



Control Number: 47190



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DOCKET NO. 47190

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APPLICATION OF FROGNOT WATER §
SUPPLY CORPORATION AND NORTH §
FARMERSVILLE WATER SUPPLY §
CORPORATION FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS AND FOR DUAL §
CERTIFICATION OF CERTAIN §
AREAS IN COLLIN, HUNT AND §
FANNIN COUNTIES §

PUBLIC UTILITY COMMISSION
OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Frognot Water Supply Corporation for the acquisition of a portion of the North Farmersville Water Supply Corporation water system and the amendment of Frognot's certificate of convenience and necessity (CCN) number 10164 to include dual certification of areas within the CCNs of North Farmersville, Caddo Basin Special Utility District, and West Leonard Water Supply Corporation in Collin, Hunt, and Fannin Counties. The Commission approves Frognot's purchase of a portion of North Farmersville's water system, amends Frognot's CCN number 10164 to include portions of the service areas of North Farmersville (CCN number 12363), Caddo Basin Special Utility District (CCN number 10165), and West Leonard Water Supply Corporation (CCN number 10157).

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Frognot WSC is a domestic non-profit corporation registered with the Texas secretary of state under filing number 21965501.
2. Frognot WSC operates, maintains, and controls facilities for providing water service under public water system no. 0430035 with a service area identified by CCN number 10164 in Hunt, Collin, and Fannin Counties.
3. North Farmersville is a domestic non-profit corporation registered with the Texas secretary of state under filing number 23906701.

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4. North Farmersville WSC operates, maintains, and controls facilities for providing water service under public water system no. 0430043 with a service area identified by CCN number 12363 in Collin County.

Application

5. On May 18, 2017, Frognot, requested approval to amend its water CCN for dual certification of certain areas on Collin, Hunt, and Fannin Counties.
6. In Order No. 2 issued on June 21, 2017, the administrative law judge (ALJ) found the application administratively incomplete and deficient, and required Frognot to amend the application, on or before July 19, 2017, to cure deficiencies noted by Commission Staff. Additionally, the ALJ restyled the proceeding in part to reflect North Farmersville as a co-applicant as follows: *Application of Frognot Water Supply Corporation and North Farmersville Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificates Rights and for Dual Certification of Certain Areas in Collin, Hunt, and Fannin Counties*.
7. On July 19, 2017, Frognot filed an application for sale, transfer, or merger of a retail public utility completed in part by applicants Frognot and North Farmersville, as directed by Commission Staff.
8. The applicants requested approval for the transfer of customers and facilities serving those customers from North Farmersville to Frognot and to obtain dual certification for certain areas within the certificated service areas of North Farmersville, Caddo Basin, and West Leonard.
9. The customers to be transferred are identified in the application, exhibit B to Frognot's resolution no. 2016-1.
10. The facilities to be transferred are identified in the application, exhibit C to Frognot's resolution no. 2016-1.
11. The proposed service areas to be dually certificated include a total of approximately 1,331 acres and 63 current customers adjoining Frognot's current CCN service area. One

- proposed area adjoins the northern portion of Frognot's service area in Fannin County. The other proposed areas adjoin the southern portion of Frognot's service area in Collin County.
12. One of the proposed areas for dual certification abuts Frognot's southern boundary and is located approximately five miles north of downtown Farmersville. It is approximately 1205 acres inside of North Farmersville's CCN. The boundaries of this proposed area coincide with the Frognot and Caddo Basin's CCN boundary on the north; the Caddo Basin CCN boundary on the east; and the western boundary of North Farmersville CCN on the west. The southern boundary bisects North Farmersville's certificated area just south and parallel to CR 662.
 13. A second proposed area for dual certification intersects Frognot's southern boundary is an approximately 18 acre rectangular area that bisects Caddo Basin's CCN to accommodate Frognot's existing water-distribution-line extension along Collin CR 660. The boundaries of this proposed area coincides with the Frognot boundary on the north and with the Caddo Basin boundary on the south. The boundary on the east is Collin CR 660 and on the west, the boundary is established by a line parallel to but sufficiently west of Collin CR 660 to encompass 18 acres.
 14. The third proposed area for dual certification abuts Frognot's northern boundary and is located 7.8 miles west-southwest of downtown Leonard, Texas. It is approximately 108 acres inside of West Leonard's CCN. The southern boundary of this proposed area coincides with the Frognot CCN's northern boundary (the Fannin-Collin County line). The eastern boundary is Fannin CR 5005 and the western boundary coincides with the western boundary of West Leonard's CCN. The proposed area's northern boundary is established by a straight line sufficiently north of the Fannin-Collin County line to encompass 108 acres.
 15. North Farmersville agreed to the sale to Frognot of certain of its facilities and North Farmersville, Caddo Basin and West Leonard agreed to dual certification with Frognot of the areas generally described in findings of fact 12, 13 and 14.

