



## Filing Receipt

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**DOCKET NO. 54341**

<b>APPLICATION OF AQUA TEXAS, INC.</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AND FOREST GROVE, INC. DBA</b>	<b>§</b>	
<b>SOUTHERN OAKS WATER SUPPLY</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FOR SALE, TRANSFER OR MERGER</b>	<b>§</b>	
<b>OF FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN NAVARRO AND</b>	<b>§</b>	
<b>FREESTONE COUNTIES</b>	<b>§</b>	

**COMMISSION STAFF’S RECOMMENDATION ON ADMINISTRATIVE  
COMPLETENESS AND NOTICE AND PROPOSED PROCEDURAL SCHEDULE AND  
REQUEST TO RESTYLE DOCKET**

**I. INTRODUCTION**

On November 14, 2022, Aqua Texas, Inc. (Aqua Texas) and Forest Grove, Inc. dba Southern Oaks Water Supply (Southern Oaks) (jointly, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Navarro and Freestone counties and for dual certification with the Winkler Water Supply Corporation (Winkler WSC). Aqua Texas filed supplemental information on December 2 and December 14, 2022.

On December 14, 2022, the administrative law judge (ALJ) filed Order No. 2, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file comments on the administrative completeness of the application and proposed notice, and both applicants and Staff to file a recommendation regarding how to proceed and propose a procedural schedule by January 6, 2023. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed the application and supplemental information and, as detailed in the attached memorandum from James Harville, Infrastructure Division and Fred Bednarski III and David Lopez, Rate Regulation Division, recommends that the application is administratively complete. Staff’s recommendation on administrative completeness is not a comment on the merits of the application.

### III. NOTICE

At this time, Staff recommends that the Applicants proceed with providing public notice to all current customers, neighboring utilities, political subdivisions, and other persons listed in the attached memorandum using the notice form provided by Mr. Harville. Along with each individual notice, Staff recommends that the Applicants provide an accurate map delineating the requested service area.

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

### IV. PROCEDURAL SCHEDULE

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

Event	Date
Deadline for the Applicants to file with the Commission signed affidavits that the notice was given along with a copy of the notice and map sent to the affected parties	February 6, 2023
Deadline for Staff to file a recommendation on sufficiency of notice	February 16, 2022
Deadline to intervene	30 days after notice is issued

### V. REQUEST TO RESTYLE DOCKET

Staff recommends that the style of this proceeding be changed to reflect Aqua's request for dual certification with Winkler WSC to serve acreage outside Southern Oaks' existing CCN area. Staff recommends that the style of this proceeding be changed to the following: "Application of Aqua Texas, Inc. and Forest Grove, Inc. dba Southern Oaks Water Supply for Sale, Transfer or Merger of Facilities and Certificate Rights in Navarro and Freestone Counties and for Dual Certification with Winkler Water Supply Corporation."

## **VI. CONCLUSION**

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

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Keith Rogas  
Division Director

John Harrison  
Managing Attorney

/s/ Margaux Fox  
Margaux Fox  
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Ian Groetsch  
State Bar No. 24078599  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7021  
(512) 936-7268 (facsimile)  
Margaux.Fox@puc.texas.gov

**DOCKET NO. 54341**

**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 January 6, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ *Margaux Fox*  
Margaux Fox

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Margaux Fox, Attorney  
Legal Division

**FROM:** James Harville, Infrastructure Analyst  
Infrastructure Division

**DATE:** January 6, 2023

**RE:** Docket No. 54341 – *Application of Aqua Texas, Inc. and Forest Grove, Inc. dba Southern Oaks Water Supply for Sale, Transfer, or Merger of Facilities and Certificate Rights in Navarro and Freestone Counties*

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On November 14, 2022, Aqua Texas, Inc. (Aqua Texas) and the Forest Grove, Inc. dba Southern Oaks Water Supply (Southern Oaks) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights and for dual certification with the Winkler Water Supply Corporation in Navarro and Freestone counties, Texas, under Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

Specifically, Aqua Texas, Certificate of Convenience and Necessity (CCN) No. 13201, seeks approval to acquire facilities and to transfer all of the water service area from Southern Oaks under water CCN No. 12344 and for dual certification with a portion of Winkler Water Supply Corporation's (Winkler WSC) water CCN No. 10754.

Based on the mapping review by Hank Journeay, Infrastructure Division, the revised maps and digital mapping data submitted with Item 3 on December 2, 2022 are sufficient.

