



Control Number: 45342



Item Number: 15

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**Donna L. Nelson**  
Chairman

**Kenneth W. Anderson, Jr.**  
Commissioner

**Brandy Marty Marquez**  
Commissioner

**Brian H. Lloyd**  
Executive Director



**Greg Abbott**  
Governor

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PUBLIC UTILITY COMMISSION  
FILING CLERK

*Public Utility Commission of Texas*

**TO:** Donna L. Nelson, Chairman  
Kenneth W. Anderson, Jr., Commissioner  
Brandy Marty Marquez, Commissioner

All Parties of Record

**FROM:** Susan E. Goodson *SEG*  
Administrative Law Judge

**RE:** **Open Meeting of February 11, 2016**  
Docket No. 45342 – *Continental U.S. Management Corporation to Amend the Town of Northlake's Sewer Certificate of Convenience and Necessity in Denton County by Expedited Release*

**DATE:** January 21, 2016

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission is currently scheduled to consider this docket at an open meeting to begin at 9:30 a.m. on Thursday, February 11, 2016, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, February 3, 2016.

**If there are no corrections or exceptions, no response is necessary.**

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DOCKET NO. 45342

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PETITION OF CONTINENTAL U.S. §  
MANAGEMENT CORPORATION TO §  
AMEND THE TOWN OF §  
NORTHLAKE'S SEWER §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN DENTON §  
COUNTY BY EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION

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OF TEXAS PUBLIC UTILITY COMMISSION  
FILING CLERK

**PROPOSED ORDER**

This Order addresses the petition of Continental U.S. Management Corporation (Continental) for expedited release of 138.907 acres from the Town of Northlake's (Northlake) sewer Certificate of Convenience and Necessity (CCN) No. 20866 in Denton County (Petition). Public Utility Commission of Texas (Commission) Staff recommended approval of the Petition. Consistent with Commission Staff's recommendation, the Petition is approved.

**I. Background**

On November 16, 2015, Continental filed the Petition, pursuant to Tex. Water Code § 13.254(a-5) (TWC) and 16 Tex. Admin. Code § 24.113(r) (TAC), for expedited release of an approximately 138.907-acre tract of land owned by Continental (the Petition Property) from Northlakes' sewer CCN No. 20866 in Denton County.<sup>1</sup> Continental asserts that the Petition Property is not receiving sewer service from Northlake or any other sewer service provider.<sup>2</sup>

In its response to the Petition, Northlake stated that, contrary to Commission Staff's statement otherwise in its response addressing administrative completeness, only a portion of the Petition Property is located within Northlake's CCN No. 20866.<sup>3</sup> Northlake stated that the northern portion of the Petition Property is actually located within the City of Justin's (Justin) sewer CCN No. 20061.<sup>4</sup> Exhibit 2 of Northlake's response, provided as Attachment 1 to this

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<sup>1</sup> Petition for Expedited Release from the Town of North Lake's Sewer CCN No. 20866 Pursuant to Section 13.254(a-5), Texas Water Code (Nov. 16, 2015).

<sup>2</sup> *Id.*, Affidavit of George Olen Sanders at 6-7, Exhibit 1.

<sup>3</sup> The Town of Northlake's Response to Order No. 2 and Motion to Abate at 2 (Jan. 4, 2016) (Northlake Response).

<sup>4</sup> *Id.*

Order, depicts the portion of the 138.907-acre tract that is within Justin's CCN. Northlake stated that the Petition should therefore be withdrawn and refiled.<sup>5</sup> Northlake stated that an approximately 74.174-acre southern portion of the Petition Property is within Northlake's extra-territorial jurisdiction (ETJ); but Justin has taken certain legal actions to bring this area within its ETJ.<sup>6</sup> This legal matter is now before the 367<sup>th</sup> District Court of Denton County.<sup>7</sup> Northlake stated that a temporary injunction (TI) has been issued against Justin in that proceeding.<sup>8</sup> Northlake requested abatement of this Petition pending the final trial in that proceeding.<sup>9</sup>

