Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2008 MAR 24 PM 4: 22

CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 24, 2008

Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

Re: TCEQ Docket No. 2007-0274-UCR; Consideration of a request for a Commission order approving a contract designating water service areas between the City of Wylie (Wylie), Certificate of Convenience and Necessity (CCN) No. 10186, and Wylie Northeast Water Supply Corporation (WSC), CCN No. 10192.

Dear Ms. Castañuela:

Transmitted herewith for filing with the Texas Commission on Environmental Quality (Commission or TCEQ) are the following items to be filed as backup materials for the April 16, 2008 agenda on a request for an order approving a contract designating water service areas between the City of Wylie (Wylie) and Wylie Northeast Water Supply Corporation (WSC):

1. Proposed Order;
2. Agenda Executive Summary;
3. Caption
4. Staff memo detailing financial, managerial, and technical capabilities of Wylie to provide continuous and adequate service to the affected area;
5. Request for Commission order approving a Texas Water Code Section 13.248 agreement filed jointly by Wylie and WSC on June 29, 2005, and declared administratively complete on September 2, 2005;
6. Texas Water Code, Section 13.248 amended agreement between Wylie and WSC executed on January 10, 2006, and January 25, 2006;
7. Certificates of Convenience and Necessity (CCN) Nos. 10186 and 10192;
8. Proposed map of the service area subject to the section 13.248 agreement; and
9. Notices Mailed to Parties.

Please do not hesitate to contact me at (512) 239-4761 if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully submitted,

Kayla Murray

Kayla Murray, Staff Attorney
Environmental Law Division

Enclosures

cc: Mailing list

MAILING LIST
City of Wylie / Wylie Northeast Water Supply Corporation 13.248 Agreement
TCEQ Docket No. 2007-0274-UCR

Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

Mr. James Wilson
Rapier, Wilson & Wendland, P.C.
103 W. McDermott
Allen, Texas 75013

Mr. Arturo D. Rodriguez, Jr.
Russell & Rodriguez, LLP
Texas Heritage Plaza
102 W. Morrow St., Suite 103
Georgetown, Texas 78626

TCEQ DOCKET NO. 2007-0274-UCR
APPLICATION NO. 35011-C

IN THE MATTER OF THE	§	BEFORE THE TEXAS
REQUEST FOR AN ORDER	§	
APPROVING THE CONTRACT	§	
DESIGNATING SERVICE AREAS	§	COMMISSION ON
BETWEEN THE CITY OF WYLIE	§	
AND WYLIE NORTHEAST	§	
WATER SUPPLY CORPORATION	§	
IN COLLIN COUNTY, TEXAS	§	ENVIRONMENTAL QUALITY

ORDER

A request for a Commission order approving a contract designating service areas between the City of Wylie (Wylie), Certificate of Convenience and Necessity (CCN) No. 10186, and Wylie Northeast Water Supply Corporation (WSC), Certificate of Convenience and Necessity (CCN) No. 10192, in Collin County, Texas, was presented to the Texas Commission on Environmental Quality (TCEQ or Commission) for approval pursuant to Section 13.248 of the Texas Water Code and Title 30 of the Texas Administrative Code, Section 291.117.

On January 10, 2006, and January 25, 2006, Wylie and WSC entered into an agreement (Agreement) regarding their respective water service areas pursuant to Section 13.248 of the Texas Water Code. Under the Agreement, WSC will transfer a portion of its CCN area (Area 1) to Wylie and Wylie will be the sole retail water service provider in Area 1. Area 1 is within Wylie's city limits; approximately 35.41 acres of WSC's CCN will be transferred to Wylie. There are no customers in Area 1 and there will be no transfer of facilities under the Agreement. The Agreement is attached to this Order.

Contracts between retail public utilities that designate areas to be served and customers to be served by those retail public utilities, when approved by the Commission after public notice

and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity. TEXAS WATER CODE, §13.248.

The Commission held a hearing on the request at the April 16, 2008 agenda and found the request had merit.

Wylie is capable of rendering continuous and adequate water service to every customer in Area 1, as described by the Agreement. The CCN transfer, which results in Wylie being the sole retail water service provider in Area 1, is necessary for the service, accommodation, convenience, or safety of the public.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

The Agreement transferring Area 1 of WSC's CCN No. 10192 to Wylie, CCN No. 10186, and designating that Wylie is the sole retail water service provider in Area 1, is hereby approved.

