

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



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY CHIEF CLERKS OFFICE

*Protecting Texas by Reducing and Preventing Pollution*

November 26, 2007

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

Re: TCEQ Docket No. 2007-0869-DIS  
Application of County Line Water Supply Corporation to Convert to a Special  
Utility District and for Approval of Impact Fees in Hays and Caldwell Counties,  
Texas

Dear Ms. Castañuela:

Enclosed for filing in the above referenced matter, please find the Executive Director's  
Response to Hearing Request.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Shana L. Horton".

Shana L. Horton  
Staff Attorney  
Environmental Law Division

Enclosures

cc: Mailing List

**SERVICE LIST**  
**COUNTY LINE WATER SUPPLY CORPORATION**  
**TCEQ DOCKET NO. 2007-0869-DIS**

FOR THE APPLICANT:

Daniel R. Heideman, Manager  
County Line Water Supply Corp.  
140 Grist Mill Rd.  
Uhland, Texas 78640

Clarence Littlefield, PE  
Southwest Engineers, Inc.  
307 Saint Lawrence St.  
Gonzales, Texas 78629-3935

Rolando L. Rios, Attorney  
Rolando L. Rios & Associates, PLLC  
The Milam Building  
115 E. Travis St., Ste. 1645  
San Antonio, Texas 78205-1685  
Tel: (210) 222-2102  
Fax: (210) 222-2898

FOR THE EXECUTIVE DIRECTOR:

Gregory Charles, Technical Staff  
Texas Commission on Environmental Quality  
Water Supply Division, MC-152  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-4638  
Fax: (512) 239-2214

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director  
Texas Commission on Environmental Quality  
Office of Public Assistance, MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-4000  
Fax: (512) 239-4007

INTERESTED PERSONS:

S.R. Scott Family LP  
P.O. Box 5072  
Austin, Texas 78763

FOR PUBLIC INTEREST COUNSEL:

Scott Humphrey, Attorney  
Texas Commission on Environmental  
Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-6363  
Fax: (512) 239-6377

FOR ALTERNATIVE DISPUTE  
RESOLUTION:

Mr. Kyle Lucas  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-4010  
Fax: (512) 239-4015

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela  
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 OFFICE OF GENERAL  
COUNSEL:

Ms. Celeste Baker, Acting General Counsel  
Texas Commission on Environmental  
Quality  
Office of General Counsel, MC-101  
P.O. Box 13087  
Austin, Texas 78711-3087

REQUESTER:

Celina Romero  
John M. Joseph  
Clark, Thomas & Winters  
P.O. Box 1148  
Austin, Texas 78767

TCEQ DOCKET NO. 2007-0869-DIS

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APPLICATION OF COUNTY LINE §  
WATER SUPPLY CORPORATION §  
TO CONVERT TO A §  
SPECIAL UTILITY DISTRICT AND §  
FOR APPROVAL OF IMPACT FEES §  
IN HAYS AND CALDWELL §  
COUNTIES, TEXAS §

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

**EXECUTIVE DIRECTOR'S RESPONSE TO  
HEARING REQUEST**

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") files the Executive Director's Response to Hearing Request by S.R. Scott Family LP (the "Scott Family") concerning the application by County Line Water Supply Corporation ("County Line" or the "applicant") for conversion to a special utility district and approval of impact fees in Hays and Caldwell Counties, Texas. For the reasons set forth below, the Executive Director recommends that the Commission **grant** the hearing request.

**I. BACKGROUND**

County Line applied for conversion to a special utility district ("SUD" or "district") and for Commission approval to levy an impact fee of \$3,765 per equivalent single-family connection ("ESFC") for new connections to the water system within or near the County Line service area. County Line submitted to the Commission a technically complete application for conversion and a Capital Improvements Plan supporting the full impact fee requested.

The proposed district contains land totaling approximately 21,312 acres (33.3 square miles), located in Hays and Caldwell counties. The area is currently served by County Line Water Supply Corporation, which serves approximately 1,250 active customer connections under the authorization of Certificate of Convenience and Necessity No. 10292. No additional area is proposed to be added to the district. Application material indicates that the proposed district includes area within the city limits of the City of Umland and the City of Kyle. Because County Line seeks conversion to a district under Texas Water Code ("TWC") Chapter 65, it is not required to obtain city consent under Title 30, Texas Administrative Code ("30 TAC") §293.11(a)(2) and Local Government Code §42.042(j). The application asserts that the general nature of the district's work would include the provision of water services and may include the provision of wastewater services within the district's boundaries.

