



Control Number: 44820



Item Number: 57

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RECEIVED

APPLICATION OF THE CITY OF
HACKBERRY FOR A SEWER
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN DENTON
COUNTY

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PUBLIC UTILITY COMMISSION

OF TEXAS

2017 FEB 28 PM 2:42
PUBLIC UTILITY COMMISSION
FILING CLERK

JOINT MOTION TO ADMIT EVIDENCE AND JOINT PROPOSED NOTICE OF APPROVAL

COMES NOW the City of Hackberry, Texas (the City or Applicant), the Town of Little Elm (Little Elm) and Staff (Staff) of the Public Utility Commission (the "Commission") (collectively, the "Parties"), and files this Joint Motion to Admit Evidence and Joint Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

1. On June 9, 2015, the City filed with the Commission an application to obtain a new sewer certificate of convenience and necessity in Denton County (Application). The Application covers an area of approximately 1,035 acres and 1,182 current customers. The proposed service area is located approximately six miles west of downtown Frisco, Texas. The Application requests a portion of Little Elm's sewer CCN No. 20931, which lies within the Applicant's extraterritorial jurisdiction, be decertified.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into record of this proceeding:

- (a) the City's Application, Item No. 1 filed on June 9, 2015;
- (b) amendment to the Application, Item No. 11 filed on September 30, 2015;
- (c) second amendment to the Application, Item No. 21 filed on February 19, 2016;
- (d) the Town of Little Elm's written consent to the City's Application, Item No. 20 filed on February 12, 2016;
- (e) North Texas Municipal Water District's written consent to the City's Application, Item No. 29 filed on May 3, 2016;
- (f) affidavit of notice to neighboring systems, cities, utilities, and affected parties dated April 22, 2016, Item No. 27 filed on May 3, 2016;
- (g) affidavit of notice to landowners dated April 27, 2016, Item No. 26 filed on May 3, 2016;

- (h) affidavit publisher's affidavit dated April 29, 2016, Item No. 28 filed on May 3, 2016;
- (i) Applicant's consent form, Item No. 43 filed on November 3, 2016;
- (j) Staff's final recommendation and attachments, Item No. 46 filed on November 11, 2016;
- (k) Little Elm's consent form, Item No. 55 filed on February 16, 2017;
- (l) Staff's Supplemental Final Recommendation and attachments thereto, Item No. 56 filed on February 27, 2017; and
- (m) proposed map and certificates (attached).

III. PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval grants the City's Application for a Sewer Certificate of Convenience and Necessity in Denton County.

IV. CONCLUSION

The Parties respectfully request that the Commission approve the attached Joint Proposed Notice of Approval.

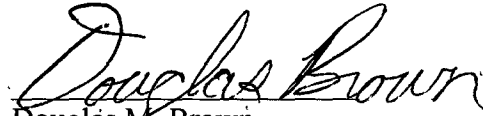
Respectfully Submitted,

PUBLIC UTILITY COMMISSION

LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

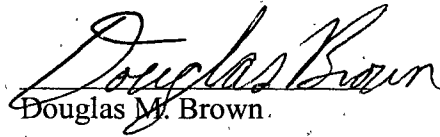
Stephen Mack
Managing Attorney



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DOCKET NO. 44820
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on February 28, 2017 in accordance with 16 Tex. Admin. Code § 22.74.


Douglas M. Brown.

DOCKET NO. 44820

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
HACKBERRY FOR A SEWER	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN DENTON	§	
COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the application (the "Application") of the City of Hackberry (the "City") for approval of sewer certificate of convenience and necessity (the "CCN") in Denton County. The Public Utility Commission (the "Commission") Staff recommended approval of the Application. The Application is approved. The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

A. Procedural History

2. On June 9, 2015, the City filed the Application to obtain a sewer CCN in Denton County.
3. The proposed project consists of a new sewer system to serve an area of approximately 1,035 acres and 1,182 current customers.
4. The Application requests a portion of Little Elm's sewer CCN No. 20931, which lies within the Applicant's extraterritorial jurisdiction, be decertified.
5. On September 29, 2015 and February 19, 2016, the City amended the Application and responded to notice of mapping deficiencies.
6. On February 12, 2016, the City submitted written documentation from the Town of Little Elm consenting to the City's Application.
7. On March 31, 2016, Staff recommended the Application be deemed sufficient and established a proposed procedural schedule.
8. On May 3, 2016, the City submitted written documentation from North Texas Municipal Water District consenting to the City's Application.
9. On June 16, 2016, Order No. 11 was issued, finding notice sufficient and establishing a procedural schedule for continued processing.

