

Control Number: 48103



Item Number: 21

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DOCKET NO. 48103

RECEIVED

APPLICATION OF FALL CREEK §
UTILITY COMPANY, INC. AND §
LGRVR WATER SUPPLY §
CORPORATION FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN HOOD COUNTY §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS
CLERK

2019 FEB 28 AM 9:28

**JOINT PROPOSED NOTICE OF APPROVAL
AND MOTION TO ADMIT EVIDENCE**

COME NOW the Staff of the Public Utility Commission of Texas (Staff), Fall Creek Utility Company, Inc. (Fall Creek), and LGRVR Water Supply Corporation (LGRVR) (collectively, the Parties) and jointly file this Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Parties show the following:

I. BACKGROUND

On February 28, 2018, the Fall Creek and LGRVR filed an application with the Public Utility Commission of Texas (Commission) for sale, transfer, or merger of facilities and certificate rights in Hood County, Texas. Specifically, LGRVR seeks approval to acquire facilities and to transfer Fall Creek's water and sewer service area under Certificate of Convenience and Necessity (CCN) Nos. 12884 (water) and 20854 (sewer). The requested area includes approximately 22 acres and 71 water and 69 sewer connections.

On January 15, 2019, Order No. 6 was issued, establishing a deadline of February 28, 2019, for the parties to file joint proposed findings of fact and conclusions of law. This pleading is therefore timely filed.

II. MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding:

- (a) Application of Fall Creek and LGRVR for sale, transfer, or merger of facilities and certificate rights in Hood County (filed on February 26, 2018, AIS Item No. 1);
- (b) Proof of notice affidavit and documentation (filed on April 12, 2018 AIS Item No. 7);
- (c) Staff's Recommendation on Sale and all attachments (filed on June 1, 2018, AIS Item

- No. 10);
- (d) Closing documents and proof of sale documentation (filed on December 21, 2018, AIS Item Nos. 12 and 13);
 - (e) Additional documentation regarding disposition of customer deposits, (filed on January 7, 2019, AIS Item No. 16);
 - (f) Staff's recommendation on proof of sale documentation (filed on January 10, 2019, AIS Item No. 17);
 - (g) Consent forms (filed on February 21, 2019, AIS Item Nos. 19 and 20); and
 - (h) Certificates and maps, attached.

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant Fall Creek and LGRVR's application for sale, transfer, or merger of facilities and certificate rights in Hood County. The Parties request that the Commission approve the Notice.

IV. CONCLUSION

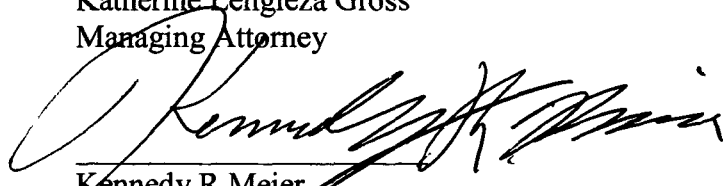
The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the findings of fact, conclusions of law, and ordering paragraphs from the attached Joint Proposed Notice of Approval be adopted.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

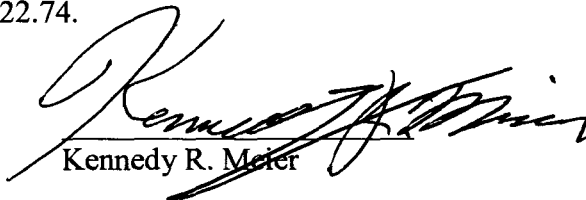


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DOCKET NO. 48103

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on February 28, 2019, in accordance with 16 TAC § 22.74.



Kennedy R. Meier

DOCKET NO. 48103

APPLICATION OF FALL CREEK	§	PUBLIC UTILITY COMMISSION
UTILITY COMPANY, INC. AND	§	
LGRVR WATER SUPPLY	§	OF TEXAS
CORPORATION FOR SALE,	§	
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN HOOD COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Joint Proposed Notice of Approval addresses the application of Fall Creek Utility Company, Inc. (Fall Creek), and LGRVR Water Supply Corporation (LGRVR) for sale and transfer of Fall Creek's water and sewer facilities and certificates of convenience and necessity (CCNs) for area in Hood County. Commission Staff recommends approval of the application. The Commission approves LGRVR's purchase of Fall Creek's water and sewer systems and transfers Fall Creek's water CCN No. 12884 and sewer CCN No. 20854 to LGRVR.