CCN No. 10192 in Collin County, held by Wylie Northeast Water Supply Corporation, is hereby amended in accordance with the Agreement with respect to Area 1.

CCN No. 10186 in Collin County, held by the City of Wylie, is hereby amended in accordance with the Agreement with respect to Area 1.

The Executive Director is directed to redraw the maps of the respective CCNs as provided in the Agreement and as set forth on the map attached to this Order, and to amend the Commission's official water service area map for Collin County, Texas.

The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

_____

For the Commission

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

TO: Texas Commission on Environmental Quality **DATE:** March 24, 2008

THRU: LaDonna Castañuela, Chief Clerk

FROM: Kayla Murray, Staff Attorney, Environmental Law Division

SUBJECT: **TCEQ Docket No. 2007-0274-UCR.** Consideration of a request for a Commission order approving a contract designating water service areas between the City of Wylie (Wylie), Certificate of Convenience and Necessity (CCN) No. 10186, and Wylie Northeast Water Supply Corporation (WSC), CCN No. 10192.

DESCRIPTION OF APPLICATION

Applicant:	City of Wylie
Regulated Activity:	Retail water utility service
Type of Application:	Request for a Commission Order approving a contract
Commission Action:	Hearing regarding approval of the contract
Authority:	Texas Water Code § 13.248 and 30 Texas Administrative Code § 291.117

FACTUAL BACKGROUND

The City of Wylie (Wylie), water certificate of convenience and necessity (CCN) No. 10186, and Wylie Northeast Water Supply Corporation (WSC), water CCN No. 10192, provide retail water service in Collin County, Texas. On January 10, 2006, and January 25, 2006, Wylie and the WSC entered into an agreement, Certificate of Convenience and Necessity Transfer Agreement, regarding their respective water service areas pursuant to section 13.248 of the Texas Water Code.

Under the agreement, WSC will transfer a portion of its CCN area (Area 1) to Wylie and Wylie will be the sole retail water service provider in Area 1. Area 1 is within Wylie's city limits; approximately 35.41 acres of WSC's CCN area will be transferred to Wylie. On the effective date of the agreement WSC does not have any water utility customers within Area 1. There will be no transfer of facilities under this agreement. The developer of Area 1, Centex Homes, has entered into an agreement with Wylie to obtain water service for Area 1.

LEGAL AUTHORITY

The Texas Water Code prohibits a utility, a utility operated by an affected county, or a water supply corporation from rendering retail water or sewer utility service directly or indirectly to the public without first obtaining a CCN.[1] Conversely, a municipality is not required to obtain a CCN to provide retail water service.[2] However, a municipality may not provide service to areas that are outside of its corporate boundaries but within the CCN of another retail public utility without first obtaining written consent from that retail public utility.[3]

The Texas Water Code and TCEQ rules allow retail public utilities to enter into service area agreements and have the Commission affirm the agreements by amending the entities' respective CCNs.[4] A transfer of a water or sewer system that also includes the transfer of customers and/or facilities may, in some cases, also require separate Commission approval for the transfer of customers and/or facilities.[5]

The request to approve a 13.248 agreement is not subject to the notice provisions of section 291.106, Title 30 of the Texas Administrative Code, which apply to applications for new and amended CCNs. The Commission may approve the service area agreement pursuant to section 13.248 of the Texas Water Code with the appropriate notice under the Open Meetings Act. The Executive Director will mail notice of the hearing upon the setting of an Agenda date.

BASIS FOR STAFF RECOMMENDATION

The following items were considered in developing the staff's recommendation:

1. Request for a Commission order approving the 13.248 agreement filed by the City of Wylie and Wylie Northeast Water Supply Corporation on June 29, 2005 (Application No. 35011-C);

---

[1] TEX. WATER CODE ANN. § 13.242(a) (Vernon 2006).

[2] A municipality is a "retail public utility" under section 13.002(19) of the Texas Water Code but is not a "utility" under section 13.002(23). Therefore, the section 13.242(a) requirement that a "utility" must obtain a CCN before providing retail water utility service does not apply to a municipality.

[3] *Id.* § 13.242(b).

[4] *Id.* § 13.248; 30 TEX. ADMIN. CODE § 291.117 (West 2005) (Tex. Comm'n on Envtl. Quality, Contracts Valid and Enforceable). Section 13.248 states "[c]ontracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity."

