



Control Number: 48232



Item Number: 32

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**Public Utility Commission of Texas**

PUBLIC UTILITY COMMISSION  
FILING CLERK

TO: All Parties of Record

FROM: Mayson Pearson **MP**  
Administrative Law Judge

RE: **Docket No. 48232** – *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*

DATE: August 14, 2019

Enclosed is the Corrected Notice of Approval in this case. On August 1, 2019, Commission Staff filed proposed corrections to the Notice of Approval issued on July 22, 2019, seeking to include the amendment of BFE Field Development Corporation's certificate of convenience and necessity (CCN) number 12899 and the substitution of the map included with the Notice of Approval. The administrative law judge declines to make Commission Staff's corrections to amend CCN number 12899, but substitutes the map, which is attached to the Corrected Notice of Approval. The administrative law judge acknowledges that the certificated service area was incorrectly depicted on the GIS system; however, the initial Commission Order granting the CCN, not the map in the Commission's database, controls the certificated service area. Commission Staff's substitution of the incorrect map for the correct one in the database does not necessitate an amendment to the CCN.

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**DOCKET NO. 48232**

<b>APPLICATION OF BOURLAND FIELD</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DEVELOPMENT CORPORATION AND</b>	<b>§</b>	
<b>BOURLAND ESTATES WATER</b>	<b>§</b>	<b>OF TEXAS</b>
<b>SUPPLY 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>	

**CORRECTED NOTICE OF APPROVAL**

This Notice of Approval addresses the application of Bourland Field Development Corporation (BFE Water) and Bourland Estates Water Supply Corporation (Bourland Estates WSC) for the sale of water facilities and transfer of certificate rights in Parker County. The Commission approves the sale of water facilities and the transfer of service area held by BFE Water under certificate of convenience and necessity (CCN) number 12899 to Bourland Estates WSC.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. BFE Water is a domestic corporation registered with the Texas secretary of state on January 28, 1985 under file number 73772300.
2. BFE Water owns, operates, and controls facilities for providing water service under CCN number 12899 in Parker County.
3. Bourland Estates WSC is a domestic nonprofit corporation registered with the Texas secretary of state on February 12, 2018 under file number 802940641.

**Application**

4. On April 5, 2018, the applicants requested approval for the sale of BFE Water's public water system and the transfer of BFE Water's CCN number 12899 to Bourland Estates WSC. The sale will affect 39 existing customers. The following service area is to be

transferred to Bourland Estates WSC: an area of approximately 163 acres within the Bourland Field Estates subdivision, public water system number (PWS) 1840132.

5. Along with the transfer of BFE Water's CCN number 12899 to Bourland Estates WSC, the application requests approval for the sale of the water utility, including the .0179-acre tract of land which houses the water utility plant and well for PWS 1840132.
6. The boundaries of the requested area are depicted on the map attached to this Notice of Approval.
7. In Order No. 2 issued on May 7, 2018, the administrative law judge (ALJ) found the application administratively complete.

#### Notice

8. Notice of the application appeared in the April 27, 2018 issue of the *Texas Register*.
9. On May 16, 2018, the applicants mailed notice of the application to current customers, districts, neighboring utilities, and affected parties.
10. On May 22, 2018, Bourland Estates WSC filed the affidavit of Mary Jane Butt, attesting to mailed notice.
11. In Order No. 3 issued on July 5, 2018, the ALJ found the notice sufficient.

#### Sale

12. On July 19, 2018, Commission Staff recommended that the sale be allowed to proceed. In its recommendation, Commission Staff noted that the seller, BFE Water, did not hold any customer deposits.
13. In Order No. 4 issued on July 20, 2018, the ALJ authorized the sale to proceed and ordered the applicants to file proof that the sale had been completed and that customer deposits had been addressed.
14. On October 3, 2018, the applicants filed the signed bill of sale as proof that the sale had been completed.
15. On October 12, 2018, Commission Staff filed a recommendation that the Commission ALJ find the applicants' closing documents sufficient. Commission Staff stated that in addition to the bill of sale, the applicants provided an affidavit attesting to the closure

of the sale and a statement regarding customer deposits, which Commission Staff reviewed.

