



EZELL LAW FIRM, LLC

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May 9, 2022

RECEIVED

MAY - 9 2022

LA Public Service Commission

Mr. Brandon Frey
Executive Secretary
Louisiana Public Service Commission
602 North Street
Galvez Building, 12th Floor
Baton Rouge, LA 70802

Re: Magnolia Water Utility Operating Company, LLC
Application for Approval/Non-Opposition
To Transfer of Wastewater Utility System Assets
(Imperial Landing, Phase A, B, C and D) To Be
Regulated By The Louisiana Public Service
Commission

Dear Mr. Frey:

Please find enclosed an original and three copies of Magnolia Water Utility Operating Company, LLC's Application for Non-Opposition to the sale and acquisition of the existing wastewater utility system assets in Phase A of the Imperial Landing Subdivision in Terrebonne Parish, as well as Phase B, C and D, currently under construction or to be constructed. After review and approval, please see that a docket is opened in connection with this filing and that notice is placed in the Official Bulletin on May 13, 2022. Further, we ask that you exercise the discretion provided in Rule 19 and shorten the period to protest this application from twenty-five (25) to fifteen (15) days. Upon filing, please have the Records Division date stamp and return a copy of the filing by hand to our courier.

If you have any questions concerning this filing, please notify me.

Sincerely,

Ezell Law Firm, LLC

Andrew B. Ezell
Andrew B. Ezell

CC: Lauren Temento Evans, Esquire
Mr. Thomas Broady
Mr. Don Dewald

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**BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION**

MAY - 9 2022

**MAGNOLIA WATER UTILITY
OPERATING COMPANY, LLC, EX PARTE**

DOCKET NO. LA Public Service Commission

In re: Request for Letter of Non-Opposition to the Transfer of Wastewater Utility System Assets (Imperial Landing Subdivision, Phase A, B, C and D) By Developer to Magnolia Water Utility Operating Company, LLC

**PETITION FOR LETTER OF NON-OPPOSITION TO THE SALE AND TRANSFER OF
THE ASSETS OF A WASTEWATER
UTILITY SYSTEM (IMPERIAL LANDING SUBDIVISION,
PHASE A, B, C and D) TO BE
REGULATED BY THE LOUISIANA PUBLIC SERVICE COMMISSION**

SELLER: Onshore Material, L.L.C.

BUYER: Magnolia Water Utility Operating Company, LLC

In accordance with the March 18, 1994, *General Order* regarding approval of sales and other changes in ownership or control of public utilities subject to Louisiana Public Service Commission ("Commission") jurisdiction, Magnolia Water Utility Operating Company, LLC ("Magnolia") seeks an order of approval or non-opposition from the Commission to the sale and transfer by Onshore Materials, L.L.C. (hereafter "Seller" or "Onshore Materials"), of all or substantially all of the assets and property comprising an existing wastewater utility system, as well as three (3) extensions, for the purpose of providing regulated wastewater service to customers in Terrebonne Parish, Louisiana (the "System").

Magnolia is a Louisiana limited liability company, in good standing, formed to acquire the assets of water and wastewater utilities in Louisiana and to own and operate those assets as public utilities subject to the Commission's regulatory jurisdiction. Magnolia currently serves approximately 27,900 sewer connections and approximately 16,750 water connections in regulated systems in parishes throughout Louisiana. Magnolia is part of an affiliate group that includes Central States Water Resources, Inc. ("Central States"), a Missouri corporation in good standing, CSWR, LLC ("CSWR"), a Missouri limited liability company in good standing, and several other companies, some of which currently operate small water or wastewater utilities in Missouri, Arkansas, Kentucky, Texas, Tennessee, Mississippi, North Carolina, Arizona and Louisiana. A chart showing the companies in the affiliate group is attached hereto as **Exhibit A**. The significance of those affiliate relationships to the proposed transaction is discussed in greater detail below. The principal address of Central States and CSWR is 1650 Des Peres Road, Suite 303, St. Louis, MO 63131. The principal address of Magnolia is 10761 Perkins Road, Suite A, Baton Rouge, LA 70810. All notices and other official documents related to the application should be sent to the attention of Andrew B. Ezell, c/o Ezell Law Firm, LLC, 10761 Perkins Road, Suite A, Baton Rouge, Louisiana 70810, or at the following email address: aezell@ezellfirm.com. Copies also

should be sent to Russ Mitten, General Counsel, and Aaron Silas, Regulatory Case Manager, at the address shown in the preceding sentence or at the following email addresses: rmitten@cswrgroup.com; asilas@cswrgroup.com.

