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October 9, 2009

The Honorable J. D. Salinas
 County Judge
 County of Hidalgo
 P.O. 1356
 Edinburg, Texas 78539

Re: Subdivision Regulation Enforcement and Agua Special Utility District

Dear Judge Salinas:

This letter is to inform you that the Texas Water Development Board (Board) has revisited its previous request that the County suspend approvals of residential subdivisions that rely on water supply service from the Agua Special Utility District (District), formerly the La Joya Water Supply Corporation. This decision is based on information recently received from the Texas Commission on Environmental Quality (TCEQ) regarding the status of its enforcement action against the District as discussed below. The Board, therefore, suggests that the County issue a new order that rescinds its order of May 11, 2004.

On April 16, 2004, the Board sent a letter to Hidalgo County Judge Garcia stating that "absent sufficient written justification for continued reliance on water supply service from La Joya Water Supply Corporation, the TWDB respectfully requests that the County immediately suspend approvals of any additional residential subdivisions that rely on water supply from the La Joya Water Supply Corporation." On May 11, 2004 the County Commissioners Court approved an order that stated in part:

"[A]ll new subdivider requests for preliminary plat approval or final plat approval by the County on residential subdivisions subject to the Model Subdivision Rules where the subdivider offers a water service agreement between the subdivider and the LJWSC as evidence that the subdivider has met the subdivider's obligation under the Model Subdivision Rules to provide adequate water service for the lots in the subdivision may be accompanied by a letter from authorized staff of TCEQ advising the County that, in the opinion of the agency, the LJWSC is in substantial compliance with Chapter 341, Tex. Health & Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards

Our Mission

To provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas.

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Governing Water Quality and Reporting Requirements for Public Water Systems adopted by the Texas Board of Health and other laws and rules applicable to drinking water, or a letter from authorized staff of the TWDB advising the County that the TWDB Determination has been rescinded. . . .

"2. In the absence of such supporting documentation from TCEQ or TWDB, the County, based on the TWDB Determination, may not accept a water service agreement between the subdivider and the LJWSC as the basis for the subdivider's compliance with the subdivider's obligation under the Model Subdivision Rules to provide water supplies through an existing public water system and the subdivider's application for preliminary plat approval or final plat approval on the proposed residential subdivision will be denied"

At the time the Board wrote to the County, two agreed compliance orders were in effect against the District. Those orders were eventually combined and amended in *State of Texas v. La Joya Water Supply Corporation*, No. GV 4-00991 (53rd Dist. Ct., Travis County, Tex. April 29, 2004). Negotiations between the District and TCEQ led to a Second Agreed Final Judgment and Modified Permanent Injunction, which set out specific actions the District needed to take by specific dates in order to bring its water system into compliance with state drinking water regulations. On June 26, 2009, the TCEQ conducted a compliance investigation of the District's system. That investigation determined that the District had adequately addressed the issues in the Agreed Final Judgment.

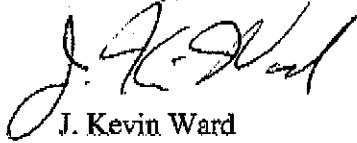
Reliance for water supply service from an entity that is in violation of statutes and rules that set standards for public drinking water is contrary to the Model Subdivision Rules. The Board's recommendation that the County implement a moratorium was based on the District's violations as outlined in the Agreed Final Judgment. Now that the District has addressed the violations to the satisfaction of TCEQ, there appears to be no further concern that approvals of residential subdivisions that rely on water supply from the District fail to meet the standards in the Model Subdivision Rules. The TCEQ is the agency expressly authorized to enforce standards for public water supplies, and the TCEQ's determination in this case resolves any concerns of the Board.

The Board therefore recommends that the County adopt and provide to the Board an order of the Hidalgo County Commissioners Court in which the County rescinds its order of May 11, 2004, and determines that the County, in the future, may rely on a subdivider's proposed use of a water service agreement with the Agua Special Utility District as the basis for the subdivider's compliance with the subdivider's obligation under the Model Subdivision Rules to provide water supplies through an existing public water supply system.

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The Board appreciates the County's diligence in its enforcement of the Model Subdivision Rules during this period. And the Board looks forward to working with the County in the future to ensure that the people of Hidalgo County receive adequate water and wastewater services.

Sincerely,



J. Kevin Ward
Executive Administrator

cc: The Honorable Norberto Salinas, Mayor, City of Mission
Mr. Raul Sesin, Planning Administrator, Hidalgo County via Fax (956) 318-2844
Mr. Efran Garza, President, Agua Special Utility District
Mr. Frank Flores, General Manager, Agua Special Utility District
Mr. David Mendez, Bickerstaff, Heath, Delgado & Acosta via Fax (512)(320-5638
Mr. Douglas E. Holcomb, P.E., Water Supply Division, Texas Commission on
Environmental Quality