



Control Number: 48465



Item Number: 15

Addendum StartPage: 0

DOCKET NO. 48465

**APPLICATION OF AQUA TEXAS, INC. §
AND THE CITY OF TOMBALL FOR §
APPROVAL OF SERVICE AREA §
CONTRACT UNDER TEXAS WATER §
CODE § 13.248 AND TO AMEND §
CERTIFICATES OF CONVENIENCE AND §
NECESSITY IN HARRIS COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

2019 JAN 14 PM 3:05
PUBLIC UTILITY COMMISSION
FILING CLERK

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Aqua Texas, Inc. and the City of Tomball for approval of a service area contract and to amend certificates of convenience and necessity (CCN) in Harris County. The Commission approves the application.

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

I. Findings of Fact

Applicants

1. Aqua Texas, Inc. (Aqua) is retail public utility that provides water service under certificate of convenience and necessity (CCN) number 13203 and sewer service under CCN number 21065 in Harris County.
2. Aqua is a domestic for-profit corporation registered with the Texas Secretary of State on February 13, 2004, under filing number 800304878.
3. Aqua operates under the assumed name Aqua Texas.
4. The City of Tomball (Tomball) is a home rule municipal corporation that provides water service under CCN number 13257 and sewer service under CCN number 21103.

Application

5. On December 4, 2017, Aqua and Tomball entered into a CCN Transfer Agreement (the Service Area Contract) under which the parties agreed to transfer:
 - an approximately 353-acre tract of land (the Water Transfer Tract) from Aqua's water CCN number 13203 to Tomball's water CCN number 13257; and
 - an approximately 356-acre tract of land (the Sewer Transfer Tract) from Aqua's sewer

CCN number 21065 to Tomball's sewer CCN number 21103.

6. The entirety of the Water Transfer Tract lies within the boundaries of the Sewer Transfer Tract.
7. On June 14, 2018, Aqua and Tomball filed an application for approval of the Service Area Contract. The application included the executed Service Area Contract, maps, and Tomball's meeting agenda and minutes.
8. There are no customers in either tract to be transferred.
9. No Aqua facilities are currently located in either tract to be transferred.
10. In Order No. 2 issued July 18, 2018, the administrative law judge (ALJ) deemed the application to be administratively complete.
11. On September 5, 2018, Commission Staff provided final maps and certificates to the applicants for their review and consent.
12. On September 12, 2018, Tomball filed signed a consent form concurring with the maps and certificates transmitted by Commission Staff.
13. On September 17, 2018, Aqua filed signed a consent form concurring with the maps and certificates transmitted by Commission Staff.

Notice

14. The Service Area Contract was discussed and approved Tomball's city council meeting on November 20, 2017.
15. Notice of the application appeared in the June 29, 2018, issue of the *Texas Register*.
16. In Order No. 2 issued July 18, 2018, the ALJ found the notice provided to be sufficient and no additional notice required.

Evidentiary Record

17. On October 4, 2018, the parties filed a joint motion to admit evidence and proposed notice of approval.
18. On November 26, 2018, the ALJ issued Order No. 3, admitting the following evidence into the record of this proceeding: 1) the application and all attachments filed on June 14, 2018; 2) Aqua's response to Order No. 1 filed June 25, 2018; 3) Aqua's letter regarding electronic mapping data filed on July 11, 2018; 4) Tomball's consent form to the final maps and

certificates filed on September 12, 2018; 5) Aqua's consent form to the final maps and certificates filed on September 17, 2018; and 6) Commission Staff's recommendation approving the application, along with the attached final maps and certificates filed September 26, 2018.

Informal Disposition

19. More than 15 days have passed since the completion of the notice provided in this docket.
20. Commission Staff, Aqua, and Tomball are the only parties to this proceeding.
21. This decision is not adverse to any party.
22. There were no protests, motions to intervene, or requests for hearing filed.
23. No parties disputed any issues of fact or law; therefore, there is no need for a hearing.
24. On September 26, 2018, Commission Staff recommended approval of the application.

