



Control Number: 44875



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APPLICATION OF AQUA TEXAS,
INC. DBA AQUA TEXAS TO AMEND
CERTIFICATES OF CONVENIENCE
OF AND NECESSITY IN
MONTGOMERY COUNTY

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PUBLIC UTILITY COMMISSION

2015 DEC 21 PM 2:19

PUBLIC UTILITY COMMISSION
OF TEXAS FILING CLERK

AQUA TEXAS' RESPONSE TO ORDER NO. 4

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Aqua Texas, Inc. d/b/a Aqua Texas ("Aqua Texas") files this Response to Order No. 4. In support thereof, Aqua Texas would show the following.

I. BACKGROUND

On June 24, 2015, Aqua Texas, Inc. d/b/a Aqua Texas (Applicant) filed an application to amend its water and sewer certificates of convenience and necessity (CCN) Nos. 13203 and 21065 in Montgomery County, Texas. Aqua Texas requested the addition of approximately 195.46 acres of property owned by Pulte Homes to those CCNs. In its September 23, 2015 Commission Staff's Response to Order No. 2 and Supplemental Recommendation on the Application, Staff alleged that an overlap exists between Applicant's proposed area and Montgomery County Municipal Utility District No. 47 ("MCMUD 47") and recommended a deficiency finding reflected in Order No. 3 on that basis.¹ On October 22, 2015, Applicant filed a response to Order No. 3 presenting evidence that the basis for Staff's overlap finding with MCMUD 47 was incorrect, including property tax information showing that the property in question is not taxed by MCMUD 47. On November 23, 2015, Commission Staff's Response to Order No. 3 filed after reviewing that the information presented by Applicant was "insufficient for Staff's to determine whether MCMUD 47's boundaries

¹ Order No. 3 was issued September 28, 2015.

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are inaccurate.” This was the basis for a deficiency finding in Order No. 4 ordering Applicant to respond by December 21, 2015.²

Applicant clarifies that it does not contend that MCMUD 47's boundaries are inaccurate. Applicant contends that the TCEQ district map data Commission Staff relied upon to allege an overlap between Applicant's proposed CCN amendment area and MCMUD 47 does not accurately reflect the location of MCMUD 47's boundaries. MCMUD 47's boundaries are located where they are according to recorded property information and, possibly, on the ground survey positioning information. But Applicant has limited methods available to show those boundaries' true location in relation to the proposed area in a way that permits Commission Staff review. Commission Staff's November 23, 2015 recommendation suggested several different types of mapping documentation that would be acceptable to demonstrate MCMUD 47's boundaries and resolve this issue. Applicant maintains there is no overlap between the proposed CCN area and MCMUD 47, but has elected to resolve the alleged deficiency as described herein.

II. SUPPLEMENTAL APPLICATION INFORMATION PROVIDED

One source of digital data for the MCMUD 47 boundaries Commission Staff identified as reliable in its recommendation was that obtained from the Montgomery Central Appraisal District (“MCAD”). Therefore, in response to Commission Staff's recommendation and Order No. 4, Aqua Texas hereby files the following information utilizing that data.

Attached to this response is mapping documentation that excludes overlap of the proposed CCN area with MCMUD 47 boundaries according to MCAD GIS data. This will reduce the proposed CCN area by approximately .45 acres (less than half an acre) in that the overlap reflected

² Order No. 4 was issued November 24, 2015.

is an area approximately seven feet wide that stretches along the south side of Developer's property.

This documentation includes the following exhibits:

1. Attached as **Exhibit A** are maps showing Aqua Texas' proposed water and sewer CCN area with the 7-foot overlap with MCMUD 47 removed. Included as **Exhibit A** are both large and small-scale maps of the proposed water and sewer CCN service areas as well as a map delineating Aqua Texas' proposed water and sewer CCN service area and Montgomery County MUD 47.
2. Attached as **Exhibit B** is a compact disc containing shapefiles of the maps included in **Exhibit A**.

