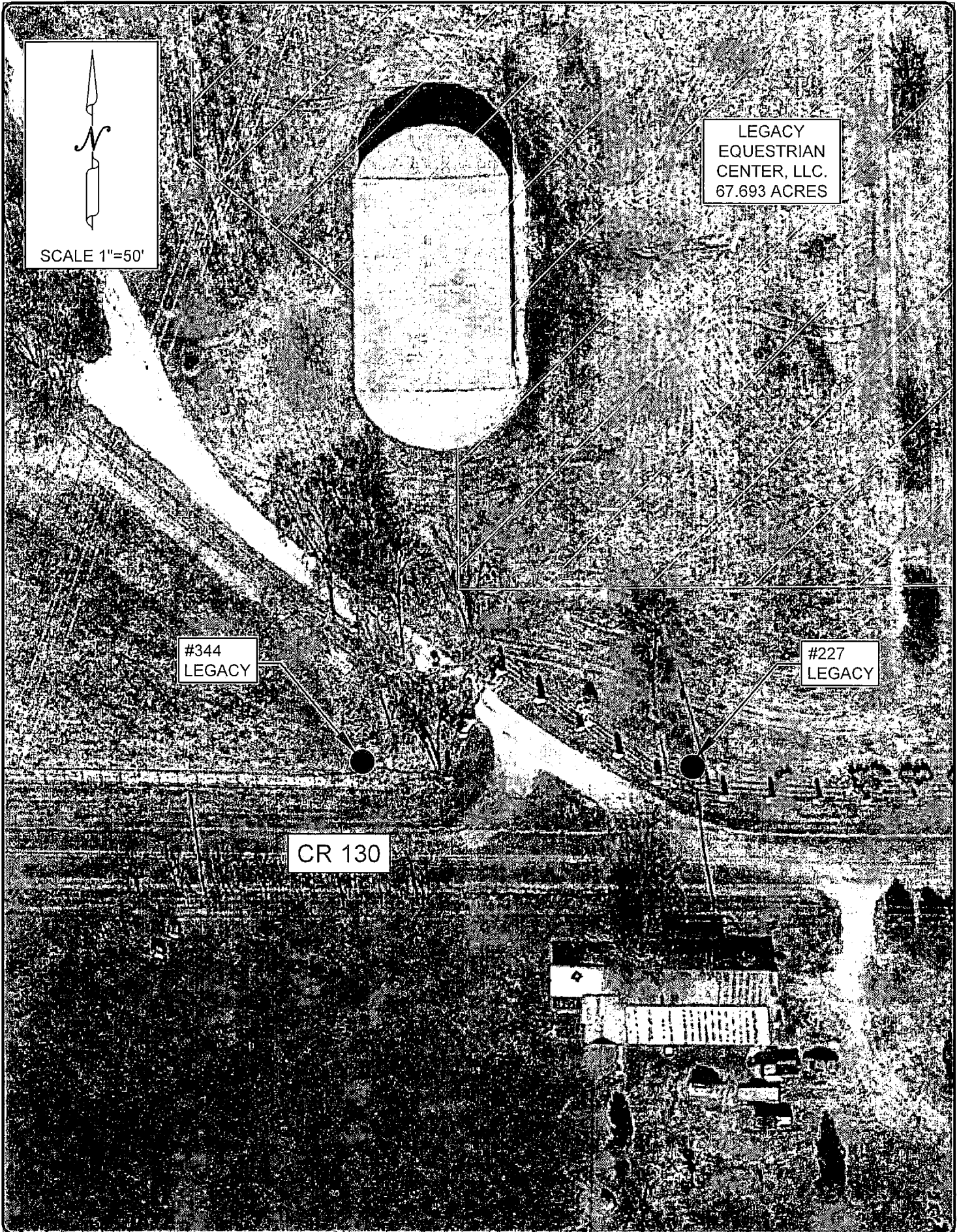


Notary Public in and for the State of Texas

EXHIBIT B-1



EXHIBIT B-2



LEGACY
EQUESTRIAN
CENTER, LLC.
67.693 ACRES

#344
LEGACY

#227
LEGACY

CR 130