Seller has developed sewer infrastructure for the purpose of providing wastewater service to no more than thirty-eight (38) residential customers in Phase A of the Imperial Landing Subdivision in Terrebonne Parish ("Imperial Landing"), and is developing or will develop, Phases B, C and D of Imperial Landing, containing an additional forty (40), thirty-eight (38) and thirty-eight (38) residential connections. Construction of Phase A of the System was completed in December 2020. It is expected that subsequent phases will be added every fourteen (14) months. Magnolia will make notice filings with the Commission advising of the acquisition of each subsequent Phase. Onshore Materials is a Louisiana limited liability company, in good standing, with a principal office address at 127 Lincoln Lane, Thibodaux, Louisiana 70301. All notices and other official documents related to the application should be sent to the attention of Mr. Charles Rodrigue, c/o Onshore Materials, L.L.C., 240 Sample Drive, Houma, Louisiana 70364, or at the following email address: charles@onshoreco.com.

The Seller proposes to sell, transfer and assign to Magnolia all of its franchises, works, operations, systems, land and related improvements, easements, rights-of-way, permits, leases, service facilities, equipment, machinery, lines, plant, pipes, manholes and appurtenances, supplies, and other assets to be used to provide wastewater services to the System. Magnolia and Seller have executed an Agreement for Sale of Utility System specifying the terms of the proposed transaction which is attached hereto as **Exhibit B**. In accordance with Rule 12.1 of the Commission's rules of practice and procedure, **Exhibit B** has been designated "Confidential" because it contains competitively sensitive information.

The proposed transaction is scheduled to close upon receipt of all required regulatory permits and approvals, and the execution of water and wastewater service agreements between Magnolia and the Terrebonne Parish Consolidated Water District No. 1 and the City of Thibodaux, respectively. Upon closing, Magnolia will provide service to customers in accordance with tariff rates and fees approved by the Commission and currently in effect for Magnolia.

The need to comply with increasingly stringent federal and state health and environmental regulations has imposed cost and compliance burdens small wastewater utilities are finding difficult, if not impossible, to bear. Difficulty in securing capital necessary to make investments or expenditures for improvements required to bring their systems into full regulatory compliance has forced many such utilities to seek buyers for those systems whose technical, managerial, and financial resources make them better able to bear those burdens. This motivation is especially strong for system owners, particularly developers, whose primary business is not the operation of regulated water or wastewater utilities.

Magnolia is the type of qualified buyer that small system operators and developers seek out to assure that customers receive safe, efficient and reliable wastewater operations and service. Through its relationship with CSWR (which acts as a service company for the group) and other companies within the affiliate group, Magnolia has access to highly skilled technical, managerial, and financial experts and resources not usually available to small water and wastewater companies.

Magnolia's access to CSWR's personnel provides extensive experience in the technical, managerial, and financial aspects of the utility industry, particularly small systems, and also innovative operational, marketing, and customer service programs that provide high quality advanced services at fair and reasonable rates.

Magnolia is a Commission-authorized operator of water and wastewater systems in Louisiana. Magnolia currently operates numerous water and wastewater systems throughout the state. Though this is a relatively a new system and no material repairs or improvements will be required, most of the systems Magnolia has acquired, if not all, have experienced some degree of operational neglect, with several recording numerous, and oftentimes ongoing violations of applicable health and environmental regulations. Significant capital improvements have been completed in many of the systems currently operated by Magnolia, and most are operating in full compliance with the rules and regulations of all applicable regulatory authorities. Those systems currently not in compliance are being systematically brought into compliance. Magnolia's systems are currently operated pursuant to agreements with the Louisiana Department of Environmental Quality and the Louisiana Department of Health and Hospitals, which specify the timing and methodology required to bring troubled systems into post-acquisition compliance.

As previously noted, consummation of the proposed transfer of wastewater system assets is contingent upon receipt of Commission approval of the transaction. To secure that approval, Magnolia provides the following information required by the March 18, 1994, *General Order*.

