



Control Number: 45272



Item Number: 10

Addendum StartPage: 0

PUC DOCKET NO. 45272

APPLICATION OF ZIPP ROAD §
UTILITY COMPANY LLC TO OBTAIN §
A CERTIFICATE OF CONVENIENE §
AND NECESSITY IN GUADALUPE §
COUNTY, TEXAS §

2016 MAR -1 PM 2:41
BEFORE THE
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

APPLICANT'S STATUS REPORT AND MOTION TO LIFT ABATEMENT

COMES NOW, Zipp Road Utility Company, LLC ("Applicant" or "Zipp Road") and files this Status Report and Motion to Lift Abatement in the above referenced matter. In support of the Motion, the Applicant shows the following.

I. BACKGROUND

On October 21, 2015, the Applicant filed with the Commission an application to obtain a new sewer certificate of convenience and necessity ("CCN"). On October 26, 2015, the Administrative Law Judge ("ALJ") issued Order No. 1, which gave the Commission Staff until November 20, 2015 to file comments on the administrative completeness of the application and proposed notice. In addition, on October 26, 2015, the Commission issued its Notice of Application to Obtain Sewer Certificate of Convenience and Necessity. On November 19, 2015, the Commission Staff filed a Request for Good Cause Exception and Extension of Time. The ALJ issued Order No. 2, which granted the Commission Staff's request for extension of time and ordered the Commission Staff to file comments and recommendations regarding the application, appropriate notice, how to process the application, and a procedural schedule by December 2, 2015. On December 1, 2015, the Applicant filed is Unopposed Motion for Abatement, which would allow time for the Commission to issue its order decertifying land within the proposed certificated area. The ALJ issued Order No. 3, which abated proceeding with the application and required the parties to file a status report on or before March 1, 2016. Therefore, this Status Report is filed timely.

II. MOTION TO LIFT ABATEMENT

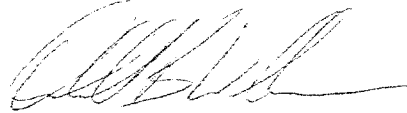
On December 4, 2015, the Commission issued two orders that competed the decertification of the property subject to this CCN application. Those two orders are found in Docket Nos. 45142 and 45143, and copies of the Commission orders are attached to this pleading. Therefore, no regulatory or statutory requirement precludes the Commission from proceeding with the processing and issuance of a CCN to the Applicant. In a separate and concurrent document, the Applicant will proceed with the process for determining whether any compensation should be paid to GBRA for the decertified area. Therefore, Zipp Road respectfully requests that the ALJ lift the abatement and order the PUC Staff to continue the review and processing of this application.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the Applicant respectfully prays that the Administrative Law Judge lift the abatement in this proceeding and order the PUC Staff to continue reviewing and processing this application for a new CCN.

Respectfully submitted,

Randall B. Wilburn
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Helen S. Gilbert
State Bar No. 00786263
GILBERT WILBURN PLLC
7000 N. Mopac Expwy, Suite 200
Austin, Texas 78731
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By: _____
Randall B. Wilburn

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested on all parties on the 1st day of March 2015.



Randall B. Wilburn

DOCKET NO. 45142

RECEIVED

PETITION OF JORGE MALDONADO §
SR. TO AMEND GUADALUPE- §
BLANCO RIVER AUTHORITY'S §
SEWER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
GUADALUPE COUNTY BY §
EXPEDITED RELEASE §

2015 DEC -4 PM 1:51
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS FILING CLERK

ORDER

This Order addresses the petition of Jorge Maldonado, Sr. (Maldonado) for expedited release of a tract of land from the sewer certificate of convenience and necessity (CCN) of Guadalupe-Blanco River Authority (GBRA) in Guadalupe County. Public Utility Commission of Texas (Commission) Staff recommended approval of the petition. For the reasons discussed in this Order, Maldonado’s petition is granted and GBRA’s sewer CCN 20892 is amended to remove Maldonado’s property.

