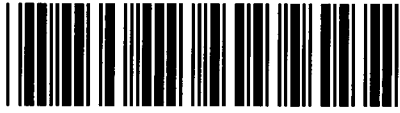




Control Number: 45989



Item Number: 14

Addendum StartPage: 0

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<b>APPLICATION OF MUSTANG SPECIAL UTILITY DISTRICT TO AMEND A SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY IN DENTON COUNTY</b>	§ § § § §	2016 DEC 14 PM 3:11 <b>PUBLIC UTILITY COMMISSION</b> PUBLIC UTILITY COMMISSION OF TEXAS FILING CLERK
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**COMMISSION STAFF’S RECOMMENDATION ON FINAL DISPOSITION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Recommendation on Final Disposition. Staff recommends that Mustang SUD’s application be approved. In support thereof, Staff shows the following:

**I. BACKGROUND**

On May 24, 2016, Mustang Special Utility District (Mustang SUD) filed an application with the Commission to amend its sewer certificate of convenience and necessity (CCN) No. 20930 in Denton County, Texas. On September 15, 2016, the administrative law judge (ALJ) issued Order No. 4, finding Mustang SUD’s notice sufficient and ordering Staff to send the final map and certificate to Mustang SUD by November 29, 2016. Staff emailed the map and certificate to Mustang SUD on November 29, 2016. Mustang SUD filed its consent to the final map and certificate on December 8, 2016. Order No. 4 also included a deadline of December 16, 2016 for Staff to file its recommendation on final disposition. Therefore, this pleading is timely filed.

**II. RECOMMENDATION ON FINAL DISPOSITION**

Staff has reviewed Mustang SUD’s application and as detailed in Attachment A, the memorandum of Elisabeth English of the Water Utilities Division, Staff recommends that Mustang SUD’s application be approved. In accordance with this recommendation, the corresponding map and certificate that Mustang SUD consented to in its December 8, 2016 filing are attached as Attachments B and C. On or before December 22, 2016, the parties will jointly file proposed findings of fact and conclusions of law.

14-

**III. CONCLUSION**

For the reasons stated above and attached in Staff's memorandum, Staff respectfully recommends that Mustang SUD's application to amend sewer CCN No. 20930 be approved.

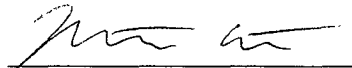
Dated: December 14, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

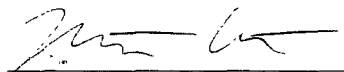
Karen S. Hubbard  
Managing Attorney



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**P.U.C. DOCKET NO. 45989  
CERTIFICATE OF SERVICE**

I, Matthew Arth, staff attorney for the Public Utility Commission of Texas, certify that a copy of this document was served on all parties of record in this proceeding on December 14, 2016 in accordance with the requirements of 16 Tex. Admin. Code § 22.74.



Matthew A. Arth

# **Attachment A**

# PUC Interoffice Memorandum

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

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

**From:** Elisabeth English, Engineering Specialist  
Water Utilities Division

**Date:** December 14, 2016

**Subject:** **Docket No. 45989:** *Application of Mustang Special Utility District to amend a Sewer Certificate of Convenience and Necessity in Denton County*

On May 24, 2016, Mustang Special Utility District (Applicant) filed an application to amend its sewer Certificate of Convenience and Necessity (CCN) No. 20930 in Denton County, pursuant to Tex. Water Code §§ 13.242-.250 (TWC) and 16 Tex. Admin. Code §§ 24.101-.120 (TAC).

## **Background**

The Applicant is seeking to amend a sewer CCN service area containing approximately 5,045 acres and approximately 340 current sewer customers. The application is part of an agreement with the City of Oak Point, Texas, to amend the Applicant's sewer CCN to incorporate the area of the City of Oak Point's sewer CCN and to decertify the City of Oak Point's sewer CCN 20908. Since executing the agreement on July 28, 2014, the Applicant has begun providing sewer service via the existing sewer facilities. Currently, there are 340 active connections, all residential customers, and the anticipated growth for the next 10 years estimates a total connection count of 1,500.

## **Notice**

On August 17, 2016, the application and mapping information was deemed sufficient for filing and found administratively complete by the Commission. On August 24 and 31, 2016, the Applicant published notice in the Denton Record Chronicle in Denton County. On August 25, 2016, individual notice was provided to current customers, neighboring systems, cities, landowners of 25 acres or more, and affected parties in Denton County. Affidavits of notice were filed with the Commission on September 1, 2016. The comment period ended September 30, 2016. No protests, requests for hearing, or opt-out requests were received.

