



Control Number: 47518



Item Number: 20

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LANDOWNERS' PETITION TO
AMEND MANVILLE WATER SUPPLY
CORPORATION'S CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
TRAVIS COUNTY BY EXPEDITED
RELEASE

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PUBLIC UTILITY COMMISSION

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PUBLIC UTILITY COMMISSION
OF TEXAS FILING CLERK

ORDER

This Order addresses the petition of Kimbro Road Estates, LP, Sky Village Kimbro Estates, LLC, Alma Juanita Champion Meier, William Clark Meier, and Carolyn Juanita Meier Fauber (Landowners) for expedited release of three parcels of land that total approximately 538.368 acres from Manville Water Supply Corporation's (Manville WSC) water certificate of convenience and necessity (CCN) number 11144 in Travis County. 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

- On August 16, 2017, Landowners filed a petition for the expedited release of three tracts of land from Manville WSC's water CCN No. 11144 in Travis County. The petition included a letter signed by Kimbro Road Estates, L.P., owner of 161.466 acres, stating that the 161.466 acres are not receiving water service,¹ a letter signed by Sky Village Kimbro Estates, L.L.C., owner of 267.972 acres, stating that the 267.972 acres are not receiving water service,² and a letter signed by Alma Juanita Champion Meier, William Clark Meier, and Carolyn Juanita Meier Fauber, owners of 108.930 acres, stating that the 108.930 acres are not receiving water service.³

¹ Petition at 65 (Aug. 16, 2017).

² *Id.* at 66.

³ *Id.* at 67-68.

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2. On August 18, 2017, Order No. 1 was issued requiring Commission Staff's comments on administrative completeness of the petition and notice.
3. On September 21, 2017, Order No. 2 was issued finding the petition administratively incomplete and deficient, and establishing deadlines for opportunity to cure.
4. On September 25, 2017, Landowners filed a response to Order No. 2 and included corrected letters clarifying that the subject properties are not receiving water service from Manville WSC.⁴
5. On October 12, 2017, Manville WSC filed a general appearance and petition in intervention.
6. On October 18, 2017, Landowners filed a first objection to Manville WSC's petition in intervention.
7. On October 19, 2017, Manville WSC filed a response to Landowners' first objection to Manville WSC's intervention. Manville WSC stated that it seeks to intervene for the purpose of protecting its right to compensation.
8. On October 20, 2017, Order No. 3 was issued granting Manville WSC's motion to intervene.
9. On November 15, 2017, Commission Staff recommended that the petition and notice be deemed administratively complete and proposed a procedural schedule for final processing.
10. On November 16, 2017, Order No. 4 was issued finding the petition administratively complete, notice sufficient, and establishing a procedural schedule.
11. On November 27, 2017, Manville WSC filed a response to Order No. 4 and to Landowners' administratively complete petition. Manville WSC stated that (1) enhanced infrastructure in the surrounding area had already been put in place, (2) a source of wholesale water had been secured via a "take or pay" contract to serve the area, (3) no alternative provider had been identified, and (4) approximately 32% of the improvements at the Gregg Lane Booster

⁴ Landowners' Response to Order No. 2, Attachment A (Sep. 25, 2017).

Station had been allocated to the subject properties, a portion of which will be rendered useless or valueless without service to the properties sought to be released.⁵

12. On December 5, 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.⁶
13. Commission Staff provided a certificate and service-area map for Manville WSC.
14. The certificate and map referenced in Finding of Fact No. 13 are attached to this Order.
15. On December 12, 2017, Landowners filed a reply to Manville WSC's response and Commission Staff's recommendation on final disposition.⁷ Landowners stated that they neither admit nor deny that any of Manville WSC's property will be rendered useless or valueless, but have agreed under 16 Texas Administrative Code (TAC) §24.113(l)(5) and (n)(4) that Manville WSC will be compensated in the amount of \$181,500, which amount shall be paid to Manville WSC on terms and at times to be decided at a future date. Landowners agreed with Commission Staff's recommendation, except regarding the existence of a reasonable compensation for any property rendered useless or valueless by the petition which amount should be set at \$181,500.
16. On December 19, 2017, Manville WSC filed a motion for summary decision.⁸ Manville WSC stated that there is no genuine issue of material fact and that summary decision is appropriate as a matter of law. Manville WSC added that the right of the Landowners to expedited withdrawal has never been placed in dispute and Landowners are entitled to expedited withdrawal from Manville WSC's CCN as a matter of law.

