



Filing Receipt

Received - 2023-02-15 02:29:55 PM
Control Number - 53336
ItemNumber - 37

DOCKET NO. 53336

APPLICATION OF BIG EASY AGUA	§	PUBLIC UTILITY COMMISSION
LLC FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
COLORADO COUNTY	§	

MOTION TO ADMIT EVIDENCE

I. INTRODUCTION

On March 11, 2022, Big Easy Agua LLC (Big Easy) filed an application to obtain a water Certificate of Convenience and Necessity (CCN) in Colorado County. The requested service area consists of 1, 039 acres and 0 connections.

On January 27, 2023, the administrative law judge filed Order No. 11 requiring Big Easy to provide clarifications and move to admit the clarifications and any supplemental evidence by February 10, 2023. On February 8, 2023, Big Easy timely filed its clarifications with attachments, but did not file a motion to admit. On February 15, 2023, the administrative law judge filed an addendum to Order No. 11 requiring Big Easy to file a motion to admit the clarifications with attachments by February 24, 2023. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

Big Easy requests that the following evidence be admitted into the record:

- (1) Letter of clarification including attachments (Water System Agreement and Service Area Map showing no CCN boundaries or water districts within a ½ mile radius and 2 mile radius).

III. CONCLUSION

Big Easy respectfully request that the item listed above be admitted into the record of this proceeding as evidence.

Dated: February 15, 2023

Respectfully Submitted,

BIG EASY AGUA, LLC

/s/ Shelley Young

Shelley Young, P.E.

Engineer for Big Easy Agua, LLC

DOCKET NO. 53336

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 15, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50665

/s/ Shelley Young

Shelley Young, P.E.



WATERENGINEERS, INC.

WATER & WASTEWATER TREATMENT CONSULTANTS

17230 HUFFMEISTER ROAD, SUITE A~CYPRESS, TEXAS 77429-1643

TEL: 281-373-0500 FAX: 281-373-1113

February 8, 2023

Public Utility Commission of Texas
Central Records
1701 N. Congress, Suite 8-100
Austin, TX 78701

Re: APPLICATION OF BIG EASY AGUA LLC FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY IN COLORADO COUNTY
DOCKET NO. 53336

Dear Public Utility Commission of Texas:

Please accept this letter as response to the need for clarification request dated January 27, 2023 from Administrative Law Judge Christina Denmark (ALJ).

Notice Clarification: The ALJ asked if each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area had been noticed. BB Oak Creek Ranch LLC was the sole owner of the entire 1,029 acres being requested in this certificate of convenience and necessity at the time of the application. Eighteen of the one hundred twenty lots that are being developed (and the cause of this CCN application) have now been sold, however none of the lots are 25 acres or greater.

Need for Service Clarification: As mentioned in the original application and in the second paragraph of the November 9, 2022 Water System Agreement (attached hereto for ease of review), Big Easy Ranch Development LLC is developing a 120-lot subdivision as part of the overall Big Easy Ranch Development. These homes will require retail water service that Big Easy Agua LLC will provide. To date, four homes are under construction, with several more in the review process.

Other Clarifications:

Water Plant: The ALJ requests clarification regarding water plant construction. To date, the well has been drilled, the water plant building and booster pumps have been installed, the ground storage tank and hydropneumatic tank have been erected, and yard piping has been installed. Electrical work is in progress. All distribution system lines have been installed. It is anticipated that the plant will be complete in the next 30-45 days, depending on weather.

Employment of TCEQ Licensed Operator Clarification: A TCEQ requirement for operating a public water supply system in the State of Texas is that a TCEQ licensed operator must operate and maintain the facilities according to all TCEQ rules and regulations. Big Easy Agua LLC intends to follow all TCEQ rules and regulations and has tentatively reached an agreement with FloWatch, Inc. (TCEQ Operations Company Registration No. WC0000157) to operate and maintain the Big Easy Agua Public Water System.

Retail Public Utilities within One Half Mile Clarification: There are no other retail public utilities located within ½ mile of the outer boundaries of the proposed service area, therefore no requests for service were sent. The attached service area map shows a ½ mile radius and a 2 mile radius indicating that there are no water districts or CCN boundaries within either of those areas. Neighbor notices were sent to BB Oak Ranch LLC (landowner owning more than 25 acres within the service area), the Colorado County Judge and the Colorado County Groundwater Conservation District.

Please feel free to contact me if you require any additional information or if you have any questions regarding this submittal.