II. Conclusions of Law

1. The Commission has jurisdiction over the application under Texas Water Code (TWC) §§ 13.041 and 13.248.
2. Aqua and Tomball are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application was provided in compliance with 16 TAC § 24.253.
4. The Commission processed the application in accordance with the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. The application meets the requirements set forth in TWC § 13.248 and 16 TAC § 24.253.
6. Under TWC § 13.257(r) and (s), 16 TAC § 24.235(e), Aqua and Tomball are required to record certified copies of the approved CCNs and maps, along with boundary descriptions of the service areas, in the real property records of each county in which the service areas or portions of the service areas are located and to submit to the Commission evidence of the recording.
7. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

¹ Tex. Gov't Code ch. 2001.

III. Ordering Paragraphs

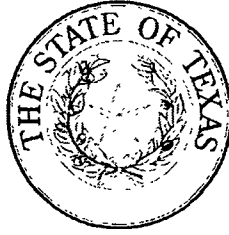
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the application.
2. The Commission amends Aqua's water CCN number 13203 and sewer CCN number 21065 in accordance with this Notice of Approval.
3. The Commission amends Tomball's water CCN number 13257 and sewer CCN number 21103 in accordance with this Notice of Approval.
4. The Commission's official service area boundary maps for Aqua and Tomball will reflect the changes as shown on the attached maps.
5. Aqua must serve every customer and applicant for service within the certified area under water CCN number 13203 and sewer CCN number 21065, and such service must be continuous and adequate.
6. Tomball must serve every customer and applicant for service within the certified area under water CCN number 13257 and sewer CCN number 21103, and such service must be continuous and adequate.
7. Aqua and Tomball must comply with the recording requirements in TWC § 13.257(r)-(s) for the areas in Harris County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
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 14th day of January 2019.

PUBLIC UTILITY COMMISSION OF TEXAS


HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

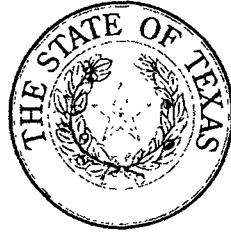
Aqua Texas, Inc.

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, Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 13203

to provide continuous and adequate water utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Grimes, Harris, Jefferson, Liberty, Montgomery, Polk, San Jacinto, Trinity, and Wharton Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48465 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 Aqua Texas, Inc., 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 January 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

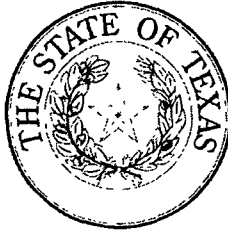
Aqua Texas Inc.

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, Aqua Texas Inc., is entitled to this

Certificate of Convenience and Necessity No. 21065

to provide continuous and adequate sewer utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Harris, Jefferson, Montgomery, Polk, and Trinity Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48465 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 Aqua Texas Inc. 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 January 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Tomball

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, City of Tomball is entitled to this

Certificate of Convenience and Necessity No. 13257

to provide continuous and adequate water utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48465 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 City of Tomball, 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 14th day of January 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Tomball

