



Filing Receipt

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Control Number - 53243

ItemNumber - 32

DOCKET NO. 53243

APPLICATION OF MAUKA WATER	§	PUBLIC UTILITY
LP AND JAMES A. DYCHE DBA	§	
CREST WATER COMPANY FOR	§	COMMISSION
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	OF TEXAS
RIGHTS IN JOHNSON COUNTY	§	

RESPONSE TO ORDER NO. 11 AND PROOF OF CONSUMMATION OF TRANSACTION

COME NOW, James A. Dyche d/b/a Crest Water Company (“Applicant”) and submits this Response to Order No. 11 and Proof of Consummation of Transaction and in support thereof, would respectfully show the following:

I. BACKGROUND

On, February 18, 2022, Applicants filed an application for approval of the sale, transfer, or merger (STM) of facilities and certificate rights in Johnson County. On November 7, 2022, the Commission Administrative Law Judge (“ALJ”) issued Order No. 9 ordering that the sale and transaction may be proceed within 180 days. On January 25, 2023, the Commission ALJ issued Order No. 11 requiring Applicants to file a status report of the closing of the transaction by February 8, 2023. Therefore, this pleading is timely filed.

II. PROOF OF CONSUMMATION OF TRANSACTION

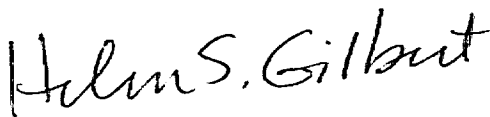
In accordance with 16 Tex. Admin. Code (“TAC”) § 24.239(l), Applicants submit evidence that the transaction has been consummated, attached hereto as Exhibit A. Specifically, Exhibit A includes executed copies of the Closing Agreement, Bill of Sale, and a Special Warranty Deed for the sale of Mauka Water. The deed was recorded in the Johnson County records on February 6, 2023. Accordingly, pursuant to 16 TAC 24.239(m), the sale has been consummated within 180 days of Commission approval of the STM application.

III. PRAYER

Applicant James A. Dyche d/b/a Crest Water Company respectfully requests that the ALJ take notice that the transaction was consummated within the 180-day deadline, and for all further relief to which it is entitled.

Respectfully submitted,

Helen S. Gilbert
State Bar No. 00786263
BARTON BENSON JONES PLLC
7000 N. MoPac Expwy, Suite 200
Austin, Texas 78731
Telephone: (210) 640-9174
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hgilbert@bartonbensonjones.com


By: 

Helen S. Gilbert

**ATTORNEY FOR JAMES A. DYCHE
DBA CREST WATER COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 8th of February 2023.



Helen S. Gilbert

**Mauka-Crest STM
EXHIBIT A**

CLOSING AGREEMENT

between

Mauka Water, LTD. and

James A. Dyche dba Crest Water Company

THIS CLOSING AGREEMENT executed effective as of Feb. 3 2023, is by and between Mauka Water, LTD., a Texas limited partnership ("Seller") and James A. Dyche dba Crest Water Company, a Texas individual ("Buyer"). The Buyer and Seller are referred to individually as a "Party" and collectively as the "Parties." Capitalized terms not defined in this Closing Agreement shall have the same definitions set forth in the Asset Purchase Agreement.

RECITALS

WHEREAS, Buyer and Seller entered into that Amendment to the Asset Purchase Agreement executed June 23, 2021 (the "Amended Asset Purchase Agreement"), under which Buyer agreed to purchase from Seller, and Seller agreed to sell to Buyer, all of Seller's water distribution system assets and associated real and personal property utilized by Seller in the operation of Seller's potable water supply system in Johnson County, Texas, better known as the Mauka Water System, identified with the Public Utility Commission of Texas under its Certificate of Convenience and Necessity ("CCN") number 12917 and Public Water System n("PWS") #1260123, (all together, the "Water System"); and

WHEREAS, all of the conditions, representations, and warranties of the Asset Purchase Agreement have been met, and the Parties wish to commemorate the Closing of the purchase and sale of the Water System.

~~NOW, THEREFORE, in consideration of the above premises and the respective~~
representations, warranties, agreements and conditions herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. All the transactions contemplated by the Asset Purchase Agreement have been completed and funded.
2. Seller certifies, represents and warrants to Buyer as of the date hereof, that each and every one of Seller's representations and warranties contained in Asset Purchase Agreement are and continue to be true and correct on the date hereof.
3. Seller certifies, represents and warrants to Buyer that in accordance with Section 4.12 of the Asset Purchase Agreement, as of the date of Closing, and the effective date of this Closing Agreement, Seller has refunded all customer deposits, improperly collected passthrough charges, and any and all other monies owed the Water System customers by Seller, including interest accrued to the benefit of those customers if applicable. Accordingly, Seller shall be

**Mauka-Crest STM
EXHIBIT A**

bound by its indemnification obligations set forth in Section. 2.6 of the Asset Purchase Agreement for failure to comply with its obligation described in this paragraph.

