

Control Number: 47203



Item Number: 10

Addendum StartPage: 0

**Kenneth W. Anderson, Jr.**  
Commissioner

**Brandy Marty Marquez**  
Commissioner

**Brian H. Lloyd**  
Executive Director



**Greg Abbott**  
Governor

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PUBLIC UTILITY COMMISSION

## ***Public Utility Commission of Texas***

**TO:** Kenneth W. Anderson, Jr., Commissioner  
Brandy Marty Marquez, Commissioner  
  
All Parties of Record

**FROM:** Jeffrey J. Huhn <sup>JS</sup>  
Administrative Law Judge

**RE:** **Open Meeting of August 17, 2017**  
Docket No. 47203 - *Petition of Parker Area Investments, LLC to Amend City of Aledo's Certificates of Convenience and Necessity in Parker County by Expedited Release*

**DATE:** July 27, 2017

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission is currently scheduled to consider this docket at an open meeting to begin at 9:30 a.m. on Thursday, August 17, 2017, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, August 9, 2017.

**If there are no corrections or exceptions, no response is necessary.**

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**DOCKET NO. 47203**

<b>PETITION OF PARKER AREA</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>INVESTMENTS, LLC TO AMEND CITY</b>	<b>§</b>	
<b>OF ALEDO'S CERTIFICATES OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>PARKER COUNTY BY EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses the petition of Parker Area Investments, LLC to amend the City of Aledo's water certificate of convenience and necessity (CCN) No. 10264 and sewer CCN No. 20102 in Parker County by expedited release. Commission Staff recommended approval of the petition. The petition is approved.

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

**I. Findings of Fact**

**Procedural History, Description and Background**

1. On May 23, 2017, Parker filed a petition for the expedited release of an approximately 28.389-acre parcel of land from the City of Aledo's water CCN No. 10264 and sewer CCN No. 20102 in Parker County. The petition included an affidavit by Britt Phillips, Chairman of Parker Area Investments, LLC, affirming that the 28.389-acre parcel of land is not receiving water or sewer service from the City of Aledo.<sup>1</sup>
2. The 28.389-acre parcel of land is comprised of two contiguous parcels, one approximately 18.379 acres and one approximately 10.1 acres.<sup>2</sup>
3. On May 30, 2017, Order No. 1 was issued, requiring Commission Staff to comment on the administrative completeness of the petition and notice and adopting a procedural schedule for Staff's comments and for the City of Aledo and other affected persons to file a written protest, motion to intervene, and/or file comments on the petition.

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<sup>1</sup> Petition for Expedited Release From City of Aledo's Water CCN No. 10264 and Sewer CCN No. 20102 Pursuant to Section 13.254(a-5), Texas Water Code, Affidavit of Britt Phillips at 1 (May 23, 2107).

<sup>2</sup> *Id.*



4. On June 22, 2017, Commission Staff recommended that the petition and notice be deemed administratively complete. Commission Staff also noted that the rules regulating expedited release of property were amended in Project No. 46151.<sup>3</sup> Staff recommended that the application be processed under the amended rules.
5. On June 22, 2017, the City of Aledo filed a motion to intervene, response to petition and request for determination of useless or valueless property. Aledo requested that the petition be denied or if the petition is granted that there be a determination that personal property of Aledo has been rendered useless or valueless and that Aledo is due compensation. Aledo did not submit any affidavits or other evidence with the filing.
6. On June 23, 2017, Order No. 2 was issued, finding the petition and notice administratively complete, adopting a procedural schedule for final processing, and granting the City of Aledo's motion to intervene. Order No. 2 also stated that, consistent with Commission Staff's recommendation, the amended rules for expedited release of property shall apply.
7. The City of Aledo did not file a response to the administratively complete application.
8. On July 7, 2017, Commission Staff recommended 1) approval of the petition, 2) that no property would be rendered useless or valueless by the decertification, and 3) that no compensation proceeding is necessary.
9. On July 14, 2017, Parker filed a reply to City of Aledo's June 22, 2017, filing and Commission Staff's recommendation. Parker agreed with Commission Staff's recommendation and also noted that the City of Aledo provided no actual evidence, affidavits, or verifications in support of the facts asserted in Aledo's filing.<sup>4</sup>
10. Commission Staff provided amended certificates and service area maps for the City of Aledo.
11. The certificates and maps discussed in Findings of Fact No. 10 are attached to this Order.