On January 8, 2015, Continental responded to Northlake, stating that it is not required to demonstrate that all of the Petition Property is within Northlake's CCN No. 20866; only that it owns a tract of land greater than 25 acres, in a qualifying county, and that is not receiving sewer service, which Continental asserts it has done.<sup>10</sup> Continental stated that ultimately, the Commission may decertify from Northlake's CCN only that portion of the Petition Property located within Northlake's CCN; but that it is appropriate for Continental to describe all of the deeded property.<sup>11</sup> Continental opposed abatement of this proceeding, stating that the TI does not mention a Commission proceeding and that the plain language of the TI demonstrates that it was not intended to interfere with the Commission's jurisdiction over CCNs.<sup>12</sup>

On January 11, 2016, Commission Staff recommended approval of the Petition.<sup>13</sup> Commission Staff stated that Continental provided adequate information to demonstrate that the Petition Property meets the requirements for expedited release.<sup>14</sup> Commission Staff noted that mapping submitted by Continental makes clear that the intention of this Petition is only to release the portion of Continental's land that is within Northlake's CCN.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 2-4.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 4.

<sup>10</sup> Continental U.S. Management Corporation's Reply to the Town of Northlake's Response to Order No. 2 and Motion to Abate Case at 2-3 (Jan. 8, 2016).

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *Id.* at 4-5.

<sup>13</sup> Commission Staff's Final Recommendation at 3 (Jan. 11, 2016).

<sup>14</sup> *Id.* at 1.

On January 15, 2016, Northlake responded to Commission Staff's recommendation on final disposition, stating that Continental should be required to amend the Petition to correctly identify the acreage sought to be decertified; and further that while Commission Staff may be correct that this error is not dispositive of the need to deny the Petition, it is certainly more than sufficient to require Continental to accurately describe the acreage being sought for decertification from Northlake's CCN.<sup>15</sup>

Northlake did not deny that it is not providing sewer service to the portion of the Petition Property within CCN No. 20866. Based on the preceding, the Commission finds that Continental has adequately shown that the portion of the Petition Property within Northlake's CCN No. 20866 is not receiving sewer service and meets all other criteria under TWC § 13.254(a-5).

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

## II. Findings of Fact

### Procedural History

1. On November 16, 2015, Continental filed the Petition to amend Northlake's sewer CCN No. 20866 in Denton County by expedited release.
2. On December 21, 2015, Order No. 2 was issued, finding the Petition administratively complete and adopting a procedural schedule.
3. On December 29, 2015, Northlake requested late intervention.
4. On January 4, 2016, Northlake responded to Order No. 2, substantively opposing the Petition and requesting abatement pending the final trial in its referenced litigation with Justin.
5. On January 11, 2016, Commission Staff recommended approval of the Petition and provided an amended certificate and map for Northlake's CCN No. 20866. The amended map and certificate are provided with this Order as Attachments 2 and 3, respectively.

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<sup>15</sup> The Town of Northlake's Response to Commission Staff's Final Recommendation at 1-2 (Jan. 15, 2016).

**Notice**

6. Continental sent a copy of the Petition to Northlake by certified mail the same day the Petition was filed with the Commission.
7. Notice of the Petition was published in the *Texas Register* on November 27, 2015.

**Project Description**

8. The Petition Property, an approximately 138.907-acre tract owned by Continental, is located in Denton County, a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(r).
9. The portion of the Petition Property within CCN No. 20866 is at least 25 acres.
10. The portion of the Petition Property within CCN No. 20866 is not receiving sewer service from Northlake.

**III. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to TWC §§ 13.041 and 13.254(a-5).
2. Notice of the Petition was provided in compliance with 16 TAC § 24.113(s) and 16 TAC §§ 22.54 and 22.55.
3. This docket was processed in accordance with the requirements of the TWC and Commission rules.
4. Continental is entitled to approval of the Petition having satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(r) by adequately demonstrating ownership of a tract of land that is at least 25 acres, located in a qualifying county, and not receiving water service.
5. The requirements in 16 TAC § 22.35(b)(2) have been met in this proceeding.

