

Contested Case Hearing Request

(Re: TCEQ Internal Control Number: D-03122024-020)

From:

Joseph Benavides
16100 N State Highway 123
San Marcos, TX 78666

Petitioners Name:
Joseph Benavides

TCEQ Internal Control Number: D-03122024-020

Reviewed By Gow

SEP 13 2024 H

CHIEF CLERKS OFFICE

2024 SEP 12 AM 10:01

COMMISSION
ON ENVIRONMENTAL
QUALITY

I/we request a contested case hearing

I have been a Crystal Clear Special Utility District (CCSUD) customer for many years. I am planning on adding more meters in the future on several of my properties. Their current impact fees are stratospheric at present. These proposed new impact fees would be EXCEPTIONALLY detrimental to present and future customers wishing to add meters in the future.

CCSUD has and is engaging on rabid expansion for one simple reason: it has a hostage customer base. Even if a customer wishes to get their water service from another entity, CCSUD *may* assert federal authority to FORCE this hostage customer base to get service from them (HK Baugh Ranch, LLC v. Crystal Clear Special Utility District et al) (although this is under appeal... the final word hasn't been written on this, yet).

CCSUD does not need this expansion to service its current customers. CCSUD argues that this is needed for future needs. However, this logic is flawed. Future need is not guaranteed (as a matter of fact, for the near future, it is predicted to drop significantly) Imagined "Future need" is being used to unduly (over) burden current customer to satisfy CCSUD board members' building cravings. CCSUD has not offered any other options aside from hiking the rates of (hostage) current customers (most new meters will more than likely be installed by current customers, such as myself). Furthermore, CCSUD cites an increased number of customers to service as the need for this hike... while failing to mention the same increased number of customers as INCREASED REVENUE.

Plenty of my current properties are in the CCSUD service, mostly in the northern part of their service area (along State Highway 123). I have been to CCSUD's board meetings for several months. I have seen first hand the reckless ambition CCSUD has to build more and more projects, only because they have a hostage customer base. CCSUD

has abused its well-intentioned monopoly. CCSUD will continue with this type of behavior unless, among other things, TCEQ listens to the customers; the very people CCSUD is supposed to be serving, not extorting.

In anticipation of the requested hearing, I would like to request a complete copy of the study or studies, engineering reports, etc. that CCSUD is submitting to the Texas Commission on Environmental Quality (TCEQ) to request this impact fee increase.

I sincerely hope TCEQ takes its responsibilities to serve Texans, not special utility boards, to heart. I will be happy to answer any questions you may have. Feel free to reach me via mail at the above address, email me at josephbenavides@austin.rr.com, or call me at (512) 698-9000 anytime.

Thank you very much for your consideration to this request.

A handwritten signature in black ink, consisting of a stylized 'J' and 'B' intertwined, positioned above a horizontal line.

Joseph Benavides

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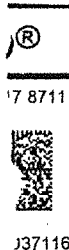
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AUSTIN TX 78711-3087

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Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Wednesday, September 25, 2024 11:51 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; Pubcomment-Dis
Subject: FW: Public comment on Permit Number D-03122024-020
Attachments: CCSUD Rev'd Impact Fee HR.pdf

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
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From: hgilbert@bartonbensonjones.com <hgilbert@bartonbensonjones.com>
Sent: Tuesday, September 24, 2024 10:27 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number D-03122024-020

REGULATED ENTY NAME CRYSTAL CLEAR SUD

RN NUMBER: RN107210270

PERMIT NUMBER: D-03122024-020

DOCKET NUMBER:

COUNTY: COMAL, GUADALUPE

PRINCIPAL NAME: CRYSTAL CLEAR SUD

CN NUMBER: CN604553909

NAME: MS Helen Gilbert

EMAIL: hgilbert@bartonbensonjones.com

COMPANY: Barton Benson Jones PLLC

ADDRESS: 7000 N MOPAC EXPY Suite 200
AUSTIN TX 78731-3027

PHONE: 2106105335

FAX:

COMMENTS: Austin Mark Ventures, LLC's Request for Contested Case Hearing



HELEN S. GILBERT, Member | Barton Benson Jones PLLC
O | 210.610.5335 hgilbert@bartonbensonjones.com
D | 210.640.9174 bartonbensonjones.com
C | 512.565.4995
F | 210.600.9796

