



Control Number: 52912



Item Number: 1

PATTERSON + SHERIDAN LLP

ATTORNEYS AT LAW
900 Washington Ave., Suite 503
Waco, Texas 76701

Abelino "Abel" Reyna
(254) 777 5248
areyna@pattersonsheridan.com

2021 DEC -2 AM 9:41

November 29, 2021

Public Utility Commission of Texas
Central Records
Attn: Filing Clerk
1701 N. Congress Avenue
PO Box 13326
Austin, TX 78711-3326

52912

Re: Complaint # CP2021100559 / Formal Complaint on Levi Water Supply Corporation by Lili and Thomas "Eddie" McDevitt

Dear Commissioners,

The McDevitts file this formal complaint for being denied water service to their newly renovated barn within the Levi Water Supply Corporation's service area.

The McDevitt family is a Qualified Service Applicant within the Levi Water Supply Corporation's (LWSC) certified area of service. LWSC is a holder of a Certificate of Convenience and Necessity.

Mr. and Mrs. McDevitt began renovations on their house and barn in April of 2021. Towards the beginning of construction, the McDevitts were informed by the LWSC that they would need to obtain a second water meter for their barn. The McDevitts submitted their application for a new water meter and the required engineering fee to the LWSC in April of 2021. In May of 2021, the McDevitts were informed that, despite complying with LWSC's requirements for a water meter and being a qualified service applicant in LWSC's certified area, the McDevitts would be denied a water meter and, therefore, water service to their newly renovated barn.

The McDevitts were later informed that LWSC had placed a moratorium on the issuance of water meters due to the claimed fear that additional meters would exceed the permitted usage allocation granted by the Southern Trinity Groundwater Conservation District. LWSC has taken the position that this amounts to "good cause" for the denial of the McDevitts' requested water meter pursuant to Substantive Rule §24.161. However, the engineering report relied upon by the LWSC is based on estimations, projections, and, more importantly, takes into consideration water consumption by water meters that are not installed and/or currently nonfunctioning. Furthermore, Investigator Kenneth Wilson with the Public Utility Commission's Customer Protection Division considered the exact arguments put forth by LWSC. After considering all the facts and arguments, Investigator Wilson's investigation

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resulted in a determination that LWSC has, "...failed to act consistently with Substantive Rule §24.161."

After Investigator Wilson's findings were reported to the LWSC, the McDevitt's renewed their request for a water meter for their newly renovated barn. This request was denied at LWSC's monthly meeting on November 12, 2021.

The McDevitts respectfully submit this formal complaint and the attached documents supporting their position. If you need additional information, please do not hesitate to contact me.

Respectfully,

PATTERSON + SHERIDAN, L.L.P.

/S/ ABELINO "ABEL" REYNA
Abelino "Abel" Reyna
Partner

October 21, 2021

Via: Certified Mail No.: 7018 2290 0000 4018 9874
Email: jim@leviwater.com

Levi Water Supply Corporation
Attn.: Larry Groth, President
c/o Jim Sheffield, General Manager
P.O. Box 490
Lorena, Texas 76655-0490

Re: Improper Denial of Water Meter to Lili and Eddie McDevitt

Dear Members of the Board:

We represent Lili and Eddie McDevitt in their efforts to continue water service to their renovated barn which previously was supplied with water. Our clients have been informed that a new water meter was required and a temporary moratorium on the issuance of water meters has been put into effect by the Levi Water Supply Corporation (LWSC). As a result, the McDevitts have been denied a water meter, and therefore service, for their renovated barn. We believe that the denial of continued service or denial of this second water meter to the McDevitts was improper and in violation of law.

Mr. and Mrs. McDevitt began renovations on their house and barn in April of 2021. Towards the beginning of construction, the McDevitts were informed by the LWSC that they would need to obtain a second water meter for their barn. In discussions with the builder representative, Mr. Sheffield assured the builder that the McDevitts would be provided a water meter if they filled out the application and paid the "engineering fee." Both requirements were completed. In his discussions with the McDevitts, Mr. Sheffield stated that the process included completion of the application, payment of the engineering fee, review of the site by the engineer and completion of recommended improvements, if any. Based on Mr. Sheffield's assurances and representations, the McDevitts complied with the application process and construction on the McDevitts' barn continued.