Notice

17. Landowners provided a copy of the petition to Manville WSC on August 16, 2017.

⁵ Response of Manville Water Supply Corporation to Order No. 4 and to Landowners' Administratively Complete Petition (Nov. 27, 2017).

⁶ Commission Staff's Final Recommendation (Dec. 5, 2017).

⁷ Landowners' Reply to Manville's Response and Commission Staff's Recommendation on Final Disposition (Dec. 12, 2017).

⁸ Motion of Manville Water Supply Corporation for Summary Decision (Dec. 19, 2017).

18. Notice of the petition was published in the *Texas Register* on September 1, 2017.

Project Description

19. Landowners own the three tracts of land, and each tract is at least 25 acres.
20. The three tracts of land are located within Manville WSC's certificated service area and are not receiving water service.
21. The three tracts of land are located in Travis County.

Water Service

22. The three tracts of land are not receiving water service from Manville WSC as that term has been defined by the Courts.
23. The three tracts of land are not receiving actual water service from Manville WSC.

Useless or Valueless

24. By agreement between Landowners and Manville WSC, the amount of \$181,500 applies to any property rendered useless or valueless by the decertification.

II. Conclusions of Law

1. The Commission has jurisdiction over this petition under TWC §§ 13.041 and 13.254(a-5).⁹
2. Notice of the petition was provided in compliance with 16 TAC § 24.113(l)(3)(A)(vi) and 16 TAC §§ 22.54 and 22.55.
3. Travis County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(l)(2)(D).
4. The three tracts of land are not receiving water service from Manville WSC under TWC § 13.254(a-5).
5. Under TWC § 13.254(d)-(g), compensation is owed to Manville WSC for any property rendered useless or valueless by the decertification.

⁹ Tex. Water Code Ann. §§ 13.041 and 13.254(a-5) (West 2008 & Supp. 2017) (TWC).

6. Under TWC § 13.254(d)-(g), a retail public utility may render retail water service directly or indirectly to the public in the decertified area upon providing compensation to Manville WSC.
7. Landowners are 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 three tracts of land that are at least 25 acres, located in a qualifying county, and not receiving water service.
8. Under TWC § 13.257(r), Manville WSC is required to record a certified copy of the approved certificate and map, 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.

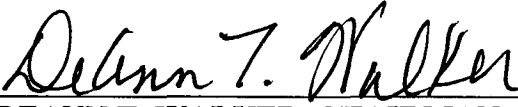
III. Ordering Paragraphs

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

1. The petition is approved.
2. The 161.466-acre tract of land, 267.972-acre tract of land, and 108.930-acre tract of land are removed from Manville WSC's water CCN No. 11144.
3. Manville WSC's water CCN No. 11144 is amended in accordance with this Order.
4. A copy of Manville WSC's amended water CCN No. 11144 is attached to this Order.
5. The Commission's official service-area boundary maps for Manville WSC shall reflect this change, as shown in the attached map.
6. Manville WSC shall comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Travis County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
7. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 11th day of January 2018.

PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



BRANDY MARTY MARQUEZ, COMMISSIONER



ARTHUR C. D'ANDREA, COMMISSIONER

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Public Utility Commission Of Texas

By These Presents Be It Known To All That

Manville 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, Manville Water Supply Corporation, is entitled to this

