

Control Number: 46336



Item Number: 43

Addendum StartPage: 0

**PUC DOCKET NO. 46336  
SOAH DOCKET NO. 473-17-2560.WS**

**APPLICATION OF THE CITY OF  
TOMBALL TO OBTAIN WATER AND  
SEWER CERTIFICATES OF  
CONVENIENCE AND NECESSITY IN  
HARRIS AND MONTGOMERY  
COUNTIES**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

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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 Commission Staff's Final Recommendation and would show the following:

**I. BACKGROUND**

On September 1, 2016, the City of Tomball filed an application to obtain water and sewer certificates of convenience and necessity (CCNs) in Harris and Montgomery Counties. The City of Tomball stated that it currently has a water and sewer system to serve existing residents in the proposed service area.

Order No. 3, issued November 17, 2016, deemed this application administratively complete. On February 6, 2017, this matter was referred to the State Office of Administrative Hearings (SOAH) following the filing of protests by Quadvest, L.P. and Undine, Texas LLC (jointly, Protestants). SOAH Order No. 3, issued June 6, 2017 remanded this matter back to the Commission after Protestants withdrew their protest of the application and their request to be parties to this case. Order No. 7, issued June 9, 2017, set forth a procedural schedule for the continued processing of this docket following remand. Order No. 7 required Staff to file a final recommendation by August 17, 2017. Therefore, this pleading is timely filed.

**II. FINAL RECOMMENDATION**

Staff transmitted final water and sewer maps and certificates to the City of Tomball on July 19, 2017. The City of Tomball filed a consent form on July 21, 2017, consenting to the transmitted

final maps and certificates. Therefore, as supported by the attached memorandum of Gregory Charles of the Water Utilities Division (Attachment A), Staff recommends that this application be approved.

Attached to this filing are the final maps (Attachment B) and certificates (Attachment C).

### **III. CONCLUSION**

Staff recommends that this application be approved. Pursuant to Order No. 7, Staff will work with the City of Tomball to file proposed findings of fact, conclusions of law, and ordering paragraphs by August 24, 2017.

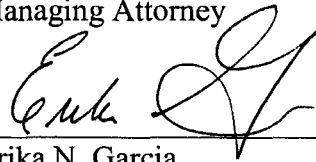
Dated: August 17, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney



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Austin, Texas 78711-3326  
Erika.garcia@puc.texas.gov

**PUC DOCKET NO. 46336  
SOAH DOCKET NO. 473-17-2560.WS  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record August 17, 2017, in accordance with 16 TAC § 22.74.

  
Erika N. Garcia

# **ATTACHMENT A**

## PUC Interoffice Memorandum

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**To:** Erika Garcia, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Heidi Graham, Manager  
Water Utilities Regulation Division

**From:** Greg Charles, Engineering Specialist  
Water Utilities Regulation Division

**Date:** August 8, 2017

**Subject:** **Docket No. 46336:** *Application of the City of Tomball to Obtain Water and Sewer Certificates of Convenience and Necessity in Montgomery and Harris Counties*

On September 1, 2016, the City of Tomball (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain water and sewer Certificates of Convenience and Necessity (CCN) in Montgomery and Harris Counties, Texas. The application is being reviewed under Texas Water Code (TWC) §§13.242-13.250 and Title 16 Tex. Admin. Code (TAC) §§24.101- 24.107.

### **Background**

The Applicant is seeking to obtain water and sewer CCNs for the service area containing approximately 10,697 acres (water CCN), and 10,998 acres (sewer CCN), and serves 12,000 current customers. The application was accepted for filing on November 17, 2016. On February

Motions to intervene and requests for a hearing were filed by Quadvest, L.P. and Undine Texas, LLC. On February 1, 2017, the DeNina Family Partnership, Ltd, filed a letter to 'Opt out'. On February 6, 2017, this matter was referred to the State Office of Administrative Hearings. On June 6, 2016, the Administrative Law Judge remanded the application back the Commission, after dismissing the docket due to the withdrawal of requests for a hearing.

### **Criteria Considered**

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

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

The Applicant has a Texas Commission on Environmental Quality (TCEQ) approved Public Water Drinking System, PWS #1010026, and has two approved TCEQ Wastewater Discharge Permits, Nos.WQ0010616-001 and WQ0010616-002. The Applicant does not have any violations listed in the TCEQ database.