Notice of the Application – TWC § 13.301(a)(2), 16 Texas Administrative Code (TAC) § 24.239(a)–(c)

16. Notice of the application appeared in the June 2, 2017 issue of the *Texas Register*.
17. In Order No. 4 issued on August 29, 2017, ALJ found the application administratively complete and directed Frognot and North Farmersville to provide notice of the application and proof of notice in the manner and form described by Commission Staff.
18. On September 18, 2017, Frognot filed the affidavit of Eddie W. Daniel, P.E., Engineer and Consultant, DBI Engineers, attesting that notice was mailed to the listed neighboring systems, landowners, cities, and affected parties on September 13, 2017 and attaching an exemplar of the notice and maps.
19. In Order No. 5 issued on October 18, 2017, the ALJ established that notice was completed on September 13, 2017; the deadline for intervention was October 13, 2017; the 120-day deadline for Commission Staff to approve the application administratively or require a hearing was January 11, 2018; found that notice of the application was sufficient; and noted that two requests for hearing were late filed.
20. In Order No. 6 issued on December 1, 2017 the ALJ requested Commission Staff file comments addressing the late filed requests for hearing and how they should be handled.
21. On December 13, 2017, Commission Staff filed its comments on the requests for hearing stating that the late filed request for hearing were untimely interventions, no good cause was shown for their lateness, and its earlier recommendation that no hearing is necessary remained valid.

Evidentiary Record

22. On September 7, 2018, the parties filed a joint motion to admit evidence into the record.
23. In Order No. 10 issued on January 3, 2019, the ALJ admitted the following evidence into the record: (a) Frognot and North Farmersville's application filed on June 1, 2017¹; (b) Frognot's supplement to the application, filed on July 19, 2017; the affidavit of notice,

¹ Note: Application was actually filed on May 18, 2017; typographical error appeared in Order admitting evidence.

filed on September 18, 2017; the bill of sale filed on June 14, 2018; consent forms filed by Frognot, North Farmersville, Caddo Basin, and West Leonard concurring with the final maps and certificate filed on August 13, 2018; Commission Staff's recommendation that notice be found sufficient filed on October 17, 2017; Commission Staff's recommendation that the applicants be allowed to proceed with the sale filed on November 17, 2017; and Commission Staff's recommendation that the closing documentation be found sufficient filed on June 29, 2018.

Sale

24. On November 17, 2018, Commission Staff recommended that the applicants proceed with the sale and file closing documents and that no hearing is necessary.
25. In Order No. 7 issued December 15, 2017, the ALJ authorized the sale to proceed and ordered the applicants to file proof within 30 days of the effective date of the transaction that the sale had been completed and that customer deposits had been addressed.
26. On June 14, 2018, Frognot filed North Farmersville's executed bill of sale with the affidavit of Glenn McClain, reflecting that all of the affected customers, their records, and customer deposits were transferred.
27. In Order No. 8 issued July 6, 2018, the ALJ found the closing documents were sufficient as filed.

Compliance – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(A)

28. Frognot and North Farmersville have approved public water systems, which are currently in compliance with Texas Commission on Environmental Quality (TCEQ) requirements.

Adequacy of Existing Service to the Requested Area – 16 TAC § 24.239(j)(5)(B); TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

29. North Farmersville's current capacity is limited to fewer than 250 connections and North Farmersville is concerned about proposed growth in its service area and requested Frognot take over a portion of its existing distribution system.
30. Due to similar capacity issues as North Farmersville, a residential development in West Leonard's CCN has requested service from Frognot because it is unable to obtain adequate service from West Leonard.

Need for Additional Service – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(C); TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

31. Frognot has installed a distribution line to serve these existing North Farmersville customers as requested by North Farmersville. In doing so, the installed line crossed approximately 700 feet of Caddo Basin's CCN, for which Frognot is requesting dual certification.
32. Frognot has installed a distribution line to serve these existing West Leonard customers, as requested by West Leonard.