While the MCAD information used to eliminate the overlap was used at the suggestion of Commission Staff, Applicant does not concede that an overlap exists or that the MCAD information is 100% accurate. The MCAD web page from which the MCAD data was obtained includes the following "Attribution and Disclaimer" statement:

All data is open and free for use with attribution to Montgomery County, Texas GIS. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries and other data features represented. This product has been produced by Montgomery County for the sole purpose of geographic reference. No warranty is made by Montgomery County regarding specific accuracy or completeness, and Montgomery County shall not be liable for any damages suffered as a result of the use of this information.

See MCAD Web Site, MCAD GIS Data, Municipal Utility District.³ However, the MCAD GIS Data seems to be more accurate than the TCEQ data previously relied upon by Commission Staff (which has a similar disclaimer) in that the overlap presented is much smaller and aligns more closely with the proposed CCN area.

If the Commission is willing, Applicant submits that the overlap reflected by the MCAD GIS Data is slight enough and uncertain enough that the Application could be accepted without amendment pending objection from MCMUD 47 at the notice stage of this proceeding. Applicant

³ See MCAD Web Site, at http://data.moco.opendata.arcgis.com/datasets/1af36627ebbe449880b26f5d02ec66c7_0 (last visited December 21, 2015).

respectfully submits that the taxing authority evidence previously filed in this docket is better evidence that the property is not within MCMUD 47. However, if that is not the case and a proposed CCN area amendment is needed to eliminate the alleged overlap issue and expedite application processing, Applicant respectfully requests that the Commission accept the map exhibits attached hereto as amendments to the Application revising its proposed CCN area accordingly according to MCAD GIS Data.

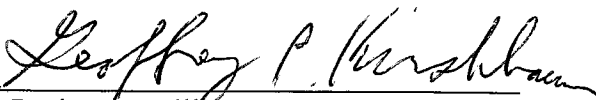
III. CONCLUSION

Aqua Texas respectfully requests, upon confirmation by Commission Staff, that the ALJ issue an order finding the application administratively complete and directing Commission Staff to continue application processing. If for any reason Commission Staff does not view the attachments as sufficient for application acceptance, Aqua Texas respectfully requests that it be notified immediately and provided an opportunity to cure any remaining deficiencies that are identified.

Respectfully submitted,

THE TERRILL FIRM, P.C.

By: _____




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**ATTORNEYS FOR AQUA TEXAS, INC. D/B/A
AQUA TEXAS**

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 21, 2015 in accordance with P.U.C. Procedural Rule 22.74.



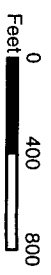
Geoffrey P. Kirshbaum



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroX, Geomatics, IGN, etc.

PUC Docket No. 44875
Aqua Texas, Inc., CCN Nos. 13203 and 21065
Proposed Water & Sewer CCN Service Area
in Montgomery County

