



Control Number: 46381



Item Number: 21

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APPLICATION OF SHERMAN'S MILL §  
WATER SUPPLY CORPORATION TO §  
OBTAIN A WATER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
KERR COUNTY §

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PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

### COMMISSION STAFF'S FINAL RECOMMENDATION

Comes now the Staff ("Staff") of the Public Utility Commission of Texas ("Commission"), representing the public interest, and files this Final Recommendation in accordance with Order No. 6. In support thereof, Staff would show the following:

#### I. Background

On September 19, 2016, Sherman's Mill Water Supply Corporation ("Sherman's Mill" or "Applicant") filed an application to obtain a new water certificate of convenience and necessity (CCN) in Kerr County. The proposed total area being requested includes approximately 48 acres and 15 current customers.

On February 27, 2017, the Administrative Law Judge (the "ALJ") issued Order No. 6, which required Staff to file its final recommendation on the application by May 26, 2017. This pleading is therefore timely filed.

#### II. Staff's Recommendation

Staff has reviewed Sherman's Mill's amended application, and as detailed by the attached memorandum from Debbie Reyes Tamayo of the Water Utilities Regulation Division, Staff recommends that the application be approved. As detailed in the memorandum, Staff's review indicates that Sherman's Mill meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24, of the Texas Administrative Code and is therefore capable of providing continuous and adequate utility service. Staff's review also indicates that approving Sherman's Mill's application is necessary for the service, accommodation, convenience, and safety of the public. Staff therefore recommends that the application be approved. Staff also recommends that the Applicant file copies of the CCN map

along with a written description of the CCN service area in the Kerr County Clerk's Office in accordance with Tex. Water Code § 13.257(r) and (s).

Attached to this recommendation are the proposed water service area map and Sherman's Mill's water CCN No. 13255.

### **III. Conclusion**

Staff respectfully recommends that Sherman's Mill's application be approved. Proposed findings of fact, conclusions of law, and ordering paragraphs will be filed in accordance with the procedural schedule established in Order No. 6.

Dated: May 26, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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Division Director

Stephen Mack  
Managing Attorney



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**DOCKET NO. 46381  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on May 26, 2017, in accordance with 16 TAC § 22.74.



Michael Crnich

## PUC Interoffice Memorandum

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**To:** Mike Crnich, Attorney  
Legal Division

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

**From:** Debbie Reyes Tamayo, Program Specialist  
Water Utilities Division

**Date:** May 24, 2017

**Subject:** **Docket No. 46381:** *Petition by Sherman's Mill Water Supply Corporation (WSC) to obtain a Certificate of Convenience and Necessity in Kerr County*

On September 19, 2016, Sherman's Mill WSC (Applicant) filed with the Public Utility Commission of Texas (Commission) an application requesting to obtain a water Certificate of Convenience and Necessity (CCN) in Kerr County, Texas. The application is being reviewed under Texas Water Code §13.254(d) (TWC) and Title 16 Tex. Admin. Code §§24.115 and 24.102(a) (1) (TAC).

### **Background**

The Applicant is seeking to obtain a water CCN for the service area containing approximately 48 acres and 15 existing customers. The Applicant has been operating for thirty-eight (38) years without a CCN. Approval of this application would allow the Applicant to come into compliance.

### **Notice**

In response to Order No. 5, public notice was published on December 15, 2016, and December 22, 2016, in the West Kerr Current newspaper. Notice to neighboring systems, landowners, cities and affected parties was provided on December 20, 2016, January 5, 2017, and February 3, 2017. The affidavits of notice were received by the Commission on January 9, 2017, and February 9, 2017. The comment period ended on March 11, 2017. Staff reviewed the notices and affidavits and recommended them to be deemed sufficient. The comment period ended September 18, 2016, and no protests or opt-out requests were received.

### **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:

#### ***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 PWS No. 1330167. The Applicant does not have any violations listed in the TCEQ database. No additional construction is necessary for the Applicant to serve the requested area. The requested area has been served by the Applicant since 1979, and the Applicant has a certified "Class C" operator.

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

There is a need for service as there are 15 existing customers in the requested area.

***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 as there are no other water providers in the area.

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

The Applicant has a Texas Commission on Environmental Quality (TCEQ) approved PWS No. 1330167. The Applicant does not have any violations listed in the TCEQ database. No additional construction is necessary for the Applicant to serve the requested area. The requested area has been served by the Applicant since 1979 and the Applicant has a certified "Class C" operator.

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

Currently, there are no other water providers in the 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.***

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 requested utility service area. 16 TAC § 24.11(e) lists the financial tests. The following shows that the Applicant meets three out of four leverage tests of which the Applicant is only required to meet one.

16 TAC § 24.11(e)(2) refers to the leverage test. Below is a summary of the leverage tests met by the Applicant:

- 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. Based on the calculations below the Applicant has a debt to equity ratio of 0.00 which meets the debt-to-equity ratio criterion because the Applicant has no debt.
- 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. Based on the fact that the Applicant has no debt, the Applicant meets the debt-service criterion.
- c. 16 TAC § 24.11(e)(2)(C) states the owner or operator must have **sufficient unrestricted cash available as a cushion for two years of debt service**. Based on the calculations below, there are sufficient cash and pooled investments, including restricted cash for debt service, available for two years of debt service which does meet this criterion.

i. FY2015 Total-Pooled Investments and Cash Available = \$7,943

ii. Two Years Debt Service Payments = \$0.00

iii. < \$7,943

16 TAC § 24.11(e)(3) refers to the operations test, which requires that the owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Applicant already serves 15 existing connections in the requested area. No improvements are needed to provide continuous and adequate service to the requested area, and no cash shortages are projected for the future.

