

Control Number: 48054



Item Number: 25

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DOCKET NO. 48054

APPLICATION OF CANYON FALLS §  
MUNICIPAL UTILITY DISTRICT §  
NO. 1 OF DENTON COUNTY FOR A §  
WATER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
DENTON COUNTY §

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NOTICE OF APPROVAL

This Notice addresses the application of Canyon Falls Municipal Utility District No. 1 of Denton County (Canyon Falls) for a water certificate of convenience and necessity (CCN) in Denton County. The Commission approves the application and grants Canyon Falls a water CCN for 161 acres located within the district boundaries of Canyon Falls.

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

I. Findings of Fact

Applicant

1. Canyon Falls is a municipal utility district created under Section 59, Article XVI of the Texas Constitution.
2. Canyon Falls was formed to provide water utility infrastructure and service to the land inside its district boundaries.
3. Canyon Falls is located within the extraterritorial jurisdiction of the Town of Argyle in Denton County.

Application

4. On February 12, 2018, Canyon Falls filed an application to obtain a water CCN for a service area containing approximately 161 acres and no existing customers in Denton County. Canyon Falls supplemented the application on February 21, 2018, April 20, 2018, and August 21, 2018.
5. The requested area is located entirely within Canyon Falls' district boundaries.

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6. The proposed area is approximately 3 miles south of downtown Argyle and is bounded on the north by Forest Trail, on the east by Stonecrest Road, on the south by Canyon Falls Drive, and on the west by Graham Branch Creek.
7. The requested area will be developed into the Canyon Falls Village subdivision in six phases with utility infrastructure constructed in each phase. The first two phases are currently under construction and the remaining four phases will be constructed on an annual basis with final construction to be completed by 2021.
8. On February 21, 2018, Canyon Falls supplemented the application with digital data files.
9. In Order No. 3 issued on March 22, 2018, the administrative law judge (ALJ) found the application administratively complete.
10. On April 20, 2018, Canyon Falls supplemented the application with current financial information and an exemption regarding a financial audit.
11. On August 21, 2018, Canyon Falls supplemented to the application with a delivery schedule and Texas Commission on Environmental Quality (TCEQ) authorization letters regarding construction of the subdivision.
12. On July 31, 2018, Canyon Falls filed a signed consent form concurring with the map and certificate.

**Adequacy of Existing Service**

13. There are no customers in the requested area.
14. There is no water service in the requested area.

**Notice**

15. Notice of the application appeared in the March 2, 2018 issue of the *Texas Register*.
16. On April 5, 2018 and May 4, 2018, Canyon Falls filed the affidavits of Clarence Joe Freeland, its authorized representative, attesting that Canyon Falls mailed notice of the application to neighboring utilities, counties, cities, and affected parties.
17. On March 29, 2018, and April 5, 2018, the *Denton Record Chronicle*, a newspaper of general circulation in Denton County, published notice of the application.

18. On August 24, 2018, Canyon Falls filed Mr. Freeland's corrected affidavit attesting to completion of mailed and published notice.
19. In Order No. 5 issued on May 9, 2018, the ALJ found the notice sufficient.

**Evidentiary Record**

20. On August 31, 2018, the parties filed a joint motion to admit evidence.
21. In Order No. 6 issued on January 3, 2019, the ALJ admitted the following into evidence: (a) Canyon Falls' application and attachments, filed on February 12, 2018; (b) Canyon Falls' application supplement, filed on February 21, 2018; (c) Canyon Falls' proof of notice, filed on April 5, 2018; (d) Canyon Falls' application supplement, filed on April 20, 2018; (e) Canyon Falls' supplemental proof of notice, filed on May 4, 2018; (f) Canyon Falls' consent to final map and certificate, filed on July 31, 2018; (g) Canyon Falls' application supplement, filed on August 21, 2018; (h) Commission Staff's final recommendation and attachments, filed on August 22, 2018; (i) Canyon Falls' corrected supplemental proof of notice, filed on August 24, 2018; and (j) final map and certificate, filed on August 31, 2018.

**Need for Service**

22. The requested area is currently undeveloped agricultural land that will be developed into the Canyon Falls Village subdivision with approximately 340 single-family residences.
23. On May 27, 2016, Canyon Falls and the owner of the 161-acre tract, NASH Canyon Falls, LLC, entered into an agreement for the development of the requested area.

**Effect of Granting the Certificate to Canyon Falls and Any Other Retail Public Utility**

24. Canyon Falls entered into an agreement with the Town of Northlake to obtain wholesale water service in the requested area.
25. Canyon Falls entered into an agreement with the Town of Argyle to provide sewer service in the requested area.
26. Because the requested area is located entirely inside Canyon Falls' boundaries, the retail water utilities in the proximate area will not be affected by the granting of a CCN to Canyon Falls.
27. Granting Canyon Falls a CCN will ensure that the 161-acre tract is developed as planned.