4. Seller hereby consents to the transfer of the Water System assets to Purchaser according to the terms of the Asset Purchase Agreement.

The Parties understand and accept that this consent will serve to authorize the Executive Director of the PUCT to take action upon receipt of Buyer's signed consent form alone and that Seller is relying on Buyer to provide the final consent on the transfer of the Water System and corresponding amendment to Buyer's Certificate of Convenience and Necessity in accordance with Title 16, Chapter 24, Subchapter G, of the Texas Administrative Code.

IN WITNESS WHEREOF, the undersigned have executed this Closing Agreement effective as of the date first written above.

(Signatures on next page)

**Mauka-Crest STM
EXHIBIT A**

BUYER:

James A. Dyche d/b/a/ Crest Water Company

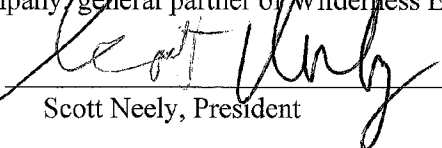
By: _____
James A. Dyche

SELLER:

MAUKA WATER, LTD, a Texas limited partnership

BY: WILDERNESS ENTERPRISES LP, a Texas
limited partnership, its sole general partner.

By: WILDERNESS GP LLC, a Texas limited liability
company, general partner of Wilderness Enterprise LP


By:  1/30/23

Scott Neely, President

**Mauka-Crest STM
EXHIBIT A**

BUYER:

James A. Dyche d/b/a/ Crest Water Company

By: 
James A. Dyche

SELLER:

MAUKA WATER, LTD, a Texas limited partnership

BY: WILDERNESS ENTERPRISES LP, a Texas
limited partnership, its sole general partner.

By: WILDERNESS GP LLC, a Texas limited liability
company, general partner of Wilderness Enterprise LP

By: _____
Scott Neely, President

**Mauka-Crest STM
EXHIBIT A**

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NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

BILL OF SALE

STATE OF TEXAS §

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF JOHNSON §

§

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **MAUKA WATER, LTD.**, a Texas limited partnership with Texas Secretary of State File Number 12461710 ("Seller"), hereby bargains, sells, conveys and transfers to **JAMES DYCHE**, an individual ("Buyer"), all of Seller's **RIGHT, TITLE, AND INTEREST** in all of the wells, well casings, pipes, pumps, motors, meter taps, meters, distribution lines, easement rights, and all material (including all books of customer account, maintenance records, and all other records relating to the operation, design, ownership and management of the Facilities) and equipment of whatever kind whether attached to realty or located on and used in connection with the water supply system (generally referred to herein as the "Facilities") located on, under or about, connected to the easements described on Exhibit A which serve the Service Area described and located in Johnson County, Texas, commonly known as the "Hills of Springwood" water system (all the foregoing collectively referred to as the "Personal Property"). Seller represents and warrants that Seller has good and indefeasible title to such Personal Property, and that such Personal Property is conveyed free and clear of any and all mortgages, liens, claims, restrictions, and encumbrances.

IN WITNESS WHEREOF, Seller has caused this instrument to be executed and delivered as of this 30th day of January, 2023.

(Signature and notary on next page)

Mauka-Crest STM
EXHIBIT A

GRANTOR:

MAUKA WATER, LTD, a Texas limited partnership

By: WILDERNESS ENTERPRISES LP, a Texas limited partnership, its general partner.

By: WILDERNESS GP LLC, a Texas limited liability company, its general partner

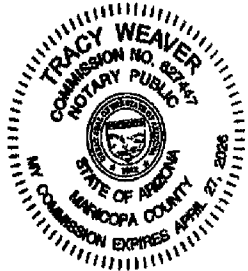
By: Scott Neely 1/30/23
Scott Neely, President

STATE OF Arizona §
 §
COUNTY OF Maricopa §

BEFORE ME, the undersigned, a notary public in and for said County and State, on this day personally appeared SCOTT NEELY, the President and authorized representative of Wilderness GP LLC, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and swore to me that he executed the same on behalf of said entity, for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said entity.

GIVEN under my hand and seal of office this 30th day of January, 2023.