Proposed CCN Area
Montgomery County MUD 47 from MCAD

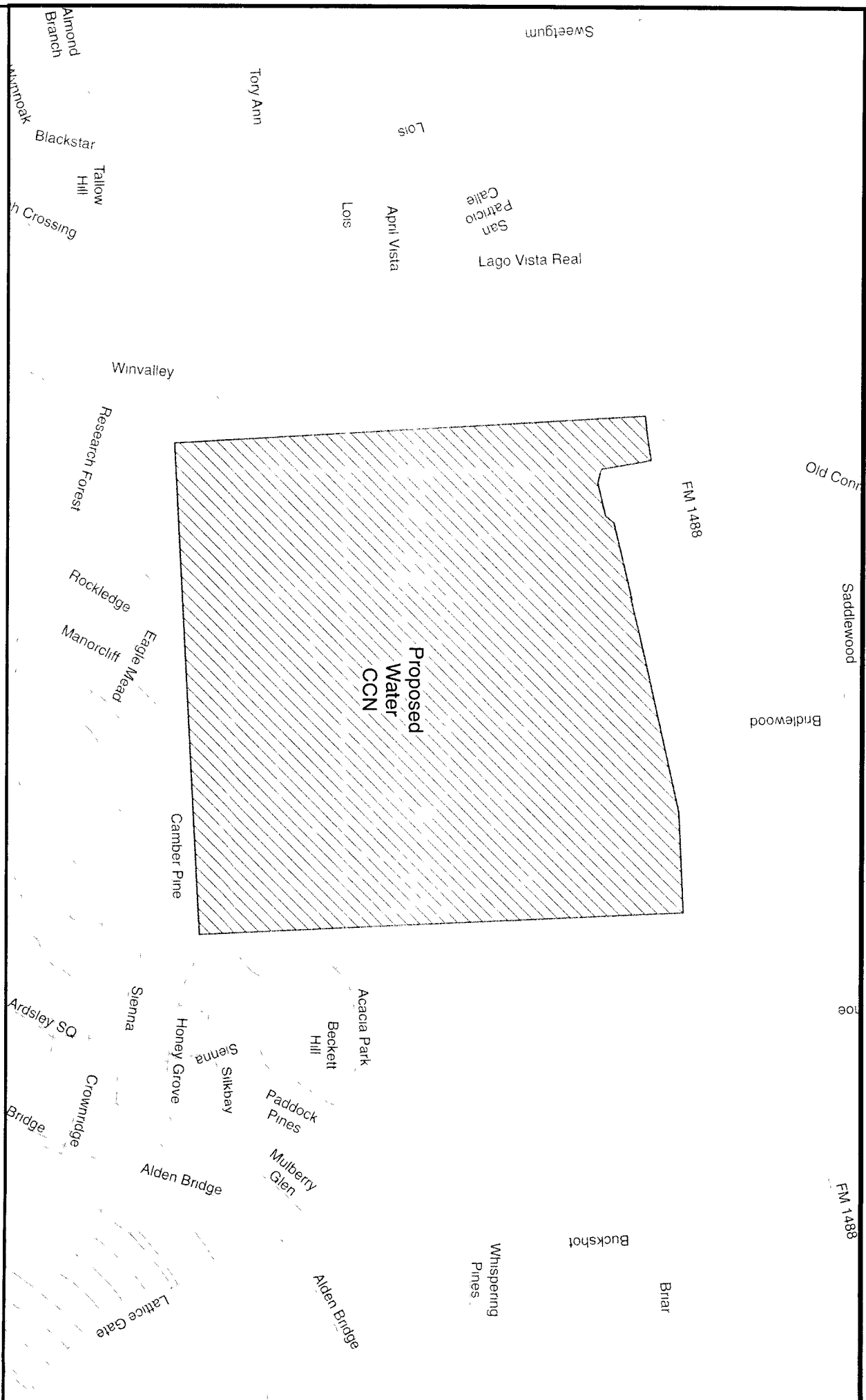
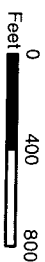


Map by: S. Burt
Date created: December 18, 2015
Base map: ESRI World Imagery
Project: PUC44875, MCAD.mxd
Montgomery County MUD 47 digital data obtained from Montgomery Central Appraisal District GIS Data at http://www.mcad-tx.org/html/mcad_info.html. A minor overlap of approximately 7 feet on the south side was removed from the proposed CCN service area.

PUC Docket No. 44875
Aqua Texas, Inc.
Proposed Amendment to Water CCN No. 13203
in Montgomery County