Sincerely,
WATERENGINEERS, INC.

Shelley Young

Shelley Young, P.E.
Project Engineer

WATER SYSTEM AGREEMENT

THIS AGREEMENT ("Agreement") is executed this 9th day of November, 2022, by and between Big Easy Agua, LLC, a Texas limited liability company, 2400 Brunes Mill Road, Columbus, Texas 78934 (the "Utility Company"), and Big Easy Ranch Development, LLC, a Texas limited liability company, 2400 Brunes Mill Road, Columbus, Texas 78934 (the "Developer").

WHEREAS, the Developer is developing as a residential subdivision, resort, hunting club and golf club approximately 1,038.51 acres of land in Colorado County, Texas, approximately 7.3 miles northwest of downtown Columbus, Texas, and more particularly described on Exhibit "A" attached hereto (collectively, "Big Easy Ranch").

WHEREAS, the Utility Company is in the business of constructing and operating water distribution systems to residential and commercial customers;

WHEREAS, the Utility Company and the Developer wish for the Utility Company to provide potable water service to the future customers of Big Easy Ranch;

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. The Utility Company will agree to provide the initial and ongoing potable water service to each customer of the development requesting service. The water service will be pursuant to TCEQ rules and regulations. The Utility Company will file the necessary documents with the TCEQ and PUC to legally provide such service to the entire acreage.
2. The Developer will assign the Utility Company a reasonably necessary amount of land, in a mutually agreeable location for the well site. The Developer will also provide necessary easements within the development for the Utility Company to operate the water distribution system. Land shall be assigned to the Utility Company with sixty (60) days following filing of applications with TCEQ and PUC to provide water service to the development.
3. The Developer agrees to pay \$1,547,199 for construction and installation of water plant and distribution system.
4. The Utility Company agrees to install water distribution and water treatment plant, including 10,968 linear feet of 8" and 905 linear feet of 10" distribution water lines, an 8" water well, a 125,186-gallon ground storage tank, four 25 HP booster pumps, a 5,073-gallon ASME Code hydropneumatic tank, a sodium hypochlorite disinfection system and a 150 Kw standby generator with a 400-amp automatic transfer switch, all protected by an intruder resistant fence. The Utility company further agrees to make a CCN application with PUC to provide retail water service to the development.

5. The Utility Company agrees to indemnify and hold harmless the Developer from any claims or causes of action of any kind, from any person, entity or agency, which arise as a result of the acts of the Utility Company or which relate to the providing of water, or failure to provide water, to the customers of the development.
6. Any notice required or permitted to be given under this Agreement, including payments, shall be sufficient if in writing, and shall be deemed to have been given if personally delivered or if deposited in the United States mail, by certified mail, with proper postage prepaid thereon, addressed as follows:

If to Developer:	Big Easy Ranch Development, LLC Attn: Chad McCormick 2400 Brunes Mill Road Columbus, Texas 78934
------------------	---

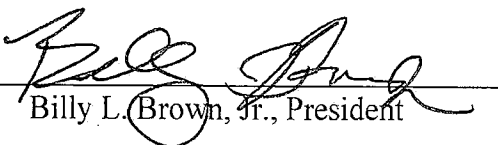
If to the Utility Company:	Big Easy Agua, LLC Attn: Doug Talbot 2400 Brunes Mill Road Columbus, Texas 78934
----------------------------	---

7. In the event of a dispute between the parties to this Agreement over any and all matters arising under, related to or in conjunction with this Agreement, the parties mutually agree that such dispute shall be resolved by arbitration conducted by three (3) arbitrators designated by the American Arbitration Association. The expense of such arbitration shall be paid equally by the parties and the conclusion of such arbitrators shall be conclusive and binding on all parties.
8. This instrument contains the entire Agreement of the parties superseding all other agreements, whether oral or written, express or implied, it may not be changed orally but only by agreement in writing signed by the party against whom enforcement of any waiver change, modification, extension or discharge is sought.
9. Every covenant, term and provision of the Agreement shall be construed simply according to its fair meaning and not strictly for or against any party.
10. This entire agreement is contingent upon the Utility Company successfully obtaining necessary permits from TCEQ and PUC to legally provide water service to the development.

EXECUTED by the Developer and the Utility Company as of the date first set forth hereinabove.