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<sup>3</sup> *Project to Amend 16 Tex. Admin Code Section 24.113 Relating to Revocation or Amendment of a Water or Sewer Certificate and Section 24.120 Relating to Single Certification in Incorporated or Annexed Areas*, Project No. 46151, Order (May 4, 2017).

<sup>4</sup> *Petitioner's Reply to City of Aledo and Commission Staff*, at 1 (Jul. 14, 2017).



**Notice**

12. Parker provided a copy of the petition to the City of Aledo by certified mail on May 23, 2017.
13. Notice of the petition was published in the *Texas Register* on June 9, 2017.

**Project Description**

14. Parker owns the 28.389-acre parcel of land.
15. The 28.389-acre parcel of land is made up of two contiguous tracts of land identified in two deeds, and is larger than 25 acres.
16. The 28.389-acre parcel of land is located within the city of Aledo's certificated service areas and is not receiving water or sewer service.

**Water and Sewer Service**

17. The 28.389-acre parcel of land is not receiving water or sewer service from the City of Aledo as that term has been defined by the Courts.
18. The 28.389-acre parcel of land is not receiving actual water or sewer service from the City of Aledo, or any other water or sewer service provider.

**Useless or Valueless**

19. The City of Aledo has no property that is rendered useless or valueless by the decertification.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this petition under Texas Water Code §§ 13.041 and 13.254(a-5) (TWC).<sup>5</sup>
2. Notice of the petition was provided in compliance with 16 Texas Administrative Code § 24.113(k) (TAC) and 16 TAC §§ 22.54-.55.
3. Parker County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(l).

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<sup>5</sup> Tex. Water Code Ann. §§ 13.041 and 13.254(a-5) (West 2008 and Supp. 2016) (TWC).





4. The 28.389-acre parcel of land is not receiving water or sewer service from the City of Aledo under TWC § 13.254(a-5).
5. The 28.389-acre parcel of land to be decertified under TWC § 13.254(a-5) is part of an area of land owned by Parker that is at least 25 acres.
6. The City of Aledo, under 16 TAC § 24.113(n)(5), bears the burden to prove what property is useless or valueless property.
7. No property of the City of Aledo has been rendered useless or valueless by the decertification, therefore under TWC § 13.254(d)-(g) no compensation is owed to the City of Aledo.
8. Because no compensation is owed, under TWC § 13.254(d)-(g), a retail public utility may render retail water or water service directly or indirectly to the public in the decertified area without providing compensation to the City of Aledo.
9. Parker is entitled to approval of the petition, having sufficiently satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(l) by adequately demonstrating ownership of a tract of land that is at least 25 acres, is located in a qualifying county, and is not receiving water or sewer service.
10. Under TWC § 13.257(r) and 16 TAC § 24.106(e), the City of Aledo is required to record a certified copy of the approved certificates 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.
11. The notice requirements in 16 TAC § 22.35 have been met in this proceeding.



### III. Ordering Paragraphs

In accordance with these findings of fact and conclusion of law, the Commission issues the following Order:

1. The petition is approved.
2. Parker's 28.389-acre parcel of land is removed from the City of Aledo's water CCN No. 10264.
3. The City of Aledo's water CCN No. 10264 is amended in accordance with this Order.
4. Parker's 28.389-acre parcel of land is removed from the City of Aledo's sewer CCN No. 20102.
5. The City of Aledo's sewer CCN No. 20102 is amended in accordance with this Order.
6. The City of Aledo does not have any property that is rendered useless or valueless as a result of the decertification in this docket.
7. A retail public utility may render retail water or sewer service directly or indirectly to the public in the decertified area without providing compensation to the City of Aledo.
8. The Commission's official service area boundary maps for the City of Aledo shall reflect this change.
9. The City of Aledo shall comply with the recording requirements of TWC § 13.257(r) for the area in Parker County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
10. 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 denied.



Signed at Austin, Texas the \_\_\_\_\_ day of August 2017.

