



ALLIANCE WATER

October 14, 2022

Guadalupe County Historical Commission
P.O. Box 2015
Seguin, TX 78156

RE: Notice of Petition for Removal of Remains from the Salge Cemetery

To Whom it May Concern,

The Alliance Regional Water Authority (the “Alliance Water”) has determined that remains were buried in the Salge burial site located in Guadalupe County, Texas. The Salge Family Cemetery, a historic family cemetery, is located 0.15 miles north of the northwest corner of field between 1533 Weltner Road and 1647 Weltner Road. Alliance Water is writing to notify you of its plans to seek permission from a court to remove and relocate the remains from the current burial site.

Alliance Water is a conservation and reclamation district and political subdivision of the State of Texas, created and functioning under Article 16, Section 59 of the Texas Constitution. The proposed removal of remains is in furtherance of construction of necessary water infrastructure, and as such, Alliance Water is working with the family of the decedents to pay for all costs associated with the removal and reinterment of the remains of the decedents. The decedents currently located in the Salge Family Cemetery are members of the Salge family buried on the property in the late 19th century. The proposed removal and reinterment balances the public interest of providing water service and preservation of the identified remains.

Alliance Water plans to file within the next 15–20 days an Original Petition in the County Court in Guadalupe County, Texas to seek the court’s permission for Alliance Water to remove the remains from the Cemeteries pursuant to Section 711.004 of the Texas Health & Safety Code. A copy of the to-be-filed Original Petition is attached for your reference.

Alliance Water will relocate and re-inter the remains from the current site to the nearby Lone Oak Cemetery. Alliance Water is also notifying the Texas Historical Commission of the removal and relocation, as well as the living descendants/family members of the decedents.



ALLIANCE WATER

After the petition is filed, the court is expected to hold a hearing to determine whether it is in the public's interest for the remains to be removed and relocated, and to ensure all state laws and regulations for removal and relocation are followed. Alliance Water will pay all costs associated with the removal and relocation project.

If you have any questions or concerns about this matter, you are encouraged to contact Amy Esguerra with CP&Y, Inc. at 210-798-2323 or by e-mail at aesguerra@cpyi.com.

Thank you for your attention to this important matter.

Respectfully,
ALLIANCE REGIONAL WATER AUTHORITY

Graham Moore, P.E.
Executive Director

cc: Amy Esguerra (aesguerra@cpyi.com)
Gabrielle Smith (gsmith@lglawfirm.com)

Attachments
File

CAUSE NO. _____

EX PARTE,

§ IN THE COUNTY COURT

§

§

§ OF GUADALUPE COUNTY, TEXAS

§

ALLIANCE REGIONAL WATER
AUTHORITY

§

§ COUNTY COURT AT LAW NO. ____

**ALLIANCE REGIONAL WATER AUTHORITY'S PETITION
FOR REMOVAL OF REMAINS AND DEDICATION**

TO THE HONORABLE JUDGE OF SAID COURT:

The Alliance Regional Water Authority ("Alliance Water") files this Original Petition pursuant to Sections 711.004(c) and 711.010 of the Texas Health & Safety Code seeking authorization to remove remains and dedication from a cemetery located in Guadalupe County, Texas.

I.

RELIEF SOUGHT BY THIS SUIT

1. By this suit, Alliance Water requests an Order authorizing (1) removal of the remains of the decedents identified in paragraph 12 of this Petition from their current location in the Salge Cemetery ("Cemetery") located within Alliance Water's easement on the Weltner Property within the acreage described in Exhibit A attached and incorporated by reference in this Petition; (2) reinterment of those remains from the current Salge Cemetery site subject to the anticipated plan for relocation in the Lone Oak Cemetery; and (3) removal of the dedication of cemetery from these premises. For any previously undiscovered graves that are found within a 25-foot radius of the Cemetery site boundary, Alliance Water requests authority to remove

and reinter those remains to Lone Oak Cemetery, subject to Alliance Water's execution of an agreement for the re-interment with Lone Oak Cemetery.

**II.
DISCOVERY LEVEL**

2. Limited discovery in this case, if any, shall be conducted under Level 3, as provided for in Tex. R. Civ. P. 190.4.

**III.
VENUE AND JURISDICTION**

3. Guadalupe County, Texas, is the proper venue for this lawsuit. Tex. Health & Safety Code §§ 711.004(c), 711.010.

4. This Court has jurisdiction over the subject matter of this action under Sections 711.004(c) and 711.010 of the Texas Health and Safety Code.

**IV.
NATURE OF THE PROCEEDING**

5. This is an in-rem and ex-parte proceeding authorized by Texas Health & Safety Code Section 711.004(c). No citation of any person is required. In addition to the advance notice already provided as described below, Alliance Water will send the known family members of decedents, the property owner, the Texas Historical Commission, and the Guadalupe County Historical Commission notice of this Petition's filing and the trial date.

**V.
NOTICE TO INTERESTED PARTIES**

6. There is no cemetery organization operating the Cemetery or any plot owner for the Cemetery, so the consent under Section 711.004(a) cannot be obtained, and notice of abandoned cemetery was filed in accordance with Section .711.011.

Therefore, the notice provisions of Section 711.004(c) apply, and have been followed as described below.

