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Item Number - 80

DOCKET NO. 52445

APPLICATION OF HYDROTEX, LLC	§	PUBLIC UTILITY COMMISSION
FOR A CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY AND FOR	§	OF TEXAS
DECERTIFICATION OF A PORTION OF	§	
SOUTHERN HORIZON DEVELOPMENT' S	§	
CERTIFICATE OF CONVENIENCE AND	§	
NECESSITY IN LIBERTY COUNTY	§	

APPLICANT’S REPOSENSE TO ORDER NO. 19

I. Background

On August 8, 2023, Staff (Staff) of the Public Utility Commission (Commission) and Applicant HydroTex, LLC (HydroTex) (collectively, the Parties) filed their Joint Motion to Admit Evidence pursuant to Order No. 17. On September 2, 2023, the Administrative Law Judge (ALJ) filed Order No. 19 requiring clarification or supplemental information in response to Commission Staff’s July 12, 2023 clarification, recommendation on notice, and final recommendation, requiring the Parties to file a response by October 13, 2023. Therefore, this pleading is timely filed.

II. Response

HydroTex provides the clarifications below in response to request for clarification or supplemental information directed to HydroTex.

- A. HydroTex must identify the location in the record of the representative copies from the requests for service from Cleveland and Splendora, file representative copies of the request for service it mailed to adjacent retail public utilities, or, alternatively, an affidavit attesting that requests for service were mailed to adjacent retail public utilities and that none offered to provide service.

Please see the attached **Exhibit A**, containing a copy of the letter sent to the Cities of Cleveland and Splendora and the responses received from those entities. Applicant requests that Exhibit A be admitted as evidence into the record in the docket.

- B. Commission Staff must evaluate Southern Horizons Development, Inc.'s request to decertify a portion of its certificated service area under CCN number 12863 using the factors in 16 TAC § 24.245(d)(2) and file a recommendation on the request.

Per Order No. 19, response to be provided by Commission Staff.

- C. HydroTex must identify the location in the record of the proof of individual notice to all landowners in the certificated area that Southern Horizons seeks to decertify. If evidence in the record does not reflect that individual notice was provided to all landowners in the area that Southern Horizons seeks to decertify, HydroTex must file proof of the required notice and request a good cause exception, if necessary.

The developer of the property to be decertified is The Landing II, LLC (the "Developer"), which is an affiliate entity of the Applicant (they share the same ownership). Attached as **Exhibit B** is an affidavit attesting to notice to the Developer.

- D. Commission Staff must file a supplemental recommendation on whether HydroTex meets the requirements of 16 TAC § 24.11(e)(5)(B).

Per Order No. 19, response to be provided by Commission Staff.

- E. The ALJ did not find a request to admit HydroTex's response to Commission Staff's request for information, Patricia Garcia, dated March 31, 2023. If the parties request this item to be admitted, they must file a motion to admit evidence.

HydroTex moves to admit the following supplemental evidence into the record of evidence in this proceeding:

1. HydroTex's response to PUC Staff's request for information, Patricia Garcia, filed March 31, 2023 (AIS Item No. 54).

- F. The parties must clarify whether the name on the certificate should be "Southern Horizons Development, Inc." and, if necessary, file a revised certificate and move to admit the same.

As the ALJ notes, the certificate should properly identify the party on the certificate as “Southern Horizons Development, Inc.” HydroTex is working with Staff to submit the corrected certificate.

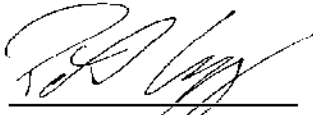
III. Conclusion

HydroTex requests that the ALJ consider this information in clarification of the information previously submitted in the docket.

Dated: October 11, 2023

Respectfully submitted,

GREGG LAW PC



Peter T. Gregg
State Bar No. 00784174
910 West Ave., No. 3
Austin, Texas 78701
Phone: 512-522-0702
Fax: 512-727-6070
pgregg@gregglawpc.com

Attorneys for HydroTex, LLC

DOCKET NO. 52445

CERTIFICATE OF SERVICE

I certify by my signature above that unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 11, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

EXHIBIT A



Spear Point Engineering, LLC

TBPE Firm No. 18904
604 W Worsham St. Suite 100,
Willis, TX 77378
www.SPETexas.com

April 21, 2021

City of Splendora
PO Drawer 1087
Splendora, TX 77372-1076

Attention: City of Splendora

Reference: Hydrotex CCN Splendora (SPE Job #1174)

To whom it may concern,

Spear Point Engineering, LLC was hired by Hydrotex CCN Splendora to design and permit the water distribution system to serve The Landing II residential development. Please refer to attached Project Area Map that outlines the project vicinity. The Landing II development encompasses a 89-acre residential development that anticipates at least 120 connection counts.

As per TCEQ requirements 30 TAC 290.39(c)(1), local water utilities within 1/2 -mile from the service area of the proposed project are to be contacted in order to request application for water service. Thus, this letter is a formal application to City of Splendora (CCN No. 11727) to evaluate its capacity to serve the proposed development. Please provide a formal reply via email or mail for this inquiry, addressed to this office, in order to adhere with TCEQ criteria. Should you have any additional questions or concerns please contact me at fernando@spetexas.com or (936) 256-2626.

