



Control Number: 48350



Item Number: 151

Addendum StartPage: 0

FILED
2021 MAY 12 PM 4:19

APPLICATION OF THE CITY OF
DAYTON FOR CERTIFICATES OF
CONVENIENCE AND NECESSITY IN
LIBERTY AND HARRIS COUNTIES

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

CITY OF DAYTON'S FOURTH SUPPLEMENT TO AMENDED APPLICATION

COMES NOW, the City Dayton (the "**City**"), by and through its undersigned attorneys of record, and files this "Fourth Supplement to Amended Application" ("**Supplement**"). In support thereof, the City would show as follows:

I. BACKGROUND

On May 8, 2018, the City filed with the Public Utility Commission of Texas (the "**Commission**") its application to obtain water and sewer Certificates of Convenience and Necessity (each, a "**CCN**") in Liberty and Harris Counties pursuant to Chapter 13, Subchapter G of the Texas Water Code and Chapter 24, Subchapter H of Title 16 of the Texas Administrative Code. The City filed an Application Amendment on May 10, 2019; a First Supplement to Amended Application on July 27, 2020; a Second Supplement to Amended Application on November 30, 2020; and a Third Supplement to Amended Application on April 5, 2021 (the application, as amended and supplemented, is the "**Application**").

Prior to filing its Third Supplement to Amended Application ("**Third Supplement**"), Commission Staff requested that the City provide River Ranch Holdings, LLC (Interchange Item Nos. 13, 22, 24); Daniel and Lisa Simnacher (Interchange Item Nos. 32, 33); and Keith and Connie Fitzhenry (Interchange Item Nos. 47) an opportunity to confirm that the properties subject to their respective opt-out requests had been correctly removed from the

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map depicting the water and sewer CCN service area requested by the City. The City provided that additional notice in accordance with Staff's instructions, sending each of the above-listed landowners a map of the proposed service area for their review, comment, and/or consent. Having received each landowner's consent to the opt-out request map provided, the City then included the landowners' email responses to that effect in its Third Supplement. Subsequently, however, Staff requested that the City re-file the landowners' responses, this time also including copies of the map provided with each additional notice.

II. SUPPLEMENT TO AMENDED APPLICATION

As directed by Commission Staff, the City hereby supplements its Application with the email correspondence and accompanying maps attached hereto and incorporated herein for all purposes as **Attachment A**.

III. CONCLUSION

The City of Dayton respectfully requests that the Commission approve its Application, as supplemented hereby, and grant all other and further relief to which it may be entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)


DAVID J. KLEIN
State Bar No. 24041257
dklein@lglawfirm.com


MARIS M. CHAMBERS
State Bar No. 24101607
mchambers@lglawfirm.com

ATTORNEYS FOR THE CITY OF DAYTON

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 12, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.


Maris M. Chambers

Attachment A
Landowner Correspondence

Legend
 - - - Requested CCN Area
 Landowner Opt-Out



North Arrow
 Scale: 1" = 1000' Feet

LANDOWNER OPT-OUTS
ITEM 1
CCN APPLICATION
CITY OF DAYTON
LIBERTY COUNTY, TEXAS

LIBERTY COUNTY
 CHANDLER COUNTY

2014.06.04
 Page 7 of 14

From: Schroeder, Cheryl
Sent: Friday, March 12, 2021 1:15 PM
To: keithfitzhenry@yahoo.com
Cc: Hajek, Kelly, Mans Chambers, Montes, Tracy; David Klein, Christina Thompson, 'Brandon Davis'
Subject: Landowner Opt Out of the City of Dayton CCN
Attachments: Landowner OptOuts-Fitzhenry pdf

Mr. Kerth Fitzhenry
4125 FM 1409
Dayton, TX 77535
713-248-7658 - cell

Mr. Fitzhenry,

I'm contacting you in reference to your opt-out submittal for the City of Dayton's CCN. There is a discrepancy between the acreage stated in the deeds provided as 85.45 total acres when compared to 45 acres we obtained from Liberty County Central Appraisal District's (LCAD) mapping data for the Fitzhenry property. It appears that the same LCAD information associated with the 10 acres sold to Kristina Malatinski is also associated with the 50.45 acre tract you own, making the total acreage shown on LCAD for your property to opt-out being only 45 acres instead of 85.45 acres.

