



Control Number: 48350



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DOCKET NO. 48350

**APPLICATION OF THE CITY OF
DAYTON FOR CERTIFICATES OF
CONVENIENCE AND NECESSITY IN
LIBERTY AND HARRIS COUNTIES** §
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**PUBLIC UTILITY COMMISSION
OF TEXAS**

2021 MAY 18 PM 12:53
PUBLIC UTILITY COMMISSION
OF TEXAS

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION
ON SUFFICIENCY OF MAPPING REVISIONS**

On May 8, 2018, the City of Dayton (Dayton) filed an application to obtain water and sewer certificates of convenience and necessity (CCN) in Liberty and Harris Counties under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.259.

On May 5, 2021, the administrative law judge (ALJ) filed Order No. 20, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the sufficiency of Dayton's supplemental mapping information by May 19, 2021. Therefore, this pleading is timely filed.

I. SUFFICIENCY OF MAPPING REVISIONS

Order No. 2, filed on June 12, 2018, found the application administratively complete, and Order No. 3, filed on August 13, 2018, found notice to be sufficient. Over the course of this docket, as the result of several mapping revisions, Dayton has not requested any acreage that lies outside of its originally requested area; therefore, Staff recommends that notice remains sufficient. As detailed in the attached memorandum of Alicia Maloy of the Commission's Infrastructure Division, Staff has reviewed the application, along with the supplemental information filed on April 5, 2021, and recommends that the mapping revisions be deemed sufficient.

II. PROPOSED PROCEDURAL SCHEDULE

Based on the recommendation above, Staff proposes the following procedural schedule for further processing of this docket:

Event	Date
Notice completed	July 4, 2018
Deadline for intervention	August 3, 2018 ¹
Deadline for Staff to provide final maps, certificates, and tariffs (if applicable), to Dayton for review and consent	June 25, 2021
Deadline for Dayton to file signed consent forms with the Commission	July 9, 2021
If no hearing is requested, deadline for Staff to file a final recommendation on the application	July 16, 2021
If no hearing is requested, deadline for parties to file joint proposed findings of fact and conclusions of law	July 23, 2021

III. CONCLUSION

Staff respectfully requests the entry of an order consistent with the above recommendation.

¹ Under 16 TAC § 24.235(a)(3), the intervention deadline is 30 days after the mailing or publication of notice, whichever occurs later. Notice was mailed on June 18, 2018 and published on June 27 and July 4, 2018. Therefore, 30 days after July 4, 2018 is August 3, 2018.

Dated: May 18, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Merritt Lander
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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 on May 18, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Merritt Lander
Merritt Lander

Public Utility Commission of Texas

Memorandum

TO: Merritt Lander, Attorney
Legal Division

FROM: Alicia Maloy, Senior Infrastructure Analyst
Infrastructure Division

DATE: May 18, 2021

RE: **Docket No. 48350**, *Application of the City of Dayton for Certificates of Convenience and Necessity in Liberty and Harris Counties*

On May 8, 2018, the City of Dayton (Dayton) filed with the Public Utility Commission of Texas (Commission) an application for water and sewer certificates of convenience and necessity (CCN) in Liberty and Harris counties under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

On April 5, 2021, Dayton filed revised mapping and digital data to accurately remove parcels associated with landowner opt-out requests from the requested area, remove gaps and overlaps with existing CCNs, and provide documentation to explain discrepancies between the acreage included in the landowner opt-out requests and the acreage data that Dayton obtained from various county appraisal districts (CAD).

Based on the mapping review conducted by Tracy Montes, Infrastructure Division, of the revised mapping filed by Dayton¹ on April 5, 2021 and supplemental landowner opt-out emails² filed on May 12, 2021, I recommend that the revised mapping and digital data is sufficient. The revised requested area was reduced from approximately 80,045 acres at the time of notice to now include approximately 14,885.5 acres.

Ms. Montes has confirmed that the revised requested area is located completely within Dayton's corporate boundaries. In addition, Staff has verified that Dayton accurately removed all gaps and overlaps between the revised requested area and existing CCNs, removed the Aqua Texas Inc. settlement tracts from the revised requested area, and removed all 33 landowner properties from the revised requested area. The location of each landowner opt-out request and the revised requested area was provided on a detailed map and in the digital data.

Dayton received thirty-three landowner opt-out requests during the notice period. Dayton used the parcel boundaries obtained from Chambers, Harris, or Liberty CAD to account for all tracts

¹ City of Dayton's Third Supplement to Amended Application (Apr. 5, 2021).

