



Control Number: 48232



Item Number: 21

Addendum StartPage: 0

DOCKET NO. 48232

RECEIVED

APPLICATION OF BOURLAND §  
FIELD DEVELOPMENT §  
CORPORATION AND BOURLAND §  
ESTATES WATER SUPPLY §  
CORPORATION FOR SALE, §  
TRANSFER, OR MERGER OF §  
FACILITIES AND CERTIFICATE §  
RIGHTS IN PARKER COUNTY §

PUBLIC UTILITY COMMISSION

OF TEXAS

2018 NOV 20 PM 3:58  
PUBLIC UTILITY COMMISSION  
FILING CLERK

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

COMES NOW the Staff of the Public Utility Commission of Texas (Staff) representing the public interest, together with BFE Development Corporation (BFE Water) and Bourland Estates Water Supply Corporation (Bourland Estates WSC) (collectively, Parties), and files this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following:

**I. BACKGROUND**

On April 5, 2018, BFE Water and Bourland Estates WSC (collectively, Applicants) filed an application with the Public Utility Commission of Texas (Commission) for the sale, transfer, or merger of facilities and certificate rights in Parker County, Texas. Specifically, BFE Water seeks approval to transfer all water facilities and service area under certificate of convenience and necessity (CCN) No. 12899 to Bourland Estates WSC. The requested area includes approximately 163 acres and 39 current customers.

On July 20, 2018, Order No. 4 was issued, permitting the transaction to proceed and requiring the filing of documents demonstrating the close of the transaction. On October 3, 2018, Applicants filed the required closing documents.

On October 12, 2018, Staff filed a recommendation that the Applicants' closing documents were consistent with the applicable Commission rules.

On October 15, 2018, Order No. 5 was issued, requiring parties to file joint proposed findings of fact and conclusions of law by November 26, 2018. Therefore, this pleading is timely filed.

## **II. JOINT MOTION TO ADMIT EVIDENCE**

Staff respectfully requests that the following documents be admitted into evidence in this proceeding for the purpose of supporting a Commission notice of approval or final order consistent with Staff's recommendation:

1. Applicants' application, and all attachments thereto, filed on April 5, 2018;
2. Applicants' affidavit and proof of notice, filed on May 22, 2018;
3. Commission Staff's Recommendation on Approval of Sale, and all attachments thereto, filed on July 19, 2018;
4. Applicants' information regarding the closing of the proposed transaction, filed on October 3, 2018;
5. Commission Staff's Recommendation on the Closing of the Transaction, filed on October 12, 2018;
6. Bourland Estates WSC consent form to the final map and certificate, filed on November 7, 2018;
7. BFE Water consent form to the final map and certificate, filed on November 9, 2018; and
8. The attached final map and certificate.

## **III. JOINT PROPOSED NOTICE OF APPROVAL**

Commission Staff, BFE Water, and Bourland Estates WSC have agreed to the attached Joint Proposed Notice of Approval, which would grant Applicants' application for approval of the transfer of all water facilities and certificated water service area under water CCN No. 12899 to Bourland Estates WSC. Also attached are the final map and certificate that were provided by Staff to the Applicants on November 2, 2018, and subsequently approved by Applicants via filed consent forms on November 7, 2018 and November 9, 2018.

## **IV. CONCLUSION**

Applicants have agreed that Staff is authorized to file this pleading on their behalf. Therefore, the Parties respectfully request that the Commission grant the Motion to Admit Evidence, and adopt the attached Joint Proposed Notice of Approval.

Dated: November 20, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

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**DOCKET NO. 48232**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 20, 2018, a true and correct copy of the foregoing document has been served on all parties of record in accordance with 16 Tex. Admin. Code § 22.74.



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Richard Nemer

**DOCKET NO. 48232**

<b>APPLICATION OF BOURLAND</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>FIELD DEVELOPMENT</b>	<b>§</b>	
<b>CORPORATION AND BOURLAND</b>	<b>§</b>	<b>OF TEXAS</b>
<b>ESTATES WATER SUPPLY</b>	<b>§</b>	
<b>CORPORATION FOR SALE,</b>	<b>§</b>	
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN PARKER COUNTY</b>	<b>§</b>	

**JOINT PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the application of BFE Development Corporation (BFE Water) and Bourland Estates Water Supply Corporation (Bourland Estates WSC) (collectively, Applicants) for the sale, transfer, or merger of facilities and certificate rights in Parker County, Texas (Application). On October 12, 2018, the Public Utility Commission (Commission) staff (Staff) recommended approval of the Application. The Application is approved.

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

**I. FINDINGS OF FACT**

**The Applicants**

1. BFE Water is a Texas Corporation registered with the Texas Secretary of State on January 28, 1985, under File No. 73772300.
2. BFE provides water service in Texas under certificate of convenience and necessity (CCN) No. 12899.
3. Bourland Estates WSC is a Texas non-profit corporation registered with the Texas Secretary of State on February 12, 2018, under File No. 802940641.