County Line has represented that its intent is to finance water supply facilities with impact fee revenue from new development. The impact fee requested is \$3,765 per new residential ESFC, which is defined as the typical consumption by one single family household with a 5/8 inch water meter.

County Line's application has been reviewed by staff in the TCEQ Utilities & Districts Section, Water Supply Division. The Executive Director's current recommendation, based on the information available to the Executive Director at this time, is for the Commission to approve County Line's application for conversion to a special utility district and for an impact fee in the amount requested. *See Exhibit A (May 23, 2007 technical memorandum).*

## II. PROCEDURAL HISTORY

On November 28, 2005, County Line filed an application with the Commission requesting conversion to a special utility district and for authority to levee an impact fee. County Line's application was declared administratively complete on December 13, 2005. Notice of this application was published in the *Lockhart Post-Register*, a newspaper of general circulation in Caldwell County, Texas, once a week for two consecutive weeks on January 12 and January 19, 2006; and in *The Free Press*, a newspaper of general circulation in Hays County, Texas, once a week for two consecutive weeks on January 11 and January 18, 2006. During technical review, the Executive Director's staff discovered that the notice published failed to contain the required notice regarding the request for an impact fee. Therefore, notice of this application was again published in the *Lockhart Post-Register* once a week for two consecutive weeks on May 25 and June 1, 2006 and in *The Free Press* once a week for two consecutive weeks on July 5 and July 12, 2006, the first publication thereof being more than thirty days prior to the date of consideration of this application. The second notice contained all required information.

Under 30 TAC §293.12(e), if a petition for the creation of a SUD under TWC Ch. 65 includes a request for an impact fee, notice must be mailed to property owners as provided by 30 TAC §293.173. County Line provided evidence by affidavit that notice was mailed to each property owner who would be subject to the impact fee. Although the affidavit did not state the date the notice was mailed, it was executed on June 13, 2006; therefore, the notice must have been mailed at some time prior to that date.

The request for a contested case hearing by the Scott Family was received on July 7, 2006. The last day to request a contested case hearing was August 11, 2006. No other hearing requests were filed.

At the request of the applicant, staff did not file the request for an agenda setting when the July 7, 2006 request for a contested case hearing was filed. The applicant expressed to the Executive Director's staff a desire for more time to negotiate with the hearing requestor prior to referral for a contested case hearing. Staff received evidence that settlement negotiations were

underway by way of correspondence between the parties dated September 26, 2006. Relying on the representations of the parties regarding ongoing negotiations, and in the interest of settlement without the necessity of a contested case hearing, staff delayed filing an agenda item request. Staff eventually filed an agenda item request on July 13, 2007. Neither County Line nor the Scott Family had yet requested that the item be set for agenda, however, it was the opinion of the Executive Director's staff that enough time had passed for settlement negotiations and that the application should move forward.

On August 1, 2007, County Line filed a letter requesting direct referral to the State Office of Administrative Hearings. However, the Scott Family did not agree to the direct referral. Therefore, under 30 TAC §55.254(g), the item could not be directly referred.

### **III. CONVERSION TO SPECIAL UTILITY DISTRICT**

Chapter 65 of the Texas Water Code allows a water supply corporation providing service under a CCN to convert to a special utility district. *See* TWC §§65.014 and 65.021. The requirements for a conversion application are set forth in TWC §§ 65.014 and 65.015 and 30 TAC §§293.11(a) and (h). Under 30 TAC §293.11(h)(2), the proposed boundaries of the SUD must conform to the service area of the water supply corporation as shown in its CCN, and any area within the water supply corporation's CCN that overlaps with another entity's CCN must be excluded from the district unless consent is obtained. A water supply corporation's application to convert to a SUD includes a request to transfer the corporation's CCN to the SUD.