Effect of Approving the Transaction and Granting the Amendment – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(D); TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

33. Granting Frognot an amended certificate will allow Frognot to retain ownership of all of its existing facilities and revenue from all of its existing customers that reside outside of its current certificated service area.
34. There are six utilities, cities, or political subdivisions, other than West Leonard and Caddo Basin providing water service within two miles of the areas for which Frognot requests dual certification. None of these retail public utilities will be affected.
35. The North Farmersville customers being transferred to Frognot will have a different rate structure than before the transaction.

Ability to Serve: Managerial and Technical – TWC § 13.301(b), 16 TAC § 24.239(g), (j)(5)(E); TWC §§ 13.241(a), 13.246(c)(4), 16 TAC §§ 24.227(a), 24.227(d)(4); TWC § 13.251

36. Frognot has adequate production and storage, as well as a distribution system already in place to provide service in the requested area.
37. No component facility of Frognot's system operates at 85% or greater of minimum standard capacity.
38. Frognot's plant capacity is currently at 45% of production, 32% of storage, 39% of pressure tank, and 62% of service pump, in accordance with TCEQ requirements. Frognot is able to address the growth in the area that North Farmersville and West Leonard cannot. The addition of the 63 customers from North Farmersville does not significantly impact the capacity reserves.

Ability to Serve: Financial Ability and Stability – TWC §§ 13.301(b), 16 TAC § 24.239(g), (j)(5)(G); TWC §§ 13.241(a), 13.246(c)(6); 16 TAC §§ 24.227(a), 24.227(d)(6)

39. At the end of 2016 Frognot will have \$213,218 in outstanding loans (20% of total loans outstanding) maturing, with another \$20,485 in outstanding loans maturing in 2017. Since the infrastructure has already been installed to serve the West Leonard and North Farmersville customers in the areas requested to be dually certificated, there will be no need for any further financial investment in construction.
40. Frognot is able to cover its current financial obligations
41. The applicant did not submit financial projections in its application; however, based on the applicant's 2015 audited financial statements, the applicant had \$91,837 in operating income. Thus, there are no anticipated shortages to cover.

Financial Assurance – TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(e), 24.239(h)

42. There is no need to require Frognot to provide a bond or other financial assurance to ensure continuous and adequate service.

Service from Adjacent Retail Public Utility – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(F); TWC § 13.246(c)(5), 16 TAC § 24.227(d)(5)

43. Frognot is serving the customers located in the requested areas, which are adjacent to Frognot's existing CCN boundaries, and following the transfer Frognot will provide water service using the existing infrastructure; therefore, the feasibility of obtaining service from an adjacent retail public utility was not evaluated.

Regionalization or Consolidation – TWC § 13.241(d), 16 TAC § 24.227(b)

44. Regionalization or consolidation does not need to be considered because Frognot does not anticipate building any new facilities to continue serving the area.

Environmental Integrity – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(H); TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)

45. The area will be served with existing infrastructure. Neither the transfer of customers and facilities from North Farmersville nor the dual certification will likely have any effect on the environmental integrity of the requested area.

Effect on the Land – TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9)

46. The requested service areas are already being served by Frognot and no construction is necessary; therefore, the effect on the land in the requested area was not evaluated.

Improvement of Service – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

47. Granting Frognot's amended CCN will allow Frognot WSC to meet TCEQ requirements for the provisioning of service within the requested service area.
48. Granting Frognot's amended certificate will also allow Frognot to facilitate system analysis and facility improvements of its infrastructure located in the dually certificated areas.
49. Frognot will serve North Farmersville and West Leonard customers in the proposed dually certificated areas due to water-supply capacity issues in the North Farmersville and West Leonard service areas.

Lowering of Costs – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

50. North Farmersville customers transferred to Frognot will be charged different rates than they were charged before the transaction.

Tariff and Maps

51. On July 27, 2018, Commission Staff emailed its proposed map and certificate to Frognot.
52. On August 13, 2018, Frognot filed a consent form, executed by Frognot's engineer Mr. Eddy Daniel, concurring with the maps and certificate prepared by Commission Staff and transmitted by email on July 27, 2018. Additionally, Frognot filed consent forms, executed by Frognot's engineer Mr. Eddy Daniel, on behalf of North Farmersville, Caddo Basin, and West Leonard concurring with the maps prepared by Commission Staff and transmitted by email on July 27, 2018.
53. On September 7, 2018, Commission Staff filed, as an attachment to the joint motion to admit evidence, its proposed map and certificate as consented by the applicants and affected parties in their response to Order No. 8 filed on August 13, 2018.

