



Control Number: 47918



Item Number: 14

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DeAnn T. Walker
Chairman

Brandy Marty Marquez
Commissioner

Arthur C. D'Andrea
Commissioner



Greg Abbott
Governor

2018 MAR -8 PM 4:33
PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Brandy Marty Marquez, Commissioner
Arthur C. D'Andrea, Commissioner

All Parties of Record

FROM: Gabriel P. Soto *APD*
Administrative Law Judge

RE: **Open Meeting of March 29, 2018**
Docket No. 47918 – *Petition of Primewood Investments, LP to Amend H-M-W Special Utility District's Certificate of Convenience and Necessity in Montgomery County by Expedited Release*

DATE: March 8, 2018

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, March 29, 2018, 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, March 21, 2018.

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

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DOCKET NO. 47918

PETITION OF PRIMEWOOD	§	PUBLIC UTILITY COMMISSION
INVESTMENTS, LP TO AMEND	§	
H-M-W SPECIAL UTILITY	§	OF TEXAS
DISTRICT'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
MONTGOMERY COUNTY BY	§	
EXPEDITED RELEASE	§	

PROPOSED ORDER

This Order addresses the petition of Primewood Investments, LP for expedited release from H-M-W Special Utility District's (HMW SUD) water certificate of convenience and necessity (CCN) number 10342 in Montgomery 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

1. On January 2, 2018, Primewood Investments filed a petition for the expedited release of a 188.64-acre tract of land from HMW SUD's CCN No. 10342 in Montgomery County. The petition included a warranty deed confirming Primewood Investments' ownership of the 188.64-acre tract of land and an affidavit confirming that the tract of land is not receiving water service from HMW SUD or any other water service provider and that the 188.64-acre tract of land is located in Montgomery County.
2. On January 11, 2018, Order No. 1 was issued setting a deadline for comments on the administrative completeness of the petition and notice and establishing a procedural schedule.
3. On February 1, 2018, HMW SUD filed a motion to intervene in this proceeding stating that it is capable of serving the area Primewood Investments seeks to decertify. HMW SUD's motion did not identify any property that would be rendered useless or valueless by the decertification.

4. On February 1, 2018, Commission Staff recommended that the petition be found administratively complete and that the notice issued be found sufficient. Commission Staff also clarified that the accurate acreage to be released by this petition is approximately 143 acres.¹
5. On February 5, 2018, Order No. 2 was issued deeming the petition administratively complete, finding the notice sufficient, adopting a procedural schedule, and granting HMW SUD's motion to intervene.
6. On February 9, 2018, HMW SUD responded to Primewood Investments' petition and moved for denial of the petition as not administratively complete or deny the petition on the merits, or require the payment of compensation to HMW SUD.
7. On February 20, 2018, Primewood Investments filed a corrected signature page to the affidavit of Dominic Leung.
8. On February 20, 2018, Commission Staff recommended the approval of Primewood Investments' petition and provided an amended service area map for HMW SUD.
9. The amended map and certificate for HMW SUD are attached to this Order.

Notice

10. Primewood Investments provided a copy of the petition to HMW SUD on January 2, 2018.
11. On January 11, 2018, notice of the petition was submitted to the *Texas Register* for publication.

Project Description

12. Primewood Investments owns the 143-acre tract of land.
13. The 143-acre tract of land is at least 25 acres in area.
14. The tract of land that Primewood Investments seeks to have decertified from HMW SUD's certificated service area is not receiving water service.
15. The 143-acre tract of land is located in a qualifying county.

¹ Commission Staff's recommendation and attached memorandum of Sean Scaff (Feb. 1, 2018).

Water Service

16. The 143-acre tract of land is not receiving any water service from HMW SUD as that term has been defined by the Courts.
17. The 143-acre tract of land is not receiving actual water service from HMW SUD.

Useless and Valueless

18. HMW SUD has no property that is rendered useless or valueless by the decertification.

II. Conclusions of Law

1. Montgomery County is a qualifying county as defined in Texas Water Code § 13.254(a-5)² and 16 Texas Administrative Code (TAC) § 24.113.
2. The Commission has jurisdiction over this petition under TWC §§ 13.041 and 13.254(a-5).
3. 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.
4. The 143-acre tract of land is not receiving water service from HMW SUD under TWC § 13.254(a-5).
5. No property of HMW SUD is rendered useless or valueless by the decertification; therefore, under TWC § 13.254(d)-(g) no compensation is owed to HMW SUD.
6. Because no compensation is owed, 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 without providing compensation to HMW SUD.
7. Primewood Investments is entitled to approval of the petition having sufficiently satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113 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 service.
8. The petition was processed in accordance with the Administrative Procedure Act,³ TWC, and Commission rules.

² Tex. Water Code Ann. § 13.254(a-5) (West 2008 & and Supp. 2017) (TWC).

³ Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 & Supp. 2017).

9. Under TWC § 13.257(r) and (s), HMW SUD 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 conclusion of law, the Commission issues the following orders:

1. The petition is approved.
2. Primewood Investments' 143-acre tract of land is removed from HMW SUD's water CCN No. 10342.
3. HMW SUD's water CCN No. 10342 is amended in accordance with this Order.
4. A copy of HMW SUD's amended water CCN No. 10342 is attached to this Order.
5. The Commission's official service-area boundary map for HMW SUD shall reflect this change, as provided in the attached map.
6. HMW SUD shall comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Montgomery 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 _____ day of March 2018.