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

The Applicant already provides water and waste water services to the requested areas. The Applicant has water and sewer projects needed to serve projected growth in the requested areas in its infrastructure master plan.

*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 effect on any retail public utility servicing the proximate area.

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

The Applicant has two TCEQ approved Wastewater Discharge Permits as stated above. The Applicant does not have any violations listed in the TCEQ database. The wastewater treatment facilities currently have the capacity to serve the requested area.

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

This criterion is not applicable, since the Applicant is already adequately serving the requested area.

*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 and the financial stability of the applicant. 16 Texas Admin. Code § 24.11 (TAC) establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. 16 TAC § 24.11(e) lists the financial tests. Staff notes that the following discussion shows that the applicant does meets the required criteria:*

**1) 16 TAC § 24.11(e)(2) refers to the leverage test:**

**a. 16 TAC § 24.11(e)(2)(A) states that the owner or operator must have a debt to equity ratio of less than one, using long term debt and equity or net assets.**

- i. Ratio =  $\$2,879,607 / \$44,083,196 = 0.07$
- ii. Net Position =  $\$44,083,196$
- iii. Long-term Notes payable 2015 =  $\$2,879,607$

The applicant meets this ratio criterion.

**b. 16 TAC § 24.11(e)(2)(B) states the owner or operator must have a debt service coverage ratio of more than 1.25 using annual net operating income before depreciation and non-cash expenses divided by annual combined long term debt payments.**

- i. Annual Net Operating Income before depreciation and non-cash expenses =  $\$3,852,407$
- ii. Annual Long-term debt payments =  $\$623,103$
- iii. Ratio =  $\$3,852,407 / \$623,103 = 6.18$

The Applicant meets this ratio criterion.

**2) 16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations.**

- a. There are no projected operations and maintenance shortages. Therefore, the applicant meets this test.

*TWC §§13.246(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 and the effect on the land will be minimal, since the Applicant already serves the requested areas.

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

The Applicant plans to continue to provide water service and wastewater treatment service to the existing customers in the area.

### **Conclusion**

Staff recommends that the Applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, and is capable of providing continuous and adequate service. Staff further recommends that approving this application to obtain a CCN is necessary for the service, accommodation, convenience and safety of the public.

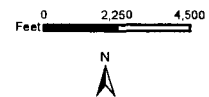
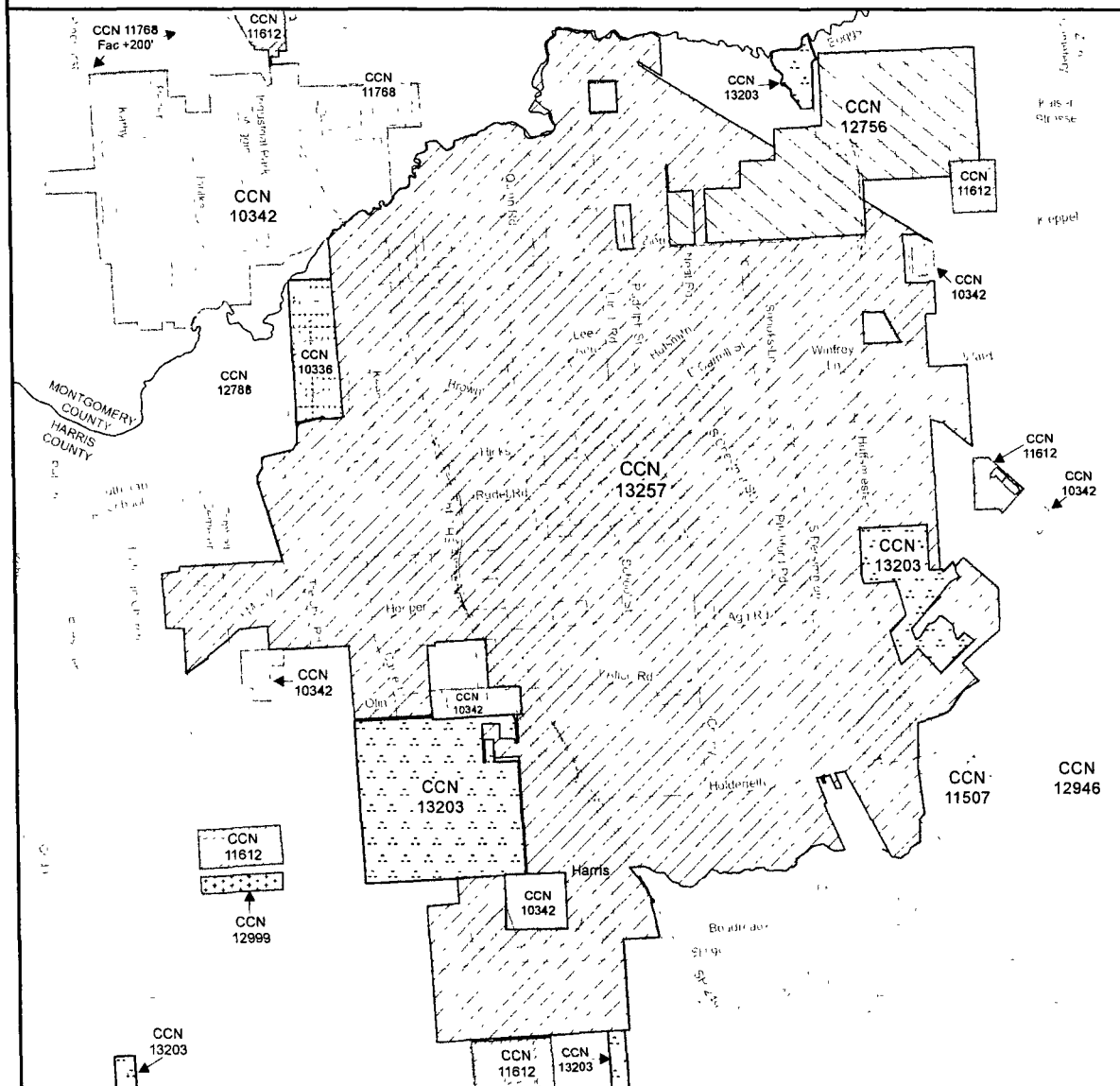
The Applicant consented to the attached maps and certificates on July 21, 2017.