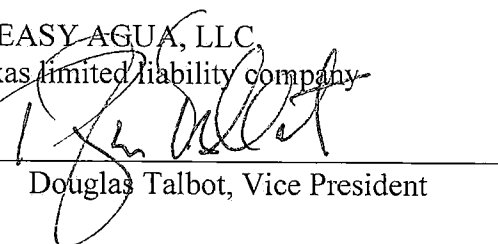
DEVELOPER:

BIG EASY RANCH DEVELOPMENT, LLC,
a Texas limited liability company

By: 
Billy L. Brown, Jr., President

UTILITY COMPANY:

BIG EASY AGUA, LLC,
a Texas limited liability company

By: 
Douglas Talbot, Vice President

METES AND BOUNDS DESCRIPTION
1,038.51 ACRES IN THE
ABEL BEASON SURVEY, ABSTRACT 74,
JAMES CRONICAN SURVEY, ABSTRACT 139,
WILLIAM FREILS SURVEY, ABSTRACT 209,
CHARLES GEISEIKE SURVEY, ABSTRACT 227,
JOHN RAWLINGS SURVEY, ABSTRACT 476, AND
SAMUEL J. REDGATE SURVEY, ABSTRACT 478
COLORADO COUNTY, TEXAS

A 1,038.51-ACRE TRACT OF LAND SITUATED IN THE ABEL BEASON SURVEY, ABSTRACT 74, JAMES CRONICAN SURVEY, ABSTRACT 139, WILLIAM FREILS SURVEY, ABSTRACT 209, CHARLES GEISEIKE SURVEY, ABSTRACT 227, JOHN RAWLINGS SURVEY, ABSTRACT 476, AND THE SAMUEL J. REDGATE SURVEY, ABSTRACT 478, COLORADO COUNTY, TEXAS, BEING ALL OF THAT CALLED 869.447-ACRE TRACT OF LAND DESCRIBED IN A DEED TO BB OAK CREEK, LLC RECORDED IN VOLUME 678, PAGE 464 OF THE COLORADO COUNTY OFFICIAL PUBLIC RECORDS, ALL OF THAT CALLED 164.00-ACRE TRACT OF LAND DESCRIBED IN A DEED TO BB OAK CREEK RANCH, LLC RECORDED IN VOLUME 709, PAGE 390 OF THE COLORADO COUNTY OFFICIAL PUBLIC RECORDS, AND ALL OF THAT CALLED 5.006-ACRE TRACT OF LAND DESCRIBED IN A DEED TO BB OAK CREEK RANCH, LLC RECORDED IN VOLUME 700, PAGE 597 OF THE COLORADO COUNTY OFFICIAL PUBLIC RECORDS, SAID 1,038.51-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE (4204), AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a found 1/2-inch iron rod in the west line of a called 3.323-acre tract in the name of Curtis R. Schonenberg II, and Pamela Kay Schonenberg recorded in Volume 592, Page 166 of the Colorado County Official Public Records, marking the northerly northeast corner of a called 651.80-acre tract of land described in a deed to Marjorie S. Brune Revocable Living Trust recorded in Volume 504, Page 133 of the Colorado County Official Public Records and an easterly southeast corner of a said called 869.447-acre tract of land and of the herein described tract of land;

THENCE along the common line of said called 651.80-acre tract of land and said called 869.447-acre tract of land as follows:

- (1) South 88°21'25" West, 1,755.78 feet to a found 1/2-inch iron rod;
- (2) South 26°10'04" West, 1,470.26 feet to a found 1/2-inch iron pipe (bent);
- (3) South 46°00'21" West, 374.40 feet to a found 1/2-inch iron rod;
- (4) South 16°07'21" West, 775.78 feet to a found 1/2-inch iron rod;
- (5) South 00°33'59" East, 943.20 feet to a found 3/4-inch iron pipe for a reentrant corner of the herein described tract of land;
- (6) North 89°03'27" East, 1,477.05 feet to a found 1/2-inch iron pipe;
- (7) South 01°14'20" East, 1,111.23 feet to a found 1/2-inch iron rod;

- (8) South 88°09'41" West, 2,964.17 feet to a found 1/2-inch iron pipe marking the northeast corner of a called 1,409.185-acre tract of land described in a deed as Tract 2 to Phan Le Ton recorded in Volume 687, Page 428 of the Colorado County Official Public Records, the northwest corner of said called 651.800-acre tract of land, an angle point in said called 869.477-acre tract of land and of the herein described tract of land, from which a found 3/4-inch iron rod bears North 45°49' West, 3.8 feet;

THENCE along the common line of said called 1,409.185-acre tract of land and said called 864.447-acre tract of land as follows:

