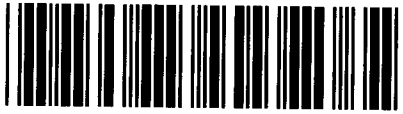




Control Number: 45342



Item Number: 13

Addendum StartPage: 0

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<b>PETITION OF CONTINENTAL U.S. MANAGEMENT CORPORATION TO AMEND THE TOWN OF NORTH LAKE'S SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY IN DENTON COUNTY BY EXPEDITED RELEASE</b>	§ § § § § § §	<b>PUBLIC UTILITY COMMISSION OF TEXAS</b> PUBLIC UTILITY COMMISSION FILING CLERK
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**COMMISSION STAFF'S FINAL RECOMMENDATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to Order No. 3, Commission Staff's Final Recommendation. In support thereof, Staff would show the following:

**I. Background**

On November 16, 2015, Continental U.S. Management Corporation (Continental) filed with the Public Utility Commission of Texas (Commission) a petition for streamlined expedited release from the Town of Northlake's<sup>1</sup> (Northlake) sewer certificate of convenience and necessity (CCN) No. 20866 in Denton County, Texas pursuant to Tex. Water Code § 13.254(a-5) (TWC) and 16 Tex. Admin. Code § 24.113(r) (TAC). In the petition, Continental asserted that it owns approximately 138.907 contiguous acres in Denton County (Property), which it seeks to have released from sewer CCN No. 20866.<sup>2</sup> Continental also asserts that the Property is not receiving sewer service from TNL.<sup>3</sup>

In Order No. 2, issued December 21, 2015, the Administrative Law Judge (ALJ) found Continental's application to be administratively complete and ordered Staff to file its final recommendation by January 4, 2016. On December 29, 2015, Northlake filed a Request for Late Intervention, which the ALJ granted on January 5, 2016 in Order No. 3 Granting Intervention. On January 4, 2016, Northlake filed its Response to Order No. 2 and Motion to Abate Case. In Order No. 3 Extending Deadlines, issued December 29, 2015, the ALJ extended Staff's deadline to file a final recommendation to January 11, 2016. Therefore, this pleading is timely filed.

<sup>1</sup> Staff has determined that the town's name is correctly spelled as one word, Northlake, rather than two words. Staff will refer to the town hereafter using the one-word spelling.

<sup>2</sup> Petition at 2.

<sup>3</sup> *Id.*

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## II. Statutory Approval Deadline

Pursuant to TWC § 13.254(a-5) and 16 TAC § 24.113(r), the Commission must render a decision on a petition for expedited release “not later than the 60<sup>th</sup> day after the date the landowner files the petition.” A petition is not considered filed until it is deemed administratively complete.<sup>4</sup> Continental’s Petition was deemed administratively complete in Order No. 2 issued on December 21, 2015; therefore, the sixty day deadline for administrative approval is February 19, 2016.

## III. Final Recommendation

Staff has reviewed Continental’s Petition and, as supported by the attached memorandum of Emily Sears of the Water Utilities Division (Attachment A), Staff recommends that the Petition be approved. The maps and digital data submitted by Continental provide adequate information to demonstrate that Continental satisfies the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(r). Specifically, the Petition shows that the property for which Continental seeks expedited release is located in a qualifying county (Denton County), is not receiving sewer service, and that the aggregated, contiguous tracts of land make up a single property that is at least 25 acres.<sup>5</sup> Continental has shown through its Petition that it meets the requirements for expedited release; therefore, Staff recommends that the Petition be approved.

The final map (Attachment B) and CCN Certificate (Attachment C) are attached to this filing.

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<sup>4</sup> *Petition of City of Midlothian to Amend Mountain Peak Special Utility District’s Certificate of Convenience and necessity by Expedited Release in Ellis County*, Docket No. 44394, Conclusion of Law No. 13 (May 1, 2015).