Informal Disposition

54. More than 15 days have passed since the completion of notice provided in this docket.

55. No person filed a protest or motion to intervene.
56. Frognot, North Farmersville, and Commission Staff are the only parties to this proceeding.
57. No party requested a hearing and no hearing is needed.
58. Commission Staff recommended approval of the application.
59. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Frognot and North Farmersville are a retail public utilities as defined in Texas Water Code (TWC) § 13.002(19) and 16 TAC § 24.3(59) and water supply corporations as defined in TWC § 13.002(24) and 16 TAC § 24.3(77).
2. The Commission has jurisdiction over this proceeding under Texas Water Code (TWC) §§ 13.241, 13.242, 13.244, 13.246, 13.251, 13.254, and 13.301.
3. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,² TWC, and Commission rules.
4. Notice of the application for amendment of the CCN was provided as required by TWC § 13.246 and 16 TAC § 24.235 (a) through (c).
5. The application to amend Frognot's CCN meets the requirements set forth in TWC §§ 13.241, 13.244, and 13.246 and 16 TAC §§ 24.225, 24.227, and 24.233 to be granted an amendment to its CCN.
6. After consideration of the factors in TWC § 13.246 (c), Frognot has adequate financial, managerial, and technical capability for providing continuous and adequate service to the proposed service-area additions and its current service area as required for a CCN amendment by TWC §§ 13.241(a), (c), (d), 13.301(b), and 13.251 and 16 TAC §§ 24.227(a) and 24.239(g).

² Administrative Procedure Act, Tex. Gov't Code ch. 2001.

7. The amendment to CCN number 10164 is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
8. Public notice of the application for sale, transfer, or merger was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239(a) through (f).
9. Frognot and North Farmersville completed the sale within the time required by 16 TAC § 24.239(o).
10. Frognot and North Farmersville have demonstrated that the sale of North Farmersville's water systems and the amendment of Frognot's CCN to add the dually certificated areas within North Farmersville, West Leonard and Caddo Basin's CCNs will serve the public interest and are necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b).
11. A sale not completed in accordance with TWC § 13.301 is void. TWC § 13.301(h).
12. Frognot must record a certified copy of the certificate granted and maps approved by this Notice, along with a boundary description of the service area, in the real property records of Hunt, Collin, and Fannin counties within 31 days of receiving this Notice and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
13. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves Frognot's purchase of the portion of North Farmersville's water system identified in this Notice of Approval and operated under water CCN 12363.
2. The Commission amends Frognot's certificate number 10164 to include dual certification of portions of the service areas of North Farmersville (CCN number 12363), Caddo Basin Special Utility District (CCN number 10165), and West Leonard Water Supply

Corporation (CCN number 10157) as described in this Notice of Approval and shown on the map attached to this Notice.

3. The Commission grants the certificate attached to this Notice of Approval.
4. Frognot must serve every customer and applicant for service within its approved dually certificated area under water CCN number 12363 that requests water service and meets the terms of Frognot's water service, and such service must be continuous and adequate.
5. Frognot must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Hunt, Collin, and Fannin Counties affected by the application.
6. Frognot must submit to the Commission evidence of the recording no later than 30 days after the recording required by ordering paragraph 5.
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

