

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 SEP -2 PM 4:18

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHIEF CLERKS OFFICE

Protecting Texas by Reducing and Preventing Pollution

September 2, 2008

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

Re: TCEQ Docket No. 2008-0690-UCR; Consideration of a request for a Commission order approving contracts designating service areas between the Town of Ponder and Ponder Enterprises, Inc. d/b/a Longhorn Company.

Dear Ms. Castañuela:

Enclosed for filing with the Texas Commission on Environmental Quality is an original and seven copies of the backup documents for the above referenced matter.

If you have any questions, please call me at 239- 6033.

Sincerely,

A handwritten signature in cursive script that reads "Erin Selvera".

Erin Selvera
Staff Attorney
Environmental Law Division

Enclosure

MAILING LIST
TOWN OF PONDER AND PONDER ENTERPRISES dba LONGHORN COMPANY
APPLICATION NO 35825-C
DOCKET NO 2008-0690-UCR

FOR THE APPLICANTS:

Longhorn Company
Attn: William Merritt
5772 Tim Donald Road
Justin, Texas 76247

David Klein
Lloyd Gosselink
816 Congress Avenue, Suite 1900
Austin, Texas 78701

Town of Ponder
Attn: Jeff Vardell, Mayor
P.O.Box 297
Ponder, Texas 76259

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr.
Texas Commission on Environmental Quality
Public Interest Counsel, MC103
P.O.Box 13087
Austin, Texas 78711-3087
Tel (512) 239-6363
Fax: (512) 239-6377

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance, MC108
P.O.Box 13087
Austin, Texas 78711-3087
Tel (512) 239-4000
Fax: (512) 239-4007

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk, MC 105
P. O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

FOR THE EXECUTIVE DIRECTOR

Lisa Fuentes
Texas Commission on Environmental Quality
Water Supply Division, MC153
P.O.Box 13087
Austin, Texas 78711-3087
Tel (512) 239-6117
Fax: (512) 239-6190

Buddy Garcia, *Chairman*
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September 2, 2008

Ms. LaDonna Castanuela, 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. 2008-0690-UCR; Consideration of a request for a Commission order approving contracts designating service areas between the Town of Ponder and Ponder Enterprises, Inc. d/b/a Longhorn Company.

Dear Ms. Castanuela:

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 a Commission agenda, on a date to be determined, on a request for an order approving a contract designating water service areas between the Town of Ponder and Longhorn Company:

1. Agenda Executive Summary;
2. Staff memo detailing financial, managerial and technical capabilities of Longhorn Company to provide continuous and adequate service to the affected area;
3. Caption;
4. Request for Commission order approving Texas Water Code §13.248 agreement filed jointly by the Town of Ponder and Longhorn Company on September 24, 2007, and accepted for filing on October 17, 2007;
5. Application Maps
6. Proposed Order;
7. Texas Water Code §13.248 Agreement between Town of Ponder and Longhorn Company executed on September 19, 2007;
8. Proposed Map of the service area covered by the Agreement;
9. Map Consent Forms signed by the parties; and
10. Certificates of Convenience and Necessity (CCN) Nos. 12810 and 12951.

Please do not hesitate to contact me at (512)239-6033 if you have any questions. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Erin Selvera".

Erin Selvera, Staff Attorney
Environmental Law Division

Enclosures

cc: mailing list

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

TO: Texas Commission on Environmental Quality DATE: September 2, 2008

THRU: LaDonna Castañuela, Chief Clerk

FROM: Environmental Law Division

SUBJECT: Consideration of a request for a Commission order approving contracts designating service areas between Town of Ponder ("Ponder") and Ponder Enterprises d/b/a/ Longhorn Company ("Longhorn Co.").

DESCRIPTION OF APPLICATION

Applicant: Town of Ponder and Ponder Enterprises d/b/a/ Longhorn Company

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 Town of Ponder (Ponder), water CCN No. 12951, and Ponder Enterprises d/b/a/ Longhorn Company (Longhorn Co.), water CCN No.12810, executed a 13.248 agreement, evidenced by Application No. 35825-C which was filed on September 24, 2007 and included a signed Tex. Water Code Section 13.248 agreement titled "CCN Transfer Agreement by and Between the Town of Ponder and Ponder Enterprises, Inc. D/B/A/ Longhorn Co.". Under the agreement, Ponder will transfer approximately 73.5 acres of service area to Longhorn Co.