Staff recommends this application be approved, and that the Applicant be provided with a copy of the attached maps and certificates. Staff further recommends that the Applicant file certified copies of the CCN maps along with a written description of the CCN service area in the county clerk's office pursuant to TWC §§ 13.257 (r)-(s).



# **ATTACHMENT B**

**City of Tomball**  
**Water CCN No. 13257**  
**PUC Docket No. 46336**  
**Obtained New CCN in Harris and Montgomery Counties**



**Water CCN**

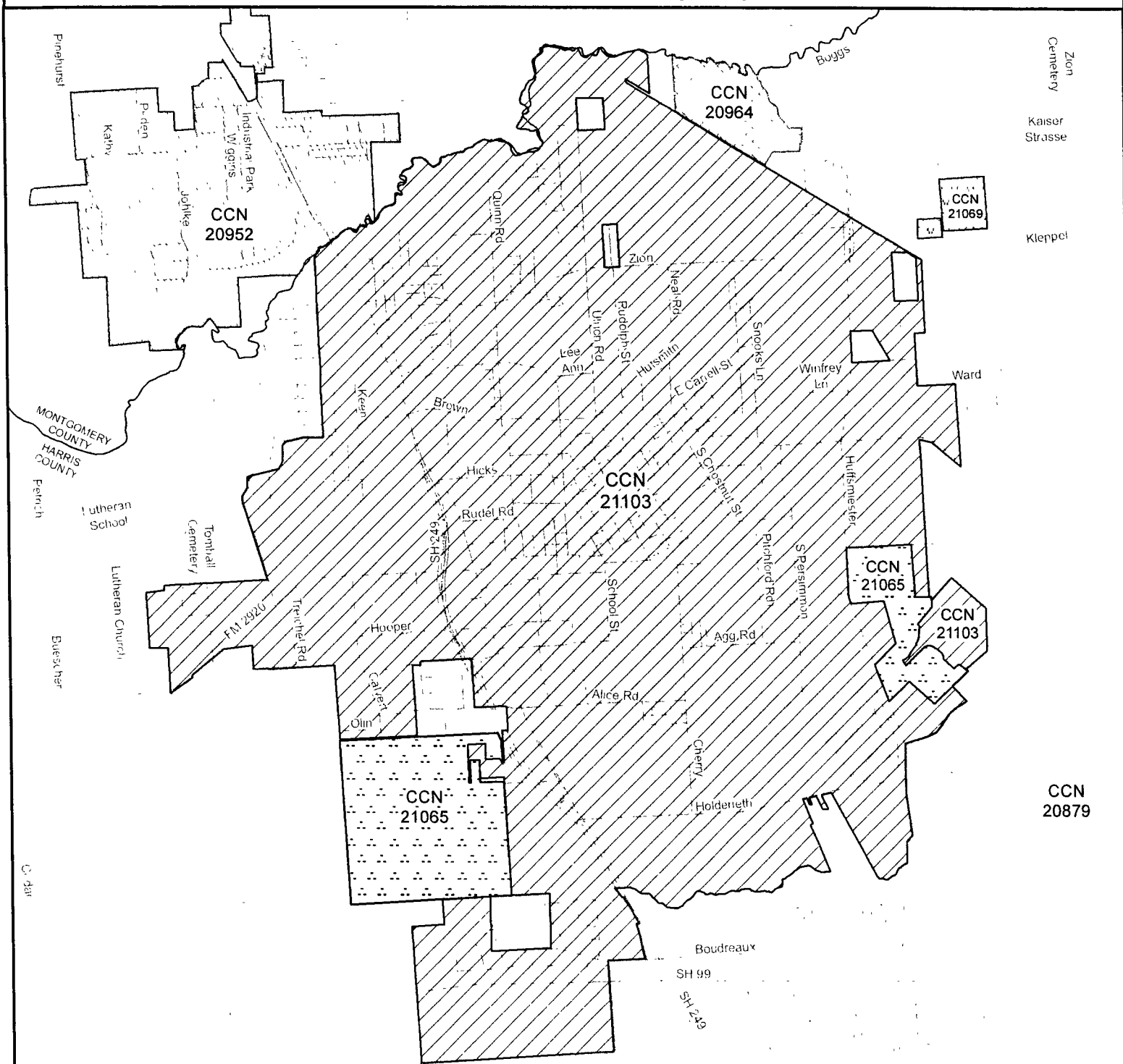
- |                                      |  |
|--------------------------------------|--|
| 13257 - City of Tomball              | 11612 - Quadvest LP                    |
| 10342 - HMW SUD                      | 12788 - Johnston Water Utility LLC     |
| 12756 - HOE WSC                      | 12946 - Inline Development Corporation |
| 10336 - Nerro Supply Investors LLC   | 12999 - Cypress Garden Mobile Home Sub |
| 13203 - Aqua Texas Inc               | 11768 - Pinehurst Decker Prairie WSC   |
| 11507 - Albury Manor Utility Company |  |




**Water Facility CCN**

11768 - Pinehurst Decker Prairie WSC  
 - Facilities +200'

**City of Tomball**  
**Sewer CCN No. 21103**  
**PUC Docket No. 46336**  
**Obtained New CCN in Harris and Montgomery Counties**



**Sewer CCN**

-  21103 - City of Tomball
-  20964 - South Central Water Company
-  20952 - Quadvest LP
-  21069 - Twan Development LLC
-  21065 - Aqua Texas Inc
-  20879 - Inline Development Corporation

0 2,250 4,500  
Feet

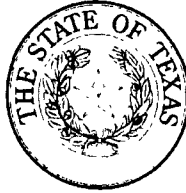


Public Utility Commission of Texas  
 1701 N. Congress Ave  
 Austin, TX 78701

20879 - Inline Development Corporation

Map by: Koral Patel  
 Date created: July 18, 2017  
 Project Path: n:\finalmapping\46336CityofTomballSewer.mxd

# **ATTACHMENT C**



# **Public Utility Commission of Texas**

## **By These Presents Be It Known To All That The City of Tomball**

having obtained certification to provide water 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, City of Tomball is entitled to this

### **Certificate of Convenience and Necessity No. 13257**

to provide continuous and adequate water utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46336 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 City of Tomball, 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, this \_\_\_\_\_ day of \_\_\_\_\_ 2017.



# **Public Utility Commission of Texas**

## **By These Presents Be It Known To All That The City of Tomball**

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, City of Tomball is entitled to this

### **Certificate of Convenience and Necessity No. 21103**

to provide continuous and adequate sewer utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46336 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 City of Tomball, 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, this \_\_\_\_\_ day of \_\_\_\_\_ 2017.