7. Alliance Water sent notice of this Petition by certified mail to the Texas Historical Commission as required by Section 711.004(c)(1) and each family member alive and able to be found consistent with Section 711.004(c)(2). Alliance Water also sent notice of this Petition to the Guadalupe County Historical Commission and other known relatives of the decedents, as well as to the property owner. These notices were made no later than the 16th day before the filing of this Petition, as required by Section 711.004(d) of the Health & Safety Code. If the Court requires any other person to be provided notice, Alliance Water will provide such notice in accordance with Section 711.004(c)(3).

VI. AUTHORITY TO BRING ACTION

8. This suit is brought pursuant to Sections 711.004(c) and 711.010 of the Texas Health and Safety Code, which authorizes a court to allow (1) removal of remains when the consent required by Section 711.004(a) cannot be obtained and (2) removal of a cemetery dedication for an unknown or abandoned cemetery. Section 711.004(a) requires consent from (1) the cemetery organization operating the cemetery, (2) the current plot owner or owner(s), and (3) the following persons, in the priority listed: (a) the decedent's surviving spouse; (b) the decedent's surviving adult children; (c) the decedent's surviving parents; (d) the decedent's adult siblings; or (e) the adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent. As stated above, because there is no cemetery organization

or plot owner for the Cemetery, the consent under Section 711.004(a) cannot be obtained and Section 711.004(c) applies. Notice was provided to all appropriate parties, and an affidavit describing the notice made is attached as Exhibit B. Kevin Salge, a descendant of the decedents, has provided consent to removal and reinterment. Exhibit C. Nonetheless, this action is also being filed in accordance with Section 711.010 of the Health & Safety Code as the Cemetery was deemed unmarked or abandoned.

VII. FACTUAL BACKGROUND

9. Alliance Water is a conservation and reclamation district and political subdivision of the State of Texas, created and functioning under Article 16, Section 59, of the Texas Constitution.

10. Alliance Water holds an easement on certain real property located in Guadalupe County, Texas (the “Property”) more particularly described in Exhibit A, attached hereto and that was acquired on February 10, 2022. The Salge Cemetery is located on the Property within the easement.

11. Alliance Water, as holder of the easement interest where the remains were discovered and which the Cemetery is located and being preserved, desires to remove the remains as a portion of the Property is close enough to be impacted by the construction of necessary infrastructure to provide water service. The location of the Cemetery is identified in Exhibit D.

12. Archaeological research, including review of the Guadalupe County Public Records, has determined that the remains of two decedents discovered at this

site are members of the Christian Salge Jr.'s family buried on the property in the late 19th century.

13. After a diligent search, the Alliance Water was unable to identify or locate a cemetery organization that operates the Cemetery, or owners of the plots located in Cemetery. Notice of unknown or abandoned cemetery was filed upon discovery of the Cemetery in compliance with Section 711.011 of the Health & Safety Code. A copy of this notice is included as Exhibit E. Alliance Water notified the owner of the property of the discovery and of this action. Additionally, notice was provided to the decedents' descendants and/or distant family members who are alive and who it was able to locate. Copies of these notices are included as Exhibit B. Alliance Water has also notified the Texas Historical Commission and the Guadalupe County Historical Commission of its plans to remove the remains.

14. Alliance Water is willing to pay all costs necessary to remove and reinter any human remains from the Cemetery, as well as to execute any and all agreements necessary for reinterment of the remains in Lone Oak Cemetery. Alliance Water will re-inter the human remains listed above from the Salge Cemetery into the Lone Oak Cemetery, which is the cemetery chosen in coordination with the family members of the decedents buried in the Salge Cemetery, subject to Alliance Water's execution of an agreement for re-interment with Lone Oak Cemetery. For any unmarked graves found within a 25-foot radius of the Salge Cemetery, the Alliance Water will remove and re-inter the remains into the Lone Oak Cemetery, subject to the Alliance Water's execution of an agreement for re-interment with Lone Oak Cemetery.

**VIII.
CAUSES OF ACTION**

A. REMOVAL OF REMAINS FROM CEMETERY

15. Alliance Water seeks an order from the Court pursuant to Section 711.004(c) of the Texas Health & Safety Code authorizing (1) removal of the remains of the decedents in the present location of the Salge Cemetery; and (2) reinterment of those human remains to the Lone Oak Cemetery. For any previously undiscovered graves that are found within a 25-foot radius of the Cemetery site boundary, Alliance Water requests for the Court to authorize removal and reinterment of those remains to the anticipated relocation site.

B. REMOVAL OF DEDICATION OF CEMETERY

16. Alliance Water seeks an order from the Court pursuant to Section 711.010 of the Texas Health & Safety Code authorizing removal of the dedication as cemetery from the Property. The remains will be reinterred in the Lone Oak Cemetery, subject to Alliance Water's execution of an agreement for the reinterment with Lone Oak Cemetery in the public interest.

**IX.
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Alliance Water respectfully prays for the following for this Court to:

- a. Order removal of remains of the decedents identified in Paragraph 12 from the current Salge Cemetery site;

- b. Order reinterment of remains from the current Salge Cemetery site to Lone Oak Cemetery, subject to Alliance Water's execution of an agreement for the re-interment with Lone Oak Cemetery;
- c. Order removal of dedication as a cemetery from the current land, reestablishing dedication with the remains upon reinterment; and
- d. Grant Alliance Water such other and further relief and orders to which it may be entitled.

Respectfully submitted,

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By: /s/ Gabrielle C. Smith
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**ATTORNEY FOR ALLIANCE
REGIONAL WATER AUTHORITY**