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 having obtained from the Commission a CCN.¹ A municipality is not required to obtain a CCN to provide retail water service.² However, a municipality may not provide service to

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

² A municipality is a "retail public utility" under TWC § 13.002(19), but is not a "utility" under § 13.002(23). Therefore, the TWC § 13.242(a) requirement that a "utility" must obtain a CCN before providing retail water utility service does not apply to a municipality.

areas that are outside of its corporate boundaries, but that are within the CCN of another retail public utility, without first obtaining written consent from that retail public utility.³

The TWC 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 30 Texas Administrative Code § 291.106, which apply to applications for new and amended CCNs. The Commission may approve the service area agreement pursuant to TWC § 13.248 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 following agreement: Texas Water Code 13.248 agreement filed by Town of Ponder and Longhorn Co. on September 24, 2007, (Application No. 35825-C);
2. Agreement between the Town of Ponder and Longhorn Co. executed by written correspondence on September 19, 2007.
3. Maps of the service areas subject to the 13.248 agreement submitted by the Town of Ponder and Longhorn Co.
4. Financial, Managerial, and Technical analyses of Longhorn Co. to operate in the affected area.

STAFF RECOMMENDATION

Based on the facts stated in the applications and the supporting documentation submitted by the Town of Ponder and Longhorn Co., Staff supports the request for a Commission order approving contracts designating service areas between the Town of Ponder and Longhorn Co. Staff has confirmed that parties are retail public utilities with active water CCNs and that the areas the parties are seeking to transfer is either certificated or dually certificated to one or both parties receiving the CCN. Further, staff is satisfied that Longhorn Co. possesses the adequate financial, managerial, and technical capability to provide continuous and adequate service to the area being transferred.

³ § 13.242(b).

⁴ § 13.248; *see also* 30 TEX. ADMIN. CODE § 291.117 (West 2006). TWC § 13.248 states that, "[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 § 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.

STAFF CONTACTS

Erin Selvera, Environmental Law Division (239-6033)
Lisa Fuentes, Water Supply Division (239-6117)

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Environmental Law Division **Date:** July 22, 2008
Thru: Lisa Fuentes/Tammy Benter
From: Dan Smith
Subject: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from Ponder Enterprises, Inc., dba Longhorn Company, Certificate of Convenience and Necessity (CCN) No. 12810, to Transfer a Portion of CCN No. 12951 from Town of Ponder in Denton County; Application No. 35825-C

CN: 602537763; RN: 104099403 (transferee)
CN: 600704746; RN: 102687399 (transferor)

In my opinion, Ponder Enterprises, Inc., dba Longhorn Company, has demonstrated adequate financial, managerial and technical capability to provide service to the area contracted for transfer.

Signed: Dan Smith Date: July 22, 2008

Ponder Enterprises, Inc., dba Longhorn Company (Longhorn) has contracted with the Town of Ponder (Ponder) to transfer a single tract of land of 73.5 acres from Ponder's CCN to Longhorn's CCN. The tract actually lies between two tracts which currently are in Longhorn's CCN, so the transfer is logical. It represents about a 20% increase in Longhorn's current CCN acreage, and Ponder is not presently serving any customers in the area to be transferred.

Mr. William D. Merritt, vice president and assistant secretary provides an originally-signed cover letter on the letterhead of Ponder Enterprises, Inc., and above his signature is "Ponder Enterprises, Inc. d/b/a Longhorn Co." He also provides a copy of a tax form balance sheet for Ponder Enterprises, Inc., which he certifies in the letter as being a true and correct copy of Schedule L of IRS Form 1120. No financial information specific to the utility operations of Longhorn Company is provided.

