

Control Number: 46727



Item Number: 52

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**DOCKET NO. 46727**

**APPLICATION OF HMW SPECIAL  
UTILITY DISTRICT TO AMEND A  
WATER CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
MONTGOMERY COUNTY**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

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**REVISED AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF  
APPROVAL**

COMES NOW the Staff of the Public Utility Commission of Texas ("Staff") and files this Revised Agreed Motion to Admit Evidence and Proposed Notice of Approval, with agreement from HMW Special Utility District of Harris and Montgomery Counties ("HMW SUD") (together the "Parties"). In support thereof, the Parties show the following:

**I. BACKGROUND**

On January 5, 2017, HMW SUD filed a petition to amend water certificate of convenience and necessity (CCN) No. 10342 and to decertify portions of Quadvest L.P. (Quadvest) CCN No. 11612, Aqua Texas, Inc.'s (Aqua Texas) CCN's No. 13203 and Aqua Utilities, Inc.'s CCN No. 11157, all in Montgomery County. Staff filed a final recommendation of approval on June 15, 2018. Pursuant to Commission Administrative Law Judge Order No. 14, this revised agreed motion to admit evidence and proposed notice of approval is timely filed.

**II. JOINT MOTION TO ADMIT EVIDENCE**

The Parties move to admit the following evidence into the record of this proceeding:

1. HMWSUD's application for a CCN amendment, filed on January 5, 2017, as supplemented on March 24, 2017; August 25, 2017; January 11, 2018; and April 27, 2018;
2. The notices, affidavit and proofs of notice, dated March 24, 2017; April 14, 2017; May 25, 2017; July 5, 2017; and July 17, 2017;

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3. The consent forms to the final maps and certificates, signed and filed on March 27, May 21, and \_\_\_\_\_, by HWM SUD, Quadvest, and Aqua Texas and Aqua Utilities;
4. The "Opt Out" requests dated March 24, March 30 and April 25, 2017, by Primewood Investments, L.P., Michael Steele, et al, and Gary L. Krueger and Marjorie Krueger Lynch; and
5. Commission Staff's Final Recommendation that the Application be approved, filed on June 15, 2018.

### **III. JOINT PROPOSED NOTICE OF APPROVAL**

Staff and HMWSUD have agreed on the attached Joint Proposed Notice of Approval to grant HMWSUD's Application to amend water CCN No. 10342 and to decertify portions of the water CCN's in Montgomery County identified in Section I. above. Also attached are the final maps and certificates that were included in Staff's final recommendation.

### **IV. CONCLUSION**

The Parties respectfully request that the Commission grant the Motion to Admit Evidence, and adopt the attached Joint Proposed Notice of Approval.

Dated: August 17, 2018.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney



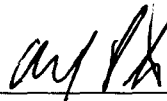
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**DOCKET NO. 46727**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 17, 2018, a true and correct copy of the foregoing document has been served on all parties of record in accordance with 16 Tex. Admin. Code § 22.74.



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Alexander Petak

**DOCKET NO. 46727**

<b>APPLICATION OF HMW SPECIAL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>UTILITY DISTRICT TO AMEND A</b>	<b>§</b>	
<b>WATER CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>MONTGOMERY COUNTY</b>	<b>§</b>	

**PROPOSED NOTICE OF APPROVAL**

This Proposed Notice of Approval addresses the application of HMW Special Utility District of Harris and Montgomery Counties (“HMW SUD) to amend water certificate of convenience and necessity (CCN) No. 10342 and to decertify portions of Quadvest L.P. CCN No. 11612 and Aqua Texas, Inc.’s CCN’s No. 11157 and No. 13203, all in Montgomery County. Commission Staff recommends approval of the application, as amended. The application, as amended, is approved.

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

**I. FINDINGS OF FACT**

**Applicant Information**

1. HMW SUD provides water service to areas in Montgomery County under water CCN No. 10342.

**Procedural History, Description, and Background**

2. On January 5, 2017, HMWSUD filed an application to amend its water CCN No. 10342 and decertify portions of CCN’s No. 11157, No. 11768, No. 12788 and No. 13203, all in Montgomery County.
3. The requested amendment, as finally supplemented, reflects the addition of approximately 917 acres and the removal of approximately 708 acres from HMW SUD’s service area.
4. On January 9, 2017, the administrative law judge (ALJ) issued Order No. 1 requiring Commission Staff to file comments on administrative completeness of the application and the proposed notice.