We are asking permission to use the LCAD mapping data and acreage information for the Fitzhenry property as shown on the attached map. Please review the map including 45 acres attached to this email. Then, email me back that either the property is correctly shown on the attached map or reject the LCAD mapping of your property as we have it shown for your opt-out request. I have marked around the property in blue. This map shows all of the landowner opt-outs in magenta that were received in PUC docket 48350.

Thank you for your time and help

Cheryl Schroeder
Strand Associates, Inc



Cheryl Schroeder

From: Schroeder, Cheryl
Sent: Wednesday, March 17, 2021 2:13 PM
To: keithfitzhenry@yahoo.com
Cc: Hajek, Kelly
Subject: Landowner Opt Out - Dayton CCN

Mr. Keith Fitzhenry,

Good afternoon I'm contacting you to make sure that you received my email last Friday afternoon with information about the City of Dayton CCN Opt Out. If not, please let me know and I will email it to you again.

I need to have this back in the hands of the Public Utility Commission of Texas in a couple of weeks, so I hope to hear from you soon, while realizing you need time to review the information. If you have any questions at all, please feel free to contact me via email or the phone number below.

Thank you,
Cheryl Schroeder

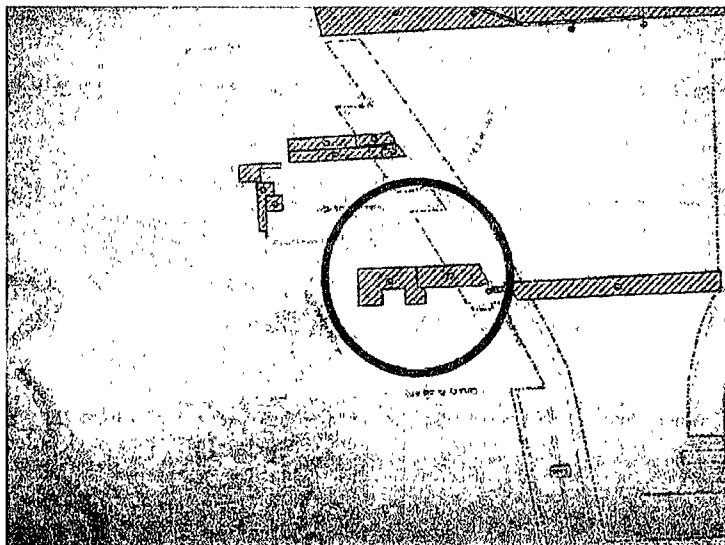


Cheryl Schroeder

City of Dayton, Ohio
Public Works Department
2200 S. Main Street, Suite 200
Dayton, Ohio 45424-1000

From: Keith Fitzhenry Sr <keithfitzhenry@yahoo.com>
Sent: Wednesday, March 17, 2021 3:35 PM
To: Schroeder, Cheryl
Subject: Fitzhenry 85.45 acres