The balance sheet shows total assets of \$541,955 of which \$15,924 is cash. No term debt or mortgages are shown. Current liabilities include "Loans from shareholders,"

CAPTION
TOWN OF PONDER
Application No. 35825-C

TCEQ Docket No. 2008-0690-UCR. Consideration of a request for a Commission order approving a contract designating service areas between the Town of Ponder, water certificate of convenience and necessity ("CCN") No.12951, and Ponder Enterprises, Inc dba Longhorn Company, water CCN No.12810, in Denton County, Texas pursuant to Texas Water Code Section 13.248. Under the agreement, the Town of Ponder will transfer approximately 73.5 acres of its water CCN to Ponder Enterprises, Inc dba Longhorn Company. No customers or facilities are proposed to be transferred. (Erin Selvera, Lisa Fuentes)

Ponder Enterprises, Inc.

5772 Tim Donald Road
Justin, Texas 76247
940/648-5263 (telephone)
940/648-5264 (facsimile)

September 19, 2007

SEP 24 2007

Texas Commission on Environmental Quality
Water Utilities Division
P.O Box 13087
Austin, Texas 78711

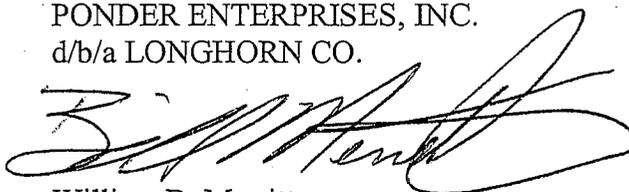
Re: Certification of Balance Sheet from 2006 Form 1120 Filing

To Whom It May Concern:

Ponder Enterprises, Inc. d/b/a Longhorn Co., a Texas corporation ("Longhorn") and the Town of Ponder, a General Law Type A municipality of the State of Texas, organized and operating pursuant to the Constitution and laws of the State of Texas ("Ponder") have entered into an agreement to designate and transfer a certain area of Ponder's CCN to Longhorn pursuant to Texas Water Code § 13.248 and Title 30 Texas Administrative Code § 291.117. In connection therewith, Longhorn has submitted an application to the Texas Commission on Environmental Quality ("TCEQ") to approve the foregoing agreement. We have been informed by staff members at the TCEQ that a copy of Longhorn's balance sheet is needed in connection with the approval of the foregoing agreement. Accordingly, the undersigned Assistant Secretary of Longhorn hereby certifies that the attached balance sheet is a true and correct copy of Schedule L of IRS Form 1120 filed by Longhorn for tax year 2006.

If you have any questions or need any additional information, please feel free to contact the undersigned at the number listed above.

PONDER ENTERPRISES, INC.
d/b/a LONGHORN CO.



William D. Merritt
Vice President and Assistant Secretary

AN ORDER approving contracts designating service areas between the Ponder Enterprises, Inc. d/b/a Longhorn Company, and the Town of Ponder in Denton County, Texas pursuant to Texas Water Code Section 13.248; TCEQ Docket No. 2008-0690-UCR.

A request for a Commission order approving contracts designating service areas between the Ponder Enterprises, Inc. d/b/a Longhorn Company ("Longhorn Co."), water certificate of convenience and necessity ("CCN") No. 12810 and the Town of Ponder ("Ponder") CCN No. 12951 in Denton County, Texas, was presented to the Texas Commission on Environmental Quality ("Commission") for approval pursuant to Section ("§") 13.248 of the Texas Water Code ("TWC") and Title 30, § 291.117 of the Texas Administrative Code.

The Town of Ponder, water CCN No. 12951, and Longhorn Co, water CCN No. 12810, executed an agreement, ("the Agreement") evidenced by Application No. 35825-C, which was filed on September 24, 2007 titled "CCN Transfer Agreement by and Between the Town of Ponder and Ponder Enterprises, Inc. dba Longhorn Co." Under the Agreement, Ponder will transfer approximately 73.5 acres of its water CCN to Longhorn Co. The Agreement is attached to this Order and labeled Exhibit A.

Under TWC §13.248, contracts between retail public utilities that designate areas 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.

The Commission held a hearing regarding approval of Ponder and Longhorn Co.'s Agreement at the September 10, 2008 agenda and found that the request had merit.