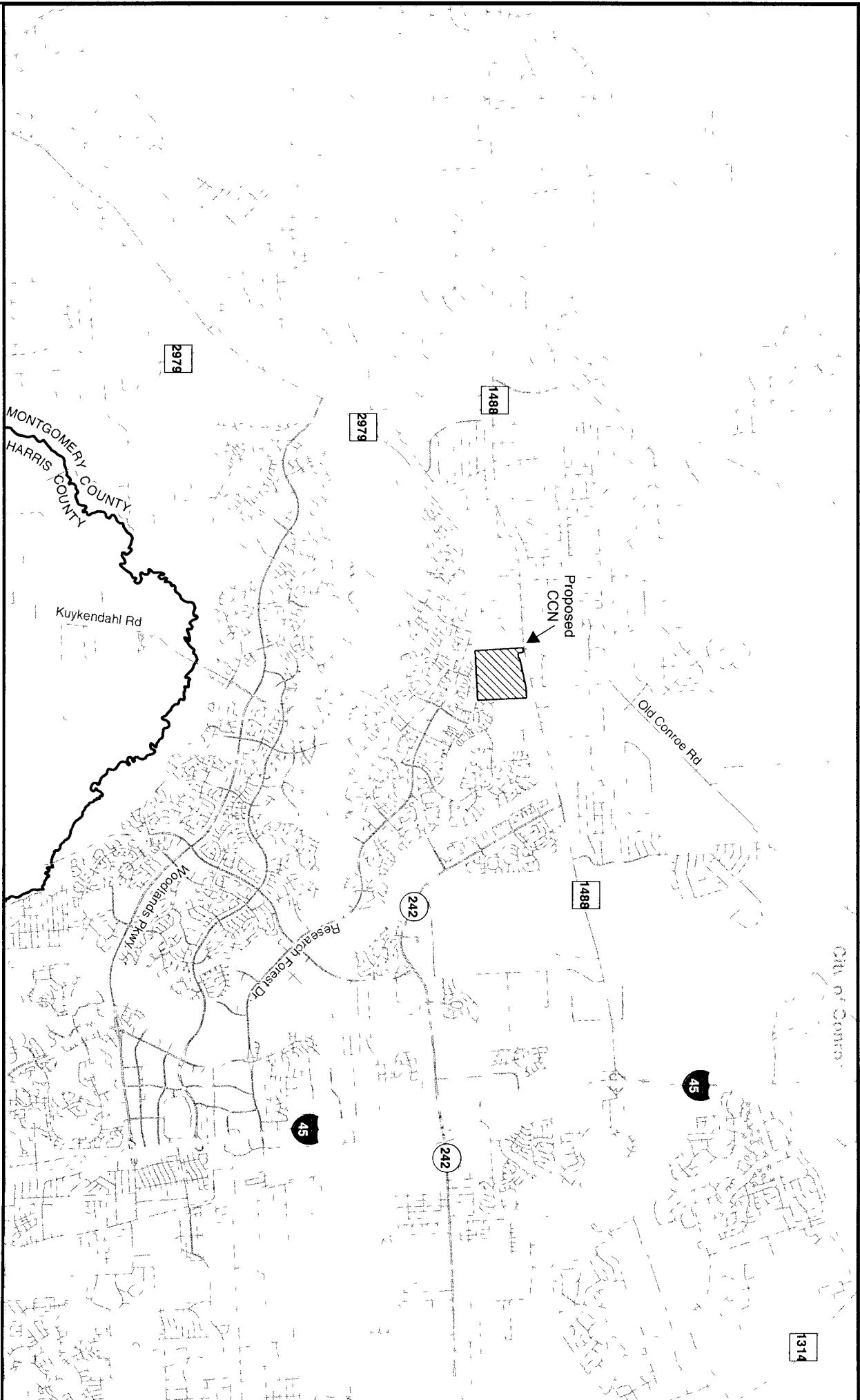
Proposed Water CCN Service Area



General Location Map
PUC Docket No. 44875
Aqua Texas, Inc.
Proposed Amendment to Water CCN No. 13203
in Montgomery County