***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 of the land will not be affected as no additional construction is needed to provide service to the requested area.

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

The Applicant will continue to provide water service to the existing customers in the area.

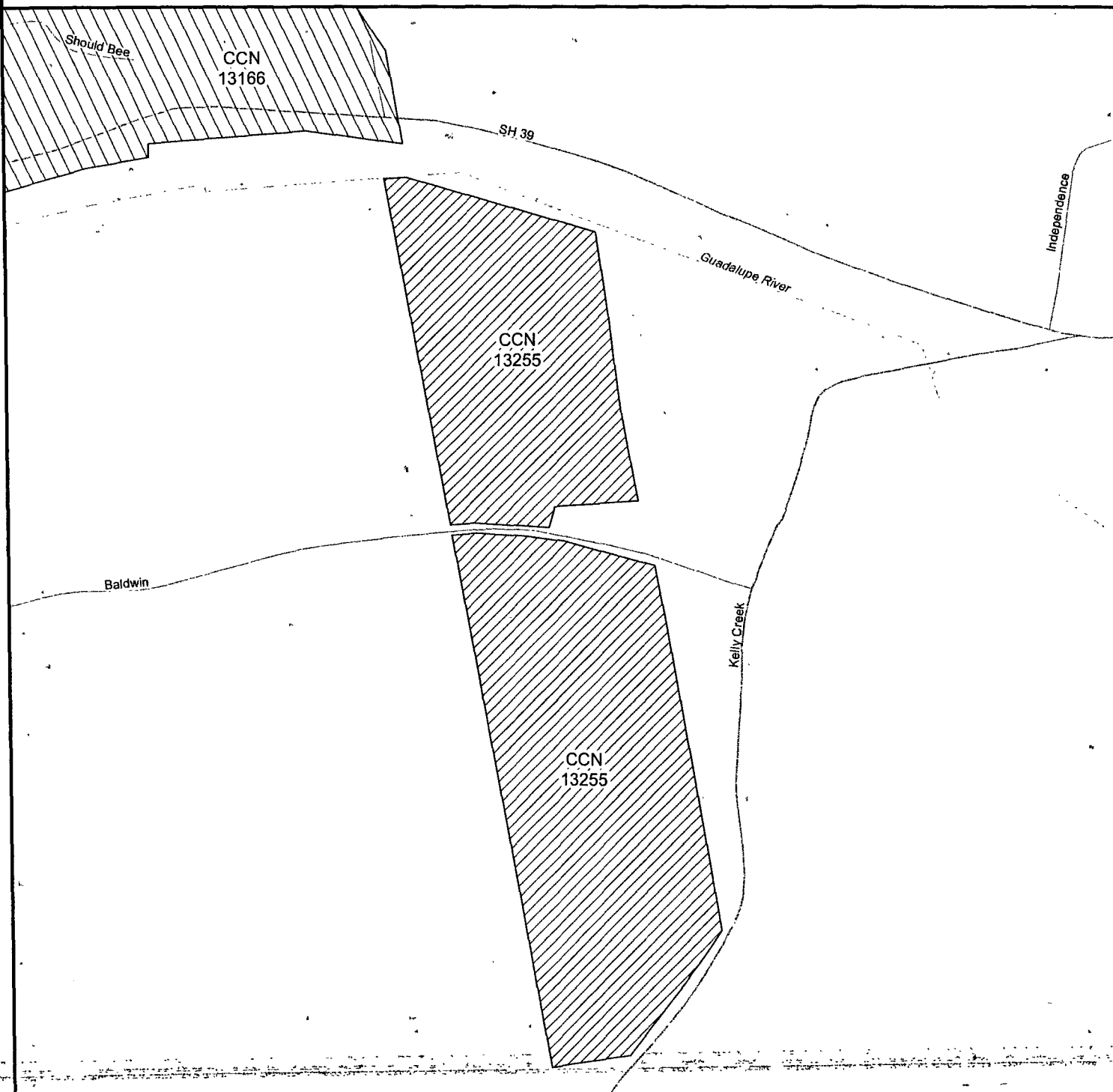
Staff recommends that the Applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations and is capable of providing continuous and adequate service. Approving this application to obtain water CCN No. 13255 is necessary for the service, accommodation, convenience, and safety of the public.

The Applicant consented to the attached map and certificate on March 29, 2017.

Based on the above information, Staff recommends the Commission approve the application, issue an order, and provide the attached map and certificate to Sherman's Mill WSC.



Staff further recommends that the Applicant file certified copies of the CCN map along with a written description of the CCN service area in the county clerk's office pursuant to TWC §§ 13.257 (r)-(s).

Sherman's Mill Water Supply Corporation  
Water CCN No. 13255  
PUC Docket No. 46381  
Obtained New CCN in Kerr County



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

**Water CCN**

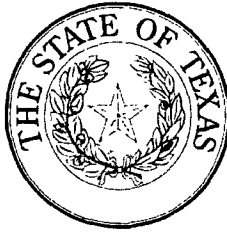
-  13255 - Sherman's Mill Water Supply Corporation.
-  13166 - Kerr County Water Systems LLC

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Map by: Komal Patel  
Date created: March 27, 2017  
Project Path: n:\finalmapping\46381Sherman'sMillWSC.mxd





# Public Utility Commission of Texas

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

**Sherman's Mill Water Supply Corporation**

having duly applied for 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, Sherman's Mill Water Supply Corporation is entitled to and is hereby granted this

## **Certificate of Convenience and Necessity No. 13255**

to provide continuous and adequate water utility service to that service area or those service areas in Kerr County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46381 are on file at the Commission offices in Austin, Texas; and are 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 Sherman's Mill Water Supply Corporation 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 \_\_\_\_\_ 2017.