## **Compliance with TCEQ Standards**

To date, the Applicant has no violations reported based on TCEQ standards for sewer operations. The Applicant does not operate under a wastewater discharge permit, and the proposed area includes only a wastewater collection system. Wastewater is transported to, and treated by, the Upper Trinity Regional Water District. The Applicant employs 5 wastewater collection operators.

### Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

- 1) *TWC § 13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area.*

The Applicant provides adequate sewer service to 340 current customers in the proposed area through a wastewater treatment contract with Upper Trinity Regional Water District and via an agreement to take over operations of the City of Oak Point's collection system.

- 2) *TWC § 13.246(c)(2) requires the commission to consider the need for service in the requested area.*

The need for service is due to the development in the area, including the existing Woodridge Estates, Wellington Trace, and Gates at Waters Edge developments and the anticipated Wildridge and Shahan Lakeview developments. The Applicant anticipates growth in the area to result in approximately 1,500 residential connections over the next ten years. This projection is supported in the capital improvement plan included with the original application.

- 3) *TWC § 13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.*

There will be no negative effect on any other retail public utility of the same kind already serving the proximate area. The sewer CCN amendment allows the Applicant to continue to provide continuous and adequate sewer service to an area to which the City of Oak Point no longer wishes to provide such service and to an area that is currently not certified to any utility. Pursuant to the Agreement between the Applicant and the City of Oak Point, executed July 28, 2014, the City no longer desires to provide sewer service to the area. Additionally, the Commission has not received any hearing requests from the neighboring systems or cities.

- 4) *TWC § 13.246(c)(4) requires the commission to consider the ability of the Applicant to provide adequate service.*

The Applicant is currently providing adequate service to the area, and the contract with Upper Trinity Regional Water District was amended in anticipation of the projected growth.

- 5) *TWC § 13.246(c)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility.*

The Applicant entered into an agreement with the City of Oak Point, the previous sewer service provider, to continue providing service to the area and to any subsequent growth. The feasibility of obtaining service from an adjacent retail public utility was not considered during this application because the applicant is a current CCN holder and sewer service was requested for the area from the Applicant.

- 6) *TWC § 13.246(c)(6) requires the commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.*

Based on the review of the application and information provided, the Applicant has demonstrated adequate financial and managerial capabilities to provide service to the area being requested.

7) *TWC §§ 13.246(c)(7) and (9) require the commission to consider the environmental integrity and the effect on the land to be included in the certificate.*

The environmental integrity of the land will be affected when the Applicant adds the additional collection lines to provide sewer service to the expected future customers in this area.

8) *TWC § 13.246(c)(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.*

The Applicant has been providing adequate service to the customers in this area through a wastewater treatment contract with Upper Trinity Regional Water District and via an agreement with the City of Oak Point. There will be no change in the cost to the consumers, who have already received a lower rate for their sewer service since service from the Applicant was initiated. Approving this application will have positive impacts on landowners as it will ensure that landowners will be able to receive continuous and adequate sewer service that meets the wastewater requirements of the region and of the state.

### **Recommendation**

The Applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 regulations and is capable of providing continuous and adequate service. Therefore, Staff recommends approval of the application. Approval of this application will result in an amendment to sewer CCN No. 20930 for the sewer service area and cancellation of the City of Oak Point's CCN No. 20908.