Proposed Water CCN Service Area



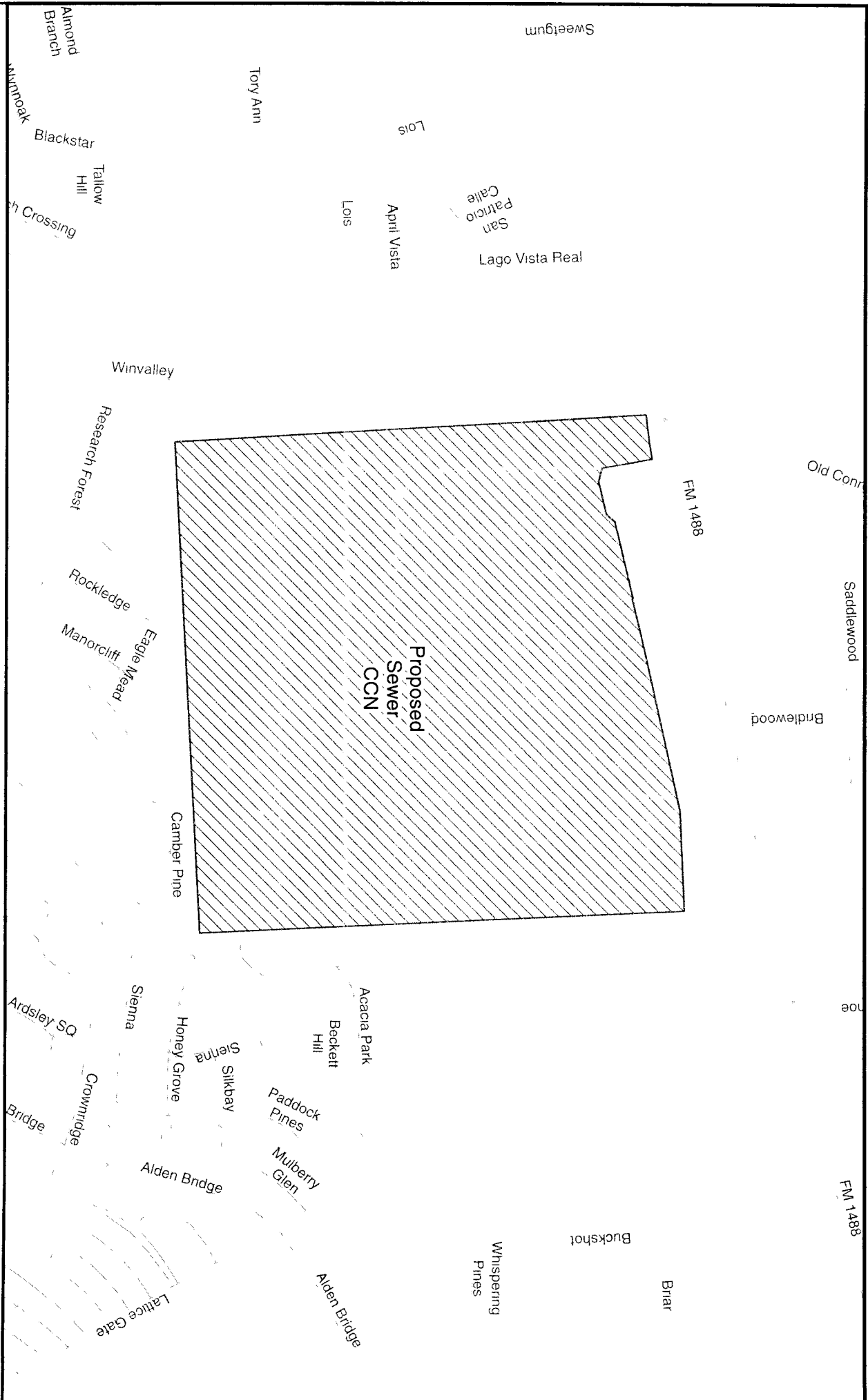
PUC Docket No. 44875
Aqua Texas, Inc.
Proposed Amendment to Sewer CCN No. 21065
in Montgomery County



Proposed Sewer CCN Service Area



Feet 0 400 800



General Location Map

PUC Docket No. 44875
Aqua Texas, Inc.
Proposed Amendment to Sewer CCN No. 21065
in Montgomery County

 Proposed Sewer CCN Service Area

