Filing Receipt

Received - 2023-02-24 02:50:41 PM
Control Number - 53476
ItemNumber - 45

DOCKET NO. 53476

APPLICATION OF UNDINE TEXAS LLC TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY IN JACKSON COUNTY	**§ § § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

APPLICANT'S RESPONSE TO ORDER NO. 10

On February 23, 2023, the Administrative Law Judge issued Order No. 10 directing Undine Texas, LLC ("Undine") to file clarifications on certain identified issues. Undine hereby provides those clarifications.

Regarding the construction of facilities, the ALJ notes:

> First, the administrative law judge (ALJ) is unclear as to the status of the Cape Shores Subdivision public water system. In the application, Undine Texas, LLC states that construction is necessary to provide service to the requested area. However, elsewhere in the application, Undine Texas states that construction of the water facilities has been completed and there are two existing customers and 95 potential future customers. Undine Texas also states that Quadvest LP previously developed the requested area and then it was decertified form Quadvest' s service area in Docket No. 51035.3 However, upon review of Docket No. 51035, Quadvest owned no facilities in the requested area.

Undine clarifies that there is no construction necessary to provide service to the requested area. That statement in the application was in error. The statement in the application that the construction of the water facilities has been completed and that there are two existing customers and 95 potential future customers is a correct statement. Regarding Quadvest LP, Undine understands the facilities (the water plant and distribution system) were constructed and completed by the developer (consistent with the information set out in Exhibit A, discussed below) and that Quadvest did not take ownership of the facilities.

The ALJ further notes regarding the facilities construction:

> Second, in the parties' proposed notice of approval, proposed finding of fact 35 states that Undine has Texas Commission on Environmental Quality (TCEQ)-approved plans to build facilities in the requested area to serve future customers and that the environmental integrity and effect on the land will be minimal as facilities are being constructed to provide service in the requested area. However, the ALJ was unable to locate in the record of this

proceeding any documents or correspondence from the TCEQ authorizing construction of the Cape Shores Subdivision public water system.

Attached as Exhibit A is the July 25, 2016 construction approval for the "Cape Shores Subdivision Public Water System ID No. 1200044," originally submitted in this docket as Exhibit B to Applicant's Amended Application filed on May 12, 2022 (Docket Id. No. 10).

Summarizing the clarifications regarding the construction of the facilities, the status of the construction of the Cape Shores Subdivision public water system is that the construction of the system has been completed. No further construction is necessary. Exhibit A contains the TCEQ correspondence authorizing the construction of the system.

In response to the ALJ's direction that Undine confirm that is has resolved or taken steps to address the violations cited by the TCEQ, Undine refers the ALJ to the attached Exhibit B.

Undine hereby requests that this motion and its attachments be admitted as evidence into the record of this docket.

Respectfully submitted,

Gregg Law PC

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

Attorneys for Undine Texas, LLC

CERTIFICATE OF SERVICE

By my signature above, I do hereby certify that a true and correct copy of the foregoing document was served on the parties on this the 24th day of February, 2023.

EXHIBIT A

PWS_1200044_CO_20160725_Plan Ltr

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 25, 2016

REVISED LETTER

Mr. Ray M. Bridges, P.E.
Urban Engineering
2004 N Commerce
Victoria, TX 77901

Re: Cape Shores Subdivision Public Water System ID No. 1200044
Proposed Water Well and System
Engineer Contact Telephone: (361) 578-9836
Plan Review Log No. P-04282016-157
Jackson County, Texas

CN 602944746; RN 109269738

Dear Mr. Bridges:

On April 22, 2016, the Texas Commission on Environmental Quality (TCEQ) received planning material with your letter dated April 18, 2016 for the proposed water well and system. Based on our review of the information submitted, the project generally meets the minimum requirements of Title 30 Texas Administrative Code (TAC) Chapter 290 – Rules and Regulations for Public Water Systems and is **conditionally approved for construction, subject to the following condition:**

Four corrosive indices (Modified Larson's Ratio Langelier Saturation Index, Ryznar Stability Index and the Aggressive Index) will be used to calculate corrosivity of the water from new source(s). Corrosive or aggressive water could result in aesthetic problems, increased levels of toxic metals, and deterioration of household plumbing and fixtures. If the water appears to be corrosive, the system will be required to conduct a study and submit an engineering report that addresses corrosivity issues or may choose to install corrosion control treatment before use may be granted. All changes in treatment required submittal of plans and specifications for approval by TCEQ.