I. Background

On September 10, 2015, Maldonado filed a petition under Tex. Water Code Ann. § 13.254(a-5) (West 2008 & Supp. 2014) (TWC) and 16 Tex. Admin. Code § 24.113(r) (TAC), for the expedited release of 47.723 acres of land owned by Maldonado and located within GBRA’s sewer service certificated area in Guadalupe County.¹

On October 12, 2015, GBRA filed a motion to intervene.² GBRA does not contest the proposed service area for decertification is at least 25 acres, is located in Guadalupe County, and is not receiving sewer service from GBRA. GBRA stated it has sewer utility lines and infrastructure adjacent to the property and owns a regional wastewater treatment plant less than one mile from the property and that no retail public utility may render retail sewer service without providing compensation to GBRA for any property rendered valueless or useless. GBRA’s motion to intervene was granted on October 19, 2015.

¹ Petition of Jorge Maldonado Sr. to Amend Guadalupe Blanco River Authority’s Sewer Certificate of Convenience and Necessity in Guadalupe County by Expedited Release (Sep. 10, 2015) (Petition).

² Guadalupe Blanco River Authority’s Motion to Intervene (Oct. 12, 2015).

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On October 19, 2015, Maldonado filed a response to GBRA's motion to intervene noting GBRA's mention of compensation for facilities rendered useless or valueless or concerning regionalization are premature and not relevant to a landowner's request for expedited release.

In this proceeding, Maldonado submitted an affidavit attesting that the 47.723-acre tract is not receiving sewer service.³ The Commission finds that Maldonado has adequately proved that the 47.723-acre tract is not receiving sewer service under TWC § 13.254(a-5); therefore, Maldonado's petition should be granted.

The Commission adopts the following findings of fact and conclusions of law:

II. Findings of Fact

Procedural History

1. On September 10, 2015, Maldonado filed a petition to amend GBRA's sewer CCN No. 20892 in Guadalupe County by expedited release.
2. On September 14, 2015, Order No. 1 was issued, establishing a procedural schedule.
3. On October 12, 2015, Commission Staff recommended that the petition and notice be deemed administratively complete.
4. On October 12, 2015, GBRA filed a Motion to Intervene in this docket.
5. On October 13, 2015, Order No. 2 was issued, finding the petition and notice administratively complete and issuing a procedural schedule.
6. On October 19, 2015, Maldonado filed a response to GBRA's Motion to Intervene.
7. On October 19, 2015, Order No. 3 was issued, granting GBRA's unopposed motion to intervene.
8. On October 30, 2015, Commission Staff filed its recommendation on final disposition with attached map of the decertification area and certificate provided, recommending that Maldonado's petition for expedited release be approved. The map and certificate are attached to this Order.

³ Petition, at 15-16 (Affidavit of Jorge Maldonado, Sr.).

Notice

9. Maldonado provided a copy of the petition to GBRA on September 9, 2015.
10. Notice of the petition was published in the *Texas Register* on September 25, 2015.

Project Description

11. The approximately 47.723 acre tract of land is situated in Guadalupe County, a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(r).
12. The area Maldonado seeks to have decertified from sewer CCN No. 20892 is at least 25 acres and is not receiving sewer service.
13. Maldonado submitted an affidavit stating that the 47.723 acre tract is not receiving sewer utility service from GBRA.

III. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to TWC §§ 13.041 and 13.254(a-5) and 16 TAC § 24.113(r)-(s).
2. Notice of the petition was provided in compliance with 16 TAC § 24.113(s) and 16 TAC §§ 22.54 - .55.
3. This docket was processed in accordance with the requirements of PURA and Commission rules.
4. The 47.723 acre property is not “receiving sewer service” from GBRA under TWC § 13.254(a-5).
5. Maldonado is entitled to approval of the petition having satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(r) by demonstrating ownership of a tract of land that is at least 25 acres, that is located in a qualifying county, and that is not receiving water or sewer service.
6. The 20-day notice requirement in TAC § 22.35 has been met in this proceeding.

