



Control Number: 43403



Item Number: 29

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**DOCKET NO. 43403**

**APPLICATION OF AUGUST LAKES  
WATER SUPPLY CORPORATION FOR  
A CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN WALLER  
COUNTY (38021-C)**

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**PUBLIC UTILITY COMMISSION: 15  
OF TEXAS**

2015 DEC 18  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Recommendation on Final Disposition. In support thereof, Staff shows the following:

**I. Background**

On August 18, 2014, August Lakes Water Supply Corporation (Applicant) filed an application to obtain a certificate of convenience and necessity (CCN) in Waller County with the Texas Commission on Environmental Quality (TCEQ). Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities, and this case formerly pending at the TCEQ was transferred to the Commission. On October 10, 2014, the application was transferred to the Commission. The Applicant, which is a water supply corporation, is seeking to obtain a water CCN for approximately 146 acres in order to provide water service to 58 potential connections.

On November 23, 2015, the Administrative Law Judge (ALJ) issued Order No. 9 requiring Staff to a final recommendation regarding this application and propose a deadline for the parties to file a joint proposed notice of approval, including findings of fact conclusions of law, and ordering paragraphs and a request for the admission of evidence by December 18, 2015. Accordingly, this pleading is timely filed.

**II. Recommendation on Final Disposition**

Based on the attached memorandum from Elisabeth English, Engineering Specialist with the Water Utility Regulation Division, Staff recommends approval of the application pursuant to

Tex. Water Code § 13.241(a) (TWC) and 16 Tex. Admin. Code § 24.102(a) (TAC). Staff also recommends that the Applicant file copies of the CCN map along with a written description of the CCN service area in the respective county clerks' offices in Waller and Harris County pursuant to TWC § 13.257 (r) and (s).

Specifically, Staff has reviewed the application and recommends that the ALJ approve the application finding that the Applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service pursuant to TWC § 13.241(a) and 16 TAC § 24.102(a). Staff further recommends that the application be approved finding that the requirements of the nine criteria considered by the Commission when granting or amending a CCN as stated in TWC § 13.246(c) and 16 TAC § 24.102(d) have been met.

In addition, proper public notice was provided on April 8, 2015, to neighboring systems, landowners, cities and affected parties as required by 16 TAC § 24.106(b)(2). Notice was published in Waller County in the *Waller County News Citizen* and in Harris County in the *Houston Chronicle*, on April 16, 2015 and April 23, 2015, as required by 16 TAC § 24.106(b)(3). The Applicant filed proof of notice with the Commission on April 30, 2015, pursuant to 16 TAC §§ 24.106(b)(6) and (c). The Commission did not receive any protests, requests for hearing nor any opt-out requests regarding the application.

Staff recommends that the ALJ find that the application meets all of the statutory requirements of TWC Chapter 13 and 16 TAC Chapter 24 rules and regulations. Approving this application to issue a water CCN is necessary for the service, accommodation, convenience and safety of the public pursuant to 16 TAC § 24.102(c). The certificate and final map are attached. The Applicant consented to the attached revised map and certificate on December 17, 2015, also attached. Staff recommends approval of the application pursuant to Tex. Water Code § 13.241(a) (TWC) and 16 Tex. Admin. Code § 24.102(a) (TAC). Staff also recommends that the Applicant file copies of the CCN map along with a written description of the CCN service area in the respective county clerks' offices in Waller and Harris County pursuant to TWC § 13.257 (r) and (s).

Finally, Staff has conferred with the Applicant and proposes January 19, 2016 as the deadline for the parties to file a joint proposed notice of approval, including findings of fact conclusions of law, and ordering paragraphs and a request for the admission of evidence.

### **III. Conclusion**

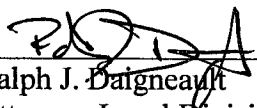
Staff recommends that the application be approved and respectfully requests that an order be issued consistent with this Recommendation.

**Dated: December 18, 2015**

Respectfully Submitted,

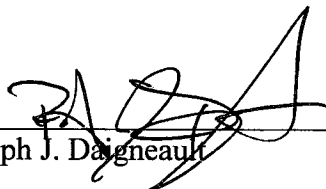
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Division Director – Legal Division

Karen S. Hubbard  
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Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on December 18, 2015, in accordance with 16 TAC § 22.74.