[5] TEX. WATER CODE § 13.301. The section requires that some applicants also demonstrate "adequate financial, managerial, and technical capability for providing continuous and adequate service to the service area being acquired and to any areas currently certificated to the person" for the separate transaction relating to the transfer of facilities and/or customers.

2. Amended Water CCN Transfer Agreement between Wylie Northeast Water Supply Corporation and City of Wylie, executed on January 10, 2006, and January 25, 2006;

3. Amended Map of the service area subject to the 13.248 agreement submitted by the City of Wylie and Wylie Northeast Water Supply Corporation on January 27, 2006; and

4. Financial, Managerial, and Technical analysis of the City of Wylie to operate in the affected area.

STAFF RECOMMENDATION

Based on the facts stated in the application and the supporting documentation submitted by the City of Wylie and Wylie Northeast Water Supply Corporation, Staff supports the request for a Commission order approving a contract designating service areas between the City of Wylie and Wylie Northeast Water Supply Corporation. Staff has confirmed that both parties are retail public utilities with active water CCNs and that the area the parties are seeking to transfer is certificated to Wylie Northeast Water Supply Corporation and is within the city limits of the City of Wylie. Further, staff is satisfied that the City of Wylie possesses the adequate financial, managerial, and technical capability to provide continuous and adequate service to the area being transferred.

STAFF CONTACTS

Kayla Murray, Environmental Law Division (239-4761)
Lisa Fuentes, Water Supply Division (239-6117)

CAPTION
CITY OF WYLIE
Application No. 35011-C

TCEQ Docket No. 2007-0274-UCR. Consideration of a request for a Commission Order approving a contract designating service areas between the City of Wylie, water certificate of convenience and necessity (CCN) No. 10186, and Wylie Northeast Water Supply Corporation (WSC), water CCN No. 12117, in Collin County, Texas pursuant to section 13.248 of the Texas Water Code. Currently, Wylie Northeast WSC holds a CCN for the area in question. The City of Wylie and Wylie NortheastWSC have agreed that the area would be better served by a single water utility provider. Under the contract, Wylie Northeast WSC will transfer approximately 35.41 acres of its CCN area to Wylie and Wylie will be the sole retail water service provider in this area. There are no customers in this area and there will be no transfer of facilities under the Agreement. (Kayla Murray, Lisa Fuentes)

FMT Checklist

Applicant: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Wylie, Certificate of Convenience and Necessity (CCN) No. 10186, to Transfer a Portion of CCN No. 10192 from Wylie Northeast Water Supply Corporation (WSC) in Collin County

Application No.: 35011-C

The City of Wylie and Northeast WSC submit a joint application to adjust their respective water CCN boundaries to coincide with the boundaries of three platted subdivisions and certain other tracts of land. The total of both areas is less than 87 acres, though the 51 acre tract known as "Transfer Area 2," is in question whether it is actually within the city's CCN. There are no current customers in the area, nor facility.

I have reviewed the audits for both entities, for the city's fiscal year ended September 30, 2004, and for the wsc's fiscal year ended December 31, 2004. The city's audit showed business-type activity total assets of $46.7 million, of which $3.1 million is cash or equivalents. Term liabilities were $7.6 million and equity (net assets) was $37.1 million, for a debt-to-equity ratio of .21:1. Utility net revenue before capital contributions and transfers was $1.9 million and annual debt service is $328,000.

The wsc's audit showed total assets of $2.9 million of which cash was $986,698. Term debt was $1,199,362, and equity was $1,442,307, for a debt-to-equity ratio of .83:1. The net income (change in net assets) was $421,811 after covering depreciation of $66,011. The debt service coverage ratio was 3.75:1. No additional projections were required.

In my opinion, this applicant has demonstrated adequate financial and managerial capability to provide service to the requested areas. These conclusions are based on information provided by the applicant prior to this date and may not reflect any changes in the applicant's status subsequent to this date.

Signed: Dan Smith Date: July 22, 2005

A. PROJECTED # OF CONNECTIONS	
1. The customer classes and meter sizes are appropriate for the type of development and the predicted consumption patterns.	Date: 07/22/05
Comments: Projections were not required.	