- The requested area includes 758 customer connections and approximately 2,472 acres, comprised of:  
84 acres of uncertificated area to amend (add) to Aqua Texas, (CCN No. 13201).  
1,332 acres of transferred area from Southern Oaks (CCN No. 12344); and 1,056 acres of dual certificated area with Winkler WSC (CCN No. 10754).
- The application proposes the subtraction of approximately 1,332 acres from Southern Oaks (CCN No. 12344) and the addition of approximately 2,472 total acres to Aqua Texas (CCN No. 13201). The requested area includes 84 acres that will be single certification with Aqua Texas (CCN No. 13201) and 2,388 acres will be dual certification with Winkler WSC (CCN No. 10754).

Based on the mapping review and my technical and managerial review of the information filed, I recommend that the application be deemed administratively complete. I further recommend that the Applicants be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
  - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
    - *Chatfield Water Supply Corporation (WSC) (CCN No. 11086)*
    - *M E N WSC (CCN No. 10748)*
    - *Pleasant Grove WSC (CCN No. 10756)*
    - *Trinity River Authority of Texas*
    - *Winkler WSC (CCN No. 10754)*
  - b. The county judge of each county that is wholly or partially included in the requested area:
    - *Freestone County Judge*
    - *Navarro County Judge*
  - c. Each groundwater conservation district that is wholly or partially included in the requested area:
    - *Mid-East Texas Groundwater Conservation District*
  - d. Each owner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
  - e. Any affected customers, and other affected parties in the requested area.

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

- 2) Publish notice once each week for two consecutive weeks in a newspaper having general circulation in each county where the requested area is located. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Aqua Texas must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.

- 4) Provide a copy of the maps deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
- 5) File in the docket copy of notice and the maps deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to Aqua Texas and Southern Oaks. Aqua Texas and Southern Oaks will have 20 days from the receipt of the RFI to respond.



# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Margaux Fox  
Legal Division

**FROM:** David Lopez  
Fred Bednarski III  
Rate Regulation Division

**DATE:** January 6, 2023

**RE:** Docket No. 54341 – *Application of Aqua Texas, Inc. and Forest Grove, Inc. dba Southern Oaks Water Supply for Sale, Transfer, or Merger of Facilities and Certificate Rights in Navarro and Freestone Counties*

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On November 14, 2022, Aqua Texas, Inc. and Forest Grove, Inc. dba Southern Oaks Water Supply filed an application for the sale and transfer of facilities and certificate rights in Navarro and Freestone Counties under the provisions of Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239 and for dual certification under TWC §§ 13.242 through 13.250 and 16 TAC §§ 24.225 through 24.237.

We reviewed the answers provided to questions 4, 10, 11, 12, and 14 of the application. We did not identify any deficiencies in those answers for purposes of determining whether the application is administratively complete. Therefore, we recommend that the Commission deem the application administratively complete from a financial perspective.

***Notice to Current Customers, Landowners, Neighboring Systems, and Cities***  
AQUA TEXAS, INC., CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13201, NOTICE OF INTENT TO AMEND UNCERTIFICATED AREA TO CCN NO. 13201, FOR DUAL CERTIFICATION WITH WINKLER WATER SUPPLY CORPORATION, AND PURCHASE WATER FACILITIES AND TRANSFER WATER SERVICE AREA UNDER CCN NO. 12344 FROM FOREST GROVE, INC. DBA SOUTHERN OAKS WATER SUPPLY IN NAVARRO AND FREESTONE COUNTIES, TEXAS

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

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City State Zip)

<u>Aqua Texas, Inc.</u>	<u>1106 Clayton Lane, Suite 400W</u>	<u>Austin, TX</u>	<u>78723</u>
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to amend uncertificated area to CCN No. 13201, for dual certification with Winkler Water Supply Corporation, and to purchase all of the water facilities and to transfer water certificated service area under CCN No. 12344 in Navarro and Freestone counties, TX from:

<u>Forest Grove, Inc. dba Southern Oaks Water Supply</u>	<u>2702 ACR 489</u>
(Seller's Name)	(Address)

<u>Montalba, TX</u>	<u>75853</u>
(City), (State)	(Zip Code)

The requested area overlaps the district boundaries of Trinity River Authority of Texas. If this district does not request a public hearing, the Commission shall determine that the district is consenting to the Aqua Texas, Inc.'s request to provide retail water utility service in the requested area.