10. On September 15, 2016, the City responded to Staff's requests for information and subsequently filed supplemental responses on September 22, 2016 and October 31, 2016.

11. On November 3, 2016, the City submitted a signed consent form evidencing its consent to the proposed map and certificate.

12. On November 10, 2016, Staff recommended approval of the Application and requested Parties file a joint proposed notice of approval.

13. On February 16, 2017, the City submitted a signed consent form evidencing its consent to the proposed map and certificate:

14. On February 27, 2016, Staff filed a supplement to its final recommendation.

B. Notice

12. The Commission caused notice of the Application to be published in the *Texas Register* on June 26, 2015.

13. Notice was provided by publication in the *Denton Record-Chronicle* on April 22, 2016 and April 29, 2016.

14. A publisher's affidavit dated April 29, 2016 and signed by Chris Brumfield, an authorized representative of the *Denton Record-Chronicle*, attests to this notice.

15. The City mailed notice of the Application to neighboring systems, cities, utilities, and affected parties on April 22, 2016.

16. The affidavit that the neighboring systems, cities, utilities, and affected parties received notice was dated April 22, 2016, and was filed with the Commission on May 3, 2016.

17. The City mailed notice of the Application to landowners on April 27, 2016:

18. The affidavit that the landowners received notice was dated April 27, 2016, and was filed with the Commission on May 3, 2016.

C. Informal Disposition

19. More than 15 days have passed since completion of the notice provided in this docket.

20. There were no protests or hearing requests filed in response to the public notices. No issues of fact or law are disputed by any party. The City and Staff are the only parties to the proceeding.

21. The Commission finds that no hearing is necessary.

22. The following items have been admitted into evidence: (a) the City's Application, Item No. 1 filed on June 9, 2015; (b) amendment to the Application, Item No. 11 filed on September 30, 2015; (c) second amendment to the Application, Item No. 21 filed on February 19, 2016; (d) the Town of Little Elm's

written consent to the City's Application, Item No. 20 filed on February 12, 2016; (e) North Texas Municipal Water District's written consent to the City's Application, Item No. 29 filed on May 3, 2016; (f) affidavit of notice to neighboring systems, cities, utilities, and affected parties dated April 22, 2016, Item No. 27 filed on May 3, 2016; (g) affidavit of notice to landowners dated April 27, 2016, Item No. 26 filed on May 3, 2016; (h) affidavit publisher's affidavit dated April 29, 2016, Item No. 28 filed on May 3, 2016; (i) Applicant's consent form, Item No. 43 filed on November 3, 2016; (j) Staff's final recommendation and attachments, Item No. 46 filed on November 11, 2016; (k) Little Elm's consent form, Item No. 55 filed on February 16, 2017; (l) Staff's Supplemental Final Recommendation and attachments thereto, Item No. 56 filed on February 27, 2017; and (m) the map and certificates.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over this docket pursuant to the Tex. Water Code §§ 13.242 - 13.250 (TWC) and 16 Tex. Admin. Code §§ 24.101 - 24.107 (TAC).

2. The City is a Texas municipality and is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(58).

3. The City has provided public notice of the Application in compliance with TWC § 13.246 and with 16 TAC § 24.106.

4. After considering the relevant factors in TWC § 13.246(c), the City has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.

5. The City has demonstrated that the Application meets the requirements set forth in TWC §§ 13.242 - 13.250, and in 16 TAC §§ 24.101 and 24.102 to be granted an amendment to its CCN.

6. The City has demonstrated that a sewer CCN is necessary for the service, accommodation, convenience, or safety of the public, as required under TWC § 13.246(b) and 16 TAC § 24.102(c).