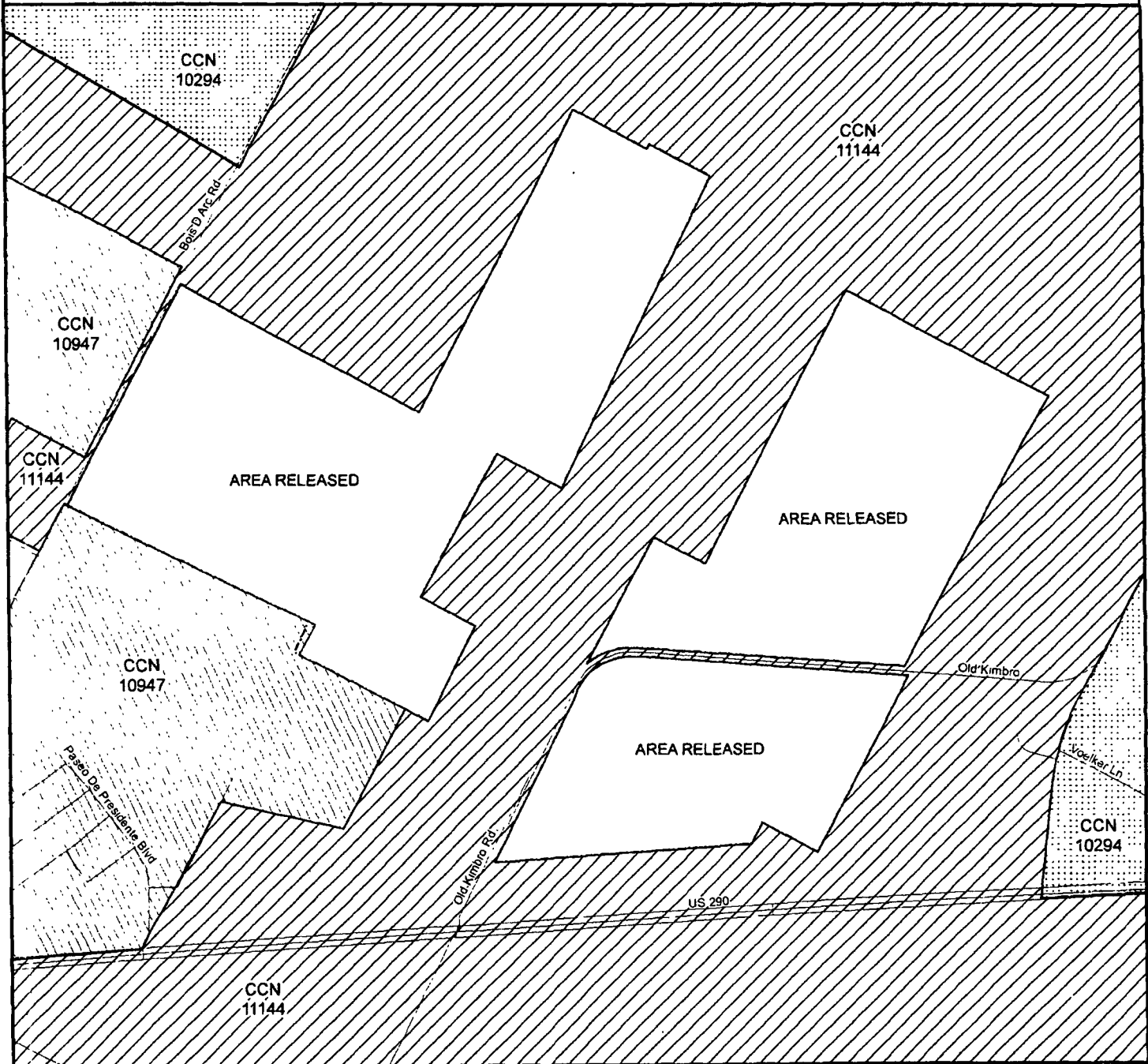
Certificate of Convenience and Necessity No. 11144

to provide continuous and adequate water utility service to that service area or those service areas in Lee, Travis and Williamson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47518 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 Manville 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 11th day of January 2018.

Manville Water Supply Corporation
Portion of Water CCN No. 11144
PUC Docket No. 47518

Petition by Kimbro Road Estates, LP; Sky Village Kimbro Estates, LLC; and
Alma Juanita Meier, William Clark Meier and Carolyn Juanita Meier to
Amend Manville WSC's CCN by Expedited Release in Travis County



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

Water CCN

-  11144 - Manville WSC
-  10947 - City of Manor
-  10294 - Aqua WSC

 AREA RELEASED

0 625 1,250
Feet



Map by: Komal Patel
Date created: November 20, 2017
Project Path: n:\finalmapping\47518ManvilleWSC.mxd