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

I. Findings of Fact

Application and Affected Entities

1. Fall Creek is a domestic, for-profit corporation registered with the Texas secretary of state under file number 0143640400.
2. Fall Creek operates, maintains, and controls facilities for providing water service under CCN number 12884.
3. Fall Creek operates, maintains, and controls facilities for providing sewer service under CCN number 20854.
4. Fall Creek owns one Texas Commission on Environmental Quality (TCEQ) approved Public Water System (PWS) under PWS Identification No. 1110114.
5. Fall Creek owns one TCEQ-approved wastewater permit: WQ0013809001.
6. LGRVR is a domestic, non-profit corporation registered with the Texas secretary of state under file number 802928362.

Application

7. On February 26, 2018, Fall Creek and LGRVR filed an application requesting approval of the sale of Fall Creek's water and sewer systems and the transfer of Fall Creek's water CCN number 12884 and sewer CCN number 20854 to LGRVR.
8. The proposed sale and transfer affects water facilities in one subdivision in Hood County and transfers a service area with 71 existing customers.
9. The proposed sale and transfer affects sewer facilities in one subdivision in Hood County and transfers a service area with 69 existing customers.
10. In the application, the applicants stated that the facilities to be sold and transferred were not subject to customer contributions in aid of construction.
11. In Order No. 2 issued on April 5, 2018, the Commission administrative law judge (ALJ) deemed the application administratively complete, required notice to be given, and established a procedural schedule.

Notice of the Application

12. Notice of the application appeared in the March 16, 2018 issue of the *Texas Register*.
13. On March 30, 2018, LGRVR provided individual notice to neighboring systems, landowners, cities, and affected parties.
14. On April 12, 2018, LGRVR filed the affidavit of William Lodol, president of LGRVR, attesting to the completion of notice as described in finding of fact 13.
15. In Order No. 3 issued April 24, 2018, the Commission ALJ found notice of the application sufficient.

Sale

16. In Order No. 4, issued on June 5, 2018, the Commission approved the sale and transfer to proceed and required completion of the sale and transfer within 180 days.
17. On December 21, 2018, LGRVR filed documents of sale and a letter from Abel Lara, vice president of LGRVR, stating that the sale and transfer had occurred on November 20, 2018 and that Fall Creek's customer deposits had been refunded to Fall Creek's customers on the same day.
18. On January 7, 2019, LGRVR filed a report detailing the refund of Fall Creek's customer deposits to Fall Creek.

19. In Order No. 6 issued on January 15, 2019, the Commission ALJ found the closing documents sufficient.

Evidentiary Record

20. In Order No. ___ issued on _____, 2019, the following evidence was admitted into the record: (a) application of Fall Creek and LGRVR for sale, transfer, or merger of facilities and certificate rights in Hood County, filed on February 26, 2018; (b) proof of notice affidavits and documentation, filed on April 12, 2018; (c) Staff's Recommendation on Sale and all attachments, filed on June 1, 2018; (d) closing documents and proof of sale documentation, filed on December 21, 2018; (e) Additional documentation regarding disposition of customer deposits, filed on January 7, 2019; (f) Staff's recommendation on proof of sale documentation, filed on January 10, 2019; (g) the applicants' consent forms, filed on February 21, 2019; and (h) final maps and certificates, filed on February 28, 2019.

Compliance

21. There are no existing violations with the public water system, and the system is in compliance with TCEQ's drinking water rules.
22. There are no existing violations with the wastewater system, and the system is in compliance with TCEQ's rules.
23. LGRVR has not been subject to any enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of Attorney General, or the United States Environmental Protection Agency.

Adequacy of Existing Service

24. Fall Creek provides service to the requested areas through its existing public water system and wastewater system.

Need for Additional Service

25. The application is only to transfer existing facilities, customers, and service areas.
26. LGRVR has not received any new requests for service, and LGRVR is not requesting to add additional uncertificated area.
27. Fall Creek's existing customers in the requested areas have a need for service.

Effect of Approving the Transaction

- 28. There are four utilities, cities, or political subdivisions providing water or sewer service within two miles of the requested areas.
- 29. Fall Creek and LGRVR are the only utilities affected by this sale and transfer.
- 30. Water and sewer rates will not change because of the sale and transfer.

Ability to Serve: Managerial and Technical

- 31. LGRVR's management team is comprised of the same people who currently manage Fall Creek.
- 32. LGRVR will continue to use the licensed operators who currently operate the water and sewer systems for Fall Creek.
- 33. LGRVR has demonstrated adequate managerial and technical expertise to provide adequate water and sewer service.