Longhorn Co. is capable of rendering continuous and adequate water service to the customers in the area covered by the Agreement. The CCN transfer contemplated in the aforementioned Agreement 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:

1. The Agreement transferring the portion of Ponder's CCN No. 12951 as described in Exhibit A. to Longhorn Co., CCN No. 12810, is hereby approved.
2. CCN No. 12951 held by the Town of Ponder in Denton County, is hereby amended in accordance with the Agreement with respect to the transfer area described in Exhibit A.
3. CCN No. 12810 held by Longhorn Company in Denton County, is hereby amended in accordance with the Agreement with respect to the transfer area described in Exhibit A.
4. 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 Denton County, Texas.
5. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties.
6. 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

EXHIBIT A

9-17-07

**CCN TRANSFER AGREEMENT BY AND BETWEEN THE TOWN OF
PONDER AND PONDER ENTERPRISES, INC. D/B/A LONGHORN CO.**

THIS AGREEMENT is made and entered into on the dates set forth below, by and between Ponder Enterprises, Inc. d/b/a Longhorn Co., a Texas Corporation ("Longhorn"), and the Town of Ponder, a General Law Type A municipality of the State of Texas, organized and operating pursuant to the Constitution and laws of the State of Texas ("Ponder"), each acting by and through its undersigned, duly authorized representative (Longhorn and Ponder shall collectively be referred to as the "Parties").

RECITALS

WHEREAS, Ponder is a retail public utility as defined by Texas Water Code § 13.002(19), providing retail water service to the area described by Texas Commission on Environmental Quality ("TCEQ" or "Commission") certificate of convenience and necessity ("CCN") No. 12951 in Denton County, Texas; and

WHEREAS, Longhorn is a retail public utility as defined by Texas Water Code § 13.002(19), providing retail water service to the area described by TCEQ water CCN No. 12810, in Denton County, Texas; and

WHEREAS, Texas Water Code § 13.248 and Title 30 Texas Administrative Code § 91.117 provide that contracts between retail public utilities, such as the Parties, may designate areas to be served and such designations will be valid and enforceable and will be incorporated into their respective CCNs when approved by the TCEQ; and

WHEREAS, Ponder desires to sell and transfer a certain seventy-three and a half (73.5) acre portion of its water CCN (the "Transfer Area"), as more specifically described in Exhibit "A", attached hereto, to Longhorn; and

WHEREAS, Longhorn, desires to purchase and certificate said Transfer Area in its water CCN as more precisely defined in this Agreement; and

WHEREAS, the Parties acknowledge that Ponder has no existing customers located in the Transfer Area; and

WHEREAS, Ponder's CCN No. 12951, after the transfer of the Transfer Area described in Exhibit "A" to Longhorn, shall continue to include the area contiguous and adjacent to the Transfer Area that is already certificated to Ponder, and Longhorn agrees not to contest any decision of Ponder to provide service to said contiguous and adjacent area; and

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TCEQ
WATER SUPPLY DIV.

WHEREAS, the Parties have, subject to approval by the TCEQ, agreed and entered into this Agreement to designate the Parties' respective rights in the Transfer Area pursuant to Texas Water Code § 13.248 and Title 30 Texas Administrative Code § 291.117.

NOW, THEREFORE, for and in consideration of the mutual agreements herein set forth and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, Longhorn and Ponder agree as follows:

TERMS OF AGREEMENT

1. All matters stated in the preamble are found to be true and correct and are incorporated into the body of the Agreement as if copied in their entirety.

2. Transfer Area. The water CCN territory that is the subject of this Agreement is the Transfer Area, as set forth in Exhibit "A", attached hereto. Ponder agrees that the portion of its water CCN area that includes the Transfer Area shall be transferred to Longhorn, subject to approval by the TCEQ, whereby the Transfer Area will be decertified from Ponder's water CCN No. 12951 and certificated to Longhorn's water CCN No. 12810.

3. Filing the Agreement with the TCEQ. The Parties agree that this Agreement shall be submitted to the TCEQ pursuant to Texas Water Code § 13.248 and Title 30 Texas Administrative Code § 291.117 following execution of the Agreement by both of the Parties (the "Application"). Ponder agrees to support any application or request for approval of Longhorn's Water CCN 12810 filed with the TCEQ related to the subject matter of this Agreement.