- (9) South 89°05'26" West, 2,459.40 feet to a found 1/2-inch iron rod (bent) marking a reentrant corner of said called 1,409.185-acre tract of land and said called 869.477-acre tract of land and of the herein described tract of land;
- (10) South 00°47'42" East, 3,318.76 feet to a found 1/2-inch iron rod marking the most southerly southeast corner of said called 869.447-acre tract of land and of the herein described tract of land;
- (11) South 89°31'40" West, 1,080.03 feet to a 5/8-inch iron rod with cap set stamped "RPLS 5485" in the east line of a called 1,506.95-acre tract of land described in a deed to E & P Refuge, LTD recorded in Volume 421, Page 920 of the Colorado County Official Public Records marking the westerly northwest corner of said called 1,409.185-acre tract of land and the southwest corner of said called 869.447-acre tract of land and of the herein described tract of land;
- (12) **THENCE** North 02°34'02" East, 9,216.12 feet along the common line of said called 1,506.95-acre tract of land and said called 869.447-acre tract of land to a found 3/4-inch iron rod in the south line of a called 841.78-acre tract of land described in a deed to PKLCA, LTD recorded in Volume 422, Page 103 of the Colorado County Official Public Records marking the northeast corner of said called 1,506.95-acre tract of land, the northwest corner of said called 869.447-acre tract of land and the westerly northwest corner of the herein described tract of land;
- (13) **THENCE** North 89°09'30" East, 2,051.03 feet along the common line of said called 841.78-acre tract of land and said called 869.447-acre tract of land to a found 6-inch by 6-inch concrete monument marking the southwest corner of a said called 164.00-acre tract of land and the southeast corner of said called 841.78-acre tract of land, and a reentrant corner of the herein described tract of land;
- (14) **THENCE** North 01°47'44" West, 1,367.67 feet along the common line of said called 841.78-acre tract of land and said called 164.00-acre tract of land to a found 5/8-inch iron rod with aluminum cap stamped "FRANK SURVEYING" marking the southwest corner of a called 177.78-acre tract of land described in a deed to Lazy S Holdings, LLC recorded in Volume 887, Page 719 of the Colorado County Official Public Records and the northwest corner of said called 164.00-acre tract of land and of the herein described tract of land;

