



## Filing Receipt

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**DOCKET NO. 52852**

<b>APPLICATION OF TERRA</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SOUTHWEST, INC. AND UNDINE</b>	<b>§</b>	
<b>DEVELOPMENT, LLC FOR SALE,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN DENTON COUNTY</b>	<b>§</b>	

**COMMISSION STAFF’S SUFFICIENCY RECOMMENDATION**

On November 16, 2021, Terra Southwest, Inc. (Terra) and Undine Development, LLC (Undine), (collectively, Applicants), filed an application for the sale, transfer, or merger of facilities and certificate rights in Denton County. Applicants filed supplemental information on November 17, 2021, November 19, 2021, November 22, 2021, December 13, 2021, and February 3, 2022.

On January 18, 2022, Order No. 5 was filed establishing a deadline of February 28, 2022, for the Staff (Staff) of the Public Utility Commission of Texas (Commission), to file a recommendation on sufficiency of notice. Therefore, this pleading is timely filed.

**I. NOTICE**

Staff has reviewed the application and supplemental information and, as detailed in the attached memorandum from Patricia Garcia, Infrastructure Division, recommends that notice be deemed insufficient at this time, due to the notice not being sent to Cole Ranch Improvement District 1, and Denton County MUD 8, and because published notice is required due to the uncertificated area being requested in the docket. Staff respectfully requests that the Applicants be directed to provide notice to the entities listed in the attached memorandum using the notice form provided by Ms. Garcia. Along with each individual notice, Staff recommends that the Applicants provide an accurate map delineating the requested service area.

Once notice has been provided, Staff recommends that the Applicants file proof of notice as described in the attached memorandum, including an affidavit specifying the name and address of every person and entity to whom notice was provided, the date that the notice was provided, and a copy of the map provided with the notice. Finally, Staff recommends that the Applicants use the attached notice and affidavit to meet these requirements.

## **II. PROCEDURAL SCHEDULE**

Staff recommends that the application be found administratively complete. Therefore, Staff proposes the following procedural schedule:

<b>Event</b>	<b>Date</b>
Deadline for the Applicants to file with the Commission signed affidavits that the notice was given along with a copy of the notice and map sent to the affected parties	March 10, 2022
Deadline for Staff to file a recommendation on sufficiency of notice	March 24, 2022
Deadline to intervene	30 days after notice is issued

## **III. CONCLUSION**

For the reasons detailed above, Staff recommends that notice be found insufficient at this time and that the Applicants be directed to provide notice as described in the attached memorandum, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: February 28, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Sneha Patel  
Managing Attorney

/s/ John Harrison  
John Harrison  
State Bar No. 24097806  
1701 N. Congress Avenue  
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Austin, Texas 78711-3326  
(512) 936-7277  
(512) 936-7268 (facsimile)  
John.Harrison@puc.texas.gov

**DOCKET NO. 52852**

**CERTIFICATE OF SERVICE**

I certify 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 February 28, 2022 in accordance with the Order Suspending Rules, filed in Project No. 50664.

/s/ John Harrison  
John Harrison

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** John Harrison, Attorney  
Legal Division

**FROM:** Patricia Garcia, Senior Engineering Specialist  
Infrastructure Division

**DATE:** February 28, 2022

**RE:** Docket No. 52852 – *Application of Terra Southwest, Inc. and Undine Development, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Denton County*

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On November 16, 2021, Undine Development, LLC (Undine) and the Terra Southwest, Inc. (Terra Southwest) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Denton County, Texas, under Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237 and § 24.239.

Specifically, Undine, certificate of convenience and necessity (CCN) No. 12407, seeks approval to amend its CCN to add uncertificated area and to acquire facilities and transfer all of the water service area from Terra Southwest under water CCN No. 11608. The requested area includes 867 current customers and approximately 1,339.4 acres, comprised of:

- 0.4 acres of uncertificated area;
- 1,321 acres of transferred area from Terra Southwest, CCN No. 11608; and
- 18 acres of dual certificated area with Town of Little Elm, CCN No. 11202.

The result of the application will be the addition of approximately 1,339.4 acres to Undine, CCN No. 12407, and the subtraction of approximately 1,321 acres from Terra Southwest, CCN No. 11608.

Approximately 1,321.4 acres will be single certification with Undine, CCN No. 12407; and 18 acres will be dually certificated between Undine, CCN No. 12407, and the Town of Little Elm, CCN No. 11202.

The application indicates that the total acreage being requested is approximately 1,326 acres. Based on the mapping review by Tracy Montes, Infrastructure Division, it was determined the requested area is approximately 1,339.4 acres.

Based on the mapping review by Tracy Montes, Infrastructure Division, maps submitted on November 16, 2021, and the revised maps and digital data submitted on December 13, 2021, were deemed sufficient.

Based the review of the maps by Ms. Montes, and my review of the notices, affidavits, and lists of those notice was provided to filed on February 3, 2022, and February 17, 2022, I recommend that the notice documentation be deemed insufficient due to notice not being sent to two entities and because published notice is required due to the uncertificated area being requested in the docket. I further recommend that the Applicants be ordered to do the following:

1) Provide notice of the application by first-class mail to the following:

- *Cole Ranch Improvement District 1*
- *Denton County MUD 8*

Addresses can be obtained from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <https://www14.tceq.texas.gov/iwud/index.cfm>.