On May 6, 2021, as construction neared completion, the McDevitts were informed by Mr. Sheffield that a temporary moratorium on the issuance of water

meters had been put into effect. The McDevitts nor their builder's representative were ever informed that the denial of a water meter was a possibility or that the LWSC was concerned with and/or evaluating the current water usage by LWSC. As a matter of fact, the McDevitts' check for the engineering fee cleared their bank before they received notice of the moratorium on water meters.

It is obvious Mr. Sheffield possessed the knowledge or concern regarding the claimed water shortage on the date he had the conversation with the McDevitts' builder. On the date of that conversation, April 19, 2021, Mr. Sheffield posted the agenda entitled "April 23.2021.Board of Directors Work Session" for the LWSC April 23, 2021 meeting. On that agenda, Mr. Sheffield listed three items regarding the permitted water usage by the LWSC. At that April 23, 2021 meeting, LWSC voted to stop the issuance of water meters.

Despite having this knowledge or concern, Mr. Sheffield withheld this information from the McDevitts. The McDevitts relied on the information Mr. Sheffield did share—that the McDevitts would be able to obtain a water meter upon submission of the application and fee—resulting in the continued completion of the project and possession of a useless structure. In recent conversation with their lender, the McDevitts were informed that, without water service, their remodeled barn would not appraise for the amount necessary to refinance the construction loan for the project. The McDevitts would have been able to cease construction or change plans had Mr. Sheffield informed them that there was a concern regarding usage or the possibility of a moratorium on water meters. For example, the McDevitts could have ceased renovations on their barn and began renovations on their home to add a 'master suite' that would have fulfilled their needs.

At the LWSC May 2021 meeting, the McDevitts went before the Board in an effort to obtain a water meter for their renovated barn. Instead of a discussion regarding the claimed water shortage, the McDevitts were asked questions regarding their use of the renovated barn and whether or not the McDevitts would be renting the structure or posting it on Airbnb for rent. One member even asked if the McDevitts intended to subdivide the property and sell the barn. All questions were irrelevant to the issuance of the water meter and more focused on the control of the property owners' use of their property which raises additional legal concerns.

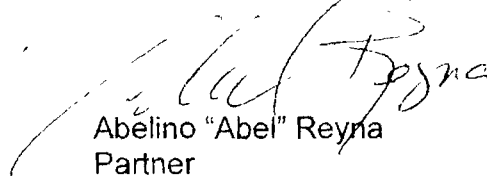
Whether the refusal to issue the permit was due to an existing water usage, an effort to control residential expansion in the area or simply an effort to limit the McDevitts' use of their property, the refusal to issue them a water meter was, and still is, improper.

It is our understanding that recently two LWSC water meters were "abandoned." One meter is located on Monument Trail and the other is located on CR 428. Seemingly, the Board's rationale for not providing the McDevitts their properly-requested water meter was merely pretext.

Please confirm within 7 days that LWSC will issue the water meter the McDevitts are requesting or allow them to continue to service the renovated barn from the existing water meter, as was the case prior to renovations.

Very truly yours,

PATTERSON + SHERIDAN, L.L.P.



Abelino "Abel" Reyna
Partner

Cc: Lili and Eddie McDevitt
B. Todd Patterson

LEVI WATER SUPPLY CORPORATION

P.O. BOX 490 • 2757 ROSENTHAL PKWY

LORENA, TEXAS 76655-0490

(254) 857-3050 • FAX: (254) 857-3226

accounts@leviwater.com

April 14, 2021

Thomas McDevitt
411 CR 433
Lorena, Texas 76655

Dear Mr. McDevitt:

The Levi Water Supply Corporation (LWSC) is defined as a Public Water Supply and, as such, is regulated by the Public Utility Commission (PUC) and the Texas Commission on Environmental Quality (TCEQ). These state agencies have established rules and regulations that must be met by the LWSC to ensure proper operation of the water supply and water distribution systems.

As per the rules of the Public Utility Commission [Title 16, Texas Administrative Code (16 TAC), Section 24.89 (1)(4)], one meter is required for each residential, commercial, or industrial service connection. A connection is defined as a single family residential unit or a commercial or industrial establishment to which drinking water is supplied from the water system [30 TAC, Section 290.38].