  
\_\_\_\_\_  
Ralph J. Daigneault

## PUC Interoffice Memorandum

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**To:** Ralph Daigneault, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Lisa Fuentes, Manager  
Water Utility Regulation Division

**From:** Elisabeth English, Engineering Specialist  
Water Utility Regulation Division

**Date:** December 18, 2015

**Subject:** **Docket No. 43403:** *Application of August Lakes Water Supply Corporation (WSC) for a Certificate of Convenience and Necessity in Waller County*

On August 18, 2014, August Lakes WSC (Applicant) filed an application to obtain a water Certificate of Convenience and Necessity (CCN) in Waller and Harris Counties, pursuant to Texas Water Code §§ 13.242-13.250 (TWC) and 16 Texas Administrative Code §§ 24.101-24.107 (TAC).

The Applicant, which is a water supply corporation, is seeking to obtain a water CCN for approximately 146 acres in order to provide water service to 58 potential connections. Granting of the CCN service area allows for the Applicant to provide water service to an area that is being developed into a subdivision, August Lakes Estates.

Public notice was provided on April 8, 2015, to neighboring systems, landowners, cities and affected parties as required by 16 TAC § 24.106(b)(2). Notice was published in Waller County in the *Waller County News Citizen* and in Harris County in the *Houston Chronicle*, on April 16, 2015 and April 23, 2015, as required by 16 TAC § 24.106(b)(3). The Applicant filed proof of notice with the Commission on April 30, 2015, pursuant to 16 TAC §§ 24.106(b)(6) and (c). The Commission did not receive any protests, requests for hearing nor any opt-out requests regarding the application.

In determining whether to grant or amend a CCN, the Commission shall ensure that the Applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service pursuant to TWC § 13.241(a) and 16 TAC § 24.102(a). The Commission shall also consider the nine elements as stated in TWC § 13.246(c) and 16 TAC § 24.102(d). Staff has reviewed the above referenced application, and has found that it has met the requirements, as detailed below.

### **TWC § 13.241(c) and 16 TAC § 24.102(a)(2)**

For water utility service, the Commission shall ensure that the Applicant has a TCEQ approved public water system (PWS) that it is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341 and TCEQ rules and has access to an adequate supply of water. The area subject to this application will be served by the August Lakes WSC public water system (PWS ID 2370114), which was approved for construction by TCEQ on October 6, 2014. At this time the PWS has not been constructed and is inactive.

**TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(1)**

In considering whether to grant or amend a certificate, the Commission shall consider the adequacy of service currently provided to the requested area. The Applicant has a TCEQ approved public water system, as detailed above.

**TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2)**

In considering whether to grant or amend a certificate, the Commission shall consider the need for additional service in the proposed area. The Applicant was requested to provide service to the area by the landowner and developer, Todd Fogelsong. The proposed area includes only the land to be developed by the requestor.

**TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3)**

In considering whether to grant or amend a certificate, the Commission shall consider the effect of granting a certificate on the Applicant, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area. The landowner and developer of the proposed area is the Applicant, no other landowners will be affected. If approved, the Applicant will be granted a CCN. No other retail public utilities will be affected by this application.

**TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4)**

In considering whether to grant or amend a certificate, the Commission shall consider the ability of the Applicant to provide adequate service, including meeting the standards of the commission, taking into consideration the current and projected density and land use of the area. The PWS, as approved by TCEQ, will include two groundwater wells capable of producing 65 gallons per minute (GPM) each, a 2,957 gallon (G) hydro-pneumatic tank, three 170 GPM booster pumps, and 83,000 G ground storage tank and looped distribution system with 4 inch lines. This design is adequate to serve the potential 58 customers within a residential subdivision.

**TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5)**

In considering whether to grant or amend a certificate, the Commission shall consider the feasibility of obtaining service from an adjacent retail public utility. There are no other entities in the proximate area that are able to provide water service to proposed area. The developer had been in negotiations with nearby Westside Water, LLC, to serve water to the area subject to this application. Westside Water, LLC was going to construct, own and operate a new water system to serve a proposed subdivision just to the north of the area subject to this application. Construction was about to begin on the new Westside Water, LLC water system when the developer of adjacent subdivision unexpectedly passed away and development has ceased indefinitely. The developer also requested service from water utilities within a 2 mile radius, Harris-Waller Counties MUD 2 and City of Katy; neither utility was able to serve the area subject to the application.

**TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6)**

In considering whether to grant or amend a certificate, the Commission shall consider the financial ability of the applicant to pay for the facilities necessary to provide continuous and adequate service and the financial stability of the applicant, including, if applicable, the adequacy of the applicant's debt-equity ratio. Based on the information provided by the Applicant in this filing, the Applicant has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. The director of August Lakes WSC, as well as a partner in the company developing the August Lakes Estates, has provided a letter of assurance to commit financial stability and holds assets in an account with Ayco, a Goldman Sachs Company, valued in excess of \$700,000; which, is more than the estimated construction costs of the PWS that is going to serve the requested area. The Applicant provided projected pro forma financial statements indicating the total cost of the PWS based on total build out is \$625,000 and that by year five, August Lakes WSC will have an ending cash balance of \$27,965 and a reserve account balance of \$30,000. August Lakes' projected debt to equity ratio for its fifth year of existence based on projected is long term debt is \$0.00 to \$567,108, or 0.00 to 1.00. A ratio of less than

1:1 is preferred for analysis of financial/managerial capabilities because it provides evidence that August Lakes is not highly leveraged and is capable of funding required capital improvements with more equity than debt.

**TWC § 13.246(c)(7) and 16 TAC § 24.102(d)(7)**

In considering whether to grant or amend a certificate, the Commission shall consider the environmental integrity of the proposed area resulting from the granting of the certificate or amendment. Patten Sales and Marketing will develop the proposed area. As long as all appropriate construction techniques and TCEQ approved criteria are used during the construction process, there should be minimal effect to the environmental integrity of the proposed area.

**TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8)**

In considering whether to grant or amend a certificate, the Commission shall consider the probable improvement in service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment. The approval and construction of the water system will bring needed infrastructure to the subdivision development.

**TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9)**

In considering whether to grant or amend a certificate, the Commission shall consider the effect on the land to be included in the certificated area. The land will be disrupted during the construction of the water system and subsequent development of the subdivision.

Based on a Staff review of the application, the Applicant meets all of the statutory requirements of TWC Chapter 13 and 16 TAC Chapter 24 rules and regulations. Approving this application to issue a water Certificate of Convenience and Necessity to the Applicant is necessary for the service, accommodation, convenience and safety of the public pursuant to 16 TAC § 24.102(c). Staff recommends approval of the application.

Staff also recommends that the Applicant file copies of the CCN map along with a written description of the CCN service area in the respective county clerks' offices in Waller and Harris County pursuant to Texas Water Code § 13.257 (r) and (s).