September 23, 2024

Via Electronic Filing Only

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

**Re: Application by Crystal Clear Special Utility District for Approval to Levy
Impact Fee; TCEQ Internal Control No. D-03122024-020**

Dear Ms. Gharis:

On behalf of Austin Mark Ventures, LLC ("Austin Mark") please consider this a request for a contested case hearing on Crystal Clear Special Utility District's ("CCSUD") Application for Approval to Levy Impact Fee filed with the Texas Commission on Environmental Quality ("TCEQ" or "Commission") and designated Internal Control No. D-03122024-020. Newspaper notice was published in the San Marcos Daily Record on August 25 and September 1, 2024 and Austin Mark received mailed notice the week of September 9, 2024. Therefore this hearing request is timely made, within 30 days of publication.

Please note, Austin Mark previously protested CCSUD's prior impact fee application filed in December 2022 and docketed as Internal Control No. D-05312022-044. Austin Mark was never apprised by CCSUD or any TCEQ program area that this application was withdrawn or otherwise adjudicated. According to the new notice, CCSUD is proposing to almost double its impact from the previous application – from \$2,896 to \$5,163.

Austin Mark is a property owner within CCSUD's service area, within CCSUD's service area, and is an affected person with a justiciable interest in the application in accordance with Texas Water Code § 5.115 and Title 30 Texas Administrative Code ("TAC") §§ 293.173, 293.174, and 55.251.

1. Contact Information

For purposes of this hearing request and all other correspondence, this person represents Austin Mark and may be contacted as follows:

Ms. Helen Gilbert
Barton Benson Jones, PLLC
7000 N. MoPac Expressway, Suite 200
Austin, Texas 78731
210-640-9174 (tel.)
210-600-9796 (fax)
hgilbert@bartonbensonjones.com

2. Application Information

Austin Mark **requests a contested case hearing** on CCSUD's Application for Approval to Levy Impact Fee ("Application"). As with the District's previous request, the proposed impact fee is unreasonable, inequitable, and an unnecessary mechanism to finance improvements to serve the designated service area inconsistent with 30 TAC ch. 293 and chapter 395 of the Texas Local Government Code.

3. Request for Contested Case Hearing

Austin Mark hereby requests a contested case hearing on CCSUD's Application, because the impact fee would affect Austin Mark, a property owner within CCSUD's service area in Guadalupe County, in a manner not common to members of the general public.

4. Description of Affected Person Status

Pursuant to Texas Water Code § 5.115 and 30 TAC § 55.256, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application.¹ Among other things, in assessing affected person status, the Commission may consider relevant factors including the following: 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, safety, and 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.²

Austin Mark is an affected person with a justiciable interest, because it is a property owner within CCSUD's service area that will be subject to paying CCSUD's even larger proposed impact

¹ Tex. Water Code Ann. § 5.115; 30 TAC § 55.256(a).

² *Id.* 30 TAC § 55.256(c).

September 23, 2024
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fee. Austin Mark owns approximately 180 acres within CCSUD's service area, which is intended for development into 855 single family homes with potentially multifamily and commercial connections as well. Exhibit A, attached hereto, is a map produced by CCSUD's engineer as part of his analysis of feasibility to provide water service to Austin Mark's Staples Tract. CCSUD's map establishes that Austin Mark's Staples Tract is within its service area.

Austin Mark does not believe the proposed impact fee is reasonable, equitable, or a necessary mechanism to finance improvements to serve the designated service area. It does not appear that the proposed fee is being proposed to fund or recoup the costs of facility expansions necessitated by new development, like Austin Mark's Staples Tract. Instead, the proposed impact fee would improperly assess fees to either pay for existing infrastructure or use new infrastructure to serve existing service area in contravention of chapter 395 of the Texas Local Government Code.

An evidentiary hearing with sworn testimony is essential to ensure that CCSUD's proposed impact fee conforms to State law and does not unreasonably or inequitably impact Austin Mark. Austin Mark reserves the right to supplement this hearing request.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Helen S. Gilbert".