<sup>5</sup> Northlake, in its Motion to Abate, observes that only the southern portion of the 138.907 acre tract is within Northlake’s sewer CCN No. 20866, while the northern portion is within the City of Justin’s CCN No. 20061. *The Town of Northlake’s Response to Order No. 2 and Motion to Abate* Case, Docket No. 45342, Comments in Response to Determination of Administrative Completeness, 2 (Jan. 4, 2016). Staff acknowledges this to be correct and that the inclusion of the modifier “located *completely* within the existing sewer CCN service area belonging to the Town of North Lake” was inadvertent. *Commission Staff’s Response to Order No. 1 and Recommendation on Administrative Completeness*, Docket No. 45342, Memorandum of Emily Sears to Matthew Arth (Dec. 16, 2015). However, Continental’s Petition requests release only from Northlake’s sewer CCN No. 20866 and the fact that Continental does not also request release from the City of Justin’s CCN for the northern tract in this same petition is not dispositive in the present case. Further, the mapping submitted by Continental makes clear the intention of the petition is only to release that portion of Continental’s land that is within Northlake’s sewer CCN, as reflect by Staff’s attached Final Map, Attachment B. Therefore, Staff finds the Petition correct as filed and respectfully recommends that Northlake’s request for Continental to withdraw and refile its Petition be denied.

**IV. Conclusion**

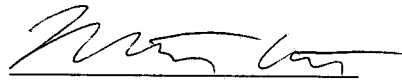
For the reasons stated above, Staff respectfully recommends that Continental's Petition be approved.

**Dated: January 11, 2016**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

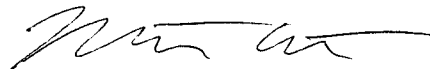
Katherine Lengieza Gross  
Managing Attorney  
Legal Division



Matthew A. Arth  
Attorney-Legal Division  
State Bar No. 24090806  
(512) 936-7021  
(512) 936-7268 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**DOCKET NO. 45342  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 11<sup>th</sup> of January, 2016 in accordance with 16 TAC § 22.74.



Matthew A. Arth

# Public Utility Commission of Texas

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## Memorandum

**To:** Matthew Arth, Attorney  
Legal Division

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

**From:** Emily Sears, Financial Analyst  
Water Utilities Division

**Date:** January 4, 2016

**Subject:** **Docket No. 45342;** *Petition of Continental U.S. Management Corporation to Amend the Town of North Lake's Sewer Certificate of Convenience and Necessity in Denton County by Expedited Release.*

On November 16, 2015 Continental U.S. Management Corporation (Petitioner) filed a petition for streamlined expedited release (SER) from the Town of Northlake's sewer Certificate of Convenience and Necessity (CCN) No. 20866, in Denton County. This petition is being reviewed under Tex. Water Code § 13.254(a-5) (TWC) and 16 Tex. Admin. Code §§ 24.113(r) & 24.113(s) (TAC). Petitioner asserts that the land is at least 25 acres, is not receiving sewer service, and is located in a qualifying county. The Petition was deemed administratively complete on December 21, 2015, via Order No. 2.

The Petitioner is requesting release of 138.907 acres from the Town of Northlake's sewer CCN. The Petitioner submitted an adequate map delineating the requested area for decertification with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC § 24.113(r). Mapping Staff confirmed the total acreage of the property and determined that the tract is located within the subject property. Staff has concluded that the tract is contiguous and under common ownership. Furthermore, the Petitioner provided a warranty deed confirming the Petitioner's uniform ownership of the tract of land within the subject property.

Petitions for SER from a CCN require that a single owner have at least 25 acres in a qualifying county (16 TAC §24.113(r)) and is not receiving sewer utility service. The property is located in Denton County, which is a qualifying county for SER petitions. The Petitioner provided an affidavit stating that the property is not receiving sewer service.

Therefore, the Petition meets the criteria set forth in TWC § 13.254(a-5) and 16 TAC § 24.113(r) and Staff recommends that the Petition be approved. Attached is the amended map for the Town of Northlake's sewer CCN and a new certificate for CCN No. 20866.

Town of Northlake  
Sewer Service Area

CCN No. 20866  
PUC Docket No. 45342

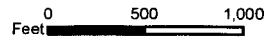
**B**

Petition by Continental U.S. Management Corporation to  
Amend Town of Northlake's CCN by Expedited Release in Denton County



**Sewer CCN Service Area**  
[Hatched Box] 20866 - Town of Northlake  
[Diagonal Hatched Box] 20061 - City of Justin

[Dashed Box] Area Released  
[Solid Box] Property Boundary





C

# Public Utility Commission of Texas

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

## **Town of Northlake**

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 Town of North Lake, is entitled to this

### **Certificate of Convenience and Necessity No. 20866**

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 resulting from Docket No. 45342 is on file at the Commission offices in Austin, Texas; and is 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 Town of North Lake, 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 \_\_\_\_\_ day of \_\_\_\_\_ 2016.