Notice of a conversion application must be published and mailed as provided in TWC §49.011 and 30 TAC §293.12. The Commission may act on a conversion application without holding a hearing if no timely hearing request meeting the requirements in the Commission's rules is received. *See* TWC §49.011(c) and §65.020(a). The Commission may approve a conversion application if it finds that the criteria in TWC §65.021 are met. If the Commission authorizes the conversion of a water supply corporation to a SUD, TWC §65.022 requires the Commission to appoint temporary directors to serve on the SUD's board until permanent directors are elected.

As discussed in the staff's technical memorandum, County Line is a member-owned, member-controlled, nonprofit water supply corporation serving approximately 1,250 active customer connections under the authorization of water CCN No. 10292. Therefore, County Line meets the definition of a "water supply corporation" set out in TWC §65.001(10)(B) and is eligible for conversion to a SUD. The application materials demonstrate that the boundaries of the SUD are the same as the service area of the water supply corporation; therefore, the boundaries meet the requirements of 30 TAC §293.11(h)(2). As stated above, the applicant is not required to obtain city consent. However, the City of Umland and City of Kyle each submitted written documentation evidencing no objection to the conversion by either city.

#### IV. IMPACT FEES

Chapter 395 of the Texas Local Government Code and Chapter 49 of the Texas Water Code allow Texas districts to assess an impact fee in a district if approved by the Commission. *See* Tex. Loc. Gov't Code §395.080(b); TWC §49.212(d). The Commission reviews impact fee applications in accordance with 30 TAC §§ 293.171–176. Under 30 TAC §293.171(1), an “impact fee” is defined as a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. Under Texas Local Government Code §395.001(6), “new development” means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units. 30 TAC §293.171(2) defined a “capital improvement plan” as a plan that identifies capital improvements or facility expansions pursuant to which impact fees may be assessed. 30 TAC §291.171(3) defines “capital improvements” as:

Water supply, treatment, and distribution facilities, wastewater collection and treatment facilities, stormwater, and drainage, and flood control facilities, including facility expansions, whether or not located within the service area, with a life expectancy of three or more years, owned and operated by or on behalf of a district with authorization to finance and construct such facilities, but such term does not include materials and devices for making connections to or measuring services provided by such facilities to district customers.

30 TAC §291.171(5) defines “service area” as an area within or without the boundaries of a district to be served by the capital improvements specified in the capital improvements plan. This area may include all or part of the land within a district or land outside a district served by the facilities identified in the capital improvements plan.

Notice of an impact fee application must be published and mailed as provided in 30 TAC §293.173, unless waived by the Executive Director. 30 TAC §293.173(d) provides that the Commission may act on an impact fee application without holding a public hearing if a public hearing is not requested by the Commission, the Executive Director, or an affected person in the manner prescribed by Commission rule during the 30 days following the final publication of notice of the impact fee application. If the Commission determines that a public hearing is necessary, the Chief Clerk shall advise all parties of the time and place of the hearing.

30 TAC §293.174(a) requires the Commission to approve the capital improvements plan and impact fee if it finds that a requested impact fee is reasonable, equitable and necessary as a mechanism for a district to finance improvements to serve the designated service area. The Commission may approve an impact fee amount that is different than the impact fee amount requested in the application for approval; however, in no event shall the Commission approve an

impact fee amount higher than the impact fee amount contained in the notice required under 30 TAC §293.173(b).

## V. STANDARD FOR HEARING REQUEST

County Line's application was declared administratively complete after September 1, 1999, and does not fall under any of the statutory provisions listed in 30 TAC §55.250; therefore, as provided in that rule section, the application is subject to Chapter 55, Subchapter G (30 TAC §§55.250-55.256). Under 30 TAC §55.255(b)(2), a request for a contested case hearing made by an "affected person" will be granted if the request:

- (A) complies with the requirements of §55.251 of this title (relating to Requests for Contested Case Hearing, Public Comment);
- (B) is timely filed with the chief clerk; and
- (C) is pursuant to a right to hearing authorized by law.

30 TAC §55.256(a) provides that an "affected person" is one with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest. 30 TAC §55.256(c) requires that when evaluating whether a person requesting a hearing is an "affected person," the Commission shall weigh all relevant factors, including but not limited to:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC §55.251(b) and (d) require a request for a contested case hearing by an affected person to be in writing and filed by United States mail, facsimile, or hand delivery with the Chief Clerk within the time period specified in the notice. 30 TAC §55.251(c)(1)–(4) further require that a hearing request:

- (1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number and, where

possible, fax number, who shall be responsible for receiving all official communications and documents for the group.