# **Public Utility Commission Of Texas**

**By These Presents Be It Known To All That**

## **August Lakes WSC**

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

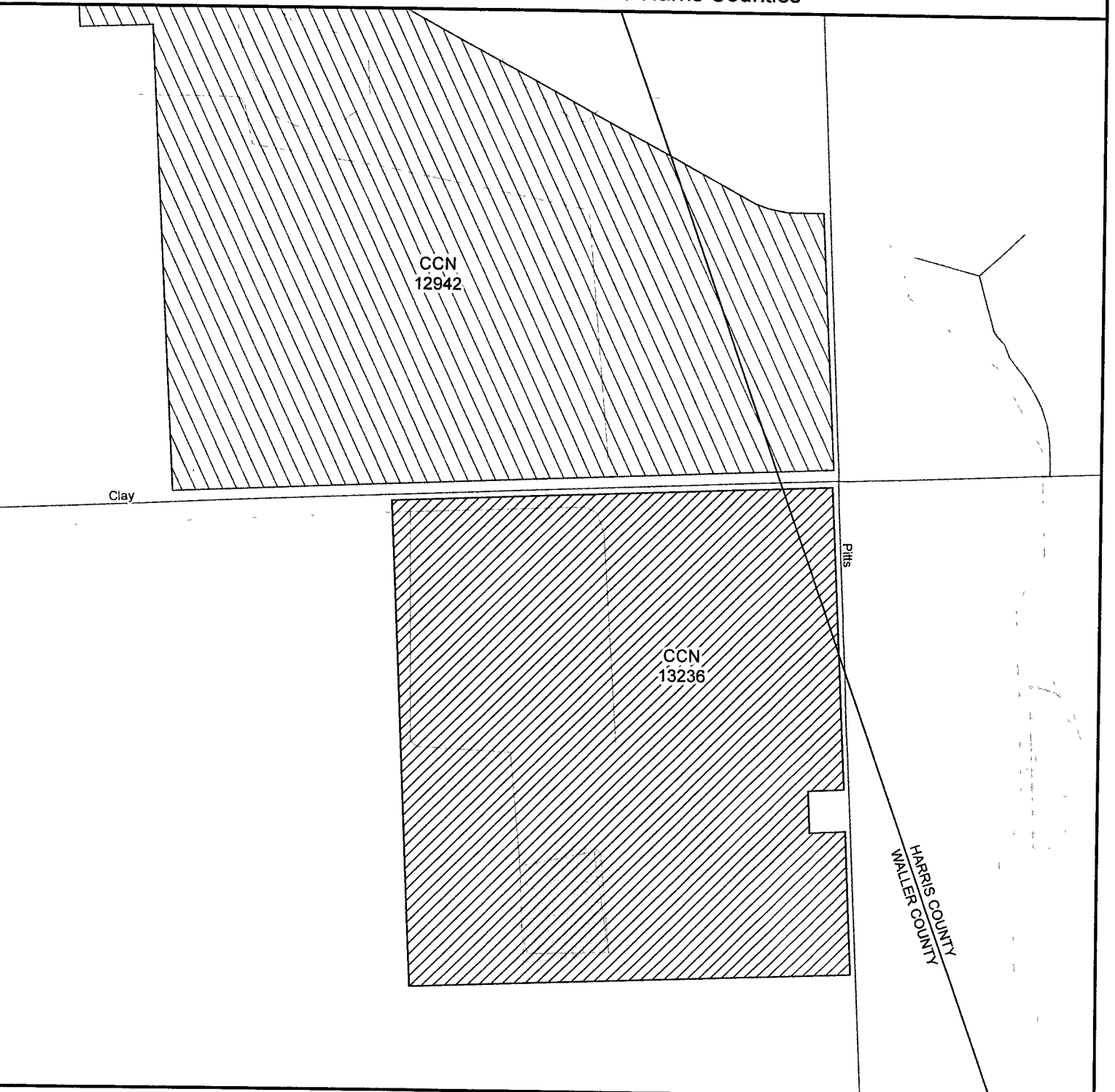
### **Certificate of Convenience and Necessity No. 13236**

to provide continuous and adequate sewer utility service to that service area or those service areas in Comal Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 43403 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the August Lakes WSC, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.



Issued at Austin, Texas, this \_\_\_\_\_ day of \_\_\_\_\_ 2015



August Lakes Water Supply Corporation  
Water Service Area  
CCN No. 13236  
PUC Docket No. 43403  
Obtained New CCN in Waller and Harris Counties



**Water CCN Service Area**

-  13236 - August Lakes WSC
-  12942 - Westside Water LLC

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CONSENT FORM

Applicants Name: August Lakes Water Supply Corporation  
Docket No.: 43403

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PUBLIC UTILITY COMMISSION  
FILING CLERK

- ☒ I concur with map and certificate transmitted by e-mail on 12/15/15 (date).
- ☐ I do not concur with the map and certificate transmitted by e-mail on \_\_\_\_\_ (date).  
I understand that I have 14 days from the date of this e-mail to provide my response.

I am authorized by August Lakes Water Supply Corporation to sign this form.

Signature: Shelley Young

Printed Name: Shelley Young

Relationship to Applicant: Engineer

Date signed: 12/15/2015

Please mail the original and 7 copies to:

Mailing Address:  
Public Utility Commission of Texas  
Central Records  
1701 N Congress PO Box 13326  
Austin, Texas 78711-3326

Shipping / Overnight Delivery Address:  
Public Utility Commission of Texas  
Central Records  
1701 N Congress, Suite 8-100  
Austin, Texas 78701