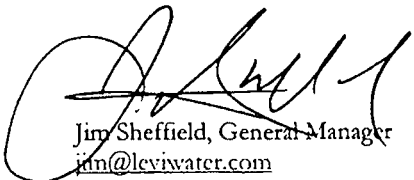
This rule, by the PUC, firmly states that only one residential unit or structure or business may be served from a single meter. This requirement is included in the tariff of the LWSC and is included in the Application for Service agreement that all customers must complete and submit to be given consideration to connect to the LWSC system. Any outbuildings, secondary structures, manufactured homes, recreational vehicles or trailers, and **any dwelling other than the primary residence** that can serve as a residence or a commercial or industrial business are required to have a separate meter service. This rule will also apply if a water meter is serving a duplex, or a residence or a business on an adjacent property.

You have been identified as a property owner and customer of the LWSC that could be providing a water supply to a secondary outbuilding, a manufactured home, a recreational vehicle or trailer, a business or other dwelling from the water meter designated for your primary residential unit or business. We have observed the construction of a new building on your property that has the appearance of a dwelling. Accordingly, it is the position of the Board of Directors and Management of LWSC that this is a direct violation of the PUC regulation stated above and the LWSC tariff.

Effective with this letter, an Application for New Service will be required for any building that will be receiving water from Levi Water Supply. All applications for new service are submitted to the company engineer to determine if an additional meter can be added to the system at that location. The engineering fee is \$150.00. The data from the engineering analysis will be presented to the Board of Directors for their review and consideration. The Board of Directors is the final authority for all requests for new water service.

As an alternative to purchasing a water meter for each secondary connection, you, as the property owner, must disconnect all secondary connections and submit to future inspections, at the discretion of LWSC management, to ensure property owner compliance with the disconnection of all secondary connections.

Failure to comply with this notification will result in termination of your water service in a manner as described in the LWSC tariff and remain so until the additional meter is approved, paid for and installed. Please contact Levi Water Supply if you have any questions.



Jim Sheffield, General Manager
jim@leviwater.com



----- Forwarded message -----

From: **George Thornton**

<gthornton@intrepidg.com>

Date: Mon, Apr 19, 2021 at 1:45 PM

Subject: RE: Water Meter 411 CR 433

To: Dale Pahmiyer

<dalepahmiyer@magnoliarealty.com>, Brian

Nicholson <bnicholson@intrepidg.com>

Cc: Susie Wimberly

<susiewimberly@magnolia.com>, Abdias

Aguilar <abdiasaguilar@magnolia.com>,

Michael Rodriguez

<MichaelRodriguez@magnolia.com>

Dale,

K4 and I both spoke to Levi Water Supply. Unfortunately, we will need the McDevitt's to apply for a separate meter. The homeowner will need to fill out the form attached and submit to Levi Water Supply, along with a \$150 engineering fee. The last page of the form explains the process. As this process is ongoing, we will be able to continue with construction. If they could update us as this progress and we can assist with Levi as needed. Please let us know if there are any questions.

Thank you,

George C. Thornton

*****CONFIDENTIALITY NOTICE*****

This email is intended only for the use of the addressee(s) named herein. It may contain



THOMAS EDWARD McDEVITT OR
LILIANA McDEVITT
411 CR 433
LORENA, TX 76655-3731

1126

30-7428/3140

4/22/21

Date

Pay to the

Order of

Levi Water

\$ 150.00

One hundred fifty dollars and 00/100

Dollars



Photo
Safe
Deposit
Details on back



USAA FEDERAL SAVINGS BANK
10750 McDERMOTT FWY
SAN ANTONIO, TEXAS 78288-0544
(210) 458-8000 1-800-832-3724

USAA

411 CR 433 - WATER WATER ROAD TX

Summit

For security and protection, this section has been removed.

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Security Features exceed industry standards and include

- Microchip Technology - Microchip Technology is a leading manufacturer of microchips and is used in many of our products.
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- Any of the features listed above are missing or damaged.
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BOFD >111900604<
Levi Water Suppl
2021-05-03
5517339203

☐ CHECK BOX FOR MOBILE/REMOTE DEP
WRITE NAME OF FINANCIAL INSTITUTION ON LINE

X

ENDORSE HERE

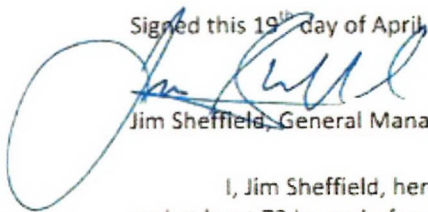
For security and protection, this section has been removed.