4. Compensation to Ponder. The Parties agree that in consideration for Ponder's sale and transfer of the Transfer Area to Longhorn as described in Sections 1 and 2, above, Longhorn agrees to the following:

a. Longhorn shall provide Ponder with a one-time payment of Seven Thousand Three Hundred Fifty Dollars (\$7,350.00), payable upon a final and non-appealable Commission Order granting the Transfer Area to Longhorn's authorized water CCN boundaries;

b. Longhorn agrees not to protest an application filed by Ponder with the TCEQ or its successor agencies to obtain dual water CCN certification with Longhorn for any portion of the Transfer Area to the extent that such application overlaps with the Transfer Area;

c. Longhorn shall be responsible for Ponder's reasonable professional costs resulting from the review and preparation of this Agreement, which shall include legal fees estimated not to exceed \$4000.00, and engineering fees estimated not to exceed Three Thousand Five Hundred Dollars (\$3,500.00), which costs shall be paid within thirty (30) days of execution of this Agreement upon receipt of invoices by Ponder and Longhorn from Boyle & Lowry and George Belcheff and Associates; and

d. Longhorn shall pay all TCEQ applicable filing fees, if any, related to the submission of this Agreement with the TCEQ.

5. Miscellaneous Provisions.

a. Default. In the event either Party fails to comply with the provisions of this Agreement or the TCEQ does not approve this Agreement, the non-breaching Party has the right to enforce the provisions of this Agreement by Specific Performance. In the event the TCEQ does not approve this Agreement, the Parties agree to work together in good faith and to enter into a separate agreement that addresses the intent of the Parties as set forth under this Agreement.

b. Longhorn Agrees not to place any line or lines in any public utility easement located on contiguous or adjacent to the transfer area any closer than ten (10) feet to any Ponder line.

c. Applicable Law. This Agreement and its interpretation, performance, and enforcement shall be governed by and construed in accordance with the laws of the State of Texas.

d. Venue. 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 Denton County, Texas.

e. Term of Agreement. This Agreement shall remain valid and enforceable until superseded by subsequent written agreement.

f. No Additional Waiver Implied. The failure of any Party hereto to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of the Agreement, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition by any other Party hereto, but the obligation of such other Party with respect to such future performance shall continue in full force and effect.

g. Entire Agreement. This Agreement contains the entire agreement and understanding among the Parties with respect to the subject matter hereof.

h. Amendments. Except as otherwise provided in this Agreement, this Agreement shall be subject to change or modification only upon the unanimous written consent of the Parties hereto or their successors and assigns.

i. Captions. The captions appearing at the first of each numbered section in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement, or any provision hereof, or in connection with the duties, obligations or liabilities of the respective Parties hereto or in ascertaining intent, if any question of intent should arise.

SEP 24 2007

j. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall be not affected thereby.

k. Construction of Agreement. The Parties agree that this Agreement shall not be construed in favor of or against any Party on the basis that the Party did or did not author this Agreement.

l. Other Instruments. The Parties hereto covenant and agree that they shall take such further actions, and 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.

m. Assignability. This Agreement shall be binding upon the Parties hereto and to their respective successors, heirs, and assigns.

n. Termination. This Agreement can be terminated at any time if both Longhorn and Ponder agree in writing. This Agreement may be terminated at any time as the result of a substantial breach upon receipt of written notification of the breach and failure to rectify said breach within sixty (60) days of receipt of the notice. The Parties may agree to thirty (30) day extensions if a good faith effort is being made to rectify said breach.

o. Covenant of Authority. By their signatures below, the individuals signing this Agreement covenant that they have full authority to bind and otherwise compromise the interests of the party they represent.

p. Correspondence. All correspondence between the Parties shall be delivered by certified mail, postage prepaid, facsimile, or hand delivery to the addresses shown below, unless otherwise changed by written notice.

For Longhorn Co.:

Longhorn Co.
attn: William Merritt
5772 Tim Donald Road
Justin, Texas 76247

For the Town of Ponder:

Town of Ponder
attn: Mayor
P.O. Box 297
Ponder, Texas 76259

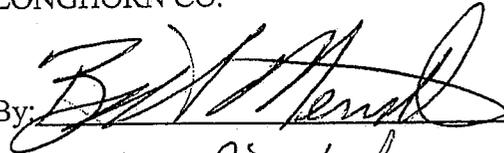
SEP 24 2007

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

ATTEST:

Shirley C. Clearman

PONDER ENTERPRISES, INC. D/B/A
LONGHORN CO.