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;

(3) request a contested case hearing; and

(4) provide any other information specified in the public notice of application.

## **VI. HEARING REQUEST**

The request by the Scott Family is considered a hearing request because it substantially complies with 30 TAC §55.251(c) by providing (1) contact information, (2) a brief identification of a personal justiciable interest and, (3) a request for a contested case hearing.

## **VII. ANALYSIS OF HEARING REQUEST**

On July 10, 2006, TCEQ received a letter from attorney Celina Romero requesting a contested case hearing on behalf of her client, S.R. Scott Family LP. According to the hearing request, the Scott Family owns a 203 acre tract of land within County Line's service area. The request states that the Scott Family will be subject to the impact fee upon development of its tract. Further, in its hearing request, the Scott Family states that it is not satisfied that the amount of the impact fee requested is just and reasonable. The Scott Family also raises the issue of whether the applicant has satisfied the requirements of TWC §§65.014 and 65.015 regarding the applicant water supply corporation's resolution seeking creation of the district. This resolution is required for conversion.

As stated above, to be considered an "affected person", the Scott Family must demonstrate a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application (30 TAC §55.256(a)).

Because the Scott Family is an owner of land within the boundary of the proposed district, it would be a customer of the district. Any actions taken by the proposed district would apply to the property owned by the Scott Family. Further, the Scott Family's hearing request implies that at least some of its property within the proposed district is undeveloped, and that it may be developed in the future. As the Scott Family is an owner of undeveloped land within County Line's service area, it would likely be subject to the impact fee should any development occur on its land.

For the reasons stated, a reasonable relationship exists between the Scott Family's interests and the requested conversion and impact fee. The interests claimed are protected by the law under which the application is considered. The Scott Family is thus an affected person under 30 TAC §55.256(a) according to the relevant factors contained in 30 TAC §§55.256(c)(1) and (3).

#### VIII. DURATION FOR THE CONTESTED CASE HEARING

If the Commission refers the matter to SOAH for a contested case hearing, the Executive Director recommends that the projected duration for any contested case hearing between preliminary hearing on the matter and presentation of a proposal for decision before the Commission, should be **six (6) months**.

#### IX. EXECUTIVE DIRECTOR'S RECOMMENDATION

Based on representations made to the Executive Director, the Scott Family owns property in County Line's service area and would be a customer of the proposed district and subject to County Line's proposed impact fees. The Executive Director recommends that the Commission find that S.R. Scott Family LP is an affected person and that its request for a contested case hearing be granted, with a hearing duration of six months.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

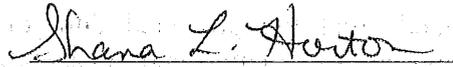
Glenn Shankle  
Executive Director

Robert Martinez, Director  
Environmental Law Division

By Shana L. Horton  
Shana L. Horton, Staff Attorney  
Environmental Law Division  
State Bar of Texas No. 24041131  
MC-173, P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-1088  
Fax: (512) 239-0606

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of November, 2007, a true and correct copy of the **EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST** was sent by first class mail, agency mail and/or facsimile or hand-delivered to all persons on the attached service list.



Shana L. Horton  
Staff Attorney

# **EXHIBIT A**

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

To: Michael D. Cowan, Division Director  
Water Supply Division

Date: May 23, 2007

Thru: *Re* Doug Holcomb, P.E., Manager,  
*R* Utilities & Districts Section

*Re* Robert Cummins, P.E., Leader,  
Districts Review Team

From: *RW* Districts Review Team

Subject: Petition for the Conversion of County Line Water Supply Corporation to County Line Special Utility District and Approval of Impact Fee; Pursuant to Texas Water Code, Sections 65.014 and 65.021, and 30 TAC Section 293.11.  
TCEQ Internal Control No. 11282005-D02 (TC)  
CN: 600644470 RN: 104802459

### A. GENERAL INFORMATION

The captioned application was declared administratively complete on December 13, 2005. The petition from County Line Water Supply Corporation ("CLWSC") requests Commission approval for conversion to County Line Special Utility District ("District").