[EXTERNAL EMAIL]: Verify sender before opening links or attachments

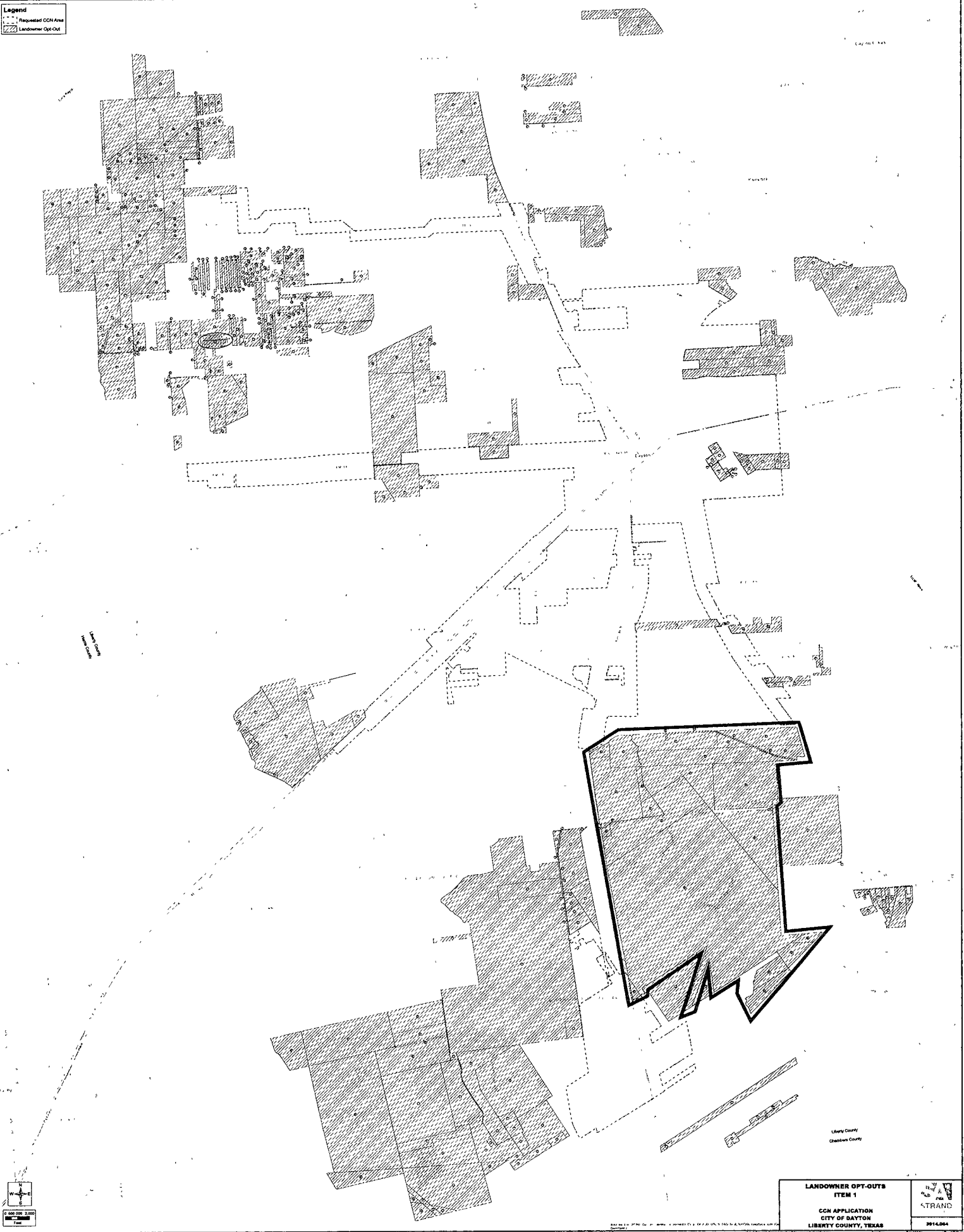


Hello Cheryl,
This is the correct shape of our 85.45 acres.
Keith Fitzhenry

Sent from my iPhone

Legend

- Requestor CGN Area
- Landowner Opt-Out



LANDOWNER OPT-OUTS
ITEM 1
 CGN APPLICATION
 CITY OF DAYTON
 LIBERTY COUNTY, TEXAS

STRAND
 2014.004

From: Logan Sullivan <lsullivan@grayent.com>
Sent: Friday, March 12, 2021 1:42 PM
To: Schroeder, Cheryl
Subject: RE: Landowner Opt Out of the City of Dayton CCN

[EXTERNAL EMAIL]: Verify sender before opening links or attachments.

Sure,
Can you give me about 30 minutes?
Thanks,

Logan Gray Sullivan
River Ranch Holdings, LLC
P.O. Box 638
Baytown, TX, 77522
Cell. 936-402-2924
lsullivan@grayent.com

From: Schroeder, Cheryl <Cheryl.Schroeder@strand.com>
Sent: Friday, March 12, 2021 1:40 PM
To: Logan Sullivan <lsullivan@grayent.com>
Subject: RE: Landowner Opt Out of the City of Dayton CCN

Mr. Sullivan,
May I give you a call?