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following: Southern Oaks, April Cove, September Sound, Southside Shores, Gateway Village, Goodall.

The requested area includes 758 customer connections, is located approximately 6.7 mile(s) southeast of downtown Eureka, Texas, and is generally bounded on the north by Richland Chambers Reservoir (Texas Industries Lake); on the east by Mo Pani Drive; on the south by 0.5 miles south of Farm to Market Road 416; and on the west by Richland Chambers Reservoir (Texas Industries Lake).

The requested area includes approximately 2,472 acres, comprised of:

- 84 acres of uncertificated area to amend (add) to Aqua Texas, Inc. (CCN No. 13201);
- 1,332 acres of transferred area from Southern Oaks Water Supply (CCN No. 12344); and
- 1,056 acres of dual certificated area with Winkler WSC (CCN No. 10754).

The application proposes the subtraction of approximately 1,332 acres from Southern Oaks Water Supply (CCN No. 12344) and the addition of approximately 2,472 total acres to Aqua Texas, Inc. (CCN No. 13201). The requested area includes 84 acres that will be single certification with Aqua Texas, Inc. (CCN No. 13201) and 2,388 acres will be dual certification with Winkler WSC (CCN No. 10754).

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

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Aqua Texas, Inc., which are higher than the current rate for a 5/8" meter for Forest Grove, Inc. dba Southern Oaks Water Supply. To view a copy of the current approved tariff, go to: <https://www.aquawater.com/about/states-we-serve/texas.php> or email [custservreply@aquaamerica.com](mailto:custservreply@aquaamerica.com) or call 1-877-987-2782 to request a copy.

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

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

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

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

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

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

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

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Utility Representative

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Utility Name

***Notice for Publication***

AQUA TEXAS, INC., CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 13201, NOTICE OF INTENT TO AMEND UNCERTIFICATED AREA TO CCN NO. 13201, FOR DUAL CERTIFICATION WITH WINKLER WATER SUPPLY CORPORATION, AND PURCHASE WATER FACILITIES AND TO TRANSFER WATER SERVICE AREA UNDER CCN NO. 12344 FROM FOREST GROVE, INC. DBA SOUTHERN OAKS WATER SUPPLY IN NAVARRO AND FREESTONE COUNTIES, TEXAS

<u>Aqua Texas, Inc.</u>	<u>1106 Clayton Lane, Suite 400W</u>	<u>Austin, TX</u>	<u>78723</u>
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to amend uncertificated area to CCN No. 13201, for dual certification with Winkler Water Supply Corporation, and to purchase all of the water facilities and to transfer water certificated service area under CCN No. 12344 in Navarro and Freestone counties, TX from:

<u>Forest Grove, Inc. dba Southern Oaks Water Supply</u>	<u>2702 ACR 489</u>
(Seller's Name)	(Address)

<u>Montalba, TX</u>	<u>75853</u>
(City), (State)	(Zip Code)

The requested area overlaps the district boundaries of Trinity River Authority of Texas. If this district does not request a public hearing, the Commission shall determine that the district is consenting to the Aqua Texas, Inc.'s request to provide retail water utility service in the requested area.

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following: Southern Oaks, April Cove, September Sound, Southside Shores, Gateway Village, Goodall.

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**A copy of the maps showing the requested area are available at: Aqua Texas, 1106 Clayton Lane, Suite 400W, Austin, Texas 78723.**

The proposed transaction may change the current customers' rates and services to the current approved rates and services of Aqua Texas, Inc., which are higher than the current rate for a 5/8" meter for Forest Grove, Inc. dba Southern Oaks Water Supply. To view a copy of the current approved tariff, go to: <https://www.aquawater.com/about/states-we-serve/texas.php> or email [custservreply@aquaaamerica.com](mailto:custservreply@aquaaamerica.com) or call 1-877-987-2782 to request a copy.

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

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

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

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

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

# PUBLIC UTILITY COMMISSION OF TEXAS



## AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES, AND AFFECTED PARTIES DOCKET NO. 54341

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

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

DATE OF NOTICE

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

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

### OATH

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

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

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

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

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

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

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

# PUBLIC UTILITY COMMISSION OF TEXAS



## PUBLISHER'S AFFIDAVIT DOCKET NO. 54341

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

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,  
who being by me duly sworn, deposes and that (s)he is the

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

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

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

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

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

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

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

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

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

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