Ability to Serve: Financial and Stability

- 34. LGRVR's projected operating revenues are sufficient to cover the projected operations and maintenance expense for the first five years after the completion of the proposed sale and transfer.
- 35. LGRVR's projected annual net operating income before depreciation and non-cash expenses, divided by the annual combined long-term debt service payments, results in a debt-service-coverage ratio of more than 1.25.
- 36. LGRVR has demonstrated the financial capability to provide adequate water and sewer service.

Financial Assurance

- 37. There is no need to require LGRVR to provide a bond or other financial assurance to ensure continuous and adequate service.

Service from Adjacent Retail Public Utility

- 38. Fall Creek is serving the customers in the requested areas, and following the transfer, LGRVR will provide service using existing infrastructure; therefore, the feasibility of obtaining service from another adjacent retail public utility was not considered.

Regionalization or Consolidation

- 39. LGRVR does not anticipate building any new facilities to continue serving the area.

Environmental Integrity

40. The area will be served with existing infrastructure, and the transfer should have a minimal effect on the environmental integrity of the requested areas.

Effect on the Land

41. The area will be served with existing infrastructure, and the transfer should have a minimal effect on the land.

Improvement of Service

42. LGRVR will provide service to customers currently served by Fall Creek.

Lowering of Costs

43. Customers in the requested areas will be charged the same rates they were charged before the sale of Fall Creek's water and sewer systems.

Maps

44. On February 7, 2019, Commission Staff emailed to Fall Creek and LGRVR proposed maps and certificates related to this docket.
45. On February 21, 2019, Fall Creek and LGRVR filed consent forms concurring with the maps and certificates as prepared by Commission Staff.
46. On February 28, 2019, the proposed certificates and maps were filed as an attachment to the joint motion to admit evidence.

Informal Disposition

47. More than 15 days have passed since the completion of the notice provided in this docket.
48. No issues of fact or law are disputed by the parties.
49. The sale and transfer approved in this Notice is not adverse to any party.
50. No hearing is needed in this proceeding.

II. Conclusions of Law

1. LGRVR is a retail public utility as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
2. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
3. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239(a), (b), (c), and (d).

4. The Commission processed the application in accordance with the requirements of TWC §§ 13.251 and 13.301 and 16 TAC § 24.239.
5. After considering the factors in TWC § 13.246(c), LGRVR has demonstrated adequate financial, managerial, and technical capability under TAC § 13.251 and 16 TAC § 24.239(g) to provide continuous and adequate service to the requested areas.
6. Fall Creek and LGRVR have complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
7. Fall Creek and LGRVR completed the sale within the time authorized by the Commission.
8. Fall Creek and LGRVR have demonstrated that it is necessary for the service, accommodation, convenience, and safety of the public to transfer the public water system and water service area under CCN number 12884 from Fall Creek to LGRVR and to issue a water CCN to LGRVR.
9. Fall Creek and LGRVR have demonstrated that it is necessary for the service, accommodation, convenience, and safety of the public to transfer the wastewater system and wastewater service area under CCN number 20854 from Fall Creek to LGRVR and to issue a sewer CCN to LGRVR.
10. Under TWC § 13.257(r) and (s), LGRVR must record a certified copy of the certificates transferred and maps approved by this Notice, along with a boundary description of the service areas, in the real property records of Hood County within 31 days of receiving this Notice and submit to the Commission evidence of the recording.
11. The application meets the requirements for informal disposition in 16 TAC § 22.35.

III. Ordering Paragraphs

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

1. The Commission approves LGRVR's purchase of Fall Creek's water system and the transfer of Fall Creek's water CCN number 12884 to LGRVR, to the extent provided in this Notice.
2. The Commission approves LGRVR's purchase of Fall Creek's sewer system and the transfer of Fall Creek's sewer CCN number 20854 to LGRVR, to the extent provided in this Notice..

3. The Commission transfers water CCN number 12884 to LGRVR.
4. The Commission transfers sewer CCN number 20854 to LGRVR.
5. LGRVR must provide continuous and adequate water service to every customer and applicant for service within the service area for water CCN number 12884.
6. LGRVR must provide continuous and adequate sewer service to every customer and applicant for service within the service area for sewer CCN number 20854.
7. Fall Creek and LGRVR must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Hood County affected by the application.
8. Fall Creek and LGRVR must submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice.
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of _____ 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

LGRVR Water Supply Corporation

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, LGRVR Water Supply Corporation, is entitled to this

Certificate of Convenience and Necessity No. 12884

to provide continuous and adequate water utility service to that service area or those service areas in Hood County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48103 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 LGRVR Water Supply Corporation, 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 _____ day of _____ 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

LGRVR Water Supply Corporation

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, LGRVR Water Supply Corporation, is entitled to this

Certificate of Convenience and Necessity No. 20854

to provide continuous and adequate sewer utility service to that service area or those service areas in Hood County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48103 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 LGRVR Water Supply Corporation, 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.

