



Control Number 45989



Item Number 8

Addendum StartPage 0

RECEIVED

<p><b>APPLICATION OF MUSTANG SPECIAL UTILITY DISTRICT TO AMEND A SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY IN DENTON COUNTY</b></p>	<p>§ § § § §</p>	<p>2016 AUG 15 AM 9:56 <b>PUBLIC UTILITY COMMISSION</b> PUBLIC UTILITY COMMISSION FILING CLERK <b>OF TEXAS</b></p>
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**COMMISSION STAFF'S SECOND ADMINISTRATIVE COMPLETENESS  
RECOMMENDATION**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to Order No. 2, Staff's Second Administrative Completeness Recommendation. In support thereof, Staff shows the following:

**I. BACKGROUND**

On May 24, 2016, Mustang Special Utility District (Mustang SUD) filed an application to amend its sewer certificate of convenience and necessity (CCN) No. 20930 in Denton County. Mustang SUD seeks to decertify a portion of the City of Oak Point's (Oak Point) CCN because Oak Point no longer desires to provide sewer service to the area. Mustang SUD intends to serve the area previously served by Oak Point and to provide service in other previously uncertified areas as well. Some of the area within Oak Point's sewer CCN that Mustang SUD seeks to incorporate into its service area is within the corporate limits of the Town of Little Elm (Little Elm). A letter from the town manager of Little Elm indicates Little Elm's consent to the proposed amendment.

On June 23, 2016, Staff filed its first Administrative Completeness Recommendation, recommending that Mustang SUD's application be found insufficient due to certain mapping deficiencies. On June 27, 2016, the Administrative Law Judge (ALJ) issued Order No. 2, finding the application deficient and ordering Mustang SUD to cure the deficiencies identified by Staff. On July 14, 2016, Mustang SUD filed its Response to Order No. 2, with revisions addressing Staff's recommendations. In Order No. 2, the ALJ also ordered Staff to file a supplemental recommendation on administrative completeness by August 15, 2016. Therefore, this pleading is timely filed.

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## **II. SUFFICIENCY RECOMMENDATION**

As detailed in the attached memorandum of Elisabeth English and Tracy Montes of the Water Utilities Division (Attachment A), Staff has reviewed Mustang SUD's application and the supplemental materials filed in its Response to Order No. 2 and determined that the application is sufficient. Accordingly, Staff recommends that the application be accepted for filing and that it be deemed administratively complete.

Staff has included as Attachments B and C notice for Mustang SUD to provide that meets the requirements of 16 TEX. ADMIN. CODE § 24.106 (TAC). Pursuant to 16 TAC § 24.106(b), Staff recommends that Mustang SUD be directed to provide this approved notice to any districts, utilities, and cities within two miles of the proposed service area to be certified and to each of the following entities that are wholly or partially included in the proposed service area to be certified: (1) any landowners who own a tract of land that is at least 25 acres; (2) the county judge of each county; (3) groundwater conservation districts; and (4) any city with an extraterritorial jurisdiction (ETJ) that overlaps with the proposed service area. The attached memorandum includes a list of entities to whom Mustang SUD should give notice. Mustang SUD should include a copy of a map showing the proposed service area with the individual notices, pursuant to 16 TAC § 24.106(a)(2). Additionally, Staff recommends that Mustang SUD publish the approved notice once each week for two consecutive weeks in a newspaper of general circulation in Denton County, as required by 16 TAC § 24.106(c).

After Mustang SUD has completed issuing such notice, Staff further recommends that Mustang SUD file by September 29, 2016 a copy of the actual notice sent, including attachments, as well as the attached signed affidavits (Attachments D and E) affirming that such notice was issued.

## **III. PROPOSED PROCEDURAL SCHEDULE**

Staff recommends that the application be found administratively complete. In accordance with that recommendation, Staff proposes the following procedural schedule:

Event	Date
Deadline for Mustang SUD to file signed affidavits indicating that notice was given as well as copies of the notice mailed to the affected parties and the notice published in a newspaper of general circulation	September 29, 2016
Deadline for Staff to file a recommendation regarding the sufficiency of Mustang SUD's notice	Within 10 days of Mustang SUD filing proof of completed notice with the Commission
Deadline to intervene	30 days after notice is issued

Staff has conferred with counsel for Mustang SUD and is authorized to report that Mustang SUD agrees with this proposed procedural schedule. Staff intends to file an additional proposed procedural schedule with its recommendation on sufficiency of notice that includes deadlines for Staff to provide final maps and certificates, for Mustang SUD to file signed consent forms, and for Staff's recommendation on final disposition.

#### IV. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the Application be found administratively complete, that Mustang SUD be ordered to provide notice, and that the above proposed procedural schedule be adopted.

**Dated: August 15, 2016**

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

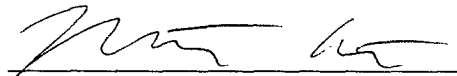
Katherine Lengieza Gross  
Managing Attorney



Matthew A. Arth  
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Austin, Texas 78711-3326  
(512) 936-7021  
(512) 936-7268 (facsimile)  
Matthew.Arth@puc.texas.gov

**DOCKET NO. 45989  
CERTIFICATE OF SERVICE**

I, Matthew Arth, Attorney – Legal Division of the Public Utility Commission of Texas, certify that a copy of this document was served on all parties of record in this proceeding on August 15, 2016 in the following manner: via facsimile.