16. In Order No. 5 issued on October 15, 2018, the ALJ found the closing documents sufficient.

**Evidentiary Record**

17. On November 20, 2018, the applicants and Commission Staff filed a joint motion to admit evidence.
18. In Order No. 6 issued on January 18, 2019, the ALJ admitted the following evidence into the record: (a) the application and attachments of BFE Water and Bourland Estates WSC filed on April 5, 2018; (b) the applicants' supplement to the application filed on April 25, 2018; (c) the applicants' affidavit attesting to provision of notice filed on May 22, 2018; (d) Commission Staff's recommendation on approval of sale and attachments filed on July 19, 2018; (e) the applicants' closing documentation filed on October 3, 2018; (f) Commission Staff's recommendation on closing documentation filed on October 12, 2018; (g) Bourland Estates WSC's signed consent form filed on November 7, 2018; (h) BFE Water's signed consent forms filed November 9 and 12, 2018; and (i) the final map and certificate included with the joint motion to admit evidence filed on November 20, 2018.
19. In Order No. 9 issued on July 16, 2019, the ALJ admitted the following evidence into the record: (a) Commission Staff's response to Order No. 8 and attachment filed on April 24, 2019; and (b) Bourland Estates WSC's supplemental mapping information filed on April 25, 2019.

**Compliance — TWC § 13.301(e)(3)(A), 16 TAC § 24.227(a), and 16 TAC § 24.239(/)(5)(A)**

20. Bourland Estates WSC has not been subject to any enforcement action by the Commission, the Texas Commission on Environmental Quality (TCEQ), the Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.

**Adequacy of Existing Service—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(B); TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)**

21. BFE Water's facilities are registered under TCEQ-approved public water system number 1840132, and are capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code and TCEQ rules.
22. BFE Water's facilities provide an adequate supply of water for the existing customers.
23. BFE Water operates adequate production, storage, and distribution facilities, enabling it serve the 39 current customers in the requested area.

**Need for Service—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(C); TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)**

24. There are 39 current customers in the area to be transferred that will continue to need service.

**Effect of Approving the Transaction and Granting the Amendment—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(D); TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)**

25. There are no other retail public utilities of the same kind that will be affected by the transaction.

**Ability to Serve: Managerial and Technical—TWC §§ 13.301(b), 16 TAC §§ 24.239(g), (j)(5)(E), TWC §§ 13.246(c)(4), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(4)**

26. Weston Stephens, owner of Stephens Utilities with a class C license, is currently contracted to operate BFE Water and will continue to operate the water utility following the transfer to Bourland Estates WSC.
27. As a result of the transaction, Bourland Estates WSC will have adequate production, storage, and distribution facilities in place to provide service to the requested area.

**Ability to Serve: Financial Ability and Stability—TWC §§ 13.301(b), 16 TAC §§ 24.239(g), (j)(5)(G), TWC §§ 13.246(c)(6), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(6)**

28. Bourland Estates WSC has a debt-to-equity ratio of zero.
29. Bourland Estates WSC meets the debt-service-coverage ratio requirement of 1.25 to one.
30. Bourland Estates WSC has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.

31. Bourland Estates WSC is capable of providing continuous and adequate service to the requested area.
32. Bourland Estates WSC has demonstrated adequate financial, managerial, and technical capabilities to provide service to the requested area.

**Financial Assurance—TWC § 13.246(d); 16 TAC § 24.227(e)**

33. There is no need to require Bourland Estates WSC to provide a bond or other financial assurance to ensure continuous and adequate service.