**IV. Ordering Paragraphs**

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

1. As to the area within CCN No. 20866, Continental's Petition is approved.

2. The portion of Continental's 138.907-acre tract that is within Northlake's sewer CCN No. 20866 is hereby removed from CCN No. 20866.
3. Northlake's sewer CCN No. 20866 is amended in accordance with this Order.
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 \_\_\_\_\_ day of January 2016.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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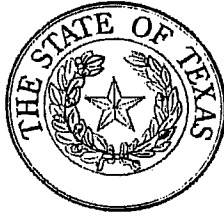
**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**







# 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.

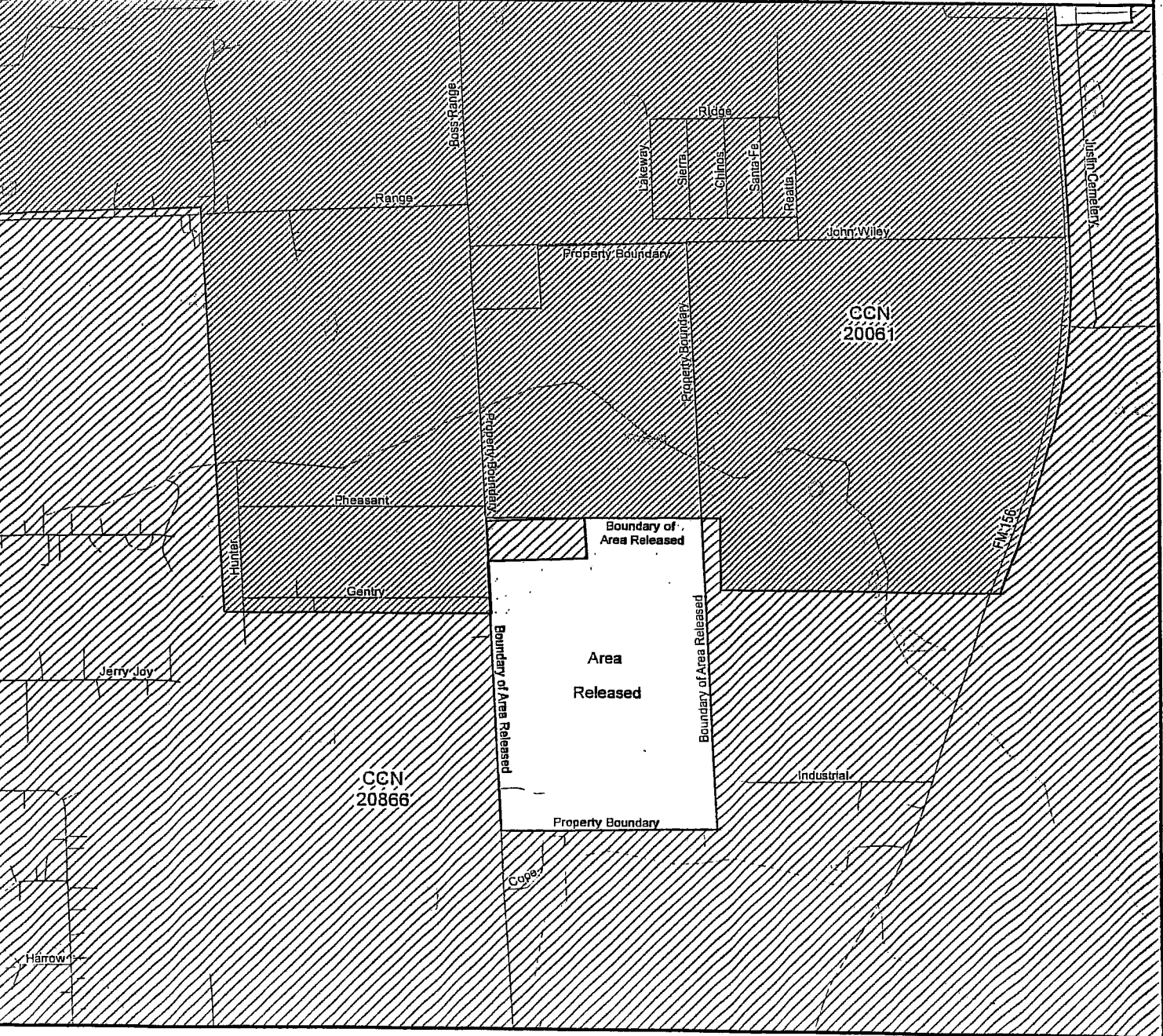
ATTACHMENT 2

**ATTACHMENT 3**



Town of Northlake  
 Sewer Service Area  
 CCN No. 20866



PUC Docket No. 45342

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



**Sewer CCN Service Area**

-  20866 - Town of Northlake
-  20061 - City of Justin

-  Area Released
-  Property Boundary