**Ability to Provide Adequate Service**

28. The Town of Northlake has a TCEQ-approved public water system that will provide wholesale water service to the requested area.
29. Canyon Falls is located inside the boundaries of the Town of Argyle's certificated sewer service area, and the Town of Argyle will provide sewer service in the requested area.
30. Through the water system management services agreement between Canyon Falls, the Town of Argyle, and the Town of Northlake, Canyon Falls will construct a water distribution system to serve its customers and will obtain management, utility operations, and maintenance services from the Town of Northlake.
31. Development of the subdivision and its facilities will be in six phases, which constitutes less than 10% of the Town of Northlake's existing service connections; therefore, TCEQ approval of engineering plans and specifications for each phase was not required.

**Feasibility of Obtaining Service from an Adjacent Retail Public Utility**

32. The Town of Northlake's public water supply system will provide water service to the requested area.

**Financial Ability to Pay for Facilities and Financial Stability**

33. Canyon Falls has a debt to equity ratio of less than one and a debt-service coverage ratio of more than 1.25 with no long-term debt.
34. Canyon Falls has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations, and anticipated cash shortages have not been identified.
35. Canyon Falls had \$25,785 in cash as of June 30, 2017, and the projected year-end cash balance for each of the first five years of continuing operations is positive.
36. Canyon Falls' distribution system and all infrastructure to serve the 340 proposed connections will be financed through advances from the developer and reimbursed to the developer out of its bond proceeds.

**Environmental Integrity and Effect on the Land**

37. Disturbances to environmental integrity during the phases of construction of the subdivision will be temporary.

38. Disturbances to environmental integrity during the phases of construction of the subdivision will be negligible in comparison to the drilling of individual wells in the requested area.
39. The effect on the land will be altered based upon the landowner's plans to develop the requested area into a residential subdivision with 340 single-family homes.

**Improvement of Service or Lowering of Costs to Consumers**

40. Granting Canyon Falls a CCN for the requested area will enable the district to provide water and sewer services to the Canyon Falls Village subdivision.

**Informal Disposition**

41. More than 15 days have passed since completion of the notice provided in this docket.
42. No person filed a protest or motion to intervene.
43. No party requested a hearing, and no hearing is required.
44. Canyon Falls and Commission Staff are the only parties to this proceeding.
45. On August 22, 2018, Commission Staff recommended approval of the application.
46. The decision is not adverse to any party.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this application under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, and 13.246.
2. Canyon Falls will be a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59)<sup>1</sup> when it begins operating, maintaining, or controlling its system for compensation.
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,<sup>2</sup> the TWC, and Commission rules.

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<sup>1</sup> References to chapter 24 rules reflect the newly assigned section number effective October 17, 2018.

<sup>2</sup> Administrative Procedure Act, Tex. Gov't Code. §§ 2001.001–.902.

5. Canyon Falls demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area in Denton County as required under TWC § 13.241(a) and 16 TAC § 24.227.
6. Canyon Falls' application for a CCN is necessary for the service, accommodation, convenience, or safety of the public under TWC § 13.246(b).
7. Under TWC § 13.257(r) and (s), Canyon Falls must record a certified copy of the CCN and map, along with a boundary description of the service area, in the real property records of Denton County and submit to the Commission evidence of the recording.
8. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

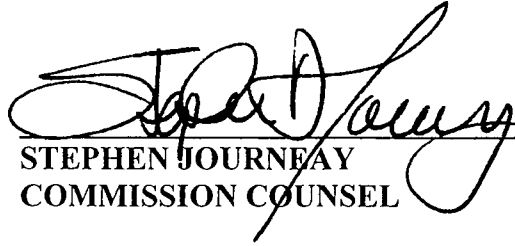
### III. Ordering Paragraphs

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

1. The Commission approves the application and grants Canyon Falls a water CCN for 161 acres located within the district boundaries of Canyon Falls.
2. The Commission grants Canyon Falls CCN number 13270.
3. The Commission approves the map and certificate attached to this Notice.
4. Canyon Falls must serve every customer and applicant for service within the area certified under CCN number 13270, and such service must be continuous and adequate.
5. Canyon Falls must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Denton County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 24<sup>th</sup> day of January 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**



STEPHEN JOURNEY  
COMMISSION COUNSEL

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# Public Utility Commission Of Texas

By These Presents Be It Known To All That

## Canyon Falls Municipal Utility District No. 1

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, Canyon Falls Municipal Utility District No. 1, is entitled to this

### Certificate of Convenience and Necessity No. 13270

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48054 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 Canyon Falls Municipal Utility District No. 1, 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 24<sup>th</sup> day of January 2018.

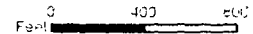
Canyon Falls MUD No 1  
 Water CCN No. 13270  
 PUC Docket No. 48054  
 Obtained New CCN in Denton County



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

**Water CCN**

-  13270 - Canyon Falls MUD No 1
-  10199 - Argyle WSC
-  12983 - Monarch Utilities I LP
-  10982 - Town of Flower Mound
-  12915 - Town of Northlake



Map by Komal Patel.  
 Date created July 16 2018  
 Project Path 'n:\finalmapping'  
 48054CanyonFallsMUD1.mxd