1. The proposed transfer of assets to Magnolia is in the public interest. Magnolia and its affiliates have the technical, managerial, and financial expertise and experience necessary to own and operate the utility assets it proposes to acquire and ready access to sufficient financial resources to make necessary capital investments and expenditures, if necessary, required to bring the system into compliance with current and future health and environmental regulations. Moreover, Magnolia is committed to providing customers safe, efficient and reliable service at fair and reasonable rates.
2. Magnolia is ready, willing, and able to provide safe, reliable, and adequate service to customers of the system it proposes to acquire and to do so at rates that are fair and reasonable.
3. Magnolia's only business is ownership and operation of small water and wastewater systems. Further, because of its ability to readily access any capital necessary to bring the subject system into compliance with health and environmental regulations and operate the System in a manner consistent with those regulations, Magnolia's acquisition of the System assets will certainly enhance the financial condition of the System.
4. The wastewater system assets Magnolia proposes to acquire will send effluent to the municipal wastewater system operated pursuant to Louisiana Pollutant Discharge Elimination System ("LPDES") General Permit LA 0032948 and AI 19092 issued by the Louisiana Department of Environmental Quality to the City of Thibodaux. Water for the System will be provided by the Terrebonne Parish Consolidated Water District No. 1 pursuant to system design specifications determined by the Louisiana Department of

Health, Office of Public Health ("LDH"), to be in substantial conformity with LDH sanitary requirements pursuant to Permit No. 1057001.

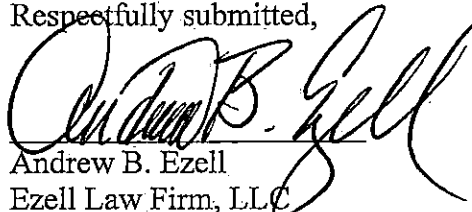
5. Authorizing Magnolia to acquire the System will bring both short and long-term benefits for customers. Technical, managerial, and financial resources available from its affiliates will enable Magnolia to quickly identify and remedy any deficiencies in the operation or management of the subject system. Also, because of economies of scale available to Magnolia as an affiliate of CSWR, Magnolia can access and utilize those resources at a lower cost than would otherwise be available to a stand-alone company. As explained below, Magnolia's affiliate group also has access to funds required to make capital investments and expenditures necessary to ensure the system provides safe, efficient and reliable service that complies with all applicable health and environmental regulations.
6. The proposed transaction will not adversely affect competition because Seller is not in the business of operating and maintaining a regulated utility and Magnolia will be the only wastewater utility authorized to serve customers within Imperial Landing, Phase A, or any future phases of the Imperial Landing development.
7. As noted elsewhere herein, personnel from Central States and CSWR have far greater technical, managerial, and financial expertise and experience than is available to most small wastewater utilities. These personnel would be actively involved in overseeing Magnolia's day-to-day operations and in assisting the company in planning any system improvements and additions necessary to provide safe, efficient and reliable service. As a result of the involvement of these highly skilled and experienced utility professionals, the quality of service that Magnolia can provide to customers will be greatly improved and enhanced.
8. Magnolia intends to hire a qualified and experienced third-party contractor to manage and operate the System day-to-day. No qualified employees of Imperial Landing exist nor will they exist in the future. Accordingly, the third-party contractor engaged by Magnolia to operate the System will not make offers of employment to any of Seller's employees.
9. The Seller is an entity specializing in the development of real property. It is not and does not wish to be in the business of providing regulated wastewater services. Thus, the proposed transaction is in the best interest of Seller's members. Further, Magnolia has no other business relationship or family affiliations with the Seller or any person or entity affiliated with Seller. The terms of the transaction satisfy Magnolia and Seller and are the result of fair, arms-length negotiation.
10. The proposed transaction will have an overall positive effect on state and local economies. From a local property tax standpoint, the transfer of assets should have no adverse effect on state or local taxing authorities. If the transaction is approved, only the identity of the taxpayer would change. Overall, the proposed transaction should prove beneficial to the state of Louisiana and the local communities where Imperial Landing homebuyers will reside. All of those entities have an interest in growing local employment and ensuring that

their citizens receive safe, efficient and reliable wastewater service at fair and reasonable rates, which also enhances property values in the community. Authorizing Magnolia to acquire Imperial Landing's wastewater system assets will produce that desired result.