**The Application**

4. On April 5, 2018, Applicants filed the Application for approval to sell and transfer all water facilities and service area under CCN No. 12899 to Bourland Estates WSC in Parker County, Texas.
5. The service area and facilities being sold and transferred include approximately 163 acres and 39 current customers.

6. The requested area is located approximately 4 miles northeast of downtown Cresson, Texas, and is generally bounded on the north by US 377, on the east by a line approximately 3,500 feet east of the intersection of US 377 and Park Place Drive, on the south by South Bear Creek, and on the west by US 377.
7. BFE Water's facilities are registered under an approved Texas Commission on Environmental Quality (TCEQ) public water system (PWS). The facilities are capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code and TCEQ rules.
8. BFE Water's facilities provide an adequate supply of water.
9. BFE Water operates adequate production, storage, and distribution facilities, which enable it to serve the 39 current customers in the requested area. Upon transfer of the facilities, Bourland Estates WSC's level of service to the 39 current customers should remain consistent.
10. There is no retail public utility located in the service area that will be adversely affected by granting the sale and transfer of water facilities and service area.
11. Bourland Estates WSC has demonstrated the financial capability to service the requested area because it has an adequate debt-to-equity ratio; it has an adequate debt service coverage ratio; it has sufficient unrestricted cash available as a cushion for two years of debt service; and it has no projected operational or maintenance shortages in the first five years of operation.
12. Approval of the application will not adversely impact the environmental integrity of the land included in the requested area because facilities are already in place and serving the requested area.
13. Bourland Estates WSC is capable of providing continuous and adequate service to the requested area and the transaction will serve the public interest.

**Evidence**

14. On \_\_\_\_\_, 2018, the following evidence was admitted into the record: Applicants' application, and all attachments thereto, filed on April 5, 2018; Applicants' affidavit and proof of notice, filed on May 22, 2018; Commission Staff's Recommendation on Approval of Sale, and all attachments thereto, filed on July 19, 2018; Applicants'

information regarding the closing of the proposed transaction, filed on October 3, 2018; Commission Staff's Recommendation on the Closing of the Transaction, filed on October 12, 2018; Bourland Estates WSC consent form to the final map and certificate, filed on November 7, 2018; BFE Water consent form to the final map and certificate, filed on November 9, 2018; and the attached final map and certificate.

### **Notice**

15. On April 27, 2018, notice of the Application was published in the *Texas Register*.
16. On May 16, 2018, Applicants mailed notice of the application to current customers, districts and neighboring utilities, and affected parties.
17. On May 22, 2018, Bourland Estates WSC filed an affidavit attesting to mailed and published notice.
18. In Order No. 3 issued on July 5, 2018, the administrative law judge (ALJ) found Applicants' notice sufficient.

### **Informal Disposition**

19. More than 15 days have passed since completion of the notice provided in this docket.
20. Commission Staff, BFE Water, and Bourland Estates WSC are the only parties to this proceeding.
21. No protests, motions to intervene or requests for hearing were filed; therefore, no hearing is necessary.
22. The decision is not adverse to any party.

## **II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction and authority over this docket pursuant to Texas Water Code (TWC) §§ 13.041, 13.241, 13.246, 13.251, and 13.301.<sup>1</sup>
2. BFE Water and Bourland Estates WSC are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. BFE Water and Bourland Estates WSC provided notice of the Application in compliance with TWC § 13.301(a)(2).

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<sup>1</sup> Tex. Water Code Ann. §§ 13.041, 13.241, 13.246, 13.251, and 13.301.

4. The Commission processed the application in accordance with the TWC, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
5. Commission action on this application complied with the 120-day deadline required by 16 TAC § 24.239(a).
6. BFE Water and Bourland Estates WSC completed the sale within 180 days from the date of the Commission's approval of the sale, consistent with 16 TAC § 24.239(o).
7. After consideration of the factors in TWC § 13.246(c), Bourland Estates WSC is entitled to approval of the application, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to every customer in the service area.
8. BFE Water and Bourland Estates WSC have demonstrated that the transfer of facilities and certificate rights requested in this Application are necessary for the service, accommodation, convenience, and safety of the public, as required by 16 TAC § 13.246(b).
9. Under TWC § 13.257(r) and (s), Bourland Estates WSC 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.
10. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

### **III. ORDERING PARAGRAPHS**

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

1. The Application is approved.
2. The certificate and map attached to this Notice are approved.
3. All of the water service area and water facilities owned by BFE Water in Parker County under CCN No. 12899 are transferred to Bourland Estates WSC. CCN No. 12899 is transferred to Bourland Estates WSC.
4. Bourland Estates WSC shall serve every customer and applicant for service within the areas certified under CCN No. 12899, and such service shall be continuous and adequate.

