



Control Number: 47917



Item Number: 8

Addendum StartPage: 0

**PUC DOCKET NO. 47917**

|  |          |                                  |
|--|----------|----------------------------------|
| <b>PETITION OF PRIMEWOOD INVESTMENTS, LP TO AMEND AQUA TEXAS, INC.'S CERTIFICATES OF CONVENIENCE AND NECESSITY IN MONTGOMERY COUNTY BY EXPEDITED RELEASE</b> | <b>§</b> | <b>2018 FEB 15 PM 1:22</b>       |
|  | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
|  | <b>§</b> |                                  |
|  | <b>§</b> |                                  |
|  | <b>§</b> | <b>OF TEXAS</b>                  |
|  | <b>§</b> |                                  |

**COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION**

**COMES NOW** the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 2, Staff's Recommendation on Final Disposition. Staff recommends that the petition be approved. In support thereof, Staff shows the following:

**I. BACKGROUND**

On January 2, 2018, Primewood Investments, L.P. (Primewood) filed a petition with the Commission for streamlined expedited release (SER) of approximately 12 acres from Aqua Texas Inc.'s (Aqua Texas) water certificate of convenience and necessity (CCN) No. 13203 and approximately 18 acres from sewer CCN No. 21065 in Montgomery County, Texas. The petition was filed pursuant to Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.113(l). In the petition, Primewood asserted that it owns approximately 1,295 acres in Montgomery County (the Property), the certificated portions of which it seeks to have released from Aqua Texas's water and sewer CCNs.<sup>1</sup> Primewood also asserts that the Property is not receiving water or sewer service from Aqua Texas and that Primewood has never requested such service.<sup>2</sup>

On February 5, 2018, the Commission administrative law judge (ALJ) issued Order No. 2, finding Primewood's petition administratively complete and requiring Staff to file a recommendation on final disposition by February 19, 2018. Therefore, this pleading is timely filed.

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<sup>1</sup> Petition at 2 (Jan. 2, 2018).

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

## **II. PETITION APPROVAL RECOMMENDATION**

As further detailed in the attached memorandum of Jolie Mathis of the Commission's Water Utility Regulation Division, Staff has reviewed Primewood's petition and recommends that the petition meets the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(l) and therefore should be granted. Specifically, Staff verified the location, acreage, and ownership of the area subject to the petition for release. Furthermore, Primewood attested that the Property is not receiving water or sewer service.

Staff did not identify any property that would be rendered useless or valueless by the decertification. Pursuant to 16 TAC § 24.113(n)(3), there is a rebuttable presumption that there is no useless or valueless property if the current CCN holder fails to intervene. The current CCN holder in this case, Aqua Texas, did not intervene. Therefore, Staff recommends that no property be found to be useless or valueless and, accordingly, that no compensation proceeding is necessary. In accordance with Staff's recommendation, the proposed final maps and certificates are attached to this filing.

## **III. CONCLUSION**

For the reasons stated above, Staff respectfully recommends that the petition be granted and that no compensation proceeding is necessary because no property will be rendered useless or valueless by the granting of the petition.

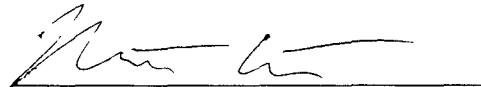
Dated: February 16, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

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**PUC DOCKET NO. 47917**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record on February 16, 2018, in accordance with the requirements of 16 TAC § 22.74.



Matthew A. Arth

# **Attachment A**

## **Staff Memorandum**

## PUC Interoffice Memorandum

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**To:** Matthew Arth, Attorney  
Legal Division

**Thru:** Lisa Fuentes, Manager  
Water Utility Regulation Division

**From:** Jolie Mathis, Engineering Specialist  
Water Utility Regulation Division

**Date:** February 14, 2018

**Subject:** **Docket No. 47917:** *Petition of Primewood Investments, LP to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Montgomery County by Expedited Release*

On January 2, 2018, Primewood Investments, LP (Primewood or Petitioner) filed an application for streamlined expedited release from Aqua Texas, Inc.'s (Aqua) water and sewer Certificate of Convenience and Necessity (CCN) Nos. 13203 and 21065 in Montgomery County. The petition was filed under Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.113(l). The Petitioner asserts that the land is at least 25 contiguous acres, is not receiving water or sewer service, and is located in Montgomery County, which is a qualifying county.