11. Magnolia concedes the Commission's authority to regulate its rates and operations in the manner prescribed by Louisiana law. Therefore, the proposed transfer would have no effect on the Commission's jurisdiction over the System.
12. Neither Imperial Landing nor Magnolia anticipates any adverse consequences to customers or other interested stakeholders if the Commission approves the transaction proposed in the petition. Both parties are committed to ensuring the sale of assets is concluded and operational authority over those assets is transferred in a manner that is as transparent as possible and causes no adverse effects to customers at any time.
13. Magnolia was formed for the purpose of acquiring and operating water and wastewater utilities in Louisiana. It has a good, but limited, track record of regulatory compliance in Louisiana. However, Central States, through its work with other companies within Magnolia's affiliated group, has compiled an enviable record of acquiring severely distressed systems, bringing them into compliance, and then successfully operating those systems in full compliance with health and environmental regulations. Affiliated companies within the group operating in Missouri, Kentucky, Texas, Tennessee, Mississippi, North Carolina and Arizona have a good customer service and operating reputation with utility regulators in those states. Arkansas, the other state where Magnolia's affiliates currently operate, does not regulate rates or operations of small water and wastewater utilities.
14. Through its affiliated group, Magnolia has ready access to capital required to make necessary investments and expenditures in the subject system. CSWR will provide the equity financing necessary to make the proposed asset acquisition. Ongoing capital needs will be financed through debt from providers approved by the Commission on terms and conditions that accurately reflect the current state of this system. Current plans envision a capital structure for Magnolia consisting of sixty percent (60%) equity and forty percent (40%) debt. CSWR's consolidated income statement and balance sheet for 2021 is attached to the petition as **Exhibit C** and incorporated by reference. In accordance with Rule 12.1 of the Commission's rules of practice and procedure, **Exhibit C** has been designated "Confidential" because it contains competitively sensitive information.
15. Though no major repairs or improvements are required at this time, Magnolia has identified certain investments in system upgrades, improvements, and replacements it plans to make if the Commission approves the transaction. Magnolia will add flow metering and remote monitoring equipment to the wastewater system to facilitate more timely response and minimize the length and impact of any service-related issue.
16. Magnolia's affiliates always hire a qualified and experienced third-party contractor to manage and operate the subject wastewater system day-to-day and will ensure the contractor's personnel have or obtain all required health, safety, and other permits.

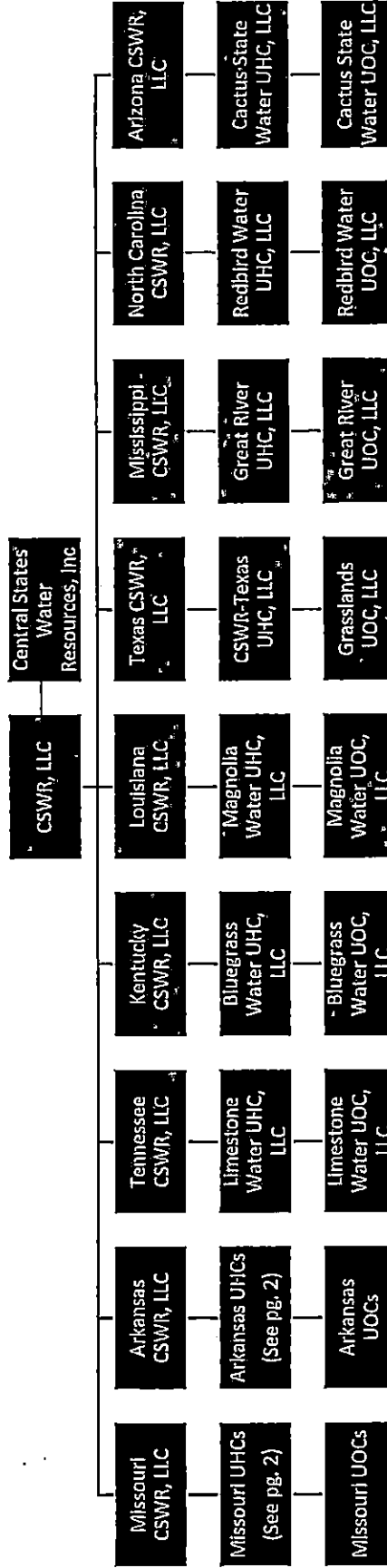
17. Magnolia, through CSWR, will invest no equity capital to purchase Imperial Landing's wastewater system assets, as the value of the existing assets are being conveyed for \$1.00 and other good and valuable consideration, and future assets will be conveyed to Magnolia by the Developer as a contribution in aid of construction. Consequently, the asset purchase would not encumber the utility's assets in any way. Ongoing capital needs will be financed through a combination of shareholder equity and debt financing from lenders approved by the Commission on terms and conditions that are prudent and reasonable.
18. The acquisition of assets proposed in the petition is fair and reasonable in all respects. Consequently, the Commission should not impose or attach any conditions to the transaction.