FMT Checklist

Applicant: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Wylie, Certificate of Convenience and Necessity (CCN) No. 10186, to Transfer a Portion of CCN No. 10192 from Wylie Northeast Water Supply Corporation (WSC) in Collin County

Application No.: 35011-C

2. The growth projections are verifiable and make sense. Note: A growth rate greater than 10% per year will require significant documentation.	Date:
Comments:	

B. FEASIBILITY OF OBTAINING SERVICE FROM ALTERNATE SOURCES OF SUPPLY WITHIN A 2-MILE RADIUS	
1. There are no alternate sources within a 2-mile radius. Go to section C.	Date:
Comments:	
2. Application for service was denied. Go to section C.	Date:
Comments:	
3. Applicant is asserting that interconnection is infeasible.	Date:
Comments:	
4. Documentation of the cost of interconnection is verifiable.	Date:
Comments:	
5. Cost information includes the cost of initiating service.	Date:
Comments:	
6. Cost information includes the cost of any facilities that may be need to be constructed to obtain service	Date:
Comments:	
7. Cost information includes costs of receiving and maintaining service for 5 years	Date:
Comments:	

FMT Checklist

Applicant: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Wylie, Certificate of Convenience and Necessity (CCN) No. 10186, to Transfer a Portion of CCN No. 10192 from Wylie Northeast Water Supply Corporation (WSC) in Collin County

Application No.: 35011-C

8. Assumptions about the cost of receiving and maintaining service are based on valid information	Date:
Comments:	

C. FEE FOR SERVICE	
1. Projected # of connections agrees with assumptions listed.	Date:
Comments: Projections were not required.	
2. Consumption assumptions are reasonable in light of the types of consumers expected to be on the system, e.g. Large homes on large lots vs mobile home parks, or residential vs. commercial.	Date:
Comments:	
3. Proposed rates reflect cost of service and are affordable. [Could consider the percentage of Median Household Income]	Date:
Comments:	

D. DOCUMENTATION RELATED TO PROVIDING SERVICE USING APPLICANT'S FACILITIES *Note: This section applies to NEW CCNs and substantial amendments.*	
1. Cost of construction is based on engineering estimates.	Date:
Comments:	
2. Cost of maintaining and operating the system includes reasonable amounts for a contract operations company.	Date:
Comments:	

FMT Checklist

Applicant: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Wylie, Certificate of Convenience and Necessity (CCN) No. 10186, to Transfer a Portion of CCN No. 10192 from Wylie Northeast Water Supply Corporation (WSC) in Collin County

Application No.: 35011-C

3. Cost of maintaining and operating the system includes **reasonable** amounts for the following: (☆ - Insert Comment # in this column)					
Expense Item	Yes	☆	Expense Item	Yes	☆
Wholesale water or sewer			Insurance - office equipment		
Salaries - O & M Staff			Legal fees		
Salaries - Admin staff			Engineering fees		
Salaries - Owner			Employee training		
Power for operating all facilities			Office supplies/postage		
Treatment Chemicals			Telephone/other office utilities		
Monitoring/Testing			Office rent		
M & R materials & labor			Accounting		
Vehicle maintenance expenses			Income taxes		
Contract Labor			Property taxes		
Equipment rental			Employment taxes		
Insurance - vehicle			Debt service		
Insurance - liability			Bad debt expense		
Insurance - Workmen's comp			Lease payments		
Includes cost of operating system for 5 years:				Date:	
Comments (Number comments to correspond with numbers above:					

FMT Checklist

Applicant: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Wylie, Certificate of Convenience and Necessity (CCN) No. 10186, to Transfer a Portion of CCN No. 10192 from Wylie Northeast Water Supply Corporation (WSC) in Collin County

Application No.: 35011-C

E. FINANCING	
1. Applicant has identified sources for funding construction and capital improvements.	Date: 07/22/05
Comments: Yes, both parties to the contract have balance sheet cash reserve and ability to secure additional financing for capital improvements.	
2. Sources of revenue for construction and capital improvements are verifiable and documented.	Date: 07/22/05
Comments: Yes	
3. Sources of revenue for construction and capital improvements are guaranteed or reasonably assured.	Date: 07/22/05
Comments: Reasonably assured	
4. Sources of revenue for shortfalls, other than from rates, are guaranteed, or reasonably assured.	Date: 07/22/05
Comments: Reasonably assured	
5. Applicant has contingency financing plan to fund any unforeseen repairs or equipment replacements, e.g. Reserves equal to depreciation or 1/8 O & M.	Date: 07/22/05
Comments: Yes	