The Petitioner submitted adequate maps delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC §§ 24.113(m) and 24.119. The map and digital data are sufficient to determine the locations of the requested release areas within Aqua's certificated areas. Mapping Staff was able to confirm the acreage of the subject properties and determined that the requested areas are located within the subject property. Furthermore, the Petitioner provided warranty deeds confirming the Petitioner's ownership of the tracts of land within the subject property. In addition, the Petitioner submitted a sworn affidavit attesting that the property was not receiving water or sewer service from the CCN holder. The area being requested for release is approximately 12 acres from water CCN No. 13203 and approximately 18 acres from sewer CCN No. 21065.

The petition also included a statement indicating that a copy of the petition was sent via certified mail to Aqua on the date the petition was filed with the Commission in accordance with the requirement of 16 TAC § 24.113(l)(3)(A)(vi).

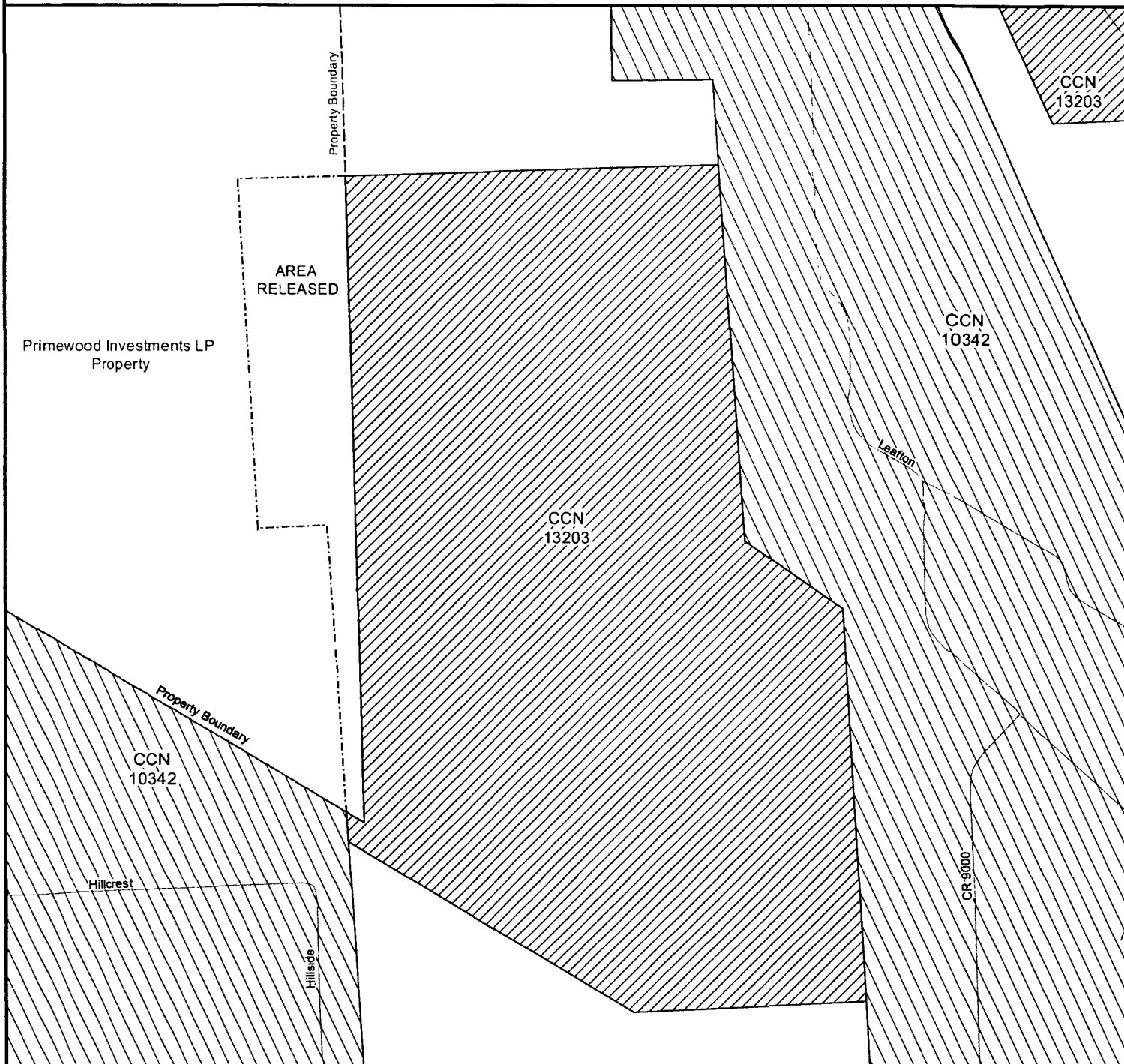
Aqua Texas, Inc. did not request to intervene. Pursuant to 16 TAC § 24.113(n)(3), there is a rebuttable presumption that there is no useless or valueless property if the current CCN holder fails to intervene. Therefore, Staff recommends that there is no useless or valueless property. Staff accordingly recommends that a compensation proceeding is not necessary if the Commission determines that there is no useless or valueless property, pursuant to 16 TAC § 24.113(n)(7).