By: 

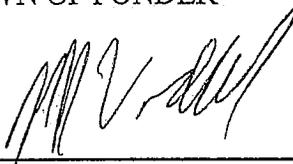
Its: Vice President

Date: 9/19/07

ATTEST:

Shirley C. Clearman

TOWN OF PONDER

By: 

Its: MAYOR

Date: 09/19/07

PHASE I

SEP 24 2007

Legal Description for Phase I

Being a tract of land situated in the Ignacio Elde Survey, Abstract No. 387 of Denton County, Texas and Being More Particularly described as follows:

Beginning at a point in the West right of way line of Farm Road No. 156 and the centerline of a public road;

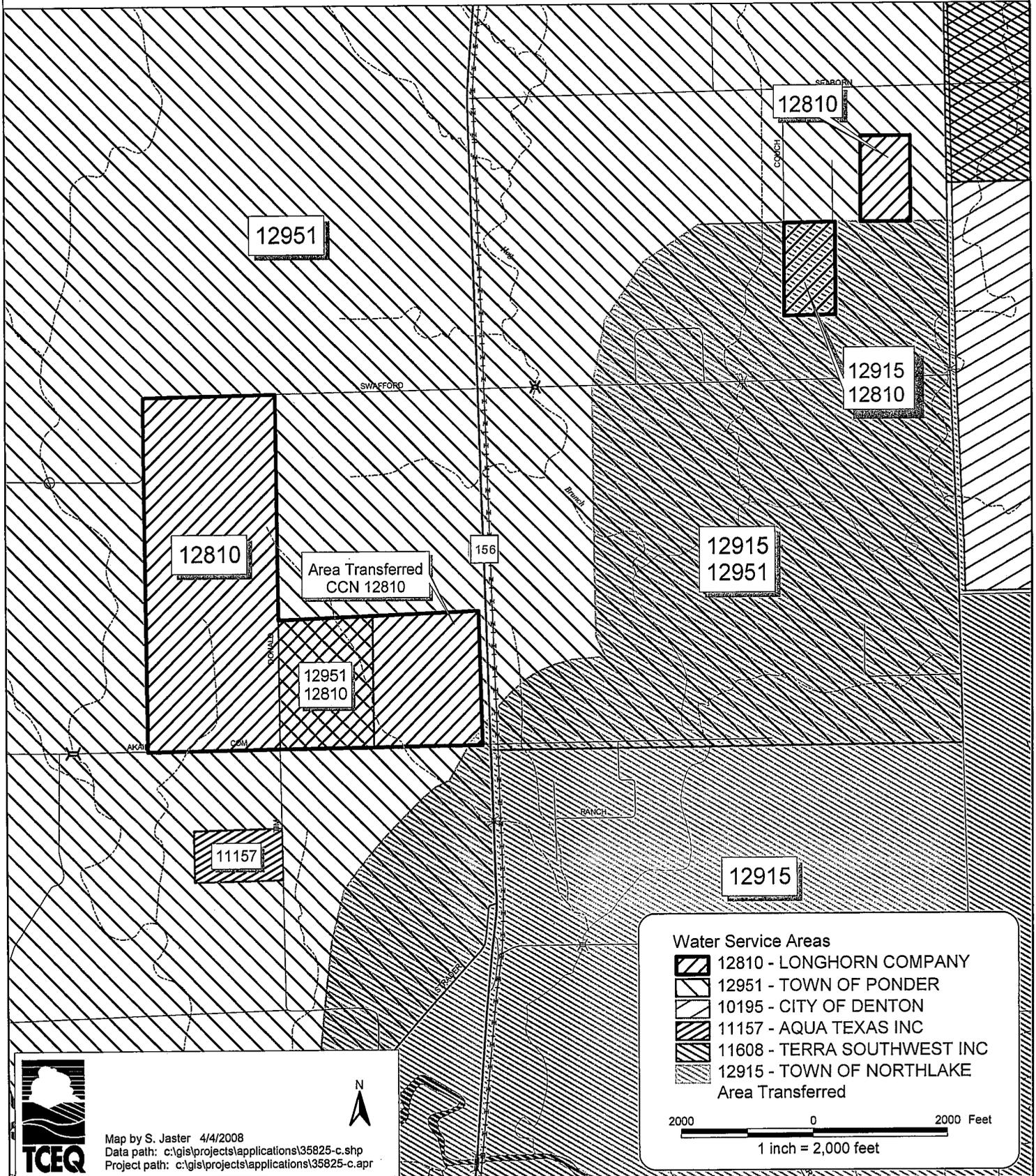
Thence along the centerline of said public road, North 88 43' 59" West a distance of 1648.0 feet for a corner;