**Service From Adjacent Retail Public Utility—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(F); TWC § 13.246(c)(5), 16 TAC § 24.227(d)(3)**

34. Obtaining service from an adjacent retail public utility is not feasible.

**Environmental Integrity—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(H); TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)**

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

**Effect on the Land—TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9)**

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

**Improvement of Service—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)**

37. The quality of service will remain consistent with the present quality of service.

**Lowering of Costs—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)**

38. Customers in the requested area will be charged the same rates before and after the sale of BFE Water's water system.

**Map and Certificate**

39. On November 2, 2018, Commission Staff emailed its proposed map and certificate to BFE Water and Bourland Estates WSC.
40. On November 7, 2018, Bourland Estates WSC filed its consent to the proposed map and certificate.

41. On November 9 and 12, 2018, BFE Water filed its consent to the proposed map and certificate.
42. On November 20, 2018, Commission Staff filed the proposed map and certificate as attachments to the parties' joint proposed notice of approval, which was filed with the parties' joint motion to admit evidence.
43. On April 25, 2019, Bourland Estates' filed supplemental mapping information in response to Order No. 8 clarifying that they are not seeking a CCN amendment and the mapping inconsistency referenced in the order was based on a mapping error caused by incorrect boundary lines in the GIS system.

**Informal Disposition**

1. More than 15 days have passed since the completion of notice provided in this docket.
2. No person filed a protest or motion to intervene.
3. Commission Staff, BFE Water and Bourland Estates WSC are the only parties to this proceeding.
4. No party requested a hearing and no hearing is needed.
5. Commission Staff recommended approval of the application.
6. This decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this application under TWC §§ 13.041, 13.241, 13.242, 13.244, 13.246, 13.251, and 13.301.
2. BFE Water and Bourland Estates WSC are retail public utilities as defined in TWC § 13.002(19) and 16 TAC § 24.3(59).
3. BFE Water and Bourland Estates WSC provided notice of the application as required by TWC § 13.301(a)(2) and 16 TAC § 24.239(a) through (c).
4. The Commission processed the application in accordance with the requirements of TWC § 13.301 and 16 TAC § 24.239.



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 the time required by 16 TAC § 24.239(o).
7. After considering the factors in TWC § 13.246(c), Bourland Estates WSC has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area. TWC §§ 13.246, 13.251.
8. BFE Water and Bourland Estates WSC have demonstrated that the sale of BFE Water's water systems and the transfer of the service area held under CCN No. 12899 to Bourland Estates WSC will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.246(b), 13.301(d).
9. A sale not completed in accordance with TWC § 13.301 is void. TWC § 13.301(h).
10. Bourland Estates WSC must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Parker County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
11. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

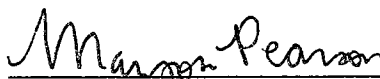
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the sale and the transfer of PWS 1840132 and associated service area held by BFE Water under CCN number 12899 to Bourland Estates WSC.
2. The Commission transfers CCN number 12899 to Bourland Estates WSC.
3. The Commission grants the certificate attached to this Notice of Approval.
4. The Commission's official service area boundary maps for Bourland Estates WSC are shown on the attached map.

5. Bourland Estates WSC must serve every customer and applicant for service with the areas certificated under CCN number 12899, and such service must be continuous and adequate.
6. Bourland Estates WSC must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Parker County affected by the application.
7. Bourland Estates WSC must file in this docket proof of the recording required in ordering paragraph 6 not later than 45 days after the date of this Notice of Approval.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 14<sup>th</sup> day of August 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**MAYSON PEARSON**  
**ADMINISTRATIVE LAW JUDGE**