LEVI WATER SUPPLY CORP.
NOTICE OF MEETING

Notice is hereby given that the LEVI WATER SUPPLY CORPORATION'S Board of Directors will meet at 1:30 p.m., Friday, April 23, 2021, at the Levi Water Business Office at 2757 Rosenthal Pkwy., Lorena, Texas 76655. The Board reserves the right to act of any information items or to defer any action on any item if additional information is needed. The President of the Board can change the order of the agenda and call for a closed session on any item if needed. The purpose of this scheduled meeting is to review information provided by the company engineer. Items to be presented are as follows:

- A. Call to Order – call to order, determination of quorum and recognition of visitors, members of the water system and individuals that present information or recommendations on items that are listed on the agenda.
- B. Public Comments or Questions – limit 3 minutes each (one hour maximum)
- C. Southern Trinity Groundwater Conservation District: Historic Use Permit (HUPP) & Non-Historic Use Permit (NON-HUPP).
- D. Evaluation of the current water source of the Levi Water Supply Corp., water production and the restrictions of the pumping of water from regulatory agencies and groundwater conservation districts.
- E. Evaluation of the current active and reserved meters and a determination of the maximum number of water meters that are allowed that will allow the Levi Water System to remain in compliance with regulatory agencies and groundwater conservation districts permitted usage.
- F. Discussion of alternate or additional sources of water.
- G. Requests for Standard Service (if any).
- H. Requests for Non-Standard Service (if any).
- I. Convene into Closed Session under the Authority of Texas Government Code, Chapter 551 of the Open Meetings Act regarding discussion of (if needed)
 - 1. Consultation with Attorney – Pending Litigation (551.071)
 - 2. Consultation with Attorney – Attorney/Client Privileged Consultations (551.071)
 - 3. Deliberations Regarding Real Property (551.071)
 - 4. Deliberations Regarding Personnel Matters (551.071)
 - 5. Discussions of Contracts, addendums to contracts, Easements
 - 6. Economic Development Discussions and Negotiations
- J. Reconvene into Open Session
- K. Take any action(s) regarding matters in closed session
- L. Consider items for future board meeting agendas.
- M. Adjournment

Signed this 19th day of April, 2021



Jim Sheffield, General Manager

I, Jim Sheffield, hereby certify that, all board members were notified at least 5 days prior to this meeting and at least 72 hours before the scheduled time of the meeting, a true and correct copy of the above **NOTICE OF OPEN MEETING** was: (1) posted at www.leviwater.com and outside the Levi Water Corporation office at 2757 Rosenthal Pkwy., Lorena, Texas.

Persons with disabilities who plan to attend the meeting and who may need auxiliary aids or services and persons who desire the assistance of an interpreter are requested to contact Levi Water Supply at (254) 857-3050, at least two working days prior to the meeting so that appropriate arrangements can be made.

Executive Session/Closed Meeting: No final action, decision, or vote will be taken on any matter in executive/closed session.

Public Comments: In accordance with the Texas Open Meetings Act, the Board will not act on, deliberate or discuss at the meeting any public comments brought before them for which notice has not been given as required under the Act. The board may make a statement of specific factual information in response to an inquiry, recite existing policy in response to an inquiry, or propose to place the subject on the agenda for a subsequent meeting.

LEVI WATER SUPPLY CORPORATION
P.O. BOX 490 ♦ 2757 ROSENTHAL PKWY
LORENA, TEXAS 76655-0490
(25) 857-3050 ♦ FAX: (254) 857-3226
accounts@leviwater.com

April 27, 2021

Thomas & Liliana McDevitt
411 CR 433
Lorena, Texas 76655

Re Request for New Water Service

Dear Mr. & Mrs. McDevitt.

Levi Water Supply Corporation is under the jurisdiction of the Southern Trinity Groundwater Conservation District. The groundwater district is specific to McLennan County. The groundwater district issues a permit that restricts the amount of water that a water company can withdraw from the aquifer on an annual basis.

The Board of Directors conducted a work session on April 23, 2021, to review information and data provided by the company engineer to determine the maximum number of water meters the Levi Water system could support and not exceed the maximum usage amount allowed by the permit. After reviewing and evaluating the information provided by the company engineer, the Board of Directors determined that the Levi Water System was now at the maximum capacity of meters that can be allowed with the current water source.