² City of Dayton's Fourth Supplement to Amended Application (May 12, 2021).

of land (property) in each landowner opt-out request. The reduction of the requested area resulted in only thirteen of the thirty-three landowner opt-out requests remaining within the revised requested area. These thirteen landowners are indicated with an asterisk in the table below. Please note the various Interchange filings for each landowner's opt-out request displayed in the table.

As reflected in the table below, Ms. Montes determined the difference between the acreage for the landowner's opt-out request and the CAD acreage calculated in Staff's Geographical Information Systems (GIS) software for each associated property. Staff verified that Dayton sent non-conforming opt-out request (NCOR) letters or emails to the thirteen landowners for whom there was a difference of five acres or more between the total acreage in the landowner's opt-out request and the total CAD acreage calculated in GIS for each associated property. This verification confirmed that the landowner's property with the associated acreage was properly accounted for and removed from the revised requested area using Dayton's CAD sources.

*Asterisk in table below indicates the 13 landowner opt-out requests located partially within the revised requested area.

Unique No.	PUC Item No.	Duplicate PUC Item Nos.	Landowner Name	Opt-Out Request Acreage	Calculated CAD Acreage (in GIS)	Acreage Difference with OPT-OUT vs. CAD GIS (Approx.)	NCOR Letter sent to Landowner (Y/N) [see items 120, 148, 151]
1	10		Gerald Dufrene	42.0	41.95	.05	N
2	11	122	Stoesser Farms	2,627.7	2488.97	138.73	Y
*3	12		*Joe Smesny	1,873.144	1872.39	.75	N
*4	13	22, 24	*River Ranch Holdings, LLC	6,957.09	6900.4	56.7	Y; Email
5	14		Cedar Bayou Farms, Ltd.	2,699.62	2610.26	89.36	Y
6	15		Stoesser Investments LLC	497.659	484.96	12.7	Y
7	16	125	Mark Stoesser	343.1021	348.06	-4.96	Y
8	16	126	Jack Stoesser	540.47	535.9	4.57	Y
9	16		Stoesser Drier, Inc.	252.209	254.87	-2.66	Y
10	21		Walter Wallace Wade	40	38.965	1.04	N
11	23		Michael Pomykal	82.7253	87.966	-5.24	Y
12	25		Liberty RV LLC	26	25.62	.38	N
13	26	121	Mary Gay Corporation	695.98	703.14	-7.19	Y
14	27	40, 45	FVL, Ltd.	2,163.486	2138.58	24.9	Y
15	28	39, 42	FPL Farming, Ltd (FPLF - 2)	1,081.743	1127.98	-46.24	N

Unique No.	PUC Item No.	Duplicate PUC Item Nos.	Landowner Name	Opt-Out Request Acreage	Calculated CAD Acreage (in GIS)	Acreage Difference with OPT-OUT vs. CAD GIS (Approx.)	NCOR Letter sent to Landowner (Y/N) [see items 120, 148, 151]
*16	29	44, 51	*FPL Farming, Ltd	1,140.64	1131.26	9.38	Y
*17	30		*Third Texas Resources, LLC	394.3016	396.54	-2.24	N
*18	31		*PreCab, Inc.	1,400	1395.36	4.64	Y
*19	32	33	*Daniel and Lisa Simnacher	3,747.35	3738.74	8.61	Y; Email
20	34		Bill Kornegay	100.96	88.74	12.22	Y
*21	36		*Weldon Alders	9,011.6679	1653.13	7,358.54	Y
22	37		Bannister Trust	204.07	187.36	16.71	Y
*23	47		*Keith & Connie Fitzhenry	85.45	87.32	-1.87	Y; Email
24	48		Cedar Bayou Wildlife, LLC	1,140.77	1145.24	-4.47	Y
*25	49	127	*W.M. Moreau Estate	193.7965	192.77	1.03	Y
*26	50		*William D. Gay II	106.2904	101.52	4.77	N
27	52		John M. Bartee	26.445	25.39	1.05	N
28	53		Eagle Heights Fellowship	144.5664	150.83	-6.26	Y
*29	55		*Bill Daniel Trust et all	166.62	165.1	1.52	Y
*30	55		*Daniel Martin Parker	171.4844	162.48	9.0	Y
*31	55		*Susan N. Daniel	574.3619	563.33	11.03	Y
32	56		Guadalupe C. & Norma Hernandez	34	33.48	0.52	N
33	57		Randal & Pamela Klmitcheck	29.46	29.96	-0.5	Y