# **Public Utility Commission of Texas**

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

## **Bourland Estates Water Supply Corporation**

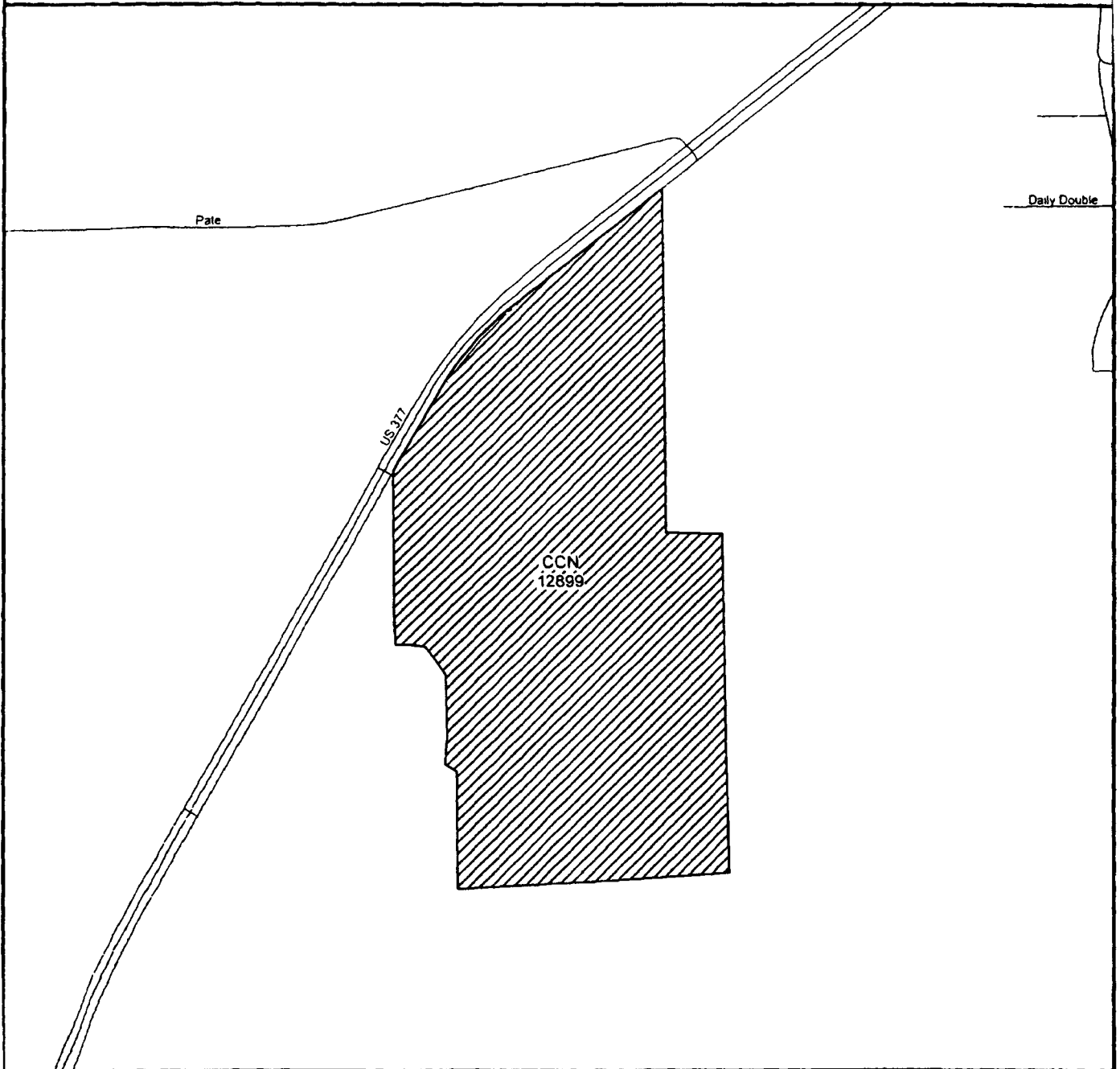
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Bourland Estates Water Supply Corporation 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 14th day of August 2019

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



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

**Water CCN**

 12899 - Bourland Estates WSC

0 450 900  
Feet



Map by: Komal Patel  
Date created: October 30, 2018  
Project Path: n:\finalmapping\  
48232BourlandEstatesWSC.mxd

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