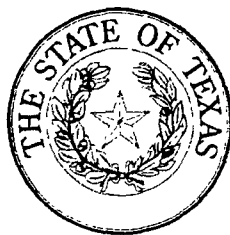
PUBLIC UTILITY COMMISSION OF TEXAS

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

H-M-W Special Utility District

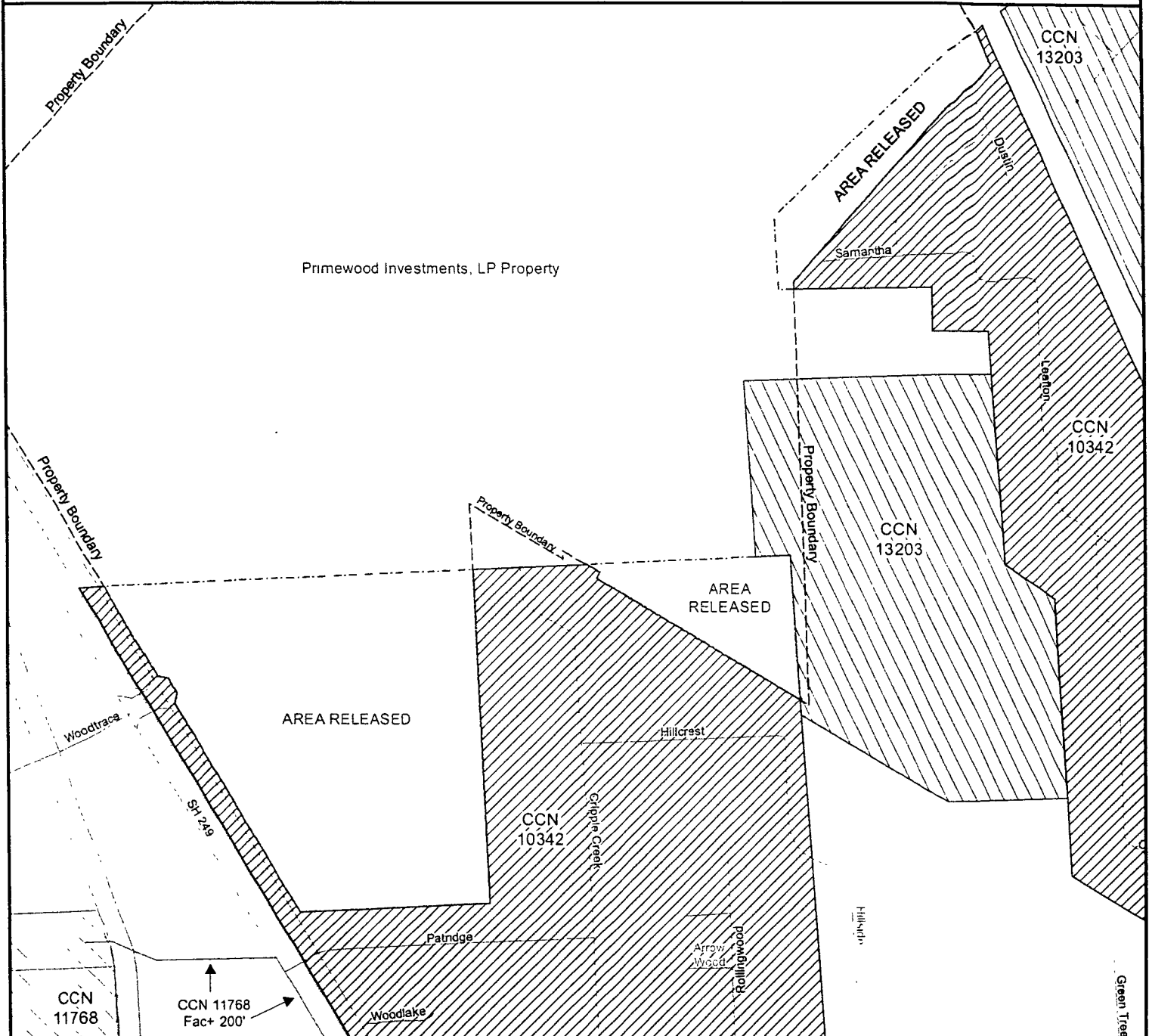
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by H-M-W Special Utility District, is entitled to this

Certificate of Convenience and Necessity No. 10342




to provide continuous and adequate water utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order resulting from Docket No. 47918 is on file at the Commission offices in Austin, Texas; and is a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of H-M-W Special Utility District, 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.


H-M-W SUD
Portion of Water CCN No. 10342
PUC Docket No. 47918
Petition by Primewood Investments, LP to
Amend H-M-W SUD's CCN by Expedited Release in Montgomery County





Water CCN

-  10342 - H-M-W SUD
-  13203 - Aqua Texas Inc
-  11768 - Pinehurst Decker Prairie WSC

Water Facility CCN

-  11768 - Pinehurst Decker Prairie WSC
- Facilities + 200'

-  Area Released
-  Property Boundary



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

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Feet



Map by: Komal Patel
Date created: February 13, 2018
Project Path: n:\finalmapping\47918HMWSUD.mxd