7. Under TWC § 13.257(r) and 16 TAC § 24.106(f), the City is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.

8. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

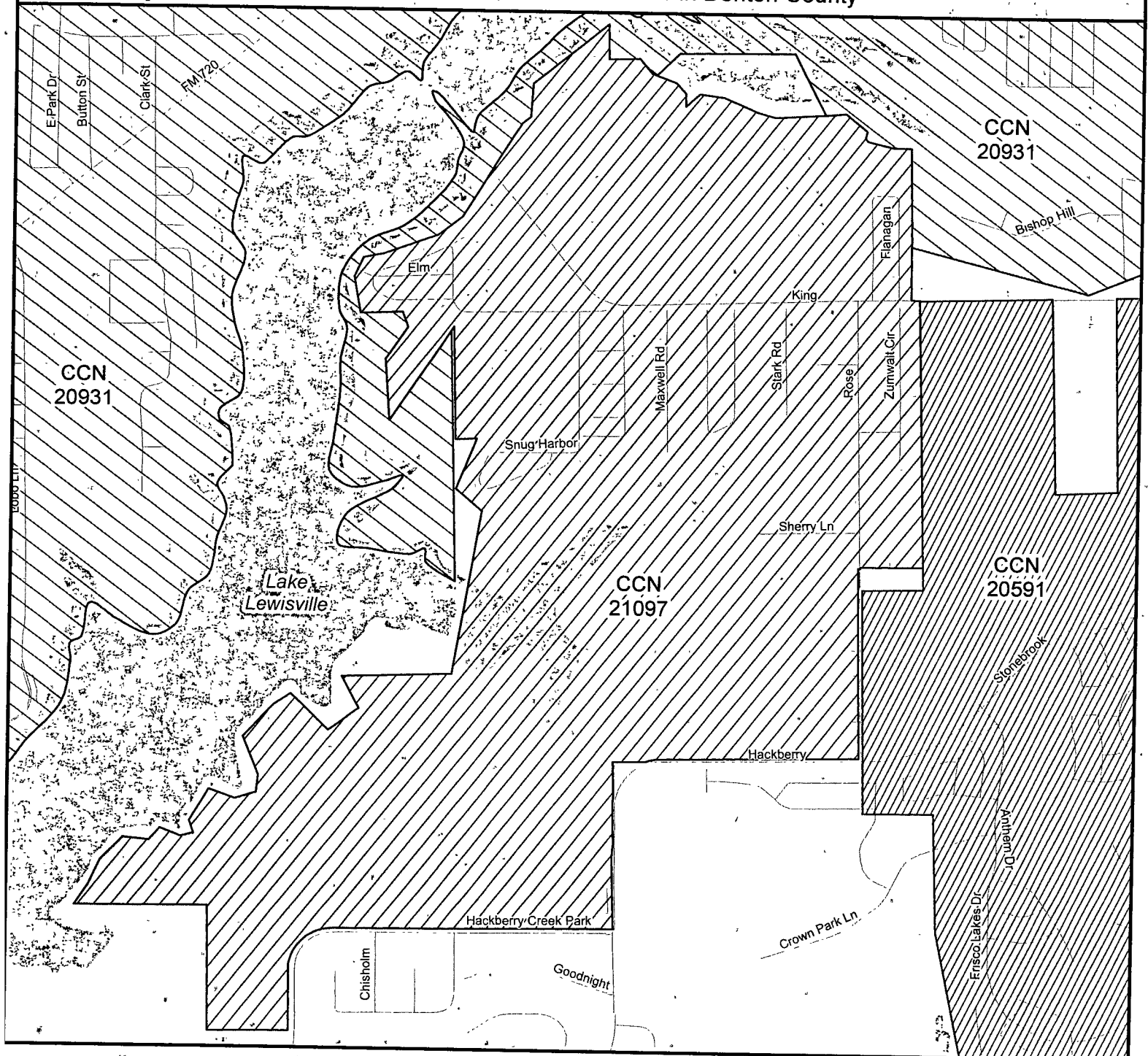
In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The City's Application is approved.
2. Consistent with the map, portion of Little Elm's sewer CCN No. 20931 is hereby decertified.
3. The City shall serve every customer and applicant for service within the approved area that request sewer service and meet the terms of the City's regulations to receive sewer service and such service shall be continuous and adequate.
4. The City shall comply with the recording requirements in TWC § 13.257(r) for the area in Denton County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this notice.
5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.




SIGNED AT AUSTIN, TEXAS on the ____ day of January, 2017.

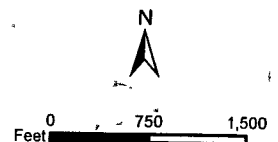
PUBLIC UTILITY COMMISSION OF TEXAS
ADMINISTRATIVE LAW JUDGE

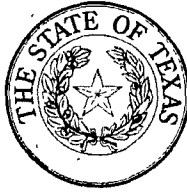
City of Hackberry
Sewer Service Area
CCN No. 21097
PUC Docket No: 44820
Obtained CCN and Decertified a Portion of
Town of Little Elm, CCN No. 20931 in Denton County



Sewer CCN Service Areas

-  21097 - City of Hackberry
-  20931 - Town of Little Elm
-  20591 - City of Frisco





Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Hackberry

having obtained certification to provide sewer 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, the City of Hackberry is entitled to this

Certificate of Convenience and Necessity No. 21097

to provide continuous and adequate sewer utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 44820 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 City of Hackberry, 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 _____ 2017.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Town of Little Elm

having obtained certification to provide sewer 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, Town of Little Elm, is entitled to this

Certificate of Convenience and Necessity No. 20931

to provide continuous and adequate sewer utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 44820 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 Town of Little Elm, 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 _____ 2017