5. On February 6, 2017, Commission Staff filed a recommendation that the application is sufficient.
6. On February 8, 2017, the ALJ issued Order No. 2 deeming the application administratively complete and requiring HMW SUD to provide notice in accordance with Commission Staff's recommendation.
7. On March 24, 2017, HMW SUD filed supplemental information to the application.
8. On March 24, 2017, Primewood Investments, LP filed an opt-out request.
9. On March 30, 2017, Michael Steele et al filed an opt-out request.
10. On April 3, 2017, Commission Staff filed a recommendation that notice is deficient.
11. On April 11, 2017, the ALJ issued Order No. 3, finding notice insufficient.
12. On April 14, 2017, HMW SUD filed additional proof of notice.
13. On April 24, 2017, Commission Staff filed a recommendation that notice is deficient.
14. On April 25, 2017, Gary L. Krueger and Marjorie Krueger Lynch filed an opt-out request.
15. On April 27, 2017, the ALJ issued Order No. 4, finding notice insufficient.
16. On May 25, 2017, HMW SUD filed additional proof of notice.
17. On June 5, 2017, Commission Staff filed a recommendation that notice is deficient.
18. On June 13, 2017, the ALJ issued Order No. 5, finding notice insufficient.
19. On July 5 & 17, 2017, HMW SUD filed additional proof of notice.
20. On July 25, 2017, Commission Staff filed a recommendation that notice is sufficient.
21. On July 26, 2017, the ALJ issued Order No. 6, finding notice sufficient.
22. On August 25, 2017, January 11, 2018 and April 27, 2018, HMW SUD filed additional mapping and other amendments to its application.
23. On February 5, 2018, the ALJ issued Order No. 11, deeming the mapping to be sufficient as submitted and establishing a procedural schedule.
24. On March 27, May 21, June 4, and August \_\_, 2018, HMW SUD, Quadvest, L.P., Aqua Texas, and Aqua Utilities filed their consents to the CCN service area maps and certificates

transmitted by Commission Staff. The proposed maps and certificates are attached to this Notice of Approval. Quadvest, L.P. (CCN No. 11612), Aqua Texas (CCN NO. 13203), and Aqua Utilities (CCN No. 11157) consented to decertification of a portion of their CCNs.

25. On June 15, 2018, Commission Staff recommended approval of the application.
26. On June 26, 2018, Commission Staff and HMW SUD filed a joint motion to admit certain evidence in this proceeding.
27. On July 24, 2018, Order No. 13 was issued, admitting evidence.
28. On August 3, 2018, Order No. 14 was issued, requesting clarification regarding the status of Aqua Texas and Aqua Utilities.
29. On August \_\_, 2018, Commission Staff filed a revised agreed motion to admit certain evidence in this proceeding.

#### **Notice**

30. Notice of the application appeared in the January 20, 2017, issue of the *Texas Register*.
31. On March 24, 2017, April 14, 2017, July 5 & 17, 2017, HMW SUD filed proof of notice indicating the provision of notice was completed to all customers, neighboring utilities, and governmental entities on May 1, 2017.
32. On April 14, 2017, HMW SUD filed a publisher's affidavit affirming that notice of the application was published in *The Courier* in Montgomery County on March 1, 2017 and March 8, 2017.
33. The comment period ended on June 1, 2017 and the Commission received three opt out requests and no protestors.

#### **Informal Disposition**

34. More than 15 days have passed since the completion of the notice provided in this application.
35. HMW SUD and Commission Staff are the only parties to this proceeding.

36. There are no contested issues, no protests; no motions to intervene or requests for a hearing have been filed. No issues of fact or law are disputed by any party; therefore, no hearing is necessary.

## **II. CONCLUSIONS OF LAW**

1. HMW SUD is a retail public utility as defined in Texas Water Code (TWC) § 13.002(19)<sup>1</sup> and 16 Texas Administrative Code (TAC) § 24.3(59).
2. The Commission has jurisdiction over the application under TWC §§ 13.041, 13.241 and 13.246.
3. Public notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application was processed in accordance with the Administrative Procedure Act<sup>2</sup>, TWC, and Commission Rules.
5. After considering the factors in TWC § 13.246(c), HMW SUD is entitled to approval of the application, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241.
6. Approval of the amended certificate requested in this application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.102(c).
7. Under TWC § 13.257(r) and (s), HMW SUD, Quadvest, L.P., Aqua Texas, and Aqua Utilities are required to record a certified copy of the approved CCN's and maps, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
8. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

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<sup>1</sup> Tex. Water Code Ann. § 13.002(19) (West 2008 and Supp. 2017) (TWC).

