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DOCKET NO. _____

PETITION TO REVOKE §
LANCEWOOD WATER SUPPLY §
CORPORATION'S CERTIFICATE OF §
PUBLIC CONVENIENCE AND §
NECESSITY PURSUANT TO TEX. §
WATER CODE ANN. § 13.254 AND 16 §
TAC § 24.113

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COMMISSION STAFF'S PETITION TO REVOKE
LANCEWOOD WATER SUPPLY CORPORATION'S
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND
NOTICE OF OPPORTUNITY FOR A HEARING

Staff of the Public Utility Commission of Texas (Commission) files this Petition to Revoke Lancewood Water Supply Corporation's Certificates of Public Convenience and Necessity (Petition) and hereby provides notice of the opportunity to request a hearing on the merits of this Petition.

I. INTRODUCTION

For the reasons discussed below, the water service Certificate of Public Convenience and Necessity (CCN) No. 10352 for Lancewood Water Supply Corporation (Lancewood) should be revoked. Upon investigation, Staff has determined that the Public Water System associated with Lancewood is inactive, and that the CCN should be revoked.

In the event Lancewood fails to request a hearing within thirty days of service of this Petition, a default order should be issued, without additional notice to Lancewood, granting all relief sought in this Petition. In support of this Petition, Staff respectfully shows the following:

II. JURISDICTION AND LEGAL AUTHORITY

The Commission is authorized to regulate and supervise the business of each water and sewer utility within its jurisdiction.¹ Pursuant to Tex. Water Code Ann. § 13.242 (West Supp. 2014) (TWC), a "water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public without first having obtained from the

¹ Tex. Water Code Ann. § 13.041 (West Supp. 2014) (TWC).

utility commission a certificate that the present or future public convenience and necessity will require that installation, operation, or extension.”

A CCN is defined as “[a] permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer service to a specified geographic area.”² A retail public utility is “[a]ny person corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.”³

A retail public utility that possesses a CCN is required to provide “continuous and adequate service.”⁴ A retail public utility that possesses a CCN and fails to provide continuous and adequate service may be subject to revocation.⁵ As part of this authority, the Commission, “after notice and hearing, may revoke or amend any” CCN if the Commission finds that “the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate.”⁶

Pursuant to the contested case provisions of the Administrative Procedure Act,⁷ a party is entitled to an opportunity for a hearing after reasonable notice of not less than 10 days, where the party may respond to and present evidence and argument on each issue involved in the case.⁸ If a hearing is not requested within thirty days after service of notice of an opportunity for hearing, a default occurs.⁹ Upon default, the presiding officer may issue a default order, revoking the certificate without a hearing on an informal basis.¹⁰

III. FACTUAL ALLEGATIONS

Lancewood is located in Angelina County, Texas off Highway 103 West near the City of Lufkin. On March 14, 1966, Lancewood filed an application with the Secretary of State to become a Texas corporation. In 1979, Lancewood was granted CNN No. 10352. The utility has ceased to

² 16 Tex. Admin. Code § 24.3(15) (TAC).

³ TWC § 13.002(19) and 16 TAC § 24.3(58).

⁴ See TWC § 13.250(a) and 16 TAC § 24.114.

⁵ TWC § 13.254(a)(1) and 16 TAC 24.113(a)(1).

⁶ *Id.*

⁷ Administrative Procedure Act, Tex. Gov’t Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014) (APA).

⁸ APA §§ 2001.051-.178.

⁹ 16 TAC § 22.183.

¹⁰ APA § 2001.056(4) and 16 TAC § 22.183.

operate and is now listed as "DEAD BY ME" on the Secretary of State's website. Staff's review of Commission's records indicate that Lancewood is no longer in business, and the facilities it used to provide continuous and adequate service are inactive. Therefore, Lancewood is no longer providing, and is incapable of providing, continuous and adequate service. Lancewood is survived by Woodlawn Water Supply Corporation (CCN 10354).

IV. RECOMMENDATION FOR REVOCATION

The Commission should revoke Lancewood's CCN No. 10352 because Lancewood is no longer in business, and the facilities it used to provide continuous and adequate service are inactive.¹¹ As long as CCN No. 10352 continues to remain in effect, it may be a violation of Commission rules for another company to provide service in the certificated area.¹²

For the above stated reasons, Staff recommends revocation of CCN No. 10352 pursuant to TWC § 13.254(a)(1) and 16 TAC § 24.113(i)(1)(A).

V. NOTICE OF OPPORTUNITY FOR HEARING

16 TAC § 22.54 and 22.55 require Staff to provide reasonable notice to persons affected by a proceeding in accordance with the Administrative Procedure Act.¹³ In license revocation proceedings, APA § 2001.054 requires that notice be given "by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action." In order to proceed on a default basis, 16 TAC § 22.183 requires Staff to provide notice by certified mail, return receipt requested: (a) to a certificate holder's last known address in the Commission's records; (b) to the person's registered agent for process on file with the Secretary of State; or (3) to an address for the party identified after reasonable investigation if the first two options are not applicable.

In accordance with these provisions, Staff will provide a copy of this petition by certified mail, return receipt requested, to the Lancewood's last known address in the TCEQ's and Commission's records:

¹¹ See TWC § 13.254(a)(1) and 16 TAC 24.113(i)(1)(A).

¹² See TWC § 13.242.

¹³ APA §§ 2001.001-.902.

Lancewood Water Supply, Inc.
P.O. Box 3001
Hudson, Texas 75901

Staff will also provide a copy of this petition by certified mail, return receipt requested, to the address for the registered agent for process on file with the Secretary of State:

T. M. Whichard Jr.
1308 Western Dr.
Lufkin, Texas 75904

Pursuant to 16 TAC § 22.183, Staff hereby notifies Lancewood that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Lancewood fails to request a hearing within 30 days after service of the Petition and Notice of Opportunity for Hearing. The purpose of a hearing on the merits is to consider revocation of Lancewood's CCN No. 10352. If Lancewood fails to request a hearing, the presiding officer may issue a default order on an informal basis without a hearing on the merits pursuant to APA § 2001.056(4) and 16 TAC § 22.183.

The factual allegations listed in Staff's Petition and Notice of Opportunity for a Hearing could be deemed admitted and the relief sought herein could be granted by default if you fail to timely request a hearing.

VI. REQUEST

WHEREFORE, PREMISES CONSIDERED, Staff respectfully requests that the Commission grants Staff's request to revoke Lancewood's CCN No. 10352. In the event that Lancewood fails to request a hearing on the merits, Staff requests that the Commission issue a default final order, with no further notice to Lancewood, revoking CCN No. 10352.

Respectfully Submitted,



Taylor Kilroy
Attorney, Oversight and Enforcement Division
State Bar No. 24087844
(512) 936-7127
(512) 936-7208 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78701-3326

CERTIFICATE OF SERVICE

I certify that on June 18, 2018, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of Lancewood Water Supply, Inc. (Lancewood) in the Commission's records, to addresses used in the Texas Commission on Environmental Quality (TCEQ) proceedings, to the address for the registered agent for process on file with the Secretary of State:

Lancewood's Last Known Address in Commission Records:

Lancewood Water Supply, Inc.
P.O. Box 3001
Hudson, Texas 75901

Address for the registered agent for process on file with the Secretary of State:

T. M. Whichard Jr.
1308 Western Dr.
Lufkin, Texas 75904