Tracy Weaver
Notary Public, State of Arizona



**Mauka-Crest STM
EXHIBIT A**

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Exhibit "A" to Bill of Sale Deed

All of the rights, titles and interest of Mauka Water Ltd. in and to

1. That certain Water Plant Easement and the Utility Easements created by and depicted in that certain plat of Hills of Springwood Phase One recorded in Cabinet B-211, Volume 8, Page 440 in the Plat Records of Johnson County, Texas; and
 2. That certain Water Plant Easement and the Utility Easements created by and depicted in that certain plat of Hills of Springwood Phase Two recorded in Cabinet C, Volume 8, Page 481 in the Plat Records of Johnson County, Texas.
-

**Mauka-Crest STM
EXHIBIT A**

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**Johnson County
April Long
Johnson County
Clerk**

Instrument Number: 2023 - 2844

eRecording - Real Property

Bill of Sale

Recorded On: February 06, 2023 01:56 PM

Number of Pages: 4

" Examined and Charged as Follows: "

Total Recording: \$34.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2023 - 2844
Receipt Number: 20230206000107
Recorded Date/Time: February 06, 2023 01:56 PM
User: Linda B
Station: ccl30

Record and Return To:

Corporation Service Company



**STATE OF TEXAS
COUNTY OF JOHNSON**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Johnson County, Texas.

April Long
Johnson County Clerk
Johnson County, TX

April Long

**Mauka-Crest STM
EXHIBIT A**

2023 - 2845 02/06/2023 02:08 PM Page 1 of 4

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

STATE OF TEXAS §

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF JOHNSON §

THAT MAUKA WATER, LTD., a Texas limited partnership with Texas Secretary of State File Number 12461710 ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) cash in hand paid as well as the provision of valuable goods and services by JAMES DYCHE, an individual ("Grantee"), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto Grantee, all of Grantor's RIGHT, TITLE AND INTEREST in and to those certain easements situated in Johnson County, Texas, described as reflected on Exhibit A attached hereto together with all and singular the rights, privileges, hereditaments, and appurtenances pertaining to such real property (the "Property").

TO HAVE AND TO HOLD the Property, together with, all and singular, the rights and appurtenances thereto in anywise belonging to Grantee and Grantee's successors and assigns forever. Grantor does hereby bind Grantor and Grantor's successors and assigns to warrant and forever defend, all and singular, the Property unto the Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise.

This conveyance is being made by Grantor and accepted by Grantee subject to taxes for the year 2023, the payment of which Grantor expressly assumes.

(Signature and Notary on page 2)

Mauka-Crest STM
EXHIBIT A

EXECUTED to be effective as of the 30th day of January, 2023.

GRANTOR:

MAUKA WATER, LTD, a Texas limited partnership

BY: WILDERNESS ENTERPRISES LP, a Texas limited partnership, its sole general partner.

By: WILDERNESS GP LLC, a Texas limited liability company, general partner of Wilderness Enterprise LP

By: Scott Neely
Scott Neely, President

STATE OF Arizona §
§
COUNTY OF Maricopa §

BEFORE ME, the undersigned, a notary public in and for said County and State, on this day personally appeared SCOTT NEELY, the President and authorized representative of Wilderness GP LLC, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and swore to me that he executed the same on behalf of said entity, for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said entity.

GIVEN under my hand and seal of office this 30th day of January, 2023.

Tracy Weaver
Notary Public, State of Arizona



**Mauka-Crest STM
EXHIBIT A**

2023 - 2845 02/06/2023 02:08 PM Page 3 of 4

Exhibit "A" to Special Warranty Deed

All of the rights, titles and interest of Mauka Water Ltd. in and to

1. That certain Water Plant Easement and the Utility Easements created by and depicted in that certain plat of Hills of Springwood Phase One recorded in Cabinet B-211, Volume 8, Page 440 in the Plat Records of Johnson County, Texas; and
2. That certain Water Plant Easement and the Utility Easements created by and depicted in that certain plat of Hills of Springwood Phase Two recorded in Cabinet C, Volume 8, Page 481 in the Plat Records of Johnson County, Texas.

**Mauka-Crest STM
EXHIBIT A**

2023-2845 02/06/2023 2:11 PM Page 4 of 4

**Johnson County
April Long
Johnson County
Clerk**

Instrument Number: 2023 - 2845

eRecording - Real Property

Warranty Deed

Recorded On: February 06, 2023 02:08 PM

Number of Pages: 4

" Examined and Charged as Follows: "

Total Recording: \$34.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2023 - 2845
Receipt Number: 20230206000106
Recorded Date/Time: February 06, 2023 02:08 PM
User: Leslie S
Station: ccl83

Record and Return To:

Corporation Service Company



**STATE OF TEXAS
COUNTY OF JOHNSON**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Johnson County, Texas.

April Long
Johnson County Clerk
Johnson County, TX

April Long