



Control Number: 47938



Item Number: 8

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**DOCKET NO. 47938**

**PETITION OF TERRA §  
INVESTMENTS, LP TO AMEND §  
AQUA TEXAS, INC.'S WATER §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN MONTGOMERY §  
COUNTY BY EXPEDITED RELEASE §**

**2018 MAR 13 PM 12:00  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

**NOTICE OF APPROVAL**

This Notice addresses the petition of Terra Investments, LP (Terra) for the expedited release of approximately 3.28 acres of land within Aqua Texas, Inc.'s water certificate of convenience and necessity (CCN) No. 13203 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 10, 2018, Terra filed a petition for the expedited release of portion of a 384.2-acre tract of land it owns in Montgomery County from Aqua Texas' water CCN No. 13203. Terra requests the removal of approximately 3.28 acres located within Aqua Texas' water CCN No. 13203.
2. On January 19, 2018, Order No. 1 was issued requiring comments on the administrative completeness of the petition and notice, and establishing procedural schedule.
3. On February 9, 2018, Commission Staff recommended that the petition and notice be deemed administratively complete.
4. On February 16, 2018, Order No. 2 was issued finding the petition administratively complete, notice sufficient, and establishing a procedural schedule.
5. On March 2, 2018, Commission Staff recommended (a) approval of the petition, (b) that no property would be rendered useless or valueless by decertification, and (c) that no

compensation proceeding is necessary. Commission Staff also provided an amended certificate and service area map.

6. The map and certificate referenced in Findings of Fact No. 5 are attached to this Notice.
7. No motions to intervene or request for hearing were filed in this proceeding.

#### Notice

8. Notice of the petition was published in the *Texas Register* on February 2, 2018.

#### Project Description

9. Terra owns the 3.28 acres of land in Montgomery County.
10. The 3.28 acres are part of the 384.2-acre tract of land owned by Terra.
11. The 3.28 acres are located within Aqua Texas' water CCN No. 13203 service area.
12. The 384.2-acre tract of land is located in a qualifying county.

#### Water Service

13. The 384.2-acre tract of land, including the 3.28 acres Terra seeks to have decertified from water CCN No. 13203, is not receiving water service from Aqua Texas as that term has been defined by the Courts.
14. The 384.2-acre tract of land, including the 3.28 acres Terra seeks to have decertified from water CCN No. 13203, is not receiving actual water service from Aqua Texas.

#### Useless or Valueless

15. Aqua Texas 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 (TWC) § 13.254(a-5).<sup>1</sup>

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<sup>1</sup> Tex. Water Code Ann. §§ 13.041 and 13.254(a-5) (West 2008 & and Supp. 2017) (TWC).

2. Notice of the petition was provided in compliance with 16 Texas Administrative Code (TAC) § 24.113(l)(3)(A)(vi) and 16 TAC §§ 22.54-.55.
3. Montgomery County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(l)(2)(D).
4. The 384.2-acre tract of land is not receiving water service from Aqua Texas under TWC § 13.254(a-5).
5. The 3.28 acres to be decertified under TWC § 13.254(a-5) are part of an area of land owned by Terra that is at least 25 acres.
6. Aqua Texas did not intervene in this proceeding, therefore under 16 TAC § 24.113(n)(3), Aqua Texas had no property rendered useless or valueless property as a result of the requested decertification.
7. No property of Aqua Texas has been rendered useless or valueless by the decertification, therefore, under TWC § 13.254(d)-(g) no compensation is owed to Aqua Texas.
8. 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 Aqua Texas.
9. Terra 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 service from Aqua Texas.
10. Under TWC § 13.257(r), Aqua Texas 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

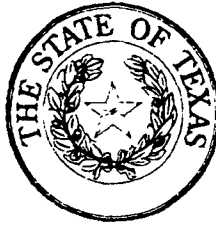
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The petition is approved.
2. Terra's 3.28 acres are released from Aqua Texas' water CCN No. 13203.
3. Aqua Texas' water CCN No. 13203 is amended in accordance with this Notice.
4. The Commission's official service area boundary maps for Aqua Texas shall reflect this change as shown in the attached maps.
5. Aqua Texas shall comply with the recording requirements of 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 Notice.
6. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 13<sup>th</sup> day of March 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

  
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JEFFREY J. HUHN  
ADMINISTRATIVE LAW JUDGE



# **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 by 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 Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47938 are 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 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 13<sup>th</sup> day of MARCH 2018.

Property Boundary

Terra Investments LP  
Property Boundary

Area Released

CCN 10342

CCN 13203

Leptos

Dune

Violet

Wildflower

Yellow Rose

Butterfly

Camellia

Gardenia

Property Boundary