<sup>2</sup> Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 & Supp. 2017).



### **III. ORDERING PARAGRAPHS**

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

1. The Commission approved the application as supplemented.
2. The Commission amends HMW SUD's water CCN No. 10342 in accordance with this notice.
3. The Commission amends Aqua Utilities' water CCN No. 11157 in accordance with this notice.
4. The Commission amends Aqua Texas' water CCN No. 13203 in accordance with this notice.
4. The Commission amends Quadvest L.P.'s water CCN No. 11612 in accordance with this notice.
5. The Commission's official service area boundary maps for HMW SUD, Aqua Texas, Inc. and Quadvest, L.P. shall reflect this change as shown in the attached map.
6. HMW SUD shall serve every customer and applicant for service within the area certificated under CCN No. 10342, and such service shall be continuous and adequate.
7. HMW SUD, Quadvest, L.P., Aqua Texas, and Aqua Utilities shall comply with the recording requirements in TWC § 13.257(r) for the area in Montgomery County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this notice.
8. 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 hereby denied.

**SIGNED AT AUSTIN, TEXAS the \_\_\_\_\_ day of \_\_\_\_\_, 2018.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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# **Public Utility Commission of Texas**

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

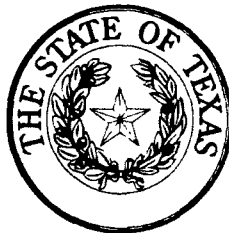
**Aqua Texas, Inc.**

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, Aqua Texas, Inc., is entitled to this

## **Certificate of Convenience and Necessity No. 13203**

to provide continuous and adequate water utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Grimes, Harris, Jefferson, Liberty, Montgomery, Polk, San Jacinto, Trinity, and Wharton Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46727 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 Aqua Texas, Inc., 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 \_\_\_\_\_ 2018.



# **Public Utility Commission of Texas**

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

**Aqua Utilities, Inc.**

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, Aqua Utilities, Inc., is entitled to this

## **Certificate of Convenience and Necessity No. 11157**

to provide continuous and adequate water utility service to that service area or those service areas in Bandera, Bexar, Blanco, Brazoria, Burnet, Comal, Gillespie, Harris, Hays, Kendall, Kerr, Kimble, Liberty, Live Oak, Llano, Matagorda, McLennan, Medina, Montgomery, Nueces, Travis, Victoria, Williamson, and Wilson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46727 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 Aqua Utilities, Inc., 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 \_\_\_\_\_ 2018.



# **Public Utility Commission of Texas**

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

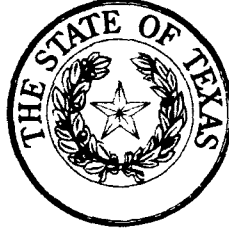
**Quadvest, L. P.**

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, Quadvest, L.P., is entitled to this

## **Certificate of Convenience and Necessity No. 11612**

to provide continuous and adequate water utility service to that service area or those service areas in Aransas, Brazoria, Fort Bend, Harris, Jackson, Liberty, Matagorda, Montgomery, Walker, and Waller Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46727 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 Quadvest, L.P., 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 \_\_\_\_\_ 2018.