Thence departing said public road, North 01 43' East a distance of 1948.26 feet for a corner;

Thence North 89 40' East a distance of 1603.74 feet for a corner in the West right of way line of Farm Road No. 156;

Thence along the west right of way line of Farm Road No. 156, South 00 25' West a distance of 1993.2 feet to the place of beginning of this tract and containing 73.541 acres of land.

Ponder Enterprises, Inc. dba Longhorn Company / Town of Ponder 13.248 Agreement
 Water Service Areas
 Application No. 35825-C (Contract Service Agreement from Ponder Enterprises, Inc.
 dba Longhorn Co., CCN No. 12810
 to Transfer a Portion of CCN No. 12951 from the Town of Ponder
 in Denton County)



Map by S. Jaster 4/4/2008
 Data path: c:\gis\projects\applications\35825-c.shp
 Project path: c:\gis\projects\applications\35825-c.apr

- Water Service Areas**
-  12810 - LONGHORN COMPANY
 -  12951 - TOWN OF PONDER
 -  10195 - CITY OF DENTON
 -  11157 - AQUA TEXAS INC
 -  11608 - TERRA SOUTHWEST INC
 -  12915 - TOWN OF NORTHLAKE
 -  Area Transferred

2000 0 2000 Feet
 1 inch = 2,000 feet

MAP CONSENT FORM

Applicant's Name: Ponder Enterprises, Inc., dba Longhorn Company/Town of Ponder
13.248 Agreement
Application No.: 35825-C

- I concur with the map created 4/4/2008 as a result of the above mentioned application.
- I do not concur with the map created 4/4/2008 and intend to respond by letter dated _____.

I am authorized by the Town of Ponder to sign this form.

Signature: *Gary Morris*

Printed Name: GARY MORRIS

Relationship to Applicant: NONE

Date signed: 4-9-08

Mail to or fax to:
Lisa V. Fuentes
Utilities & Districts Section, MC 153
Water Supply Division
Texas Commission on Environmental Quality,
P.O. Box 13087
Austin, TX 78711-3087
Fax (512) 239-6972

MAP CONSENT FORM

Applicant's Name: Ponder Enterprises, Inc., dba Longhorn Company/Town of Ponder
13.248 Agreement
Application No.: 35825-C

I concur with the map created 4/4/2008 as a result of the above mentioned application.

I do not concur with the map created 4/4/2008 and intend to respond by letter dated _____.

I am authorized by the Ponder Enterprises, Inc., dba Longhorn Company to sign this form.

Signature: 

Printed Name: DAVID KLEIN

Relationship to Applicant: ATTORNEY FOR PEI/016/ Longhorn Co.

Date signed: APRIL 14, 2008

Mail to or fax to:
Lisa V. Fuentes
Utilities & Districts Section, MC 153
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax (512) 239-6972

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Deanna Avalos
Office of the Chief Clerk

Date: _____, 2008

From: Amy Vargas
Administrative Support
Water Supply Division

Subject: Texas Water Code, §13.248 Application Approved by Commissioner's,
Certificates to be Mailed

Ponder Enterprises, Inc., Co., dba Longhorn Company, CCN: 12810,
CN: 602537763; RN: 104099403
Town of Ponder, CCN 12951, CN: 600704746; RN: 102687399
Application Number 35825-C,

The item listed above was approved by the Commissioners on _____, 2008.
Please present the certificates to Deanna Avalos for mailing.

Contact Name: Lisa Fuentes

Date Stamp This Page Only



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

Ponder Enterprises, Inc., dba Longhorn Company

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. 12810

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 35825-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 Ponder Enterprises, Inc., dba Longhorn Company 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

Town of Ponder

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. 12951

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 35825-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 Town of Ponder 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