The Board of Directors has made the decision to defer any requests for new water service until an additional or alternative water source or sources can be identified. At the request of the Board of Directors, the engineer has begun the process of identifying other water sources. Once a water source or sources is identified, the amount of funding that will be required will be dependent on the water source. We can't begin the funding process until we have an idea of the projected cost.

Whatever any future source of water may be, this is not expected to be a short term process. The obtaining of a future water source will also be a costly process and could include a significant rate adjustment for the current and future customers of Levi Water Supply.

At this point, we can't project or speculate on a time frame for this process.

Once a water source is identified and agreed on, all meter requests will be considered in the order they are received. You have paid the requested fee for the meter evaluation. Your application will remain in the current order of applications that have been received. If you wish to withdraw your request, Levi will refund the \$150.00. If you withdraw your request, your application will be removed from future consideration.

I welcome any questions you might have.

Jim Sheffield, General Manager



CARPENTER & CROFT, PLLC

ATTORNEYS AND COUNSELLORS AT LAW

J. David Carpenter
Mary Margaret Croft
Robert S. Lilly

www.CarpenterandCroft.com

7901 Fish Pond Road, Suite 210
Waco, Texas 76710
T. 254.300.7909

November 2, 2021

Mr. Abel Reyna
Patterson + Sheridan, LLP
900 Washington Ave., Ste. 503
Waco, Texas 76701

Re: Letter to Levi Water Supply Corporation Regarding Meter Request of Lili and Thomas "Eddie" McDevitt

Dear Mr. Reyna,

I am in receipt of your letter to Levi Water Supply Corporation on behalf of your clients, Thomas "Eddie" McDevitt and Lili McDevitt, dated October 21, 2021. My firm represents Levi WSC in this matter. Mrs. McDevitt has emailed Jim Sheffield, the general manager of Levi, and requested additional information on applications, engineering studies, and other information. I instructed Mr. Sheffield to provide her the billing records of her existing meter as it was in the ordinary course of business, but we explained that the other information was directly related to this additional meter matter and would need to go through you, unless you authorized otherwise. If you prefer us to send other information to her directly, please let us know and we would be happy to do so. I have attached the information she requested of Levi to this email.

Levi is a non-profit water supply corporation operating under Chapter 67 of the Texas Water Code with a volunteer board. Levi holds a facilities-plus-200-feet Certificate of Convenience and Necessity (CCN) No. 10018 serving McLennan and Falls Counties. Levi is governed by a board of directors and is bound by its Tariff. The most recent version of the Tariff is available on Levi's website, filed with the Public Utility Commission of Texas, and provided to members at the time they join the Levi system. Additional copies are available at the Levi office. Your clients reside in Falls County, Texas and they are served by one existing Levi water meter at this location. They applied for a second meter in April, 2021. The request for a second meter is the subject of your letter, as water service at the McDevitt's existing meter continues without interruption.

In mid-April, while Levi management was driving the system, it came to their attention that an additional residential structure was being built adjacent to the existing residence of the McDevitts. This additional structure was outfitted as a residence/barndominium and was nearing completion. Levi was not aware of any meter requests from the McDevitts and it appeared the

builder intended to run a connection to the existing meter granted to the original residence on the property posing a health and safety hazard and violating Levi's Tariff. Levi wrote a letter to the McDevitts on April 14, 2021 reminding them of the requirement for one connection per meter under the Texas Administrative Code and the Levi Tariff. Specifically, Section E.24(a) of the Levi Tariff states in relevant portion that "[n]o more than one (1) residential, commercial, or industrial service connection is allowed per meter." This provision is due to health and safety reasons and may also be found under TCEQ's guidelines for public drinking water in Title 30 of the Texas Administrative Code, sections 290.38(16) and 290.44(d)(4) and in the Public Utility Commission of Texas's Substantive Rules relevant to water providers in Title 16 of the Texas Administrative Code, section 24.169(a)(4). As an existing customer of the Levi system, the McDevitts have a copy of Levi's Tariff and are aware of the prohibition of multiple connections to a single tap. The construction on the additional residence was nearing completion at the time but the McDevitts nor their builder had inquired about an additional meter or submitted a request for a meter at any time prior to construction. Levi's letter also made clear that the application for service was a request, not a given, and the application would be "submitted to the company engineer to determine if an additional meter [could] be added to the system at that location."