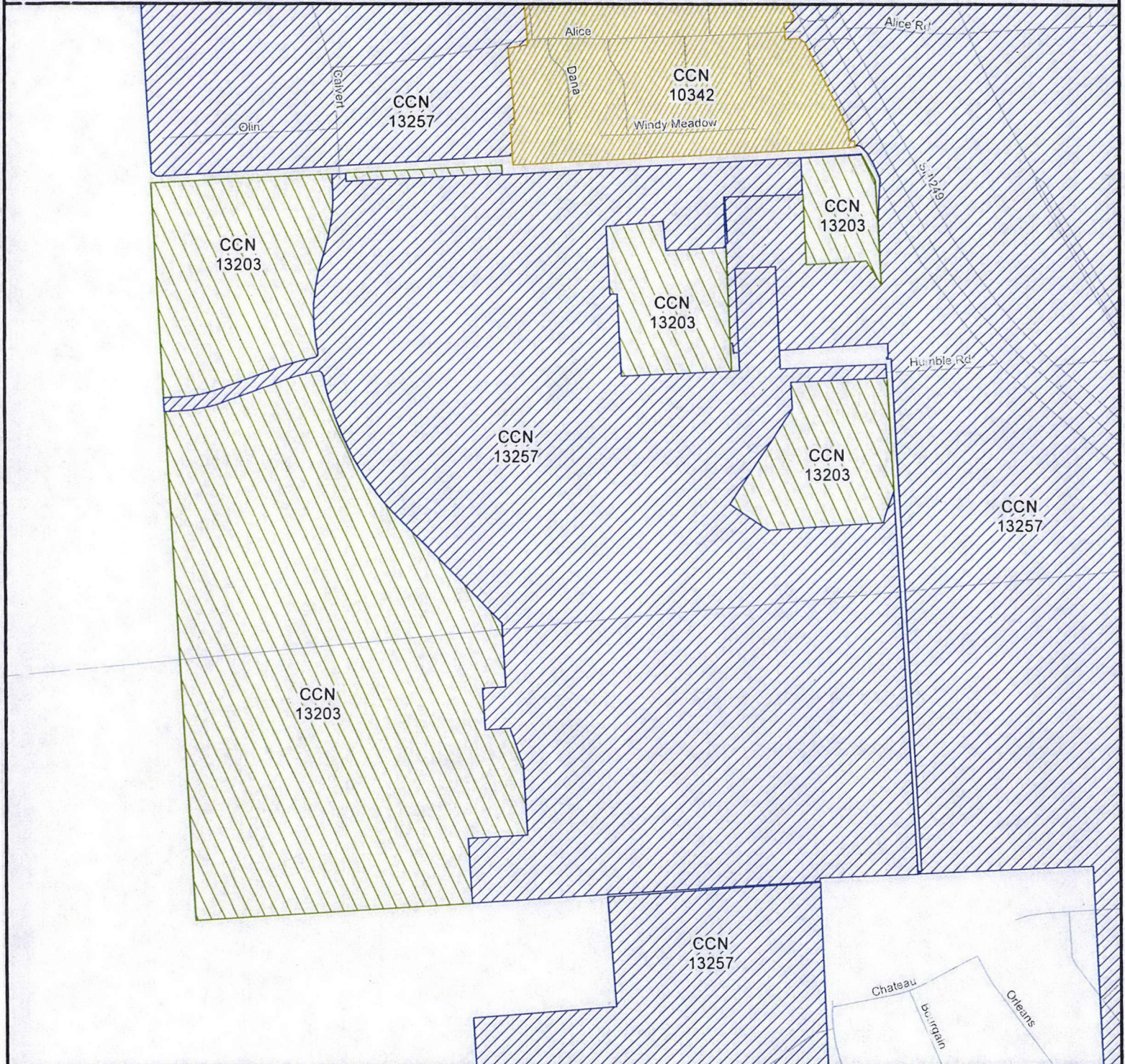
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Tomball is entitled to this

Certificate of Convenience and Necessity No. 21103

to provide continuous and adequate sewer utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48465 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 City of Tomball, 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 14th day of January 2019.

City of Tomball
 Portion of Water CCN No. 13257
 PUC Docket No. 48465
 13.248 Agreement Amended CCN No. 13257 and
 Decertified a Portion of Aqua Texas, Inc., CCN No. 13203 in Harris County