F. OWNERSHIP	
1. Applicant has identified current and any future potential owners.	Date: 07/22/05
Comments: Yes	

FMT Checklist

Applicant: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Wylie, Certificate of Convenience and Necessity (CCN) No. 10186, to Transfer a Portion of CCN No. 10192 from Wylie Northeast Water Supply Corporation (WSC) in Collin County

Application No.: 35011-C

2.	Applicant has identified all other affiliated businesses.	Date: 07/22/05
Comments: Yes		
3.	Applicant has documented qualifications of all organizations and persons who will be involved in the operation of the system.	Date: 07/22/05
Comments: Yes		

G.	**CONCLUSIONS**	
1.	The source to be used is identified and documentation supports the application.	Date: 07/22/05
Comments: Yes		
2.	Applicant is capable/of financing and operating the system for at least the 1st 5 years of operation if the applicant provides financial assurance in the amount of $ 0 .	Date: 07/22/05
Comments: Yes		
3.	Applicant is capable of managing the system for the long term.	Date: 07/22/05
Comments: Yes		
4.	Applicant has the technical capacity to operate the system for the long term.	Date: 07/22/05
Comments: Yes		

RM&R
RUSSELL, MOORMAN & RODRIGUEZ, L.L.P.
ATTORNEYS AT LAW

TEXAS HERITAGE PLAZA · 102 WEST MORROW STREET, SUITE 103
GEORGETOWN, TEXAS 78626
PHONE (512) 930-1317 · FAX (512) 930-7742

Email: krussell@rmrlawfimr.com

RECEIVED
JUN 29 2005
WATER QUALITY APPLICATIONS TEAM

June 29, 2005

Via Hand Delivery

Ms. Michelle Abrams
Utilities and Districts Section
Texas Commission on Environmental Quality
P.O. Box 13087, MC-153
Austin, Texas 78711-3087

RE: Application from the City of Wylie to Transfer a portion of Certificate of Convenience and Necessity (CCN) No. 10186 to CCN No. 10192 and the Application of Wylie Northeast Water Supply Corporation to Transfer a portion of CCN No. 10192 to CCN No. 10186 in Collin County, Texas.

Dear Ms. Abrams:

Enclosed with this letter an original and three copies of the City's Application to Transfer a portion of Certificate of Convenience and Necessity (CCN) No. 10186 to CCN No. 10192 and the Application of Wylie Northeast Water Supply Corporation to transfer a portion of CCN No. 10192 to CCN No. 10186 in Collin County, Texas. Enclosed also find the $100.00 filing fee to TCEQ.

This application is being filed pursuant to a recent CCN settlement agreement entered into between the City of Wylie and the Wylie Northeast water Supply Corporation. Both the City and the Water Supply Corporation are requesting that this application be treated as if it were a 13.248 application for notice purposes. There are no other entities being affected by this agreement and the parties to this agreement are requesting a waiver of notice. If you have any questions, please call me.

Sincerely,

Faith Wright for

Kerry E. Russell

Enclosures

cc: Mr. James Wilson, Attorney for Wylie Northeast Water Supply Corporation
Mr. Mark Roath, City Manager, City of Wylie

AMENDED WATER CCN TRANSFER AGREEMENT BETWEEN WYLIE NORTHEAST WATER SUPPLY CORPORATION AND CITY OF WYLIE, TEXAS

This Amended Water CCN Transfer Agreement ("Agreement") is executed by and between the City of Wylie, Texas ("City"), a Texas home rule municipal corporation, and Wylie Northeast Water Supply Corporation ("Corporation"), a Texas nonprofit water supply corporation organized pursuant to Tex. Rev. Civ. Stat. art. 1434a and operating under Chapter 67 of the Texas Water Code, for the purposes and consideration set forth herein.