**PUBLIC UTILITY COMMISSION OF TEXAS**

**KENNETH W. ANDERSON, JR., COMMISSIONER**

**BRANDY MARTY MARQUEZ, COMMISSIONER**

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# **Public Utility Commission of Texas**

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

**City of Aledo**

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 the City of Aledo is entitled to this

## **Certificate of Convenience and Necessity No. 10264**

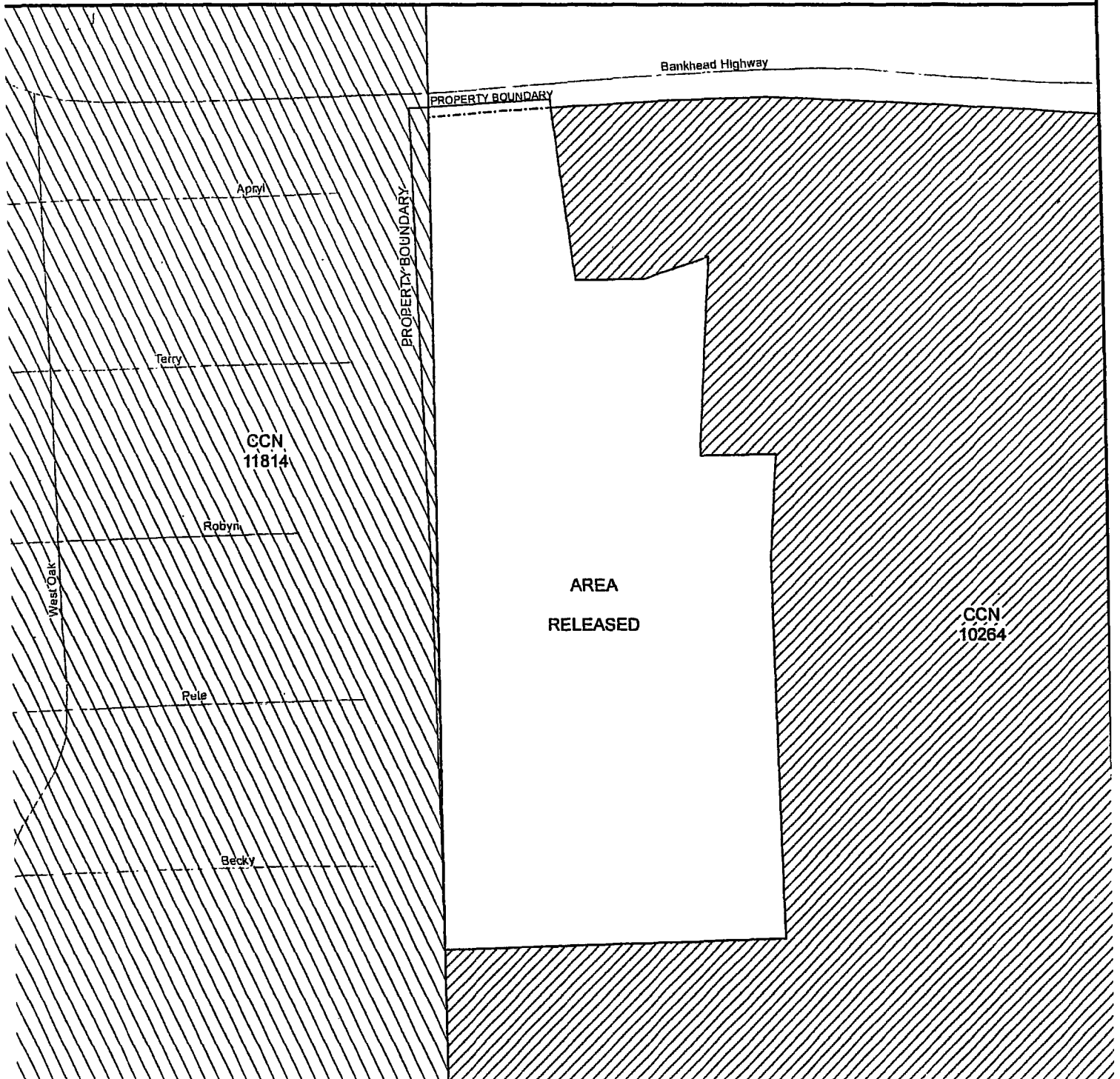
to provide continuous and adequate water utility service to that service area or those service areas in Parker County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47203 are on file at the Commission offices in Austin, Texas; and are matters 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 Aledo 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.