Thanks,
Cheryl Schroeder



Cheryl Schroeder

From: Logan Sullivan <lsullivan@grayent.com>
Sent: Friday, March 12, 2021 1:34 PM
To: Schroeder, Cheryl <Cheryl.Schroeder@strand.com>
Cc: Hajek, Kelly <Kelly.Hajek@strand.com>; Maris Chambers <mchambers@lglawfirm.com>; Montes, Tracy <Tracy.Montes@puc.texas.gov>; David Klein <dklein@lglawfirm.com>; Christina Thompson <cthompson@lglawfirm.com>; 'Brandon Davis' <brandon@bdavislaw.net>; Janet Wahrlich <jwahrlich@grayent.com>; Eddie Gray <edgray@grayent.com>
Subject: RE: Landowner Opt Out of the City of Dayton CCN

[EXTERNAL EMAIL]: Verify sender before opening links or attachments.

Good Afternoon,
I reviewed the map and the LCAD mapping and acreage is incorrect. Does this mapping being incorrect have any affect as to the actual opt out of the River Ranch Holdings, LLC property?
Our goal is just to make sure we are opted out
Thanks,

Logan Gray Sullivan
River Ranch Holdings, LLC
P.O. Box 638
Baytown, TX, 77522
Cell. 936-402-2924
lsullivan@grayent.com

From: Schroeder, Cheryl <Cheryl.Schroeder@strand.com>
Sent: Friday, March 12, 2021 1:10 PM
To: Logan Sullivan <lsullivan@grayent.com>
Cc: Hajek, Kelly <Kelly.Hajek@strand.com>; Maris Chambers <mchambers@lglawfirm.com>; Montes, Tracy <Tracy.Montes@puc.texas.gov>; David Klein <dklein@lglawfirm.com>; Christina Thompson <cthompson@lglawfirm.com>; 'Brandon Davis' <brandon@bdavislaw.net>
Subject: Landowner Opt Out of the City of Dayton CCN

River Ranch Holdings, LLC
P.O. Box 638
Baytown, TX 77522
713-899-4949

Mr. Gray,

I'm contacting you in reference to the opt-out submittal for the City of Dayton's CCN for River Ranch Holdings, LLC. There is a discrepancy between the acreage stated in the deed you provided as 6957.09 acres when compared to 6915.79 acres we obtained from Liberty County's Central Appraisal District (LCAD) mapping data for the River Ranch Holdings, LLC property

We are asking for permission to use the LCAD mapping data and acreage for the River Ranch Holdings, LLC property as shown on the attached map. Please review the map including 6915.79 acres attached to this email. Then, email me back that either the property is correctly shown on the attached map or reject the LCAD mapping of your property as we have it shown for your opt-out request. I have marked around the property in blue. This map also shows all of the landowner opt-outs in magenta that were received in PUC docket 48350.

Thank you for your time and help

Cheryl Schroeder
Strand Associates, Inc

From: Logan Sullivan <lsullivan@grayent.com>
Sent: Friday, March 12, 2021 2:24 PM
To: Schroeder, Cheryl
Cc: Hajek, Kelly; Maris Chambers; Montes, Tracy; David Klein; Christina Thompson; 'Brandon Davis'
Subject: RE: Landowner Opt Out of the City of Dayton CCN

[EXTERNAL EMAIL]: Verify sender before opening links or attachments.

Cheryl,
We approve the area represented on the map as shown owned by River Ranch Holdings, LLC
Thanks,

Logan Gray Sullivan
River Ranch Holdings, LLC
P.O. Box 638
Baytown, TX, 77522
Cell. 936-402-2924
lsullivan@grayent.com

From: Schroeder, Cheryl <Cheryl.Schroeder@strand.com>
Sent: Friday, March 12, 2021 1:10 PM
To: Logan Sullivan <lsullivan@grayent.com>
Cc: Hajek, Kelly <Kelly.Hajek@strand.com>; Maris Chambers <mchambers@lglawfirm.com>; Montes, Tracy <Tracy.Montes@puc.texas.gov>; David Klein <dklein@lglawfirm.com>; Christina Thompson <cthompson@lglawfirm.com>; 'Brandon Davis' <brandon@bdavislaw.net>
Subject: Landowner Opt Out of the City of Dayton CCN