RECITALS

WHEREAS, the City has been issued Certificate of Convenience and Necessity ("CCN") No. 10186 by the Texas Commission on Environmental Quality ("TCEQ") to provide water utility service to certain areas within Collin County, Texas;

WHEREAS, the Corporation has been issued CCN No. 10192 by the TCEQ to provide water utility service to certain areas within Collin County, Texas;

WHEREAS, the City and Corporation are both "retail public utilities" as defined in Texas Water Code § 13.002;

WHEREAS, Centex Homes is in the process of developing Birmingham Farms Phase 2A ("Phase 2A"), Birmingham Farms Phase 14A ("Phase 14A"), and Birmingham Farms Phase 14B ("Phase 14B"), additions to City of Wylie, Collin County, Texas, according to the final plats thereof recorded in Cabinet N, Page 887, Cabinet P, Page 654, and Cabinet P, Page 656, of the Plat Records of Collin County, Texas, respectively;

WHEREAS, the City's CCN and/or corporate limits cover most of Phase 2A and Phase 14A with the remainder covered by the Corporation's CCN, and the Corporation's CCN covers most of Phase 14B with the remainder covered by the City's CCN and/or corporate limits;

WHEREAS, the parties and Centex determined that each of the above subdivisions would be better served by a single water utility provider and, with the parties approval, Centex entered into an agreement with the City to obtain service to Phases 2A and 14A and an agreement with the Corporation to obtain service to Phase 14B;

WHEREAS, the parties have agreed to adjust their respective water CCN boundaries to bring Phases 2A and 14A wholly within the City's CCN and to allow Phase 14B wholly to be added to the Corporation's CCN, and to more accurately reflect the platted boundaries of certain other tracts of land currently served by the Corporation;

WHEREAS, the City and the Corporation have, through good faith negotiations, resolved issues concerning the permanent boundaries of their respective water CCNs subject to jurisdiction of the TCEQ.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, including the recitals set forth above, and other good and valuable consideration, the City and the Corporation agree as follows:

1. **CCN Transfer.**

(a) Area 1. Subject to approval of this Agreement by the TCEQ, the Corporation hereby transfers to the City, and the City hereby accepts, that certain 35.41± acre portion of the Corporation's CCN No. 10192 described by metes and bounds in the attached EXHIBIT "A" and shown on the map attached as EXHIBIT "B" under the designation "Area 1."

(b) Area 2. Subject to approval of this Agreement by the TCEQ, the City hereby waives any objection it may have to the Corporation amending its CCN to add that certain 51.28± acres of land described by metes and bounds in the attached EXHIBIT "A" and shown on the map attached as EXHIBIT "B" under the designation "Area 2" and, in addition, the City hereby agrees to support the Corporation in obtaining said CCN amendment.

2. **Regulatory Approval.** After execution by the parties, a copy of this Agreement shall be filed with the TCEQ in accordance with Texas Water Code § 13.248. Within 30 days of such execution, the parties shall prepare and shall file a joint TCEQ Form 10516 (STM Form) or other appropriate application with the TCEQ to effect the formal transfer and amendment of the water CCN areas described in paragraph 1 above. The Corporation shall be primarily responsible for preparation of the applications and shall bear all costs related to same. The City shall be primarily responsible for preparing an amended STM application and for filing and obtaining TCEQ approval of the STM or 13.248 application and shall bear all costs related to same. The Corporation and the City will cooperate with each other and the TCEQ to accomplish the transfer and amendment of the water CCN areas described in paragraph 1 above.

3. **Effect of Transfer.** Upon approval of this Agreement by the TCEQ, the adjusted water CCN boundaries described in EXHIBIT "A" and shown on EXHIBIT "B" shall be the water CCN boundaries between the City and the Corporation. The parties agree that, upon such approval, the City will have the sole right to provide water utility service within Area 1 and the Corporation will have the sole right to provide water utility service within Area 2.

4. **Customers in Transfer Areas.** The parties agree that on the effective date of this Agreement the Corporation has no water utility customers in Area 1 and the City has no water utility customers in Area 2. The parties further agree that, between the effective date of this Agreement and the Transfer Effective Date, the Corporation will not serve any new customers in Area 1 and the City will not serve any new customers in Area 2.

5. **Facilities and Waterlines.** There parties agree that there is no transfer of facilities, waterlines, easements or equipment under this Agreement.

6. **Transfer Effective Date.** The "Transfer Effective Date" shall be the date the TCEQ issues an order(s) granting and/or approving the transfer and amendment of the water CCN areas described in paragraph 1 above.

7. **Effective Date.** This Agreement is effective and enforceable as between the City and the Corporation following execution by the parties.

8. **Related Documents.** The parties hereto covenant and agree that they shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Agreement.