Sincerely,
Fernando Montelongo

Attachment

Project Area Map



Spear Point Engineering, LLC

TBPE Firm No. 18904
604 W. Worsham St. Suite 100,
Willis, TX 77378
www.SPETexas.com

April 21, 2021

City of Cleveland
1100 Nevell Street
Cleveland, TX 77327-4196

Attention: City of Cleveland

Reference: Hydrotex CCN Splendor (SPE Job #1174)

To whom it may concern,

Spear Point Engineering, LLC was hired by Hydrotex CCN Splendor to design and permit the water distribution system to serve The Landing II residential development. Please refer to attached Project Area Map that outlines the project vicinity. The Landing II development encompasses a 89-acre residential development that anticipates at least 120 connection counts.

As per TCEQ requirements 30 TAC 290.39(f)(2), local water utilities within 2-mile from the service area of the proposed project are to be contacted in order to request application for water service. Thus, this letter is a formal application unto City of Cleveland (CCN No. 13217) to evaluate its capacity to serve the proposed development. Please provide a formal reply via email or mail for this inquiry, addressed to this office, in order to adhere with TCEQ criteria. Should you have any additional questions or concerns please contact me at fernando@spetexas.com or (936) 256-2626.

Sincerely,
Fernando Montelongo

Attachment:

Project Area Map

City of Splendor

From: [Danna Welter](#)
To: [Fernando Montelongo](#)
Subject: Re: Hydrotex Splendor CCN - Request for Capacity letter
Date: Monday, October 18, 2021 10:51:40 AM
Attachments: image001.png

Mr. Montelongo:

The City has no objection to the creation of a CCN for the described project. At this time, without an additional well in Liberty County, we do not have the capacity to serve your project with fire protection.

Sincerely,

Danna Welter
City Secretary

On Thu, Oct 14, 2021 at 9:33 AM Fernando Montelongo <Fernando@spetexas.com> wrote:

Good morning Anita,

I never heard back from Danna Welter or Bill regarding the water capacity request letter.

I have attached the letter again for reference. I had talked to Bill back in August and was told I was going to receive the rejection letter but I have not received anything. Can you please let me know what is the status of the rejection letter? Its going for 2 months now.

If you have any question feel free to email me or give me a call.

Thank you,

Fernando Montelongo

EIT

fernando@spetexas.com

936-256-2626

Mayor, Richard Boyett
Mayor Pro-Tem, James Franklin
City Council
Carolyn McWaters
Marilyn Clay
Delores Terry
Danny Lee



907 E. Houston St.
Cleveland, Texas 77327
Phone (281) 592-2667
Fax (281) 592-6624

Robert Pennington, City Manager
Angela Smith, City Secretary

October 14, 2021

Spear Point Engineering, LLC
604 W. Worsham St, Ste 100
Willis, TX 77378

RE: Hydrotex CCN Splendora (SPE Job #1174)

To Whom It May Concern:

Per your request, we have researched the CCN limits on the property described in your letter, it is not in our water service area (CCN). According to the Public Utility Commission's website, the closest CCN is South Cleveland Water. It is also not in our city limits as our annexed land is about one mile from your referenced location.

Please let us know if you need anything further for your TCEQ request.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Pennington', written over a faint, larger version of the signature.

Robert Pennington
City Manager

EXHIBIT B

DOCKET NO. 52445

**APPLICATION OF HYDROTEX, LLC
FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
LIBERTY COUNTY**

§
§
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§

**PUBLIC UTILITY COMMISSION
OF TEXAS**

AFFIDAVIT OF KEVIN BROWDER

STATE OF TEXAS

§
§
§

COUNTY OF Montgomery

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

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

I am the Operations Manager for HydroTex, LLC (HydroTex), the Applicant in the above-captioned matter.

The developer of the property to be decertified pursuant to the application in this docket is The Landing II, LLC (the “Developer”). The Landing II, LLC is an affiliate entity of the Applicant, in that The Landing II, LLC and HydroTex share the same ownership.


The Developer is fully apprised, based on notification from HydroTex and otherwise, that Southern Horizons seeks to decertify the property.

By the subject application, HydroTex seeks to include the property to be decertified from Southern Horizons within HydroTex’s CCN, in order for HydroTex to provide service to

customers in the property pursuant to development of the property.

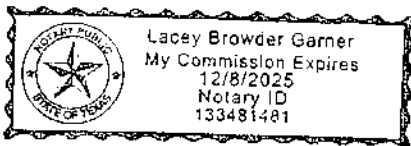
I hereby confirm that all capital improvements have been paid for and installed in the requested area to provide adequate and sufficient water service to the requested area.”

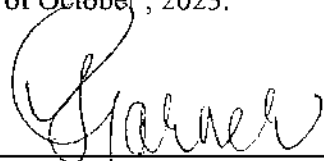
FURTHER AFFIANT SAYETH NOT.



Kevin Browder, Operations Manager
HydroTex, LLC

SWORN AND SUBSCRIBED TO BEFORE ME by Kevin Browder, Operations Manager for HydroTex, LLC, on this 9th day of October , 2023.





Notary Public
State of Texas