CLWSC is a non-profit, member owned and controlled water supply corporation as defined by Section 65.001(10)(B) of the Texas Water Code. CLWSC provides water service under Certificate of Convenience and Necessity ("CCN") No. 10292 to approximately 1,250 active customer connections.

A seven-page boundary description of the proposed District was provided with the preliminary engineering report. A revised seven-page boundary description was received on April 17, 2007. The proposed District would contain approximately 33.3 square miles of territory located in Hays and Caldwell Counties.

The proposed District is a predominately rural area, with some small developments. It is generally bounded on the north and northeast by Goforth Water Supply Corporation; on the east by Polonia Water Supply Corporation; south and southwest by Maxwell Water Supply Corporation; and on the northwest by the City of Kyle. The proposed boundary of the Special Utility District (SUD) is the same as the existing County Line WSC Certificate of Convenience and Necessity (CCN No. 10292) boundary.

Pursuant to Commission Rule 293.11(h)(9), the proposed District has provided an acceptable order dated March 5, 2001, canvassing the vote of CLWSCs membership, which indicates an affirmative vote to authorize conversion to a Special Utility District (31 in favor, 18 against and 0 abstained).

According to the application materials received, the proposed District's initial Board of Directors will consist of the following persons:

Jim Roach	Randy Robertson	Sharon Davies
William Ilse	Curtis Wells	John Alan Anderson
Carl Abrahamson		

An executed affidavit for each of the proposed directors is on file. Each of the persons named is qualified, as required under 30 TAC Section 293.32, to serve as a temporary director of the proposed District as each (1) is at least 18 years old, (2) is a resident of the State of Texas, (3) either owns land subject to taxation within the proposed District, is a user of the facilities of the proposed District, or is a qualified voter of the proposed District, and (4) has completed and filed with the Commission an application for consideration of appointment as temporary director in the form and substance required by the Rules of the Commission.

The petition further states that the assets and debts of CLWSC and related CCN will be transferred to the proposed District and that CLWSC will be dissolved immediately upon said transfer.

## **B. SPECIAL CONSIDERATIONS**

### **1. Consent**

By Resolution No. 070404, the City of Umland indicated no objection to the creation of the proposed SUD. Similarly, by letter dated May 21, 2007, the City of Kyle indicated no objection to the creation of the proposed SUD.

### **2. History and Boundary**

County Line Water Supply Corporation was formed on August 12, 1965 to provide water supply to the members of the corporation. The Texas Natural Resource Conservation Commission issued CLWSC CCN No. 10292 on June 1, 2000. Upon creation of the proposed District, the CCN boundary held by CLWSC will remain unchanged.

### **3. Impact Fee**

CLWSC, by Resolution dated March 3, 2005, requests Commission approval to levy an impact fee of \$3,765 per ESFC. By letter dated March 30, 2006, CLWSC confirmed that the current Equity Buy-in (impact) fee is \$2,838.

The District's engineer submitted a capital improvement plan (CIP) which describes the proposed improvements on which the impact fee is based. The specific improvements and estimated costs, as detailed in the CIP, are summarized as follows:

Category	Total Cost of Construction	Projected New Connections (ESFCs)	Impact Fee (\$ per ESFC)
A. Supply			
1. Surface Water Supply	\$ 9,000,000	6,944	\$ 1,300
2. Booster Station	\$ 475,000	1,190	\$ 400
3. 12-inch Line (35,000 feet)	\$ 770,000	1,190	\$ 650
4. Water Wells (2) – Peak Usage	\$ 755,000	1,190	\$ 630
B. Storage (Elevated)	\$ 1,350,000	6,250	\$ 215
C. Distribution	\$ 3,564,000	6,250	\$ 570
<b>TOTAL</b>			<b>\$ 3,765</b>

Commission staff has reviewed the projected cost of future facilities in the application and has determined that the proposed impact charge of \$3,765 is reasonable.

#### Notice Requirements

Proper notice of the application was published on July 5, 2006 and July 12, 2006, in the Free Press, and on May 25, 2006 and June 1, 2006, in the Lockhart Post-Register, both newspapers regularly published and generally circulated in Hays and Caldwell Counties, respectively, the counties in which the proposed District is to be located.