Prior to the McDevitt's application, Levi had received (and still continues to receive) multiple applications for new meters from a range of new and existing customers, including a customer building a housing development, a customer adding a short-term rental property, and single family new homes. All applications for meters go through the same application process in compliance with Levi's Tariff. Prior to the McDevitt's application in April, a customer requested 46 meters in December, 2020, a second customer requested 2 meters in February, 2021, and several individuals requested meters ahead of the McDevitt's application for a second meter. Due to the numerous meters requested, Levi had previously scheduled a special meeting of the Board to meet with the engineer and discuss the growing system along with Levi's groundwater allotment from the Southern Trinity Groundwater Conservation District. The Southern Trinity Groundwater Conservation District has informed all groundwater users in McLennan County (where Levi's existing wells are located) that no additional water may be pumped outside of the existing permits granted, and that there are no new permits available. Groundwater pumping in McLennan County is at capacity. Levi waited to grant new meters until the Board could meet to discuss the pending applications and was then delayed an additional month or two due to fall-out from winter storm Yuri in February, 2021. Following a work session of the Board on April 23, 2021, which many pending applicants attended, the Levi Board and engineer determined there were approximately 3 meters that could be issued immediately, but any additional meters would exceed the permitted usage allocation granted by the Southern Trinity Groundwater Conservation District. The Board determined all other applications would be deferred until an additional or alternative water source or sources could be identified. The three meters granted were offered to the applicant whose application was put in first – in December, 2020 – and the applicant immediately purchased the meters and began paying for them. A letter was promptly sent to the McDevitts on April 27, 2021 informing them of the Board's decision and letting them know that meters would be granted in the order the applications were received as soon as the

alternate water source was in service. Additionally, the McDevitts were informed they would keep their place in line as they had already paid the application fee; however, they had the option of withdrawing their application and having the application fee refunded should they not wish to pursue an additional meter at this time.

The growth in the Levi area has exceeded expectations in the last two years with requests for meters increasing significantly in the last two years. The Levi Board welcomes the growth and seeks to serve the growing area by securing stable, long-term water solutions at the most cost-effective rates for its customers. On average, Levi has experienced approximately 15-20 meter requests per year. However, unprecedented development and rural growth in 2020 and 2021 has led to an exponential request for meters. The current meter count is 820, compared to 628 at the end of 2017. As a result, the Board had already accelerated its plans for alternate water sources. A water supply corporation is permitted to decline service to new members if there is good cause pursuant to PUC Substantive Rule §24.161. Levi cannot exceed its groundwater permit allocations on its existing wells or it risks revocation by the Southern Trinity Groundwater District of all Levi's existing groundwater permits, the imposition of criminal penalties, and expensive daily monetary fines which would then be passed on to Levi's water users in the rate structure. Levi remains committed to serving each service applicant within its certificated area as soon as is feasible after receiving a completed application. The board is focused on procuring more water as quickly as possible and the McDevitts will receive a new meter as soon as water capacity is added to the system, in the order their application was submitted with Levi.

In late 2019 and early 2020, Levi began reaching out to neighboring groundwater systems to see if additional water is available for purchase but all systems are at capacity or not interested in providing an emergency use supply for water. The Board and Levi's engineer also have been in discussions with neighboring water systems and municipalities to look at the viability and cost of converting to a blended water system (Levi's system is exclusively groundwater at present), using short-term water contracts and major infrastructure upgrades. The problem with these short-term solutions has been the time to build the infrastructure upgrades, the dramatic cost of converting to a blended system, and municipal contract clauses containing a "take-back" provision where Levi would no longer be provided water in the event of a drought or the municipality's need for the water. These solutions cost as much and will take as long to implement as drilling an additional groundwater well and the Board has determined these options do not serve the Levi system in the long-term. The Board also reached out to the Southern Trinity Groundwater Conservation District, as the grantor of Levi's existing groundwater use permits, but they do not have any additional water available and are not accepting applications for either Historical Use permits or Non-Historical Use permits. Levi is pursuing an emergency use permit, but the groundwater district has not made a determination on the permit. Levi is seeking to procure land in Falls county for an additional well site and pursuing financing for the well. Discussion of the real estate contract and well-site acquisition is on the agenda for the upcoming board meeting. However, infrastructure upgrades take time and can drastically affect

customers' water rates. The rates are set pursuant to the overall cost of the water system and its infrastructure, upgrades, and maintenance. The Board is dedicated to serving all Levi customers well by finding cost-effective, long-term solutions.