Texas Water Code Section 36.0015 allows for the creation of groundwater conservation districts (GCDs) as the preferred method of groundwater management. GCDs manage groundwater in many counties and are authorized to regulate production and spacing of water wells. **Public water systems drilling wells within an existing GCD are responsible for meeting the GCD's requirements.** The authorization provided in this letter does not affect GCD authority to manage groundwater or issue permits.

The design engineer or water system representative is required to notify the Plan Review Team in writing by fax at (512) 239-6972 or emailing david.smith@tceq.texas.gov and cc: vera.poe@tceq.texas.gov at least 48 hours before the well casing pressure cementing begins. If pressure cementing is to begin on a Monday, then they must give notification on the

preceding Thursday. If pressure cementing is to begin on Tuesday, then they must give notification on the preceding Friday.

The TCEQ does not approve this well for use as a public water supply at this time. We have enclosed a copy of the *"Public Well Completion Data Checklist for Interim Approval."* We provide this checklist to help you in obtaining approval to use this well.

The submittal consisted of 9 sheets of engineering drawings, technical specifications and an engineering summary. The proposed project consists of:

- One (1) public water supply well drilled to 700 feet with 680 linear feet (lf) of 8-inch outside diameter (od) Standard Dimension Ratio (SDR) 17 American Society of Testing Materials (ASTM) Standard F 480 polyvinyl chloride (PVC) casing and pressure-cemented 680 lf;
- 20 lf of 8-inch od SDR 17 PVC slot screen;
- The well is rated for 100 gallons per minute (gpm) yield with a 30 horsepower, 6-inch, 21-stage, submersible pump set at 600 feet deep. The design capacity of the pump is 100 gpm at 900 feet total dynamic head;
- 980 lf 2-inch ASTM Standard D 1784 Schedule 40 PVC water line;
- 6,730 lf 4-inch American Water Works Association (AWWA) Standard C 900 DR 18 PVC water line;
- 2,450 lf 6-inch AWWA) Standard C 900 DR 18 PVC water line; and
- Various valves, fittings, and related appurtenances.
- Phase 1 plant improvements:
  - One (1) 2,500 gallon American Society of Mechanical Engineers (ASME) Section VIII, Division 1 Codes and Construction Regulations hydropneumatic pressure tank; and
  - All necessary valves, fittings, and related appurtenances
- Phase 2 plant improvements:
  - Two (2) 97 gallon per minute centrifugal service pumps;
  - One (1) 30 gallon per day peristaltic pump and two (2) 55 gallon double walled (per staff guidance) polyethylene storage drums;
  - One (1) 25,000 gallon American Water Works Association Standard D 100 steel ground storage tank; and
  - All necessary valves, fittings, and related appurtenances

Pursuant to 30 TAC §290.110(a) "*Applicability. All public water systems shall properly disinfect water before it is distributed to any customer and shall maintain acceptable disinfectant residuals within the distribution system*". Since this project is for a groundwater system and includes installation of only one chemical feed pump, **it is recommended that at least one additional, appropriately sized, chemical feed pump be installed as a backup** so that the

system can maintain disinfectant residual within its distribution system as required by this rule.

This approval is for the construction of the above listed items only. Any wastewater components contained in this design were not considered.

The Cape Shores Subdivision public water system provides water treatment.

The project is located on the west side of Cape Shores Drive, ½ mile south of Fisherman Lane in Jackson County, Texas.

An appointed engineer must notify the TCEQ's Region 14 Office in Corpus Christi at (321) 865-3100 when construction will start. Please keep in mind that upon completion of the water works project, the engineer or owner will notify the commission's Water Supply Division, in writing, as to its completion and attest to the fact that the completed work is substantially in accordance with the plans and change orders on file with the commission as required in 30 TAC §290.39(h)(3).

Please refer to the Plan Review Team's Log No. P-04282016-157 in all correspondence for this project.

Please Note: In order to determine if a new source of water or a new treatment process results in corrosive or aggressive finished water that may endanger human health, we are requesting additional sampling and analysis of lead, alkalinity (as calcium carbonate), calcium (as calcium carbonate) and sodium in addition to the required chemical test results for public water system new sources. We are requiring these additional sampling results as listed in our currently revised checklists *(Public Well Completion Data Checklist for Interim Use – Step 2 and Membrane Use Checklist – Step 2)* which can be found on TCEQ's website at the following address:

https://www.tceq.texas.gov/drinkingwater/udpubs.html

Please include these additional sampling results in well completion submittals, membrane use submittals, and other treatment process submittals.

