



Control Number: 47653



Item Number: 11

Addendum StartPage: 0

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Brandy Marty Marquez  
Commissioner

Arthur C. D'Andrea  
Commissioner

Brian H. Lloyd  
Executive Director



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*Public Utility Commission of Texas*

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**TO:** DeAnn T. Walker, Chairman  
Brandy Marty Marquez, Commissioner  
Arthur C. D'Andrea, Commissioner  
  
All Parties of Record

**FROM:** Jeffrey J. Huhn *JJH*  
Administrative Law Judge

**RE:** **Open Meeting of December 14, 2017**  
Docket No. 47653 - *Mustang Special Utility District's Notice of Intent to Provide Retail Water Service to Area Decertified From Terra Southwest Inc. in Denton County*

**DATE:** November 15, 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, December 14, 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, December 6, 2017.

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

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**DOCKET NO. 47653**

<b>MUSTANG SPECIAL UTILITY</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DISTRICT'S NOTICE OF INTENT TO</b>	<b>§</b>	
<b>PROVIDE RETAIL WATER SERVICE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TO AREA DECERTIFIED FROM</b>	<b>§</b>	
<b>TERRA SOUTHWEST INC. IN</b>	<b>§</b>	
<b>DENTON COUNTY</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses Mustang Special Utility District's notice of intent to provide retail water service to an area decertified from Terra Southwest, Inc.'s water certificate of convenience and necessity number 11608. Mustang SUD and Terra Southwest reached an agreement regarding compensation for any property rendered useless or valueless as a result of decertification, resolving all issues among the parties in this proceeding. Consistent with the agreement, Terra Southwest will be compensated for any property rendered useless and valueless as a result of decertification. The agreement is approved.

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

**I. Findings of Fact**

**Procedural History, Description, and Background**

1. On August 1, 2017 Mustang SUD and Terra Southwest entered into a settlement agreement, along with DRH Land Opportunities I, Inc., the landowner and the successor to Shahan Prairie, LP, where the parties agreed on the compensation to be provided to Terra Southwest, the former CCN holder (the settlement agreement was filed with the Commission as Exhibit 2 to the Notice of Intent on September 28, 2017).
2. On September 28, 2017, Mustang SUD filed a notice of intent to provide retail water service to an approximately 102-acre area decertified from Terra Southwest's CCN No. 11608 in Denton County in Texas Commission on Environmental Quality (TCEQ) application number 37386-C.<sup>1</sup> The notice of intent included a settlement agreement

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<sup>1</sup> Petition from Shahan Prairie, LP for Expedited Release from Terra Southwest Inc.'s Certificate of Convenience and Necessity (CCN) No. 11608 in Denton County, Texas, Application No. 37386-C, Order (Aug.29, 2012)

between Mustang SUD and Terra Southwest regarding compensation to be paid to Terra Southwest.

3. On October 2, 2017, Order No. 1 was issued requiring the parties to propose a procedural schedule to allow for the settlement agreement to be presented to the Commission at an open meeting.
4. On October 6, 2017, Mustang SUD filed a proposed procedural schedule.
5. On October 9, 2017, Order No. 2 was issued adopting the proposed procedural schedule.
6. On October 19, 2017, Commission Staff recommend the settlement agreement be presented to the Commission at an open meeting for consideration and action.
7. Mustang SUD did not in any way render retail water service directly or indirectly to the public in the decertified area prior to providing compensation.
8. The agreement between Mustang SUD and Terra Southwest regarding compensation for property rendered useless or valueless as a result of decertification is reasonable.

## **II. Conclusions of Law**

1. Terra Southwest and Mustang SUD are retail public utilities as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
2. The Commission has jurisdiction and authority over this docket under TWC §§ 13.041 and 13.254(d)–(e) and 16 TAC § 24.113.
3. This docket was processed in accordance with the requirements of TWC § 13.254 and 16 TAC § 24.113.
4. In accordance with TWC § 13.254(d), Mustang SUD has not and will not in any way render retail water service directly or indirectly to the public in the decertified area prior to providing compensation to Terra Southwest.
5. In accordance with TWC § 13.254(e), the amount of compensation was determined at the time Mustang SUD sought to provide service to the decertified area and before service was provided.

6. The requirements for informal disposition in 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 agreement between Mustang SUD and Terra Southwest for property rendered useless or valueless as a result of the decertification under TCEQ application number 3 7386-C is approved.
2. Mustang SUD may provide retail water service to the approximately 102-acre area decertified from CCN No. 11608.
3. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement. Entry of this Order shall not be regarded as binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.
4. 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 December 2017.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN T. WALKER, CHAIRMAN**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**

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**ARTHUR C. D'ANDREA, COMMISSIONER**

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