9. **Applicable Law.** This Agreement shall be governed by and construed and enforced under the laws of the State of Texas.

10. **Performance.** Except for matters within the jurisdiction of the TCEQ (or its successor), any action at law or in equity brought to enforce or interpret any provision of this Agreement shall be brought in a state court of competent jurisdiction with venue in Collin County, Texas.

11. **Agreement Drafted Equally.** This Agreement shall be deemed drafted equally by the parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party or parties hereto shall not apply.

12. **Entire Agreement.** This Agreement contains the entire agreement by and between the City and the Corporation with respect to the subject matter of this Agreement. No Agreement, statement or promise made by any party to any other party, or by or to any employee, agent or officer of any party hereto, that is not contained in this Agreement shall be valid, binding or of any force or effect. Any amendments to this Agreement must be in writing and signed by the party or parties to be charged.

13. **No Waiver of Government Immunity.** The parties agree that neither party has waived its sovereign or governmental immunity by entering into and performing its obligation under this Agreement.

14. **Exhibits.** The boundary description and map attached to this Agreement as EXHIBIT "A" and EXHIBIT "B" are incorporated herein by reference for all purposes.

15. **Successors and Assigns.** This Agreement shall be binding upon the parties hereto and their respective successors, heirs, representatives and assigns.

16. **No Third Party Beneficiaries.** It is the express intention of the parties that the terms and conditions of this Agreement may be enforced by either party, but not by any third party or alleged third-party beneficiary.

17. **Severability.** Should any provision of this Agreement be declared void by

a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

18. **Covenant of Authority.** The undersigned hereby represent and covenant that they are fully authorized to sign this Agreement on behalf of their respective party.

19. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

IN WITNESS HEREOF, EXECUTED by City of Wylie, Texas, and Wylie Northeast Water Supply Corporation under the authority of their respective governing bodies on the dates indicated below.

SIGNED on the 25th day of January, 2006.

CITY OF WYLIE, TEXAS:

By: Mark B. Roath

Mark B. Roath, City Manager

ATTEST:

Carole Ehrlich by Cayle Walter

Carole Ehrlich, City Secretary

CITY OF WYLIE SEAL WYLIE, TEXAS

SIGNED on the 19 day of January, 2006.

WYLIE NORTHEAST WSC:

By: Jimmy C Beach
Jimmy Beach, President

ATTEST:

Mike Bailey
Mike Bailey, Secretary/Treasurer

Texas Commission On Environmental Quality

By These Presents Be It Known To All That

City of Wylie

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 10186

to provide continuous and adequate water utility service to that service area or those service areas in Collin County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application Nos. 35011-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of City of Wylie to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____