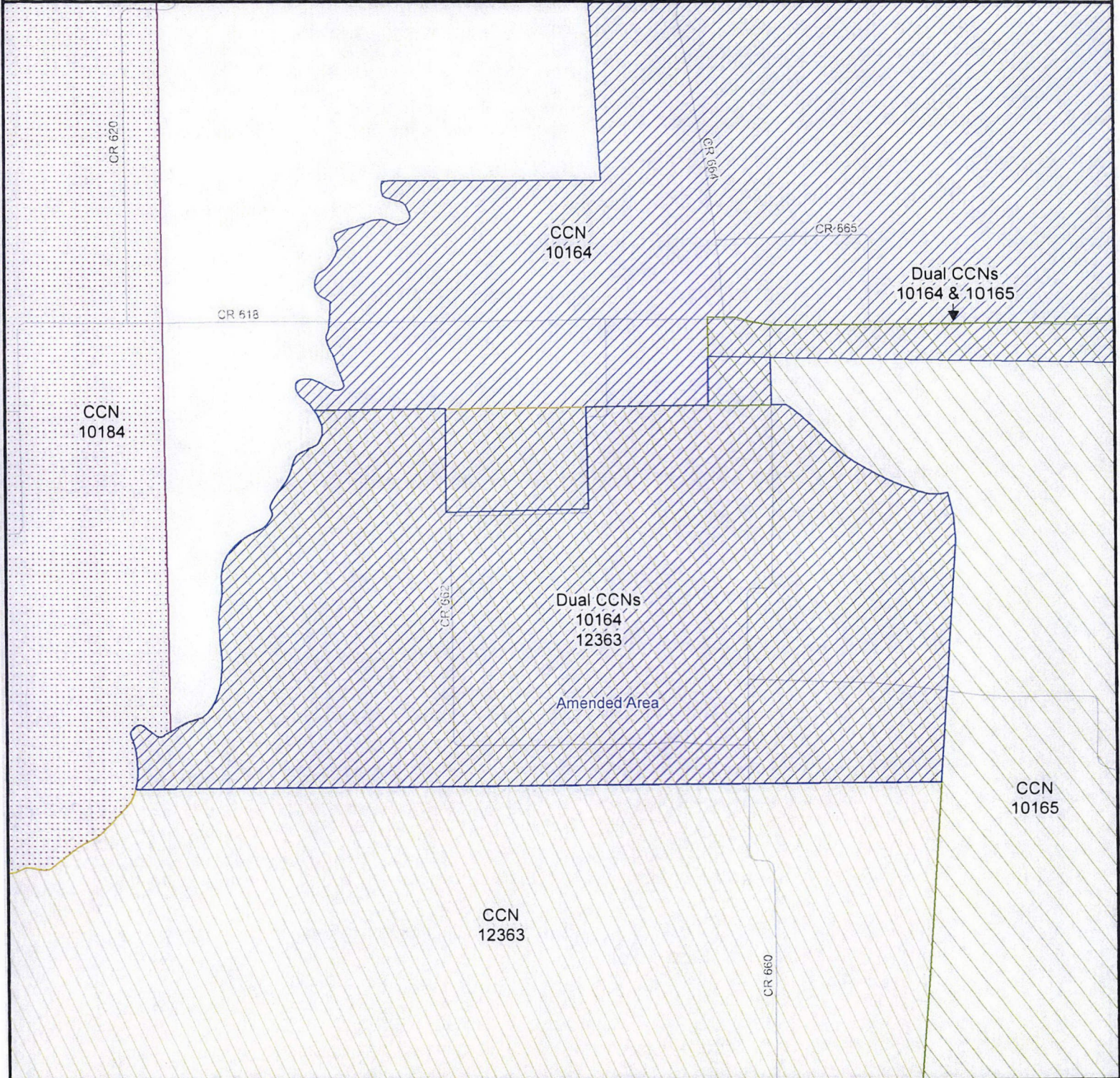
Signed at Austin, Texas the 26th day of July 2019.


MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE

W2013



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Frognot Water Supply Corporation
Portion of Water CCN No. 10164
PUC Docket No. 47190
Ameded CCN No. 10164 in Collin County



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

Water CCN

-  10164 - Frognot WSC
-  12363 - North Farmersville WSC
-  10165 - Caddo Basin SUD
-  10184 - Verona WSC

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Feet



Map by: Komal Patel
Date created: July 2, 2018
Project Path: n:\finalmapping\
47190FrognotWSCMap2.mxd
Map 2 of 2

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Frognot Water Supply Corporation
Portion of Water CCN No. 10164
PUC Docket No. 47190
Amended CCN No. 10164 in Collin and Fannin Counties

Dual CCNs
10164
10158

Dual CCNs
10164
10157

Amended Area


CCN
10157

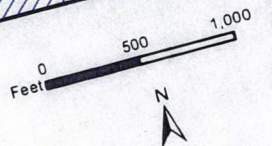
CCN
10164



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

Water CCN

-  10164 - Frognot WSC
-  10157 - West Leonard WSC
-  10158 - Desert WSC



Map by: Komal Patel
Date created: July 2, 2018
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47190FrognotWSCMap1.mxd
Map 1 of 2
000000013



Public Utility Commission Of Texas

By These Presents Be It Known To All That

Frognot Water Supply Corporation

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, Frognot Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10164

to provide continuous and adequate water utility service to that service area or those service areas in Collin, Hunt, and Fannin Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47190 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 Frognot 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, this 26th day of July 2019.