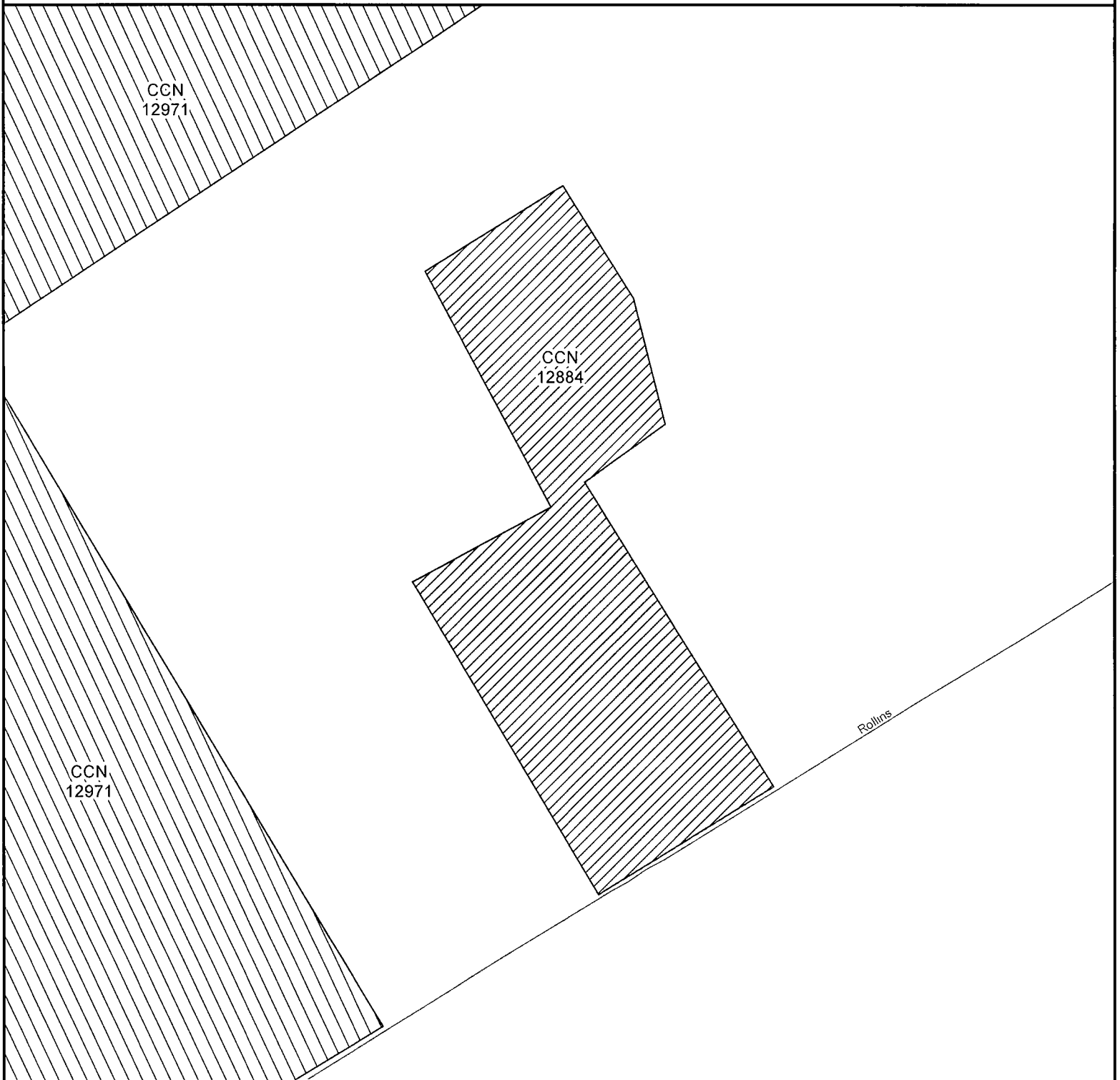
Issued at Austin, Texas, this _____ day of _____ 2019.