- 2) Publish notice in a newspaper having general circulation in the county where the requested area is located, once each week for two consecutive weeks. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Undine must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice form(s).
- 4) Provide a copy of the map(s) filed on November 16, 2021 and December 13, 2021 that were deemed sufficient during administrative review, identifying the requested areas with each individual notice to utilities listed under Item No. 1 above.
- 5) File in the docket copy of notice and the map(s) deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

***Notice to Current Customers, Landowners, Neighboring Systems, and Cities***  
UNDINE DEVELOPMENT, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY  
(CCN) NO. 12407, NOTICE OF INTENT TO AMEND ITS CCN, TO PURCHASE WATER  
FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 11608  
FROM TERRA SOUTHWEST, INC. IN DENTON COUNTY, TEXAS

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_, 20\_\_\_\_  
(Name of Customer, Neighboring System, or City)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

Undine Development, LLC                      17681 Telge Road                      Cypress, TX                      77429  
(Purchaser's Name)                      (Address)                      (City), (State)                      (Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to amend its CCN, obtain dual certification with the Town of Little Elm's water CCN No. 11202, and to purchase all of the water facilities and to transfer water certificated service area under CCN No. 11608 in Denton County, TX from:

Terra Southwest, Inc.                      P.O. Box 140                      Alvord, TX                      76225  
(Seller's Name)                      (Address)                      (City), (State)                      (Zip Code)

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivisions:  
East Ponder Estates and Hilltown Addition.

The requested area overlaps the district boundaries of the Upper Trinity Regional Water District. If Upper Trinity Regional Water District does not request a public hearing, the Commission shall determine that the district is consenting to the Undine Development, LLC's request to provide retail water utility service in the requested area.

**East Ponder Estates:**

The requested area includes 109 current customers, is located approximately 8 mile(s) southwest of downtown Denton, Texas, and is generally bounded on the north by H Lively Road; on the east by Ed Robson Boulevard; on the south by a line approximately .25 mile south of Seaborn Road; and on the west by Florance Road.

The requested area includes approximately 453 acres, comprised of 453 acres of transferred area from Terra Southwest Inc. (CCN No. 11608).

**Hilltown Addition:**

The requested area includes 758 current customers, is located approximately 9 mile(s) east-southeast of downtown Denton, Texas, and is generally bounded on the north by Martingale Trail

and Shahan Prairie Road; on the east by Shahan Prairie Road and Lewisville Lake; on the south by Lewisville Lake and FM 710 and on the west by Lewisville Lake and Yacht Club Road.

The requested area includes approximately 886.4 acres, comprised of:

0.4 acres of uncertificated area;

868 acres of transferred area from Terra Southwest Inc. (CCN No. 11608); and

18 acres of dual certificated area with Town of Little Elm (CCN No. 11202).

The result of the application will be the addition of approximately 1,339.4 acres to Undine Development LLC (CCN No. 12407) and the subtraction of approximately 1,321 acres from Terra Southwest Inc. (CCN No. 11608).

Approximately 1,321.4 acres will be single certification with Undine Development LLC (CCN No. 12407); and 18 acres will be dual certification between Undine Development LLC (CCN No. 12407) and the Town of Little Elm (CCN No. 11202).

**See enclosed map showing the requested area.**

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Undine Development, LLC, which are higher than the current rate for a 5/8" meter for Terra Southwest, Inc. To view a copy of the current approved tariff, go to: <https://undinellc.com/Tariff/Undine%20Development%20Water%20Tariff.pdf>

OR email [info@undinellc.com](mailto:info@undinellc.com) or call (713) 574-5953 to request a copy.

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.*

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas

Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

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Utility Representative

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Utility Name

# PUBLIC UTILITY COMMISSION OF TEXAS



## AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES, AND AFFECTED PARTIES DOCKET NO. 52852

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual  
notice to the following entities and customers:

DATE OF NOTICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### OATH

I, \_\_\_\_\_, being duly sworn, file this form as  
\_\_\_\_\_ (indicate relationship to applicant, that is,  
owner, member of partnership, title of officer of corporation, or other authorized representative of  
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am  
personally familiar with the notices given with this application, and have complied with all notice  
requirements in the application and application acceptance letter; and that all such statements made  
and matters set for therein are true and correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,  
or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_

Notice Form Updated: October 22, 2021

***Notice for Publication***

UNDINE DEVELOPMENT, LLC, CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 12407, NOTICE OF INTENT TO AMEND ITS CCN, TO PURCHASE WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 11608 FROM TERRA SOUTHWEST, INC. IN DENTON COUNTY, TEXAS

<u>Undine Development, LLC</u>	<u>17681 Telge Road</u>	<u>Cypress, TX</u>	<u>77429</u>
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to amend its CCN, obtain dual certification with the Town of Little Elm's water CCN No. 11202, and to purchase all of the water facilities and to transfer water certificated service area under CCN No. 11608 in Denton County, TX from:

<u>Terra Southwest, Inc.</u>	<u>P.O. Box 140</u>	<u>Alvord, TX</u>	<u>76225</u>
(Seller's Name)	(Address)	(City), (State)	(Zip Code)

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivisions:  
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**A copy of the map showing the requested area is available at:** 17681 Telge Road, Cypress, Texas 77429

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Undine Development, LLC, which are higher than the current rate for a 5/8" meter for Terra Southwest, Inc. To view a copy of the current approved tariff, go to: <https://undinellc.com/Tariff/Undine%20Development%20Water%20Tariff.pdf>

OR email [info@undinellc.com](mailto:info@undinellc.com) or call (713) 574-5953 to request a copy.

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# PUBLIC UTILITY COMMISSION OF TEXAS



## PUBLISHER'S AFFIDAVIT DOCKET NO. 52852

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,

who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_