Respectfully submitted,



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Central States Water Resources Corporate Entity Organizational Chart



Missouri & Arkansas CSWR Organizational Chart Detail

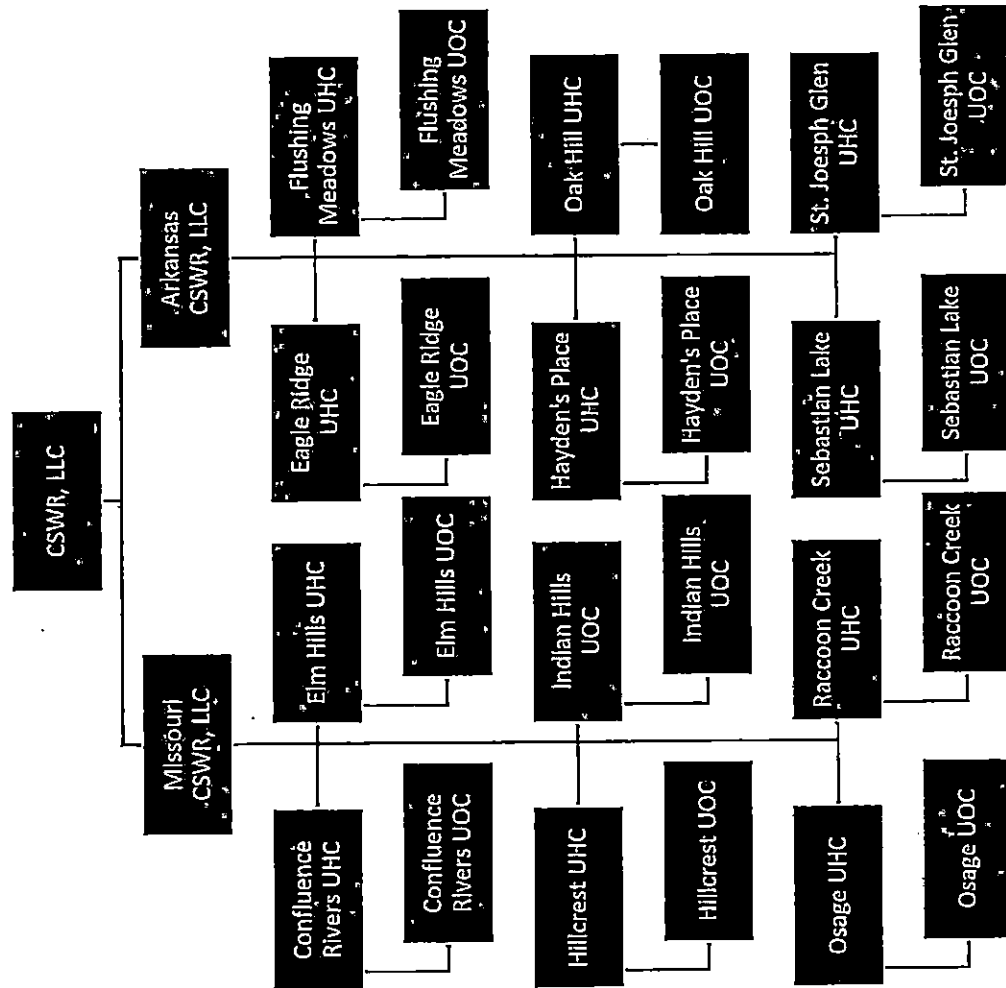


EXHIBIT B - PUBLIC

In accordance with Rule 12.1 of the Louisiana Public Service Commission's Rules of Practice and Procedure, this exhibit has been designated "confidential" and submitted under seal as it contains information regarding strategies employed in contract negotiations and other competitively sensitive information.

EXHIBIT C - PUBLIC

In accordance with Rule 12.1 of the Louisiana Public Service Commission's Rules of Practice and Procedure, this exhibit has been designated "confidential" and submitted under seal as it contains information regarding strategies employed in contract negotiations and other competitively sensitive information.