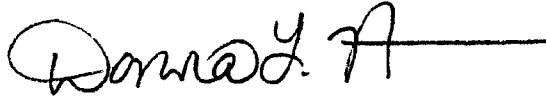
IV. Ordering Paragraphs

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

1. Maldonado's petition for expedited release is approved.
2. Maldonado's 47.723-acre tract is removed from GBRA's sewer CCN No. 20892.
3. GBRA's sewer CCN No. 20892 is amended in accordance with this Order and the attached map and certificate.
4. 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 the 4th day of December 2015.

PUBLIC UTILITY COMMISSION OF TEXAS



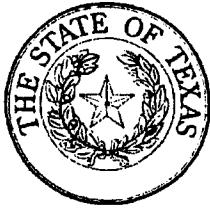
DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

Guadalupe-Blanco River Authority

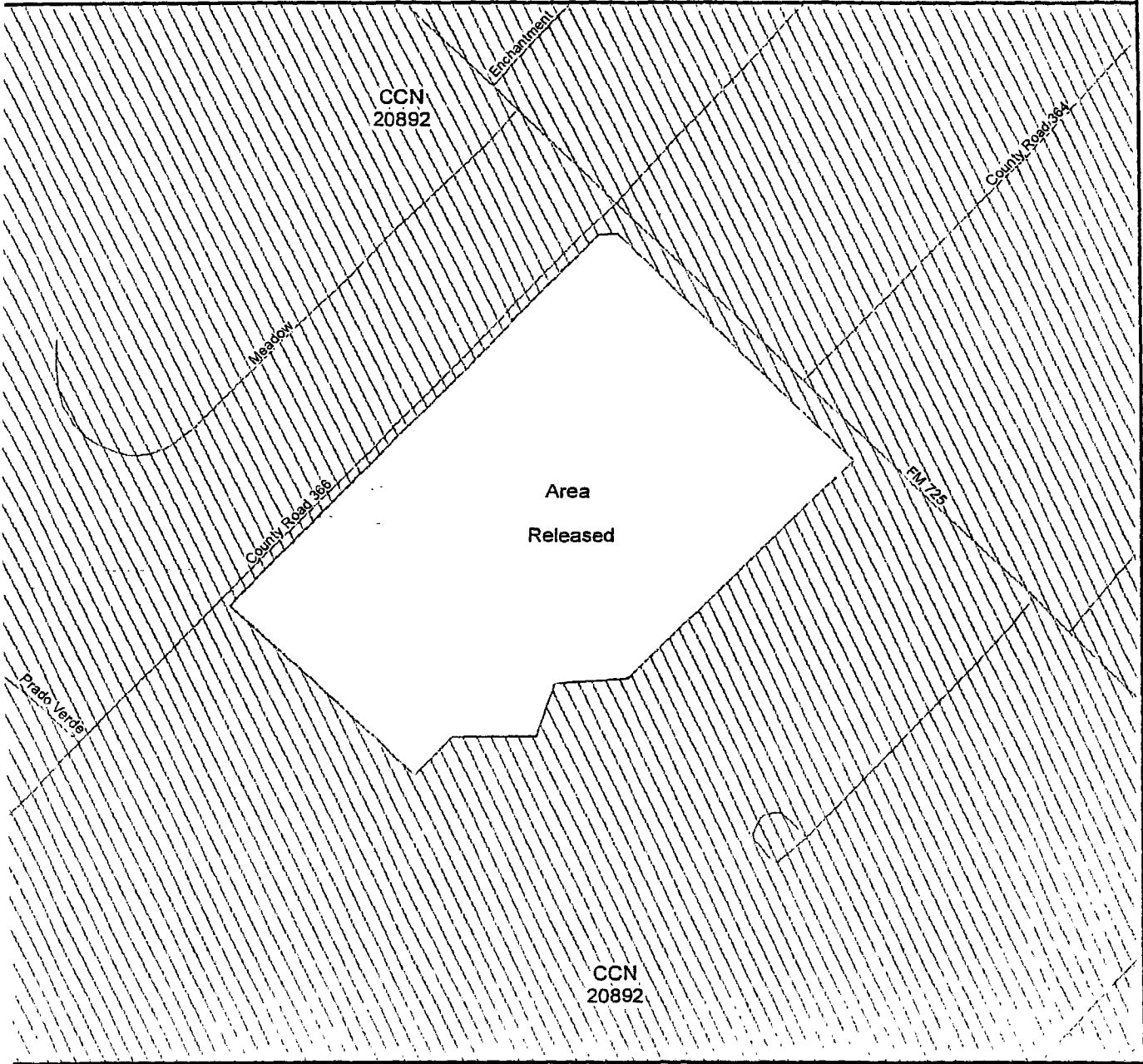
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by Guadalupe-Blanco River Authority, is entitled to this