LGRVR Water Supply Corporation

Water CCN No. 12884

PUC Docket No. 48103

Transferred all of Fall Creek Utility Company, Inc., CCN No. 12884 in Hood County



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

Water CCN



12884 - LGRVR WSC



12971 - Acton MUD

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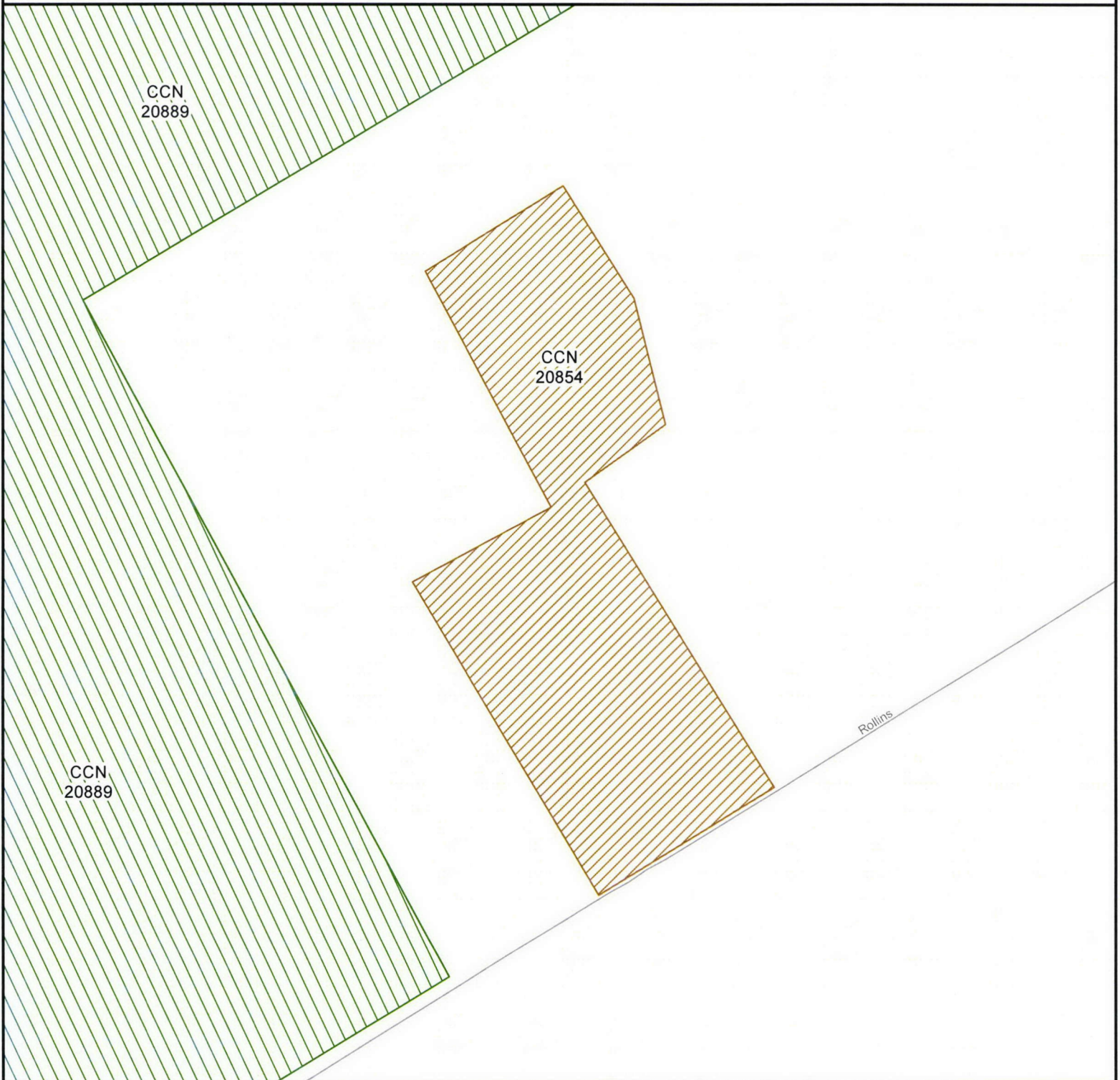
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Date created: January 22, 2019
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48103LGRVRWSCWater.mxd

LGRVR Water Supply Corporation

Sewer CCN No. 20854



PUC Docket No. 48103

Transferred all of Fall Creek Utility Company, Inc., CCN No. 20854 in Hood County



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

Sewer CCN

-  20854 - LGRVR WSC
-  20889 - Acton MUD

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Feet



Map by: Komal Patel
Date created: January 22, 2019
Project Path: n:\finalmapping\
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