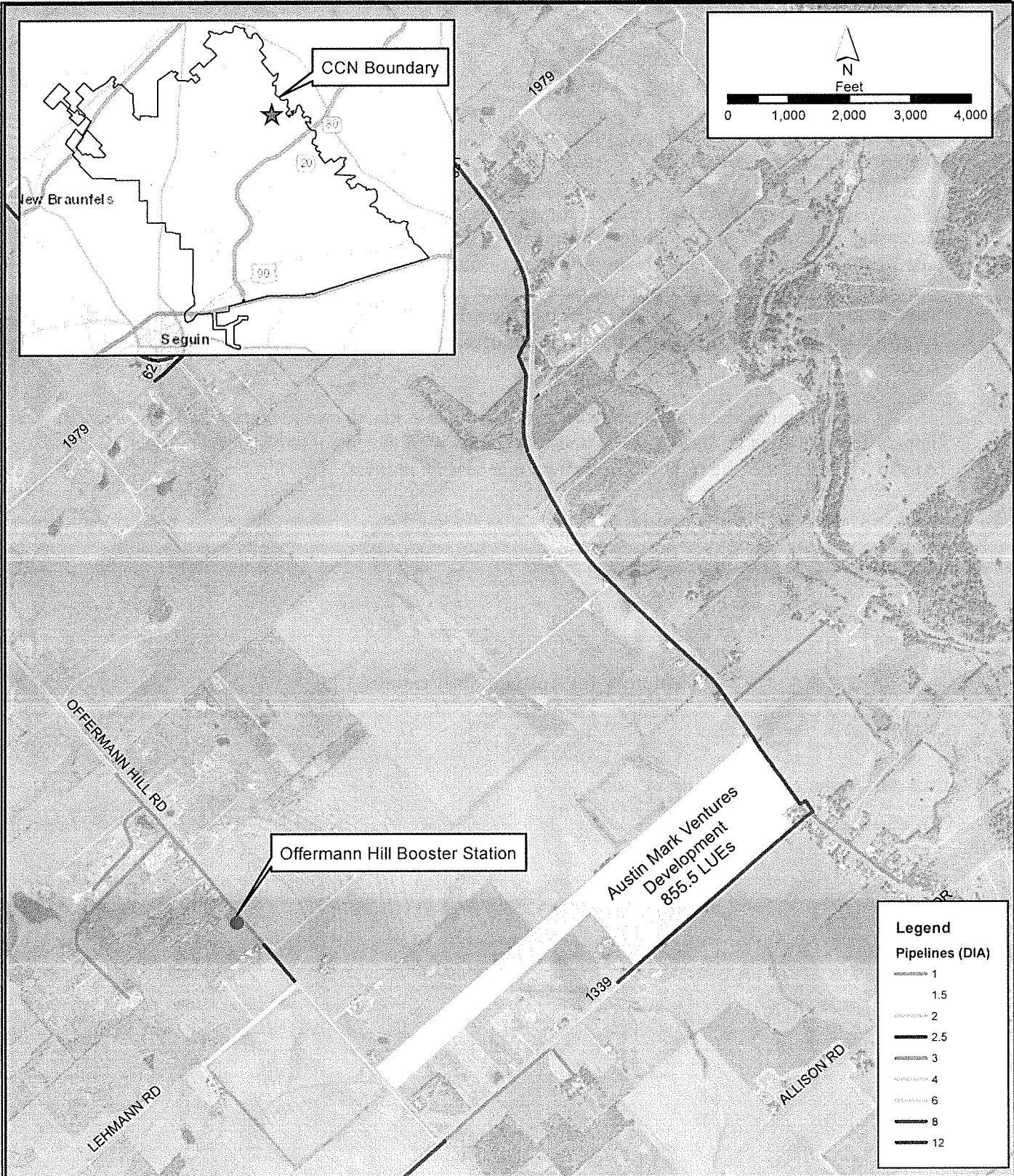
Attorney for Austin Mark Ventures, LLC

Enclosure

cc: Mr. Seshu Yalamanchili

EXHIBIT A

Date: Oct 03, 2022, 4:01:27 PM User ID: cparker
File: S:\Active Projects\14CCSUD001 - General Engineering Services\Feasibility Reports\2022\2022-112 Austin Mark Ventures\GIS\AMVMap.mxd



SHEET: ATT 1	JOB: 14CCUSD001	REVISIONS:		Austin Mark Ventures Feasibility Study Map	
	DATE: OCTOBER 2022	DELTA	DESCRIPTION		
	DRAWN: PM:				
	DESIGN: DM:				
	PEER: OTHER:				