Certificate of Convenience and Necessity No. 20892

to provide continuous and adequate sewer utility service to that service area or those service areas in Comal, Guadalupe, Hays, and Kendall Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45142 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Guadalupe-Blanco River Authority 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.

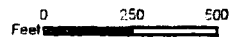
Issued at Austin, Texas, the 4th day of December 2015.

Guadalupe Blanco River Authority
Sewer Service Area
CCN No. 20892
PUC Docket No. 45142
Petition by Jorge Maldonado Sr. to Amend Guadalupe Blanco RA's CCN by
Expedited Release in Guadalupe County



Sewer CCN Service Area

 20892 - Guadalupe Blanco River Authority



DOCKET NO. 45143

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2015 DEC -4 PM 1:08

PETITION OF MATHOM LTD. TO §
AMEND GUADALUPE-BLANCO §
RIVER AUTHORITY'S SEWER §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN GUADALUPE §
COUNTY BY EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

ORDER

This Order addresses the petition of Mathom, Ltd. (Mathom) for expedited release of a tract of land from the sewer certificate of convenience and necessity (CCN) of Guadalupe-Blanco River Authority (GBRA) in Guadalupe County. Public Utility Commission of Texas (Commission) Staff recommended approval of the petition. For the reasons discussed in this Order, Mathom's petition is granted and GBRA's sewer CCN 20892 is amended to remove Mathom's property.

I. Background

On September 10, 2015, Mathom filed a petition under Tex. Water Code Ann. § 13.254(a-5) (West 2008 & Supp. 2014) (TWC) and 16 Tex. Admin. Code § 24.113(r) (TAC), for the expedited release of 38.394 acres of land owned by Mathom and located within GBRA's sewer service certificated area in Guadalupe County.¹

On October 12, 2015, GBRA filed a motion to intervene.² GBRA does not contest the proposed service area for decertification is at least 25 acres, is located in Guadalupe County, and is not receiving sewer service from GBRA. GBRA stated it has sewer utility lines and infrastructure extending to within about 500 feet from the property and owns a regional wastewater treatment plant less than one mile from the property and that no retail public utility may render retail sewer service without providing compensation to GBRA for any property rendered valueless or useless. GBRA's motion to intervene was granted on October 19, 2015

¹ Petition of Mathom, Ltd. to Amend Guadalupe Blanco River Authority's Sewer Certificate of Convenience and Necessity in Guadalupe County by Expedited Release (Sep. 10, 2015) (Petition).

² Guadalupe Blanco River Authority's Motion to Intervene (Oct. 12, 2015).

On October 19, 2015, Mathom filed a response to GBRA's motion to intervene noting GBRA's mention of compensation for facilities rendered useless or valueless or concerning regionalization are premature and not relevant to a landowner's request for expedited release.