# **Public Utility Commission of Texas**

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

## **H-M-W Special Utility District**

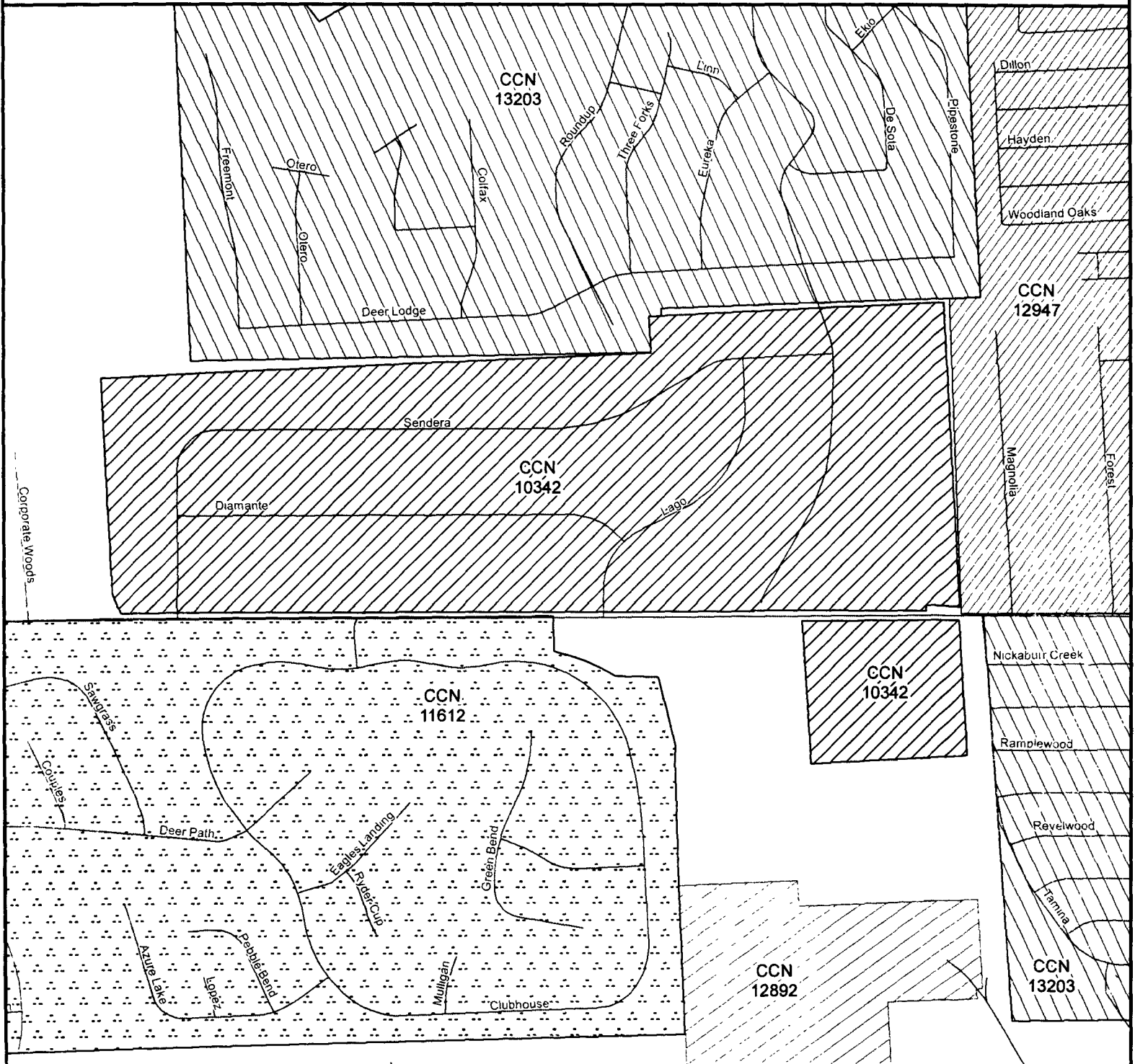
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, H-M-W Special Utility District is entitled to this

### **Certificate of Convenience and Necessity No. 10342**

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. 46727 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 H-M-W 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 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 \_\_\_\_\_ 2018.

H-M-W SUD  
Portion of Water CCN No. 10342  
PUC Docket No. 46727  
Amended CCN No. 10342 and  
Decertified a Portion of Aqua Texas Inc., CCN No. 13203 in Montgomery County