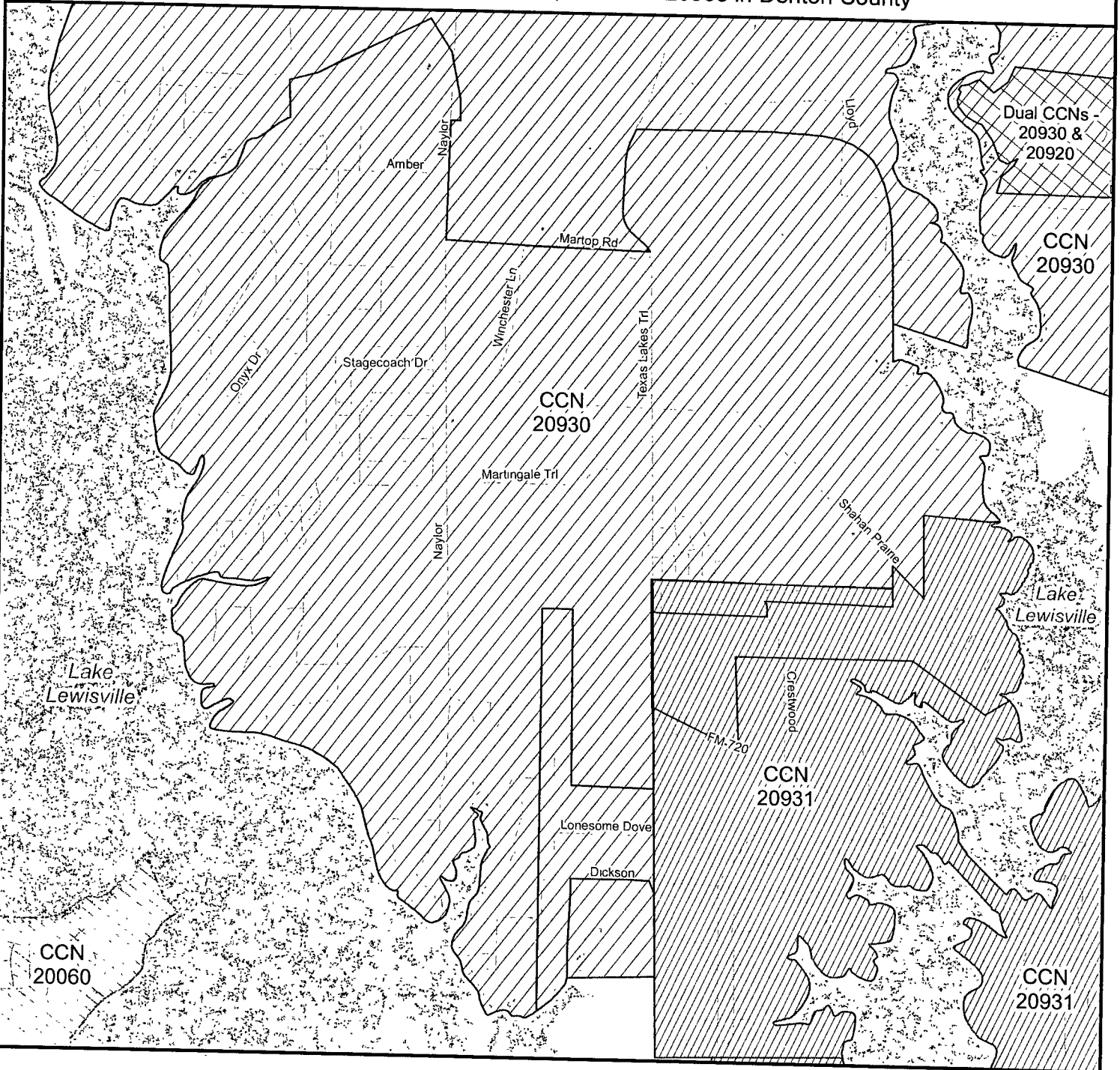
The Applicant consented to the attached maps and certificates on December 8, 2016. In addition, an agreement was provided with the original application from the City of Oak Point to decertify its sewer CCN No. 20908.

Staff also recommends the Applicant file a copy of the CCN map, along with a written description of the CCN service area, in the respective county clerks' offices pursuant to Texas Water Code §§ 13.257(r) and (s).

# **Attachment B**



Mustang SUD  
 Portion of Sewer Service Area  
 CCN No. 20930  
 PUC Docket No. 45989  
 Amended CCN No. 20930 and  
 Decertified all of City of Oak Point; CCN No. 20908 in Denton County



Public Utility Commission of Texas  
 1701 N. Congress Ave  
 Austin, TX 78701

**Sewer CCN Service Areas**

-  20930 - Mustang SUD
-  20060 - Lake Cities MUA
-  20920 - Denton County FWSD 8A
-  20931 - Town of Little Elm

Map by: Kristy Nguyen  
 Date created: November 29, 2016  
 Project Path: n:\Final Maps\45989.mxd

# **Attachment C**



# **Public Utility Commission of Texas**

## **By These Presents Be It Known To All That Mustang Special Utility District**

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, Mustang Special Utility District is entitled to this

### **Certificate of Convenience and Necessity No. 20930**

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. 45989 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 Mustang Special Utility District 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 obtain 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 \_\_\_\_\_ 2016.