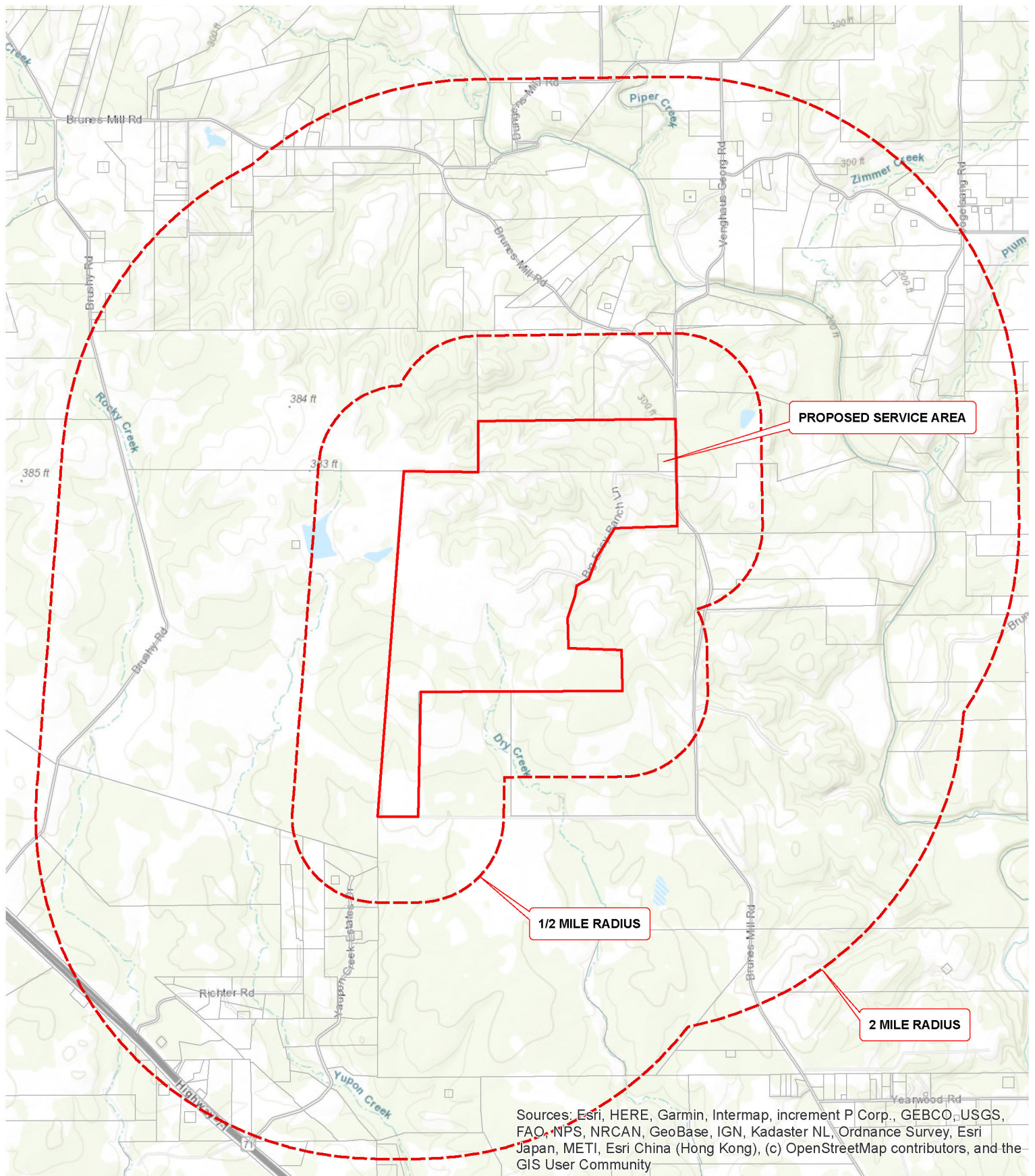
- (15) **THENCE** North 88°12'13" East, along the common line of said called 177.78-acre tract of land and said called 164.00-acre tract of land at 3,112.96 feet pass a found 5/8-inch iron rod with aluminum cap stamped "FRANK SURVEYING" marking the southwest corner of a called 96.42-acre tract of land described in a deed to Black Gold Ranch, LLC recorded in Volume 742, Page 275 of the Colorado County Official Public Records and the southeast corner of said called 177.78-acre tract of land, continuing in all for a total distance of 5,263.34 feet to a 3-inch metal fence post in the recognized west right-of-way line of Brunes Mill Road, same being the northwest line of a called 202.09-acre tract of land described in a deed to BB Oak Creek Ranch, LLC recorded in Volume 765, Page 568 of the Colorado County Official Public Records marking the southeast corner of said called 96.42-acre tract of land and the northeast corner of said called 164.00-acre tract of land and of the herein described tract of land;
- (16) **THENCE** South 02°39'12" East, 1,416.20 feet along the common line of said called 202.09-acre tract of land and said called 164.00-acre tract of land and the recognized west right-of-way of said Brunes Mill Road to a found 1/2-inch iron rod marking the southeast corner of said called 5.006-acre tract of land and the northeast corner of said called 869.447-acre tract of land and an angle point of the herein described tract of land;
- (17) **THENCE** South 03°19'56" East, 1,490.27 feet along the east line of said called 869.447-acre tract of land to the **POINT OF BEGINNING** and containing 1,038.51 acres (45,237,543 Square Feet) of land. This description accompanies a Boundary Survey, prepared by KM Surveying, LLC and dated this the 6th day of January, 2022.

KM SURVEYING, LLC

Kevin Drew McRae, R.P.L.S.
Texas Registration No. 5485
3902 Reese Road, Suite C-100
Rosenberg, Tx 77471



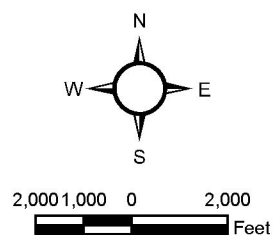
File No: \\...documents\technical\2310-2016 Big Easy Overall BNDY – desc.docx



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

LEGEND

- Proposed Service Area
- 2 MILE RADIUS
- 1/2 MILE RADIUS
- Water Districts
- Water CCN Boundary



BIG EASY RANCH

SERVICE AREA MAP

WATERENGINEERS, INC.
Water & Wastewater Treatment Consultants

Texas Board of Professional Engineers Firm No. 2066

17230 HUFFMEISTER RD., SUITE A
 CYPRESS, TEXAS 77429

TEL: 281-373-0500
 FAX: 281-373-1113