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

**Water CCN**

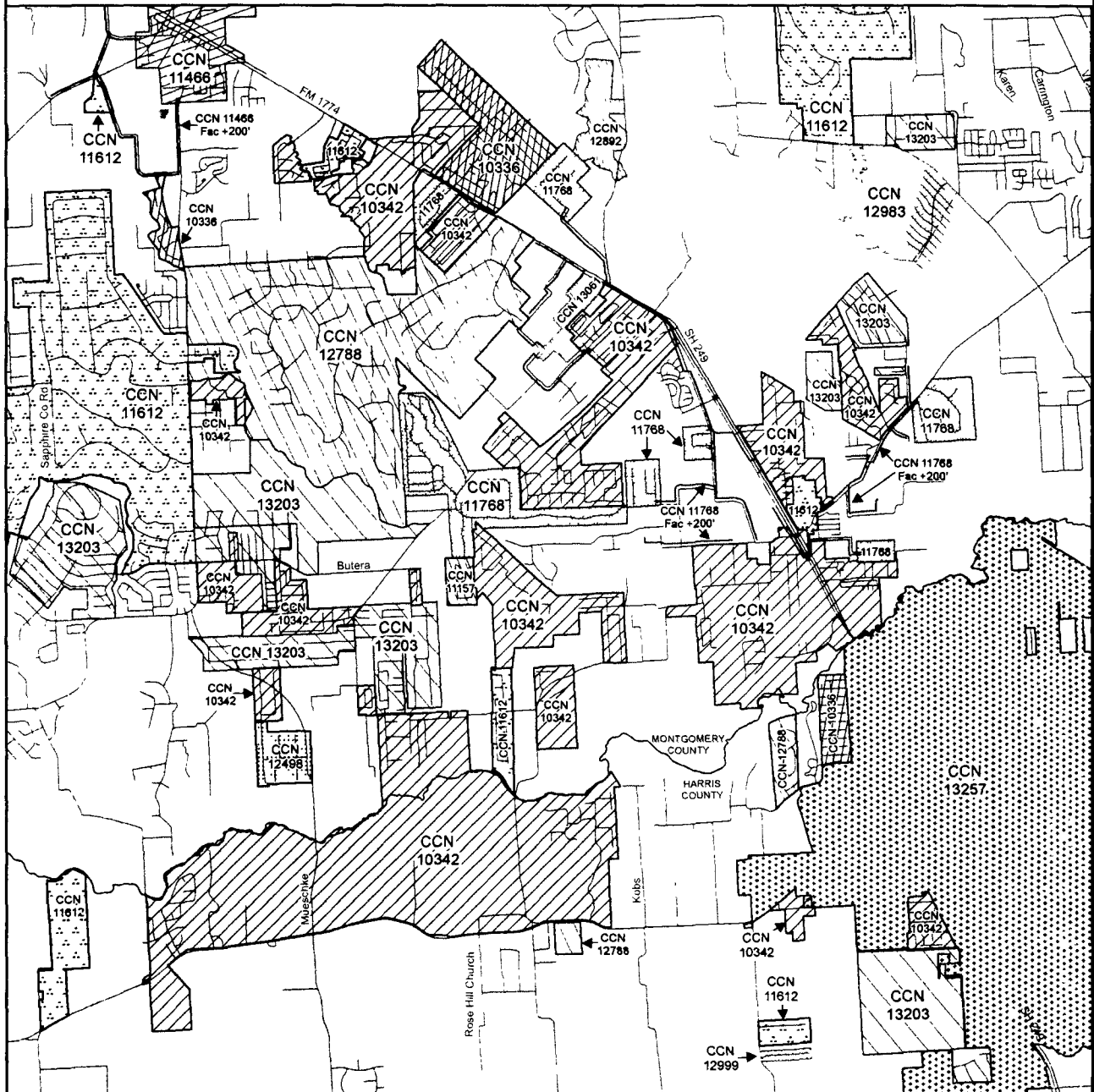
-  10342 - H-M-W SUD
-  13203 - Aqua Texas Inc
-  12947 - Woodland Oaks Utility Co Inc
-  11612 - Quadvest LP
-  12892 - T & W Water Service

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Map by Komal Patel  
Date created: February 26, 2018  
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**H-M-W SUD**  
**Portion of Water CCN No. 10342**  
**PUC Docket No. 46727**  
**Amended CCN No. 10342 and**  
**Decertified Portions of Aqua Texas, Inc., CCN No. 13203, Aqua Utilities, Inc., CCN No. 11157 and**  
**Quadvest, L.P., CCN No. 11612 in Montgomery County**



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Miles



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

**Water CCN**

- 10342 - H-M-W SUD
- 10336 - Nerro Supply Investors LLC
- 11768 - Pinehurst Decker Prairie WSC
- 11612 - Quadvest LP
- 11466 - City of Magnolia
- 12892 - T & W Water Service
- 12983 - Monarch Utilities I LP
- 13203 - Aqua Texas Inc
- 12788 - Johnston Water Utility LLC
- 13061 - South Central Water Co

- 11157 - Aqua Utilities Inc
- 12498 - Cypresswood Estates
- 13257 - City of Tomball
- 12999 - Cypress Garden Mobile Home SUB

**Water CCN Facilities +200'**

- 11466 - City of Magnolia
- 11768 - Pinehurst Decker Prairie WSC

Map by: Komal Patel  
 Edited by: Kristy Nguyen on August 7, 2018  
 Date created: February 28, 2018  
 Project Path: n:\finalmapping\46727\MAP3.mxd