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



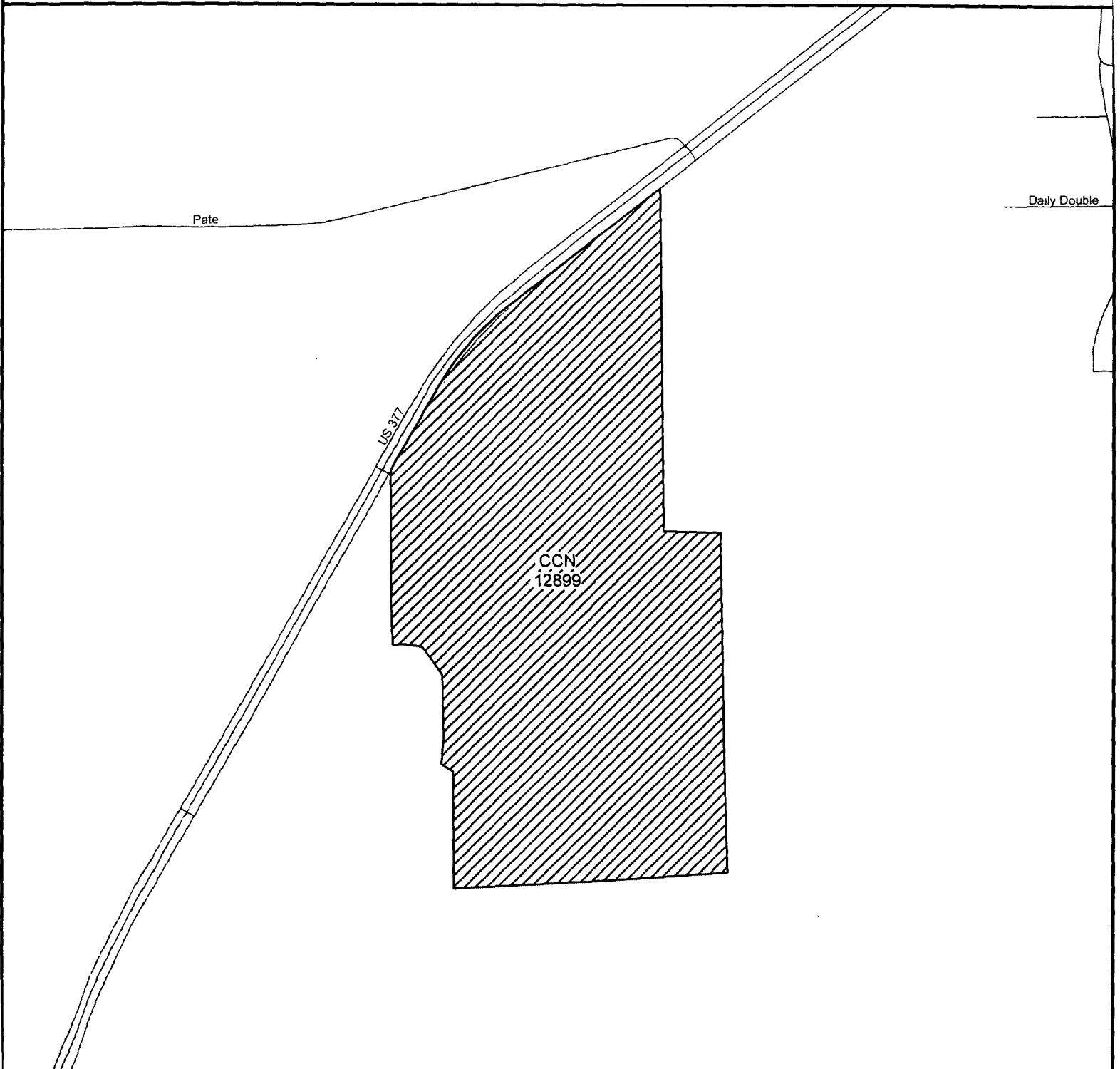
5. Bourland Estates WSC shall comply with the recording requirements in TWC § 13.257(r) for the area in Parker County affected by the Application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_ 2018.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

\_\_\_\_\_  
**ADMINISTRATIVE LAW JUDGE**

Bourland Estates Water Supply Corporation  
Water CCN No.12899  
PUC Docket No. 48232  
Transferred all of BFE Water, CCN No. 12899 in Parker County



**Water CCN**



12899 - Bourland Estates WSC

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Feet





# **Public Utility Commission of Texas**

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

## **Bourland Estates 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, Bourland Estates Water Supply Corporation is entitled to this

### **Certificate of Convenience and Necessity No. 12899**

to provide continuous and adequate water utility service to that service area or those service areas in Parker County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48232 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 of Bourland Estates 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, the \_\_\_\_\_ day of \_\_\_\_\_ 2018.