New surface water sources will need to also include lead, total dissolved solids, pH, alkalinity (as calcium carbonate), chloride, sulfate, calcium (as calcium carbonate) and sodium with the analysis required in 30 TAC Section 290.41(e)(1)(F).

Please complete a copy of the most current Public Water System Plan Review Submittal form for any future submittals to TCEQ. Every blank on the form must be completed to minimize any delays in the review of your project. The document is available on TCEQ's website at the address shown below. You can also download the most current plan submittal checklists and forms from the same address.

https://www.tceq.texas.gov/drinkingwater/udpubs.html

For future reference, you can review part of the Plan Review Team's database to see if we have received your project. This is available on TCEQ's website at the following address:

https://www.tceq.texas.gov/drinkingwater/planrev.html/#status

You can download the latest revision of 30 TAC Chapter 290 – Rules and Regulations for Public Water Systems from this site.

If you have any questions concerning this letter or need further assistance, please contact David Smith at (512)239-4703 or by email at david.smith@tceq.texas.gov or by correspondence at the following address:

Plan Review Team, MC-159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Sincerely,

for David T. Smith, P.E.
Plan Review Team
Plan and Technical Review Section
Water Supply Division
Texas Commission on Environmental Quality

Vera Poe, P.E., Team Leader
Plan Review Team
Plan and Technical Review Section
Water Supply Division
Texas Commission on Environmental Quality

VP/DS/av

Enclosure: *"Public Well Completion Data Checklist for Interim Approval (Step 2)"*

cc: Cape Shores Subdivision PWS, Attn: Ms. Yvette Castro, P.O. Box 409, Tomball, TX 77377

Public Well Completion Data Checklist
For Interim Approval (Step 2)

Texas Commission on Environmental Quality
Water Supply Division
Plan Review Team MC-159
P.O. Box 13087, Austin, Texas 78711-3087

Public Water System I.D. No._____
TCEQ Log No. P-_____

The following list is a brief outline of the "Rules for Public Water Systems", 30 TAC Chapter 290 regarding proposed Water Supply Well Completion. Failure to submit the following items may delay project approval. Copies of the rules may be obtained from **Texas Register, 1019 Brazos St, Austin, TX, 78701-2413, Phone: (512) 463-5561** or downloaded from the website:
http://www.tceq.texas.gov/rules/indxpdf.html

Any well proposed as a source of water for a public water supply **must have plans approved for construction** by TCEQ. Please include the well construction approval letter with your submittal of well completion data listed below must be submitted for TCEQ evaluation. Based on this submitted data, interim approval may be given for use of the well.

1. ☐ Site map(s) at appropriate scales showing the following: [§290.41(c)(3)(A)]
   - ☐ (i) Final location of the well with coordinates;
   - ☐ (ii) Named roadways;
   - ☐ (iii) All property boundaries within 150 feet of the final well location and the property owners' names;
   - ☐ (iv) Concentric circles with the final well location as the center point with radii of 10 foot, 50 foot, 150 foot, and ¼ mile;
   - ☐ (v) Any site improvements and existing buildings;
   - ☐ (vi) Any existing or potential pollution hazards; and
   - ☐ (vii) Map must be scalable with a north arrow.
2. ☐ A copy of the recorded deed of the property on which the well is located showing the Public Water System (PWS) as the landowner, and/or any of the following: [§290.41(c)(1)(F)(iv)]
   - ☐ (i) Sanitary control easements (filed at the county courthouse and bearing the county clerk's stamp) covering all land within 150 feet of the well not owned by the PWS (for a sample easement see TCEQ Form 20698);
   - ☐ (ii) For a political subdivision, a copy of an ordinance or land use restriction adopted and enforced by the political subdivision which provides an equivalent or higher level of sanitary protection to the well as a sanitary control easement; and/or
   - ☐ (iii) A copy of a letter granting an exception to the sanitary control easement rule issued by TCEQ's Technical Review and Oversight Team.
3. ☐ Construction data on the completed well: [§290.41(c)(3)(A)]
   - ☐ (i) Final installed pump data including capacity in gallons per minute (gpm), total dynamic head (tdh) in feet, motor horsepower, and setting depth;
   - ☐ (ii) Bore hole diameter(s) (must be 3" larger than casing OD) and total well depth;
   - ☐ (iii) Casing size, length, and material (e.g. 200 lf of 12" PVC ASTM F480 SDR-17);
   - ☐ (iv) Length and material of any screens, blanks, and/or gravel packs utilized;

- ☐ (v) Cementing depth and pressure method (one of the methods in latest revision of AWWA Standard A-100, Appendix C, excluding the dump bailer and tremie methods);
- ☐ (vi) Driller's geologic log of strata penetrated during the drilling of the well;
- ☐ (vii) Cementing certificate; and
- ☐ (viii) Copy of the official State of Texas Well Report (some of the preceding data is included on the Well Report).