Proper notice of the application was posted at the Courthouses in both Hays and Caldwell Counties, on May 16, 2006, where legal notices are posted.

In addition, mailed notices were mailed on May 26, 2006 to each property owner that may be affected by the proposed impact fee.

30 TAC Section 293.12(d) states: "For a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, which includes transfer of the certificate of convenience and necessity, the applicant shall also, unless waived by executive director, mail copies of the notice to customers of the water supply corporation and other affected parties at least 120 days prior to approval." The CLWSC has requested a waiver to 30 TAC Section 293.12(d). The waiver was requested by the CLWSC because its customers, landowners and other affected parties were informed about the conversion through written information, notices, and public meetings. Therefore, on behalf of the Executive Director, the Districts Review Team granted a waiver to 30 TAC Section 293.12(d) by letter dated March 28, 2007.

30 TAC Section 293.12(e) states: "If a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, contains a request for approval of an impact fee, the applicant shall comply with the notice provisions of §293.173 of this title." The resolution provided does request approval of an impact fee. The notice references the requested fee of \$3,765 per ESFC, and evidence was provided supporting that the notice was also mailed to property owners

#### Hearing Request

A contested hearing request was received from the S.R. Scott Family L.P. (the "Scott Family"). The request states that the Scott Family owns a 203 acre tract of land within the water service area and boundaries of CLWSC, and will be affected by the conversion to a special utility district and the establishment of the proposed \$3,765 impact fee. In response to the hearing request, the District requested time to negotiate with the protestant prior to staff's request for an agenda date.

#### **C. GENERAL EFFECTS OF CONVERSION**

Some general effects of conversion from a Water Supply Corporation (WSC) to a Special Utility District (SUD) include the following:

1. A SUD is a political subdivision and can issue tax exempt revenue bonds on the open market or for purchase by the Texas Water Development Board (TWDB). See Tex. Water Code (TWC) Section 65.503.
2. A SUD is exempt from ad valorem taxes (usually county and school district) on its personal property, utility lines, and plant facilities. See Local Government Code (LGC) Section 422.014.
3. A SUD is exempt from sales taxes on supplies and services. See LGC Section 422.014.
4. A SUD is subject to the Open Meetings and Open Records Act. See TWC Sections 49.064 & 49.065.
5. A SUD must have an annual audit conducted and file the audit with the Commission. See TWC Section 49.194.
6. A SUD must follow statutory bid advertisement and contract provisions for districts. See TWC Section 49.273.
7. A SUD is subject to the continuing right of supervision by the TCEQ. See TWC Section 5.013.

**D. CONCLUSIONS**

1. Based on Commission policy, compliance with Commission rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, and would be necessary as a means to finance utilities and to provide utility service to current and future customers, and the proposed purposes (water and wastewater) are considered practicable and would be a benefit to the land within the proposed District.
2. Based on a review of the preliminary engineering report and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC Section 293.59.
3. The recommendations are made under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

**E. RECOMMENDATIONS**

1. Grant the petition for conversion of County Line Water Supply Corporation to County Line Special Utility District and approve an impact fee, with the boundary of the District in accordance with the seven-page boundary description received on April 17, 2007, for the purpose of providing water and wastewater service in accordance with Texas Water Code Section 65.012(1) and (3).
2. The order granting the petition should include the following statements:

"This order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the conversion petition, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration."

"Upon a successful confirmation election, the assets and debts of County Line Water Supply Corporation are to be transferred to County Line Special Utility District as expeditiously as practicable and dissolution proceedings of County Line Water Supply Corporation are to be commenced immediately after such transfer."

3. Appoint the following to serve as temporary directors of the District:

Jim Roach

Randy Robertson

Sharon Davies

William Ilse

Curtis Wells

John Alan Anderson

Carl Abrahamson

4. Direct the Board of Directors to canvass the confirmation election returns and submit such canvassing to the Utilities and Districts Section of the Texas Commission on Environmental Quality within thirty (30) days of the board meeting at which such returns are canvassed.
5. Direct the Board of Directors, that upon a vote of the populace confirming the creation of the district, to take action necessary to dissolve the WSC and submit documentation evidencing such to the Commission's Utilities and Districts Section when available.
6. Contingent upon a successful confirmation election and dissolution of the WSC, water CCN No. 10292 will be issued by the Commission in the name of County Line Special Utility District in order to ensure continued service for all customers currently served by County Line Water Supply Corporation.
7. Approve the levy of an impact fee of \$3,765 per ESFC for new connections to County Line Special Utility District's water system.