In this proceeding, Mathom submitted an affidavit attesting that the 38.394-acre tract is not receiving sewer service.³ The Commission finds that Mathom has adequately proved that the 38.394-acre tract is not receiving sewer service under TWC § 13.254(a-5); therefore, Mathom's petition should be granted.

The Commission adopts the following findings of fact and conclusions of law:

II. Findings of Fact

Procedural History

1. On September 10, 2015, Mathom filed a petition to amend GBRA's sewer CCN No. 20892 in Guadalupe County by expedited release.
2. On September 14, 2015, Order No. 1 was issued, establishing a procedural schedule.
3. On October 12, 2015, Commission Staff recommended that the petition and notice be deemed administratively complete.
4. On October 12, 2015, GBRA filed a Motion to Intervene in this docket.
5. On October 13, 2015, the Commission issued Order No. 2, finding the petition, and notice administratively complete and issuing a procedural schedule.
6. On October 19, 2015, Mathom filed a response to GBRA's Motion to Intervene.
7. On October 19, 2015, the Commission issued Order No. 3, granting GBRA's unopposed motion to intervene.
8. On October 30, 2015, Commission Staff filed its recommendation on final disposition with attached map of the decertification area and certificate provided, recommending that Mathom's petition for expedited release be approved. The map and certificate are attached to this Order.

³ Petition, at 17-18 (Affidavit of Todd E. Burek).

Notice

9. Mathom provided a copy of the petition to GBRA on September 9, 2015.
10. Notice of the petition was published in the *Texas Register* on September 25, 2015.

Project Description

11. The approximately 38.394 acre tract of land Mathom seeks to have released from GBRA's sewer CCN No. 20892 is situated in Guadalupe County, a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(r).
12. The area Mathom seeks to have decertified from sewer CCN No. 20892 is at least 25 acres and is not receiving sewer service.
13. Mathom submitted an affidavit stating that the 38.394 acre tract is not receiving sewer utility service from GBRA.

III. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to TWC §§ 13.041 and 13.254(a-5) and 16 TAC § 24.113(r)-(s).
2. Notice of the petition was provided in compliance with 16 TAC § 24.113(s) and 16 TAC §§ 22.54 - .55.
3. This docket was processed in accordance with the requirements of PURA and Commission rules.
4. The 38.394 acre property is not "receiving sewer service" from GBRA under TWC § 13.254(a-5).
5. Mathom is entitled to approval of its petition having satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(r) by demonstrating ownership of a tract of land that is at least 25 acres, that is located in a qualifying county, and that is not receiving water or sewer service.
6. The 20-day notice requirement in TAC § 22.35 has been met in this proceeding.

IV. Ordering Paragraphs

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

1. Mathom's petition for expedited release is approved.
2. Mathom's 38.394-acre tract is removed from GBRA's sewer CCN No. 20892.
3. GBRA's sewer CCN No. 20892 is amended in accordance with this Order and the attached map and certificate.
4. 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 the 4th day of December 2015.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