  
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  
Tracy Montes, GIS Specialist  
Water Utilities Division

**Date:** August 11, 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).

After reviewing the revised materials submitted by the Applicant, Staff recommends that the application be deemed administratively complete and accepted for filing. Staff further recommends the following:

1. The Applicant be ordered to provide correct notice of the application to the following:
  - any districts, utilities, and cities within two (2) miles of the proposed service area to be certified;
  - the county judge of each county that is wholly or partly included in the proposed service area to be certified;
  - each groundwater conservation district that is wholly or partly included in the proposed area to be certified;
  - each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the proposed area to be certified;
  - landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the proposed area to be certified. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN is located; and
  - publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Denton County.
  
2. The Applicant must provide correct notice of the application to the following entities:
  - City of Corinth;
  - The Colony;
  - City of Denton (CCN No. 20072);
  - City of Lake Dallas;
  - City of Oak Point (CCN No. 20908);
  - Town of Cross Roads;

- Town of Lakewood Village (CCN No. 20075);
- Town of Lincoln Park;
- Town of Little Elm (CCN No. 20931);
- Town of Providence Village;
- Town of Shady Shores;
- Denton County FWSD 8-A (CCN No. 20920);
- Denton County FWSD 8-B (CCN No. 20921);
- Denton County FWSD 9 (CCN No. 20922);
- Denton County FWSD 11 (CCN No. 20924);
- Denton County FWSD 11-A;
- Denton County FWSD 11-B;
- Denton County MUD 4;
- Denton County MUD 5;
- Denton County MUD 8;
- Lake Cities Municipal Utility Authority (CCN No. 20060);
- North Texas Groundwater Conservation District;
- Oak Point WCID 1;
- Oak Point WCID 2;
- Oak Point WCID 3;
- Oak Point WCID 4;
- Providence Village WCID of Denton County;
- Upper Trinity Regional Water District;
- Valencia on the Lake WCID (CCN No. 21015); and
- Denton County Judge

3. The Applicant must include a copy of a map showing the proposed service areas with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed sewer service areas being amended with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.

Staff recommends the Applicant file within 30 days of the Commission order, a copy of the actual notice and map issued, along with signed affidavits indicating that the notice was given. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.



# **Attachment B**

**Notice to Neighboring Systems, Landowners and Cities**

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVEINENCE AND NECESSITY (CCN) TO PROVIDE SEWER UTILITY SERVICE IN DENTON COUNTY, TEXAS**

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_, 2016  
(Name of neighboring systems, cities and landowners)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

Mustang Special Utility District has filed an application with the Public Utility Commission of Texas to amend its sewer CCN No. 20930 and to decertify a portion of the City of Oak Point's sewer CCN No. 20908 in Denton County.

The proposed water service area is located approximately 2.5 miles northwest of downtown Town of Little Elm, Texas and is **generally** bounded on the north by U.S. Highway 380 East; on the east by Lake Lewisville; on the south by W. El Dorado Parkway; and on the west by Lake Lewisville.

**See enclosed map of the proposed sewer service area.**

The proposed sewer service area being requested includes approximately 5,045 acres and 340 current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, 'I/we request a public hearing' (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

**Persons who wish to intervene or comment should write the:**

Filing Clerk  
Public Utility Commission of Texas  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding

similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed CCN service areas, you may request to be excluded from the proposed CCN service areas (or 'opt out') by providing written notice to the commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested CCN service area must include a large scale map and a metes and bounds description of the tract of land.

**Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:**

Filing Clerk  
Public Utility Commission of Texas  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

A copy of the request to opt out of the proposed CCN service area must also be sent to the applicant. Staff may request additional information regarding your request.

**Si desea informacion en Espanol, puede llamar al 1-888-782-8477**

# **Attachment C**

## *Notice for Publication*

### NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE SEWER UTILITY SERVICE IN DENTON COUNTY, TEXAS

Mustang Special Utility District has filed an application with the Public Utility Commission of Texas to amend its sewer CCN No. 20930 and to decertify a portion of the City of Oak Point's sewer CCN No. 20908 in Denton County.

The proposed water service area is located approximately 2.5 miles northwest of downtown Town of Little Elm, Texas and is **generally** bounded on the north by U.S. Highway 380 East; on the east by Lake Lewisville; on the south by W. El Dorado Parkway; and on the west by Lake Lewisville

The proposed sewer service area being requested include approximately 5,045 acres and 340 current customers.

Map showing the proposed sewer service area is available at:  
**7985 FM 2931, Aubrey, Texas 76227; Telephone: (940) 440-9561**

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, 'I/we request a public hearing' (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

**Persons who wish to intervene or comment should write the:**

Filing Clerk  
Public Utility Commission of Texas  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed CCN service areas, you may request to be excluded from the proposed CCN service areas (or 'opt out') by providing written notice to the commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested CCN service area must include a large scale map and a metes and bounds description of the tract

of land.

**Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:**

Filing Clerk  
Public Utility Commission of Texas  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

A copy of the request to opt out of the proposed service areas must also be sent to the applicant. Staff may request additional information regarding your request.

**Si desea informacion en Espanol, puede llamar al 1-888-782-8477**

# **Attachment D**

# PUBLIC UTILITY COMMISSION



## AFFIDAVIT OF NOTICE TO NEIGHBORING SYSTEMS, LANDOWNERS AND CITIES

DOCKET NO. 45989

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_

who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF UTILITY)

that the attached notice was provided to landowners and other affected parties by

\_\_\_\_\_  
(METHOD USED TO PROVIDE NOTICE)

on or about the following date, to wit \_\_\_\_\_,  
(DATE)

\_\_\_\_\_  
(SIGNATURE OF UTILITY OFFICIAL)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_



# **Attachment E**

# PUBLIC UTILITY COMMISSION



## PUBLISHER'S AFFIDAVIT DOCKET NO. 45989

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_

who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_