River Ranch Holdings, LLC
P.O. Box 638
Baytown, TX 77522
713-899-4949

Mr. Gray,

I'm contacting you in reference to the opt-out submittal for the City of Dayton's CCN for River Ranch Holdings, LLC. There is a discrepancy between the acreage stated in the deed you provided as 6957.09 acres when compared to 6915.79 acres we obtained from Liberty County's Central Appraisal District (LCAD) mapping data for the River Ranch Holdings, LLC property.

We are asking for permission to use the LCAD mapping data and acreage for the River Ranch Holdings, LLC property as shown on the attached map. Please review the map including 6915.79 acres attached to this email. Then, email me back that either the property is correctly shown on the attached map or reject the LCAD mapping of your property as we have it shown for your opt-out request. I have marked around the property in blue. This map also shows all of the landowner opt-outs in magenta that were received in PUC docket 48350.

Thank you for your time and help.

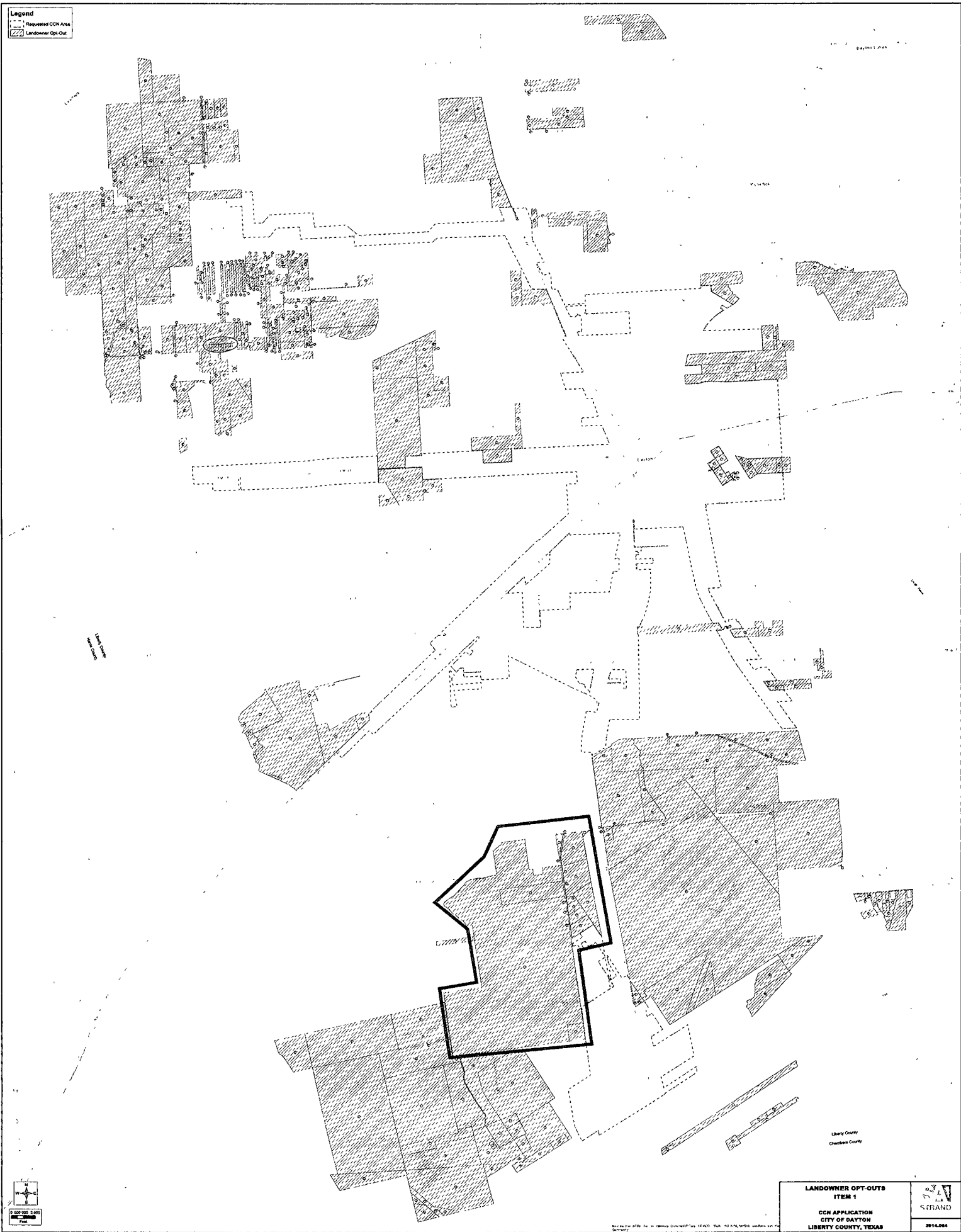
Cheryl Schroeder
Strand Associates, Inc.