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

Water CCN

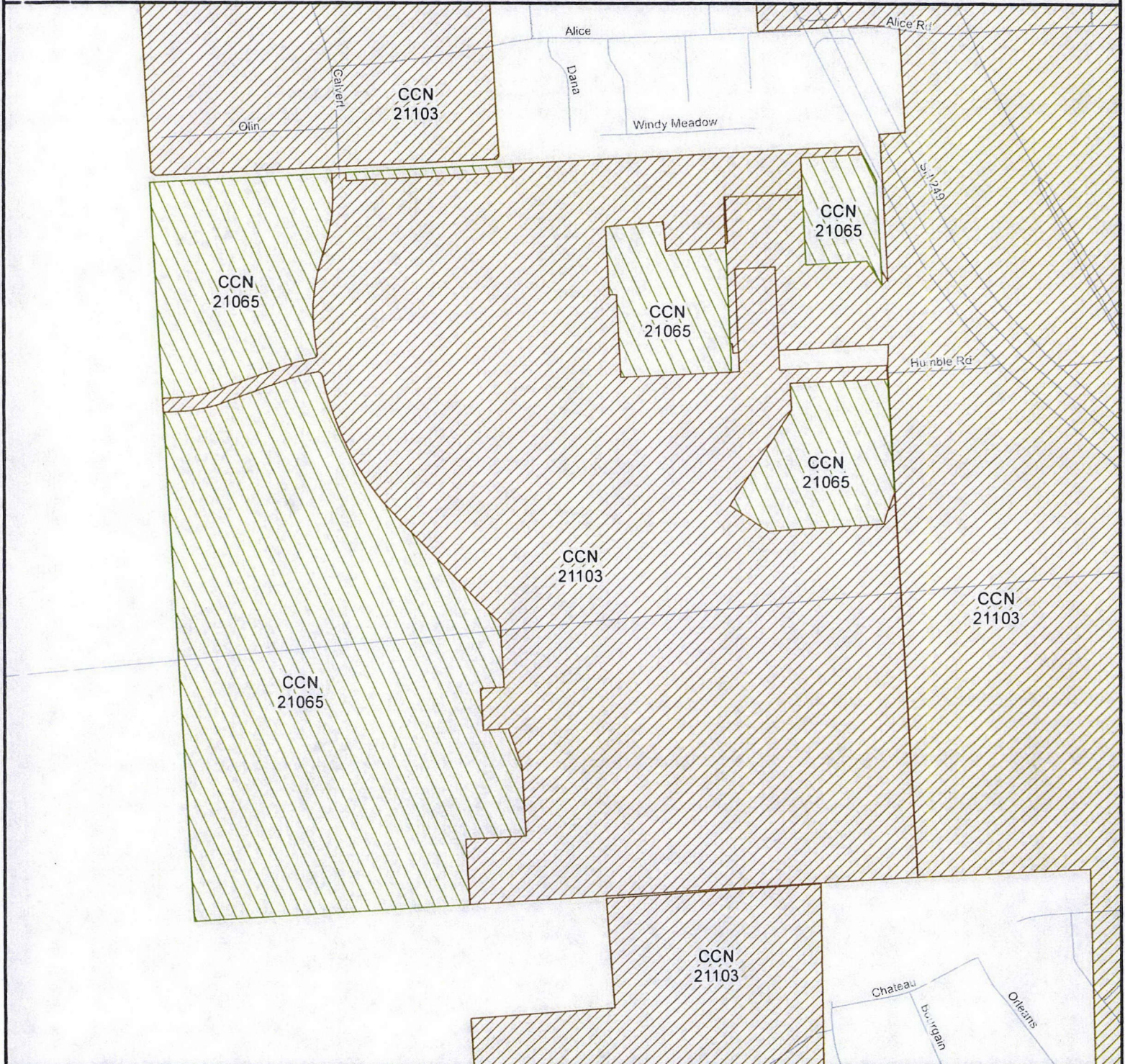
-  13257 - City of Tomball
-  13203 - Aqua Texas Inc
-  10342 - H-M-W SUD

0 500 1,000
 Feet





Map by: Komal Patel
 Date created: September 4, 2018
 Project Path: n:\finalmapping\
 48465CityofTomballWater.mxd

City of Tomball
Portion of Sewer CCN No. 21103
PUC Docket No. 48465
13.248 Agreement Amended CCN No. 21103 and
Decertified a Portion of Aqua Texas, Inc., CCN No. 21065 in Harris County



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

Sewer CCN

-  21103 - City of Tomball
-  21065 - Aqua Texas Inc

0 500 1,000
Feet



Map by: Komal Patel
Date created: September 4, 2018
Project Path: n:\finalmapping\
48465CityofTomballSewer.mxd