Guadalupe-Blanco River Authority

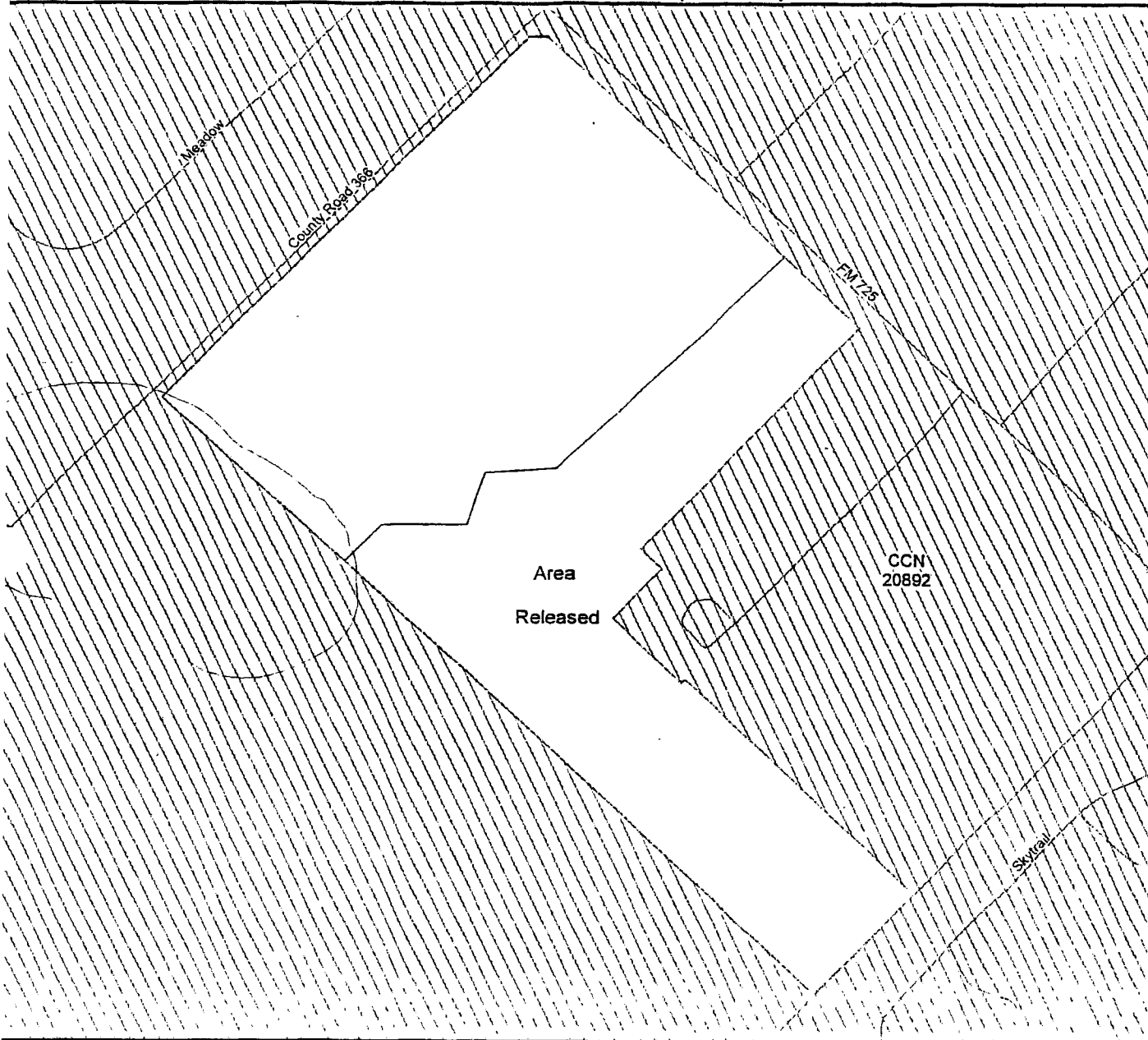
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by Guadalupe-Blanco River Authority, is entitled to this

Certificate of Convenience and Necessity No. 20892

to provide continuous and adequate sewer utility service to that service area or those service areas in Comal, Guadalupe, Hays and Kendall, Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45143 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Guadalupe-Blanco River Authority 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, the 4th day of December 2015.

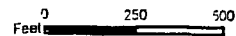
Guadalupe Blanco River Authority
Sewer Service Area
CCN No. 20892
PUC Docket No. 45143
Petition by Mathom. LTD to Amend Guadalupe Blanco RA's CCN by
Expedited Release in Guadalupe County



Public Utility Commission of Texas
701 N. Congress Ave
Austin, TX 78701

Sewer CCN Service Area

 20892 - Guadalupe Blanco River Authority



Map by: Komal Patel
Date created: October 26, 2015
Project Path: n:\finalmapping\45143GuadalupeBlancoRA.mxd
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