#### **F. FEASIBILITY**

The engineering report dated September 2005 indicates that CLWSC serves potable water to approximately 1,250 active customer connections (estimated population of 3,672). The number of CLWSC's connections is expected to increase by 14.4% to a total of 4,200 by the year 2010. Future growth is not expected to alter the present use of the land. No specific development plan is assumed in examining the feasibility of the proposed District.

According to the engineering report, the service rates in effect at the time of the conversion will be charged to District customers. The rates are detailed as follows:

#### Water Rates

As provided in the engineering report, the current water rates the CLWSC charges for standard service are as follows:

Minimum Monthly Charge	\$33.00
Usage Rate:	\$2.50 per 1,000 gallons for first 10,000 gallons; \$2.75 per 1,000 gallons for next 5,000 gallons; \$3.00 per 1,000 gallons for next 5,000 gallons; \$3.25 per 1,000 gallons for usage over 20,000 gallons

Based on 10,000 gallons usage, the water rate would be \$58.00 per month. The corporation's other rates, fees, operation rules and regulations, are outlined in its approved tariff.

## **G. PURPOSE**

According to the engineering report, the primary purpose of converting to a SUD is to fund future improvements at lower interest rates. Subsequent to conversion, the WSC's intent is to initially provide water service only but would like to have the authority to provide wastewater service as allowed by Chapters 49 & 65 of the Texas Water Code in accordance with Chapter 293 of the Texas Commission on Environmental Quality (TCEQ) rules.

According to the engineering report, the District will continue to provide the same services as CLWSC, and CLWSC desires to convert for the added benefits of being a special utility district. Some of the benefits have been outlined in Section C of this memorandum. Additionally, the proposed District's engineer states that conversion to a SUD will allow quality water service to be provided at the lowest possible rates:

### Availability of Comparable Services

The engineering report indicates that there is no entity other than the proposed District providing, or capable of providing, the capacity to serve the same area with comparable services. Additionally, since CLWSC is the certificated water supplier for the area, no other entity other than the proposed District presently has the ability to serve the proposed District area. Conversion to a SUD should not affect service as currently provided by CLWSC.

### Water Supply Facilities

The CLWSC currently obtains its water supply from two Edwards aquifer wells, a 220,000 gallon standpipe and recently completed facilities to receive surface water from the Canyon Regional Water Authority. New facilities include: a 200,000 gallon elevated tank at Hemphill; a 1,000,000 gallon tank near Woodlands Park subdivision; and a booster station, which includes a 240,000 gallon ground storage tank with three 950 gpm high service pumps, at the intersection Highway 21 and FM 1966.

### Wastewater Facilities

The service area for CLWSC is predominantly rural residential and agricultural, with some small sub-divisions. Currently CLWSC does not provide wastewater service. Some CLWSC customers utilize private septic systems and there are others who receive wastewater treatment service from the City of Kyle. The proposed District plans to provide wastewater service in the future.

### Drainage

CLWSC does not provide drainage services. The area is rural in nature and creeks and rivers handle drainage for the area.

## **H. DESCRIPTION AND IMPACT ON NATURAL RESOURCES**

The impact on natural resources information was obtained from the engineering report. Future development is expected to be same whether CLWSC converts to a SUD or not. Creation of the proposed District is not expected to impact land elevation, subsidence, groundwater levels, recharge capability of groundwater, run-off rates and drainage, and water quality on land within the proposed District.

### Floodplain

According to the engineer's report, the CLWSC service area experiences flooding mainly on low lying areas along Plum Creek and its tributaries, which are within the 100-year flood zone.

## **I. ADDITIONAL INFORMATION**

The petitioner's professional representatives are:

Attorney: Mr. Rolando L. Rios - Rolando L. Rios & Associates  
Engineer: Mr. Clarence L. Littlefield, P.E. - Southwest Engineers, Inc.



Greg Charles  
Districts Review Team