City of Aledo  
Portion of Water CCN No. 10264  
PUC Docket No. 47203  
Petition by Parker Area Investments, LLC to Amend  
City of Aledo's CCN by Expedited Release in Parker County



Public Utility Commission of Texas

**Water CCN**



10264 - City of Aledo



11814 - City of Willow Park



Area Released



Property Boundary

0 150 300  
Feet



Scale bar: 0 to 300 Feet





# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That  
City of Aledo**

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 the City of Aledo is entitled to this

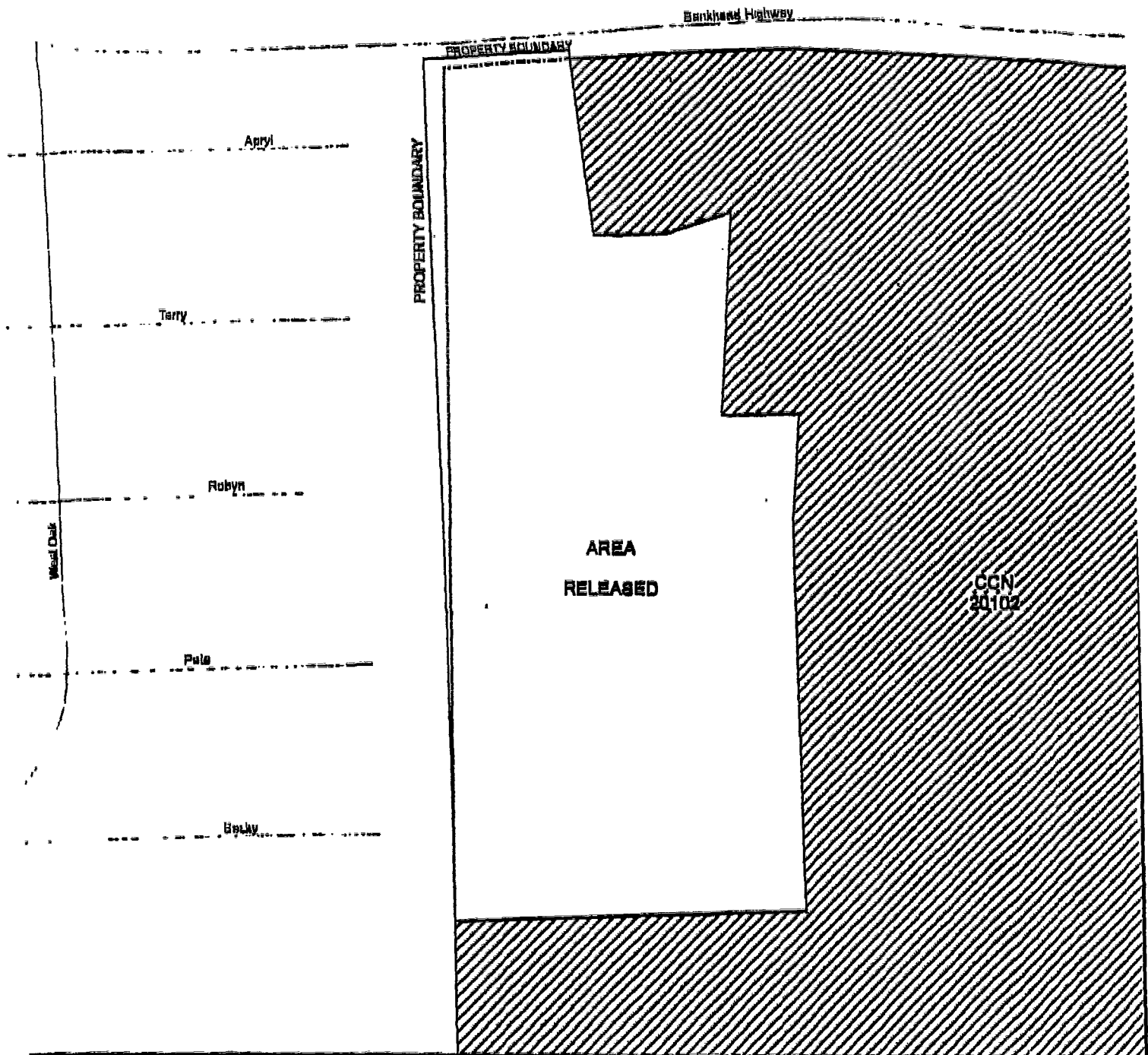
## **Certificate of Convenience and Necessity No. 20102**


to provide continuous and adequate sewer utility service to that service area or those service areas in Parker County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47203 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 Aledo 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.



City of Aledo  
Portion of Sewer CCN No. 20102  
PUC Docket No. 47203  
Petition by Parker Area Investments, LLC to Amend  
City of Aledo's CCN by Expedited Release in Parker County



**Sewer CCN**  
 20102 - City of Aledo

 Area Released  
 Property Boundary

0 150 300  
Feet