_____

For the Commission

Texas Commission On Environmental Quality

By These Presents Be It Known To All That

Wylie Northeast Water Supply Corporation

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

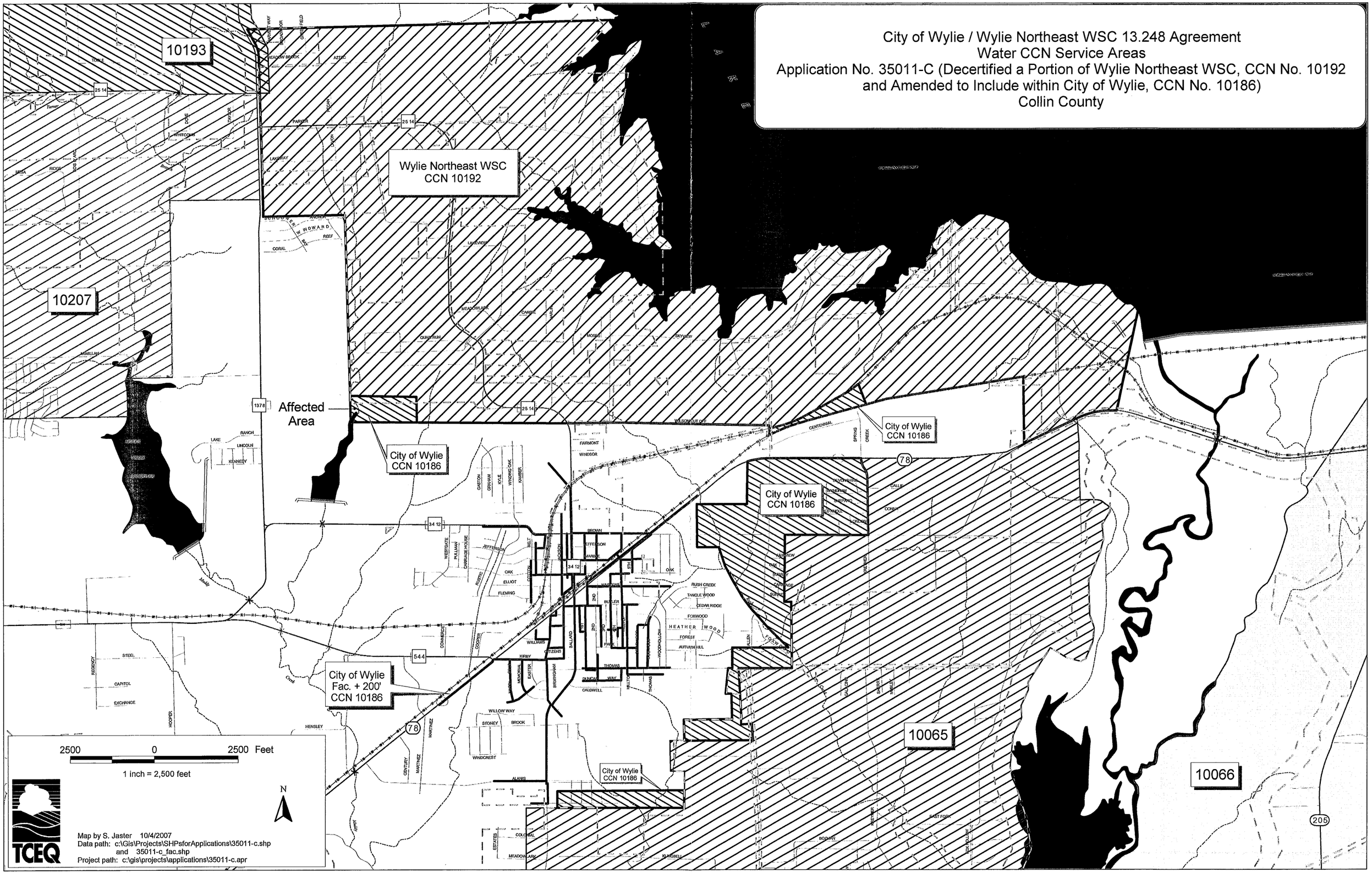
Certificate of Convenience and Necessity No. 10192

to provide continuous and adequate water utility service to that service area or those service areas in Collin County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application Nos. 35011-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Wylie Northeast Water Supply Corporation to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____

_____
For the Commission

City of Wylie / Wylie Northeast WSC 13.248 Agreement
Water CCN Service Areas
Application No. 35011-C (Decertified a Portion of Wylie Northeast WSC, CCN No. 10192 and Amended to Include within City of Wylie, CCN No. 10186)
Collin County



Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 24, 2008

Mr. James Wilson
Rapier, Wilson & Wendland, P.C.
103 W. McDermott
Allen, Texas 75013

Mr. Arturo D. Rodriguez, Jr.
Russell & Rodriguez, LLP
Texas Heritage Plaza
102 W. Morrow St., Suite 103
Georgetown, Texas 78626

Re: TCEQ Docket No. 2007-0274-UCR; Consideration of a request for a Commission Order approving a contract designating service areas between the City of Wylie and Wylie Northeast Water Supply Corporation.

Dear Mr. Wilson and Mr. Rodriguez:

This letter is to inform you that the above-referenced application has been set on the Agenda for consideration by the Texas Commission on Environmental Quality (TCEQ). This Agenda will occur on April 16, 2008, beginning at 9:30 a.m. in Building E, Room 201S, 12100 Park 35 Circle, Austin, Texas. Included with this letter are the Agenda backup materials to be considered by the Commission. At least one of you will need to attend the Agenda to explain the agreement and to answer any questions the Commissioners may have.

Persons with disabilities who plan to attend this hearing and who need special accommodations at the Agenda should call the TCEQ Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD) at least one week prior to the hearing. If you have any questions about this matter, then you may contact Lisa Fuentes from the Water Supply Division at 1-512-239-4691 or me at 1-512-239-4761.

Sincerely,

Kayla Murray

Kayla Murray
Staff Attorney
Environmental Law Division

Enclosure