4. ☐ A U.S. Geological Survey 7.5-minute topographic quadrangle map (include quadrangle name and number) or a legible copy showing the location of the completed well; [§290.41(c)(3)(A)]
5. ☐ Record of a 36-hour continuous pump test on the well showing stable production at the well's rated capacity. Include the following: [§290.41(c)(3)(G)]
   - ☐ (i) Test pump capacity in gpm, tdh in feet, and horsepower of the pump motor;
   - ☐ (ii) Test pump setting depth;
   - ☐ (iii) Static water level (in feet); and
   - ☐ (iv) Draw down (in feet).
6. ☐ Three bacteriological analysis reports for samples collected on three successive days showing raw well water to be free of coliform organisms. Reports must be for samples of raw (untreated) water from the disinfected well and submitted to a laboratory accredited by TCEQ, accredited to perform these test; and [§290.41(c)(3)(F)(i)]
7. ☐ Chemical analysis reports for well water samples showing the water to be of acceptable quality for the most problematic contaminants listed below. Reports must come from a laboratory accredited by TCEQ; accredited to perform these test. Maximum contaminant level (MCL) and secondary constituent level (SCL) units are in mg/l (except arsenic). [§290.41(c)(3)(G) and§290.104 and §290.105]

MCL	PRIMARY	SCL	SECONDARY	SCL	SECONDARY	SCL	SECONDARY
10 (as N)	Nitrate	0.2	Aluminum	5.0	Zinc	300	Sulfate
1 (as N)	Nitrite	1.0	Copper	1,000	Total Dissolved Solids	300	Chloride
10 µg/l	Arsenic	0.3	Iron	2.0	Fluoride	≥ 7.0	pH
4.0	Fluoride	0.05	Manganese	N/A	Lead		

Corrosive Water Parameters	
Parameter	**Units**
Alkalinity as $CaCO_3$	mg/l
Calcium as $CaCO_3$	mg/l
Sodium	mg/l

All systems located in a high-risk county (see page 3) shall submit radiological analysis reports for water samples showing the water to be of acceptable quality for the contaminants listed below. Reports must come from a TCEQ accredited laboratory for interim use of the well.

MCL	CONTAMINANT
15 pCi/L	Gross alpha
5 pCi/L	Radium-226/228
50 pCi/L	Beta particle
30 µg/L	Uranium

WHERE: pCi/L = pico curies per liter, µg/L = micrograms per liter

Please be aware when you review your radiological data that if the report has gross alpha over 15 pCi/L and individual uranium isotopes are not reported, you will have to resample or reanalyze and resubmit radionuclide results. If you see gross alpha plus radium-228 over 5 pCi/L, and don't have radium-226, you will have to resample or reanalyze and resubmit complete results.

LIST OF COUNTIES WHERE RADIONUCLIDE TESTING IS REQUIRED

Please be aware that we have added the requirement for analysis for **radionuclides** for high-risk counties. For elevated levels of any contaminants found in a test well, treatment or blending may be required.

COUNTY	STATE CODE #
Atascosa	007
Bandera	010
Bexar	015
Bosque	018
Brazoria	020
Brewster	022
Burnet	027
Concho	048
Culberson	055
Dallam	056
Dawson	058
Erath	072
Fort Bend	079
Frio	082
Garza	085
Gillespie	086
Gray	090
Grayson	091
Harris	101

COUNTY	STATE CODE #
Hudspeth	115
Irion	118
Jeff Davis	122
Jim Wells	125
Kendall	130
Kent	132
Kerr	133
Kleberg	137
Liberty	146
Llano	150
Lubbock	152
McCulloch	154
Mason	160
Matagorda	161
Medina	163
Midland	165
Montgomery	170
Moore	171

COUNTY	STATE CODE #
Parker	184
Pecos	186
Polk	187
Presidio	189
Refugio	196
San Jacinto	204
San Saba	206
Tarrant	220
Travis	227
Tyler	229
Upton	231
Val Verde	233
Victoria	235
Walker	236
Washington	239
Wichita	243
Williamson	246
Zavala	254

EXHIBIT B

FILED CONFIDENTIALLY