Levi notified the McDevitts of the Board's April decision by letter and the McDevitts attended the May, 2021 Board meeting that discussed the water constraints on the system. At the meeting, Levi made clear to the McDevitts and to other applicants in attendance that all meter requests would be considered in the order in which they were received. Levi has operated consistently with this policy. There are approximately 50 meter applications ahead of the McDevitt's meter application, and roughly 84 meter applications pending after the McDevitt's application. Since April of this year, Levi has granted no application for a new meter in contravention of this policy. Prior to the December applications, there were 7 meters that were approved by the board, subject to certain subsequent engineering and construction conditions being resolved. Those engineering conditions were finally resolved in September, 2021 and the pending 7 meters were issued; however, the applications were placed long before the McDevitt's application and were granted in the order they were requested. No new meters have been issued since the April meeting. In the September board meeting, 1 meter was voluntarily surrendered by an existing water customer, and another was determined abandoned. No disposition of the water meters have been made; however, the meters will be discussed by the Board at the next meeting and will be offered to an applicant in the order the applications were received by Levi. Levi's next board meeting will be held on November 12th at 2:00pm at the corporation offices located at 2757 Rosenthal Parkway, Lorena, Texas 76655. The meeting is open and you and/or your clients are welcome to attend. An attendee is welcomed to place a topic for discussion on the agenda with 72 hours advance notice. In the alternative, each member may provide up to 3 minutes of comment during the member comment portion of the monthly meeting. If you or your clients would like to be placed on the agenda, be sure you contact me or the General Manager at least 72 hours ahead of the board meeting to be included on the agenda.

While the McDevitt's circumstances are unfortunate, the McDevitts began construction on a residence prior to applying for a water meter. Levi is diligently pursuing an alternate water source and hopes to have additional capacity in the McDevitt's area as quickly as possible. Levi, its staff, and the Board remain available to discuss with Mr. and Mrs. McDevitt the status of service, and the McDevitts are welcome to address the Board at Levi's monthly meetings.

If you have any questions, please feel free to contact me.

Yours truly,


Mary Margaret Croft

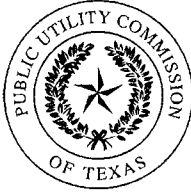
MR & MRS THOMAS MCDEVITT
411 CR 433
LORENA TX 76655

Peter M. Lake
Chairman

Will McAdams
Commissioner

Lori Cobos
Commissioner

Jimmy Glotfelty
Commissioner



Greg Abbott
Governor

Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

10/26/2021

Mr & Mrs Thomas Mcdevitt
411 CR 433
Lorena TX 76655

RE: Complaint # CP2021100559

Dear Mr & Mrs Mcdevitt:

The Customer Protection Division (CPD) of the Public Utility Commission of Texas received your complaint against Levi WSC on 10/18/2021. In your complaint, you mentioned concerns regarding the refusal of service. With the information provided, CPD sent the complaint to Levi with a request to research your complaint and file their response to your concerns. On 10/26/2021, CPD reviewed the documentation provided by you and Levi to ensure the company had acted consistently with the Commission's Substantive Rules.

Levi confirmed you live at 411 CR 433 in Lorena, Texas and is serviced by one existing Levi water meter. In Mid-April, while Levi's management was driving the system, it came to their attention that an additional residential structure was being built adjacent to your existing residence. This additional structure was outfitted as a residence/barn dominium and was nearing completion. Levi stated they were not aware of any meter requests from you, and it appeared the builder intended to run a connection to the existing meter granted to the original residence on the property. Levi sent you a letter advising an additional meter would be required and reminded you of the requirements under the Texas Administrative Code and the Levi Tariff, which restricts each residential dwelling to one connection per meter.