Cheryl Schroeder

Legend

- Requested CCN Area
- /// Landowner Opt-Out



Liberty County
Chambers County

**LANDOWNER OPT-OUTS
ITEM 1**

CCN APPLICATION
CITY OF DAYTON
LIBERTY COUNTY, TEXAS



2016.064

From: Schroeder, Cheryl
Sent: Friday, March 12, 2021 1:13 PM
To: 'Simnacher@yahoo.com'
Cc: Hajek, Kelly, 'Maris Chambers', 'Montes, Tracy', 'David Klein'; 'Christina Thompson'; 'Brandon Davis'
Subject: Landowner Opt Out of the City of Dayton CCN
Attachments: Landowner OptOuts-Simnacher Trust pdf

Daniel Simnacher Exempt Lifetime Trust
P O. Box 6384
Kingwood, TX 77325

Lisa Simnacher Exempt Lifetime Trust
5615 Palisades Falls Trail
Kingwood, TX 77345

Mr. Daniel Simnacher and Ms. Lisa Simnacher,

I'm contacting you in reference to the opt-out submittal for the City of Dayton's CCN for the Exempt Lifetime Trusts under your names. There is a discrepancy between the acreage stated in the deed provided as 3747.519 acres when compared to 3799.0361 acres we obtained from Liberty County's Central Appraisal District (LCAD) mapping data for the Simnacher Trust property.

We are asking for permission to use the LCAD mapping and acreage of Simnacher Trust property as shown on the attached map. Please review the map including 3799.0361 acres attached to this email. Then, email me back that either the property is correctly shown on the attached map or reject the LCAD mapping of your property as we have it shown for your opt-out request. I have marked around the property in blue. This map shows all of the landowner opt-outs in magenta that were received in PUC docket 48350.

Thank you for your time and help.

Cheryl Schroeder
Strand Associates, Inc



Cheryl Schroeder

President

Strand Associates, Inc.

10000 Highway 100, Suite 100, Houston, TX 77055

From: Daniel Simnacher <dsimnacher@yahoo.com>
Sent: Friday, March 26, 2021 7:35 AM
To: Schroeder, Cheryl
Subject: Re: Landowner Opt Out - Dayton CCN

[EXTERNAL EMAIL]: Verify sender before opening links or attachments.

Sorry about the delay. Been out of pocket. The highlighted magenta area looks correct.

Sent from my iPhone

On Mar 17, 2021, at 3:11 PM, Schroeder, Cheryl <Cheryl.Schroeder@strand.com> wrote:

Mr. Daniel Simnacher and Ms. Lisa Simnacher,

Good afternoon. I'm contacting you to make sure that you received my email last Friday afternoon with information about the City of Dayton CCN Opt Out. If not, please let me know and I will email it to you again.

I need to have this back in the hands of the Public Utility Commission of Texas in a couple of weeks, so I hope to hear from you soon, while realizing you need time to review the information. If you have any questions at all, please feel free to contact me via email or the phone number below.

Thank you,
Cheryl Schroeder

Cheryl Schroeder

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