On February 5, 2018, Order No. 2 deemed the petition administratively complete, starting the 60 day determination period pursuant to 16 TAC § 24.113(l)(3)(5). The deadline for the Commission to issue a decision is therefore April 6, 2018. The procedural schedule in Order No. 2 required Staff's recommendation on final disposition to be filed by February 19, 2018, and furthermore set February 26, 2018 as the deadline for the Petitioner's response. In accordance with Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code, the Petitioner has met the Commission's requirements to allow for the streamlined expedited release of the requested area from Aqua's CCN Nos. 13203 and 21065. Therefore, Staff recommends approval of the petition. Enclosed is a final map and certificate for Commission approval.

# **Attachment B**

## **Water and Sewer Release Area Maps**

Aqua Texas, Inc.  
Portion of Water CCN No. 13203  
PUC Docket No. 47917  
Petition by Primewood Investments, LP to  
Amend Aqua Texas Inc's CCN by Expedited Release in Montgomery County



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

**Water CCN**



13203 - Aqua Texas Inc



10342 - H-M-W SUD



Area Released



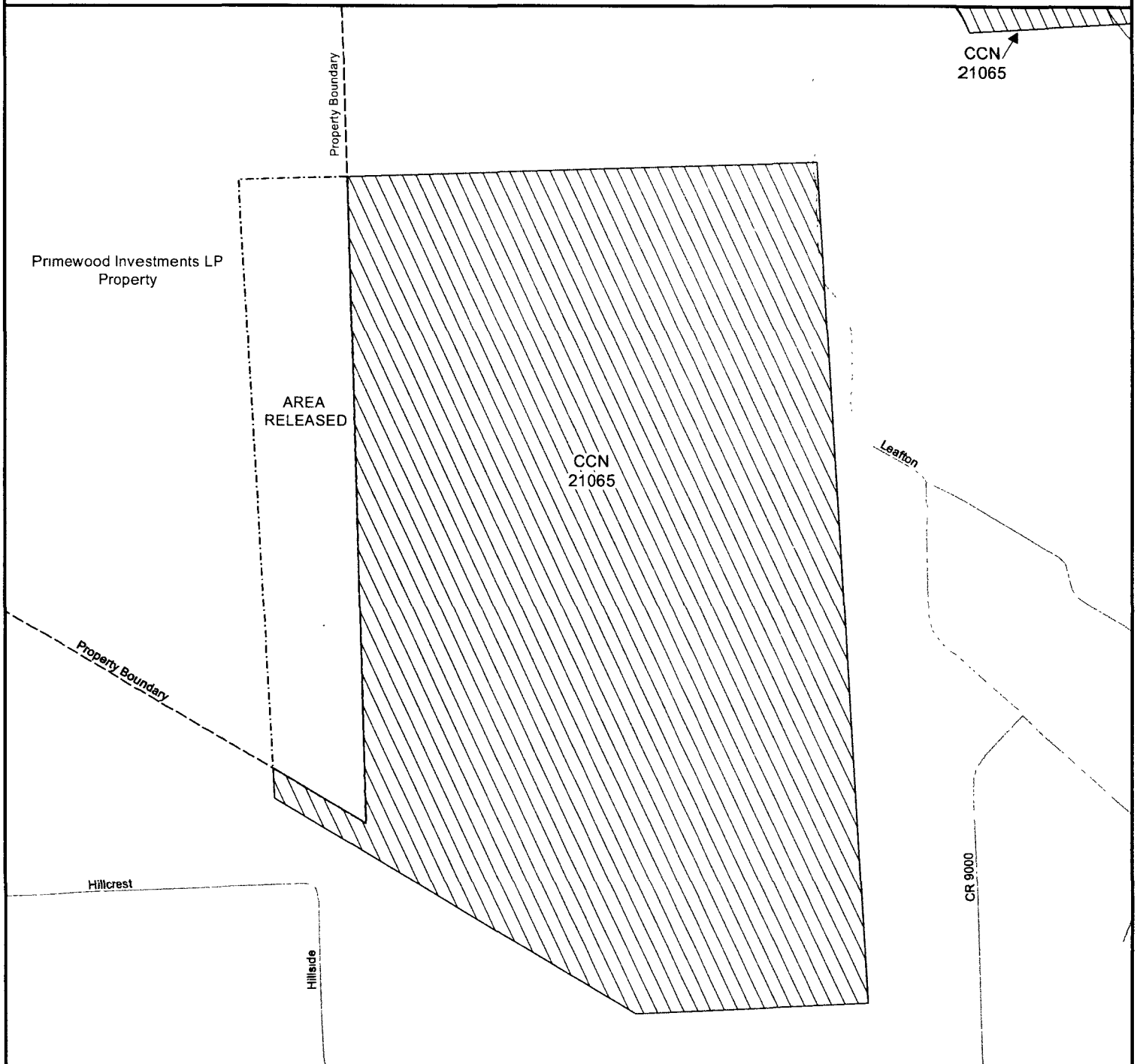
Property Boundary

0 250 500  
Feet



Map by: Komal Patel  
Date created: February 15, 2018  
Project Path: n:\finalmapping\47917AquaTexasWater.mxd

Aqua Texas, Inc.  
 Portion of Sewer CCN No. 21065  
 PUC Docket No. 47917  
 Petition by Primewood Investments, LP to  
 Amend Aqua Texas Inc's CCN by Expedited Release in Montgomery County



**Sewer CCN**



21065 - Aqua Texas Inc



Area Released



Property Boundary

0 250 500  
Feet



# **Attachment C**

## **Water and Sewer CCNs**



# **Public Utility Commission of Texas**

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

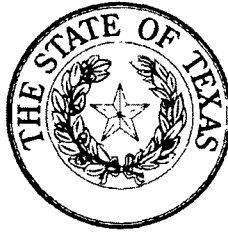
**Aqua Texas, Inc.**

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. 47917 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 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 Texas, Inc.**

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, Aqua Texas Inc., is entitled to this

## **Certificate of Convenience and Necessity No. 21065**

to provide continuous and adequate sewer utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Harris, Jefferson, Montgomery, Polk, and Trinity Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47917 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 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.