Levi stated you applied for an additional new meter on 4/22/2021. Levi stated prior to your application they had received multiple applications for new meters from a range of new and existing customers. All applications for meters go through the same application process in compliance with their tariff. Levi stated they had previously scheduled a special meeting of the Board to meet with the engineer and discuss the growing system along with their groundwater allotment from the Southern Trinity Groundwater Conservation District. Levi stated they waited to grant new meters until the Board could meet to discuss the pending applications. This was delayed an additional month or two due to fall-out from winter storm Yuri in February 2021. Following a work session of the Board on 4/23/2021, which many pending applicants attended, the Levi Board and engineer determined there were approximately 3 meters that could be issued immediately, but any additional meters would exceed the permitted usage allocation granted by the Southern Trinity Groundwater Conservation District. The Board determined all other applications would be deferred until an additional or alternative water source or sources could be identified.



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Mr & Mrs Thomas Mcdevitt

10/26/2021

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CPD's investigation determined that Levi WSC has failed to act consistently with Substantive Rule §24.161. Response to Requests for Service by a Retail Public Utility Within Its Certificated Area. (a) Except as provided for in subsection (e) of this section, every retail public utility shall serve each qualified service applicant within its certificated area as soon as is practical after receiving a completed application. A qualified service applicant is an applicant who has met all the retail public utility's requirements contained in its tariff, schedule of rates, or service policies and regulations for extension of service including the delivery to the retail public utility of any service connection inspection certificates required by law.

Except for good cause shown, the failure to provide service within 30 days of an expected date or within 180 days of the date a completed application was accepted from a qualified applicant may constitute refusal to serve and may result in the assessment of administrative penalties or revocation of the certificate of convenience and necessity or the granting of a certificate to another retail public utility to serve the applicant. We trust we have addressed this matter to your satisfaction.

Thank you for the opportunity to address your concerns. If we can assist you with future utility concerns, please contact us toll free through our Customer Assistance Call Center at 1-888-782-8477.

Sincerely,

Kenneth Wilson
Customer Protection Division
Public Utility Commission of Texas

cc: Levi WSC

PATTERSON + SHERIDAN LLP

ATTORNEYS AT LAW

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Waco, Texas 76701

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November 5, 2021

Mary Margaret Croft
Carpenter & Croft
7901 Fish Pond Road, Suite 210
Waco, Texas 76710

Via email: marymargaret@carpenterandcroft.com

Re: Lili and Thomas McDevitt v. Levi Water Supply Corporation

Dear Ms. Croft,

After our phone conversation on November 3, 2021, I reviewed your letter dated November 2, 2021, the Customer Protection Division's Letter dated October 26, 2021 and other documentation obtained in this matter.

It appears that LWSC's position is that "good cause" exists pursuant to Public Utilities Commission, Substantive Rule §24.161(e) for the continued denial of a water meter, and therefore water service, to the McDevitts' newly renovated barn. However, it appears that Investigator Kenneth Wilson with the Public Utility Commission's Customer Protection Division considered the exact arguments put forth in your letter of November 2, 2021. As a result, Investigator Wilson's investigation resulted in a determination that LWSC has, "...failed to act consistently with Substantive Rule §24.161."

It is our position that LWSC has failed to provide water service within 180 days of accepting a completed application from a qualified applicant and, therefore, LWSC is in violation of rules governing their Certificate of Convenience and Necessity.

The McDevitts submitted their application for a new water meter and engineering fee in April of 2021. The McDevitts were informed that, despite complying with LWSC's requirements for a water meter and being a qualified service applicant in LWSC's certified area, they would be denied water service to their newly renovated barn. While you claim that LWSC is attempting to correct the problem, LWSC is currently in violation of its obligation under their Certificate of Convenience and Necessity.

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In light of this violation, the McDevitts will proceed with filing a formal complaint with the Public Utilities Commission and take other legal action available and necessary to obtain a second water meter and water service to their newly renovated barn. We appreciate the invitation to come speak at the upcoming November 12, 2021 Board Meeting. Unfortunately, the McDevitts attempted to communicate their concerns to the LWSC Board in May of 2021 and nothing was done to correct the wrong.

If LWSC is now willing to remedy this problem by providing water to the renovated barn, please let us know prior to Tuesday, November 9, 2021. After that date, we intend to take all necessary actions to remedy this problem through administrative and legal action. I look forward to hearing from you.

Very truly yours,

PATTERSON + SHERIDAN, L.L.P.

Abelino "Abel" Reyna
Partner

Cc: Lili and Eddie McDevitt
B. Todd Patterson