

ORDER RESCINDING ORDER REGARDING ACCEPTABILITY
OF WATER SUPPLY AGREEMENTS WITH LA JOYA WATER SUPPLY
CORPORATION TO MEET CERTAIN MODEL SUBDIVISION
RULE REQUIREMENTS WITH REGARD TO WATER
SUPPLIES IN CERTAIN RESIDENTIAL SUBDIVISIONS

WHEREAS, the County of Hidalgo, Texas ("County") adopted the Texas Water Development Board ("TWDB") model subdivision rules ("Model Subdivision Rule") governing the regulation of water and wastewater services provided in certain new residential subdivisions as a condition to political subdivisions in the County being eligible for financial assistance available under the Economically Distressed Areas Program ("EDAP") for construction, acquisition, or improvements to water supply and wastewater collection and treatment facilities, which Model Subdivision Rules are codified as Title M of the Hidalgo County Subdivision Rules, as amended and restated July 5, 2000, effective July 19, 2000; and

WHEREAS, the County is also required to adopt and enforce the Model Subdivision Rules by Section 232.030 (b), Texas Local Government Code; and

WHEREAS, under the Model Subdivision Rules, the County may not approve a final plat for a residential subdivision subject to the Model Subdivision Rules unless the subdivider has constructed adequate water and wastewater facilities for each lot in the subdivision in the manner provided in the Model Subdivision Rules, or in lieu thereof, that the subdivider has provided the County an acceptable construction agreement backed by an adequate financial guarantee which permits the County to construct the water and wastewater facilities in the event the subdivider fails to provide them; and

WHEREAS, Section 16.343, Texas Water Code ("Code") imposes a statutory obligation on the TWDB to insure that the County is enforcing the Model Subdivision Rules; and

WHEREAS, the TWDB, by letter dated April 16, 2004, notified the County that the Texas Commission on Environmental Quality ("TCEQ") claims that the La Joya Water Supply Corporation ("LJWSC") is violating the terms of two agreed orders applicable to the LJWSC in that LJWSC apparently has not achieved compliance with certain statutory provisions establishing sanitary standards for the supply of drinking water codified in Chapter 341, Subchapter C, Texas Health & Safety Code, and the TCEQ rules establishing water hygiene standards for public drinking water systems adopted in Title 30, Chapter 290, of the Texas Administrative Code ("Continuing Violation"); and

WHEREAS, the TWDB, by letter dated April 26, 2004, also notified the County that based on the Continuing Violations, that the TWDB has determined that a subdivider's request to approve a new residential subdivision that relies on water service from the LJWSC does not meet the requirements of the Model Subdivision Rules pertaining to the availability of a water supply to the residential subdivision meeting the

standards for water supply under the Model Subdivision Rules and the Texas water Code because the subdivider has failed to “*assure that adequate drinking water is available to the residential area in accordance with Chapter 341, Texas Health & Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems adopted by the Texas Board of Health and other law and regulations applicable to drinking water (Section 16.343(b)(1), Texas Water Code)*” (the “TWDB Determination”); and

WHEREAS, TWDB, in its April 26, 2004, letter, supports the TWDB Determination by reference to: (i) Agreed Order, Docket No. 96-1274-PWS-E, In the Matter of An Enforcement Action Concerning La Joya Water Supply Corporation PWS No. 1080022, CCN No. 1059; (ii) Agreed Order, Docket No. 2001 -0573-PWS-E, In the Matter of An Enforcement Action Concerning La Joya Water Supply Corporation Public Water Supply ID No. 1080022; and (iii) TCEQ Investigation Report dated July 22, 2003, to July 23, 2003 (the “Supporting Documentation”); and

WHEREAS, TWDB, on April 30, 2004, provided the County a copy of an Agreed Final Judgment and Permanent Injunction, entered on April 29, 2004, in Cause Number GV-400991, State of Texas, Plaintiff v. La Joya Water Supply Corp., Defendant, In the District Court, Travis County, Texas, 53rd Judicial District, as further support for the TWOS Determination; and

WHEREAS, Section 3.5 (b), Title M, of the Hidalgo County Subdivision Rules, provides that the County must refuse to approve a plat if it does not meet the requirements prescribed by or under the Model Subdivision Rules; and

WHEREAS, TWDB, in light of the Continuing Violations, the TWDB determination and the Supporting Documentation, has requested that the County suspend approval of new residential subdivision plats in the County where the subdivider proposes to meet the subdivider’s obligation to insure that adequate water and wastewater facilities are available to the lots in the subdivision through the subdivider entering into an agreement for water service with the LJWSC; and

WHEREAS, in lieu of the County, based on the TWDB Determination, simply suspending its approval of new residential subdivision plats in the County where the subdivider proposes to enter into an agreement for water service with the LJWSC, the Hidalgo County Commissioners Court, acting pursuant to its authority under Section 3.3, Title M, of the Hidalgo County Subdivision Rules, has determined that it is in the best interest of County subdividers and County residents for the County, prior to the County denying a subdivider’s request for approval of a residential subdivision plat based on a water service agreement with the LJWSC, to allow a subdivider the opportunity to present the County additional information in the form of a letter obtained by the subdivider from TCEQ and/or TWDB.

WHEREAS, Hidalgo County received a letter from TWDB dated October 9, 2009 requesting County to cease to enforce the Order of Hidalgo County Commissioners Court concerning La Joya Water Supply Corporation dated May 11, 2004.

NOW, THEREFORE, the Hidalgo County Commissioners Court, based on the facts stated in the foregoing recitals, hereby rescinds and will cease to enforce the Order titled Order Regarding Acceptability Of Water Supply Agreements With La Joya Water Supply Corporation To Meet Certain Model Subdivision Rule Requirements With Regard To Water Supplies In Certain Residential Subdivisions dated May 11, 2004 on and after October 9, 2009.

PASSED, APPROVED AND ORDERED by the Hidalgo County Commissioners Court on this ___ day of _____, 2009.

J.D. Salinas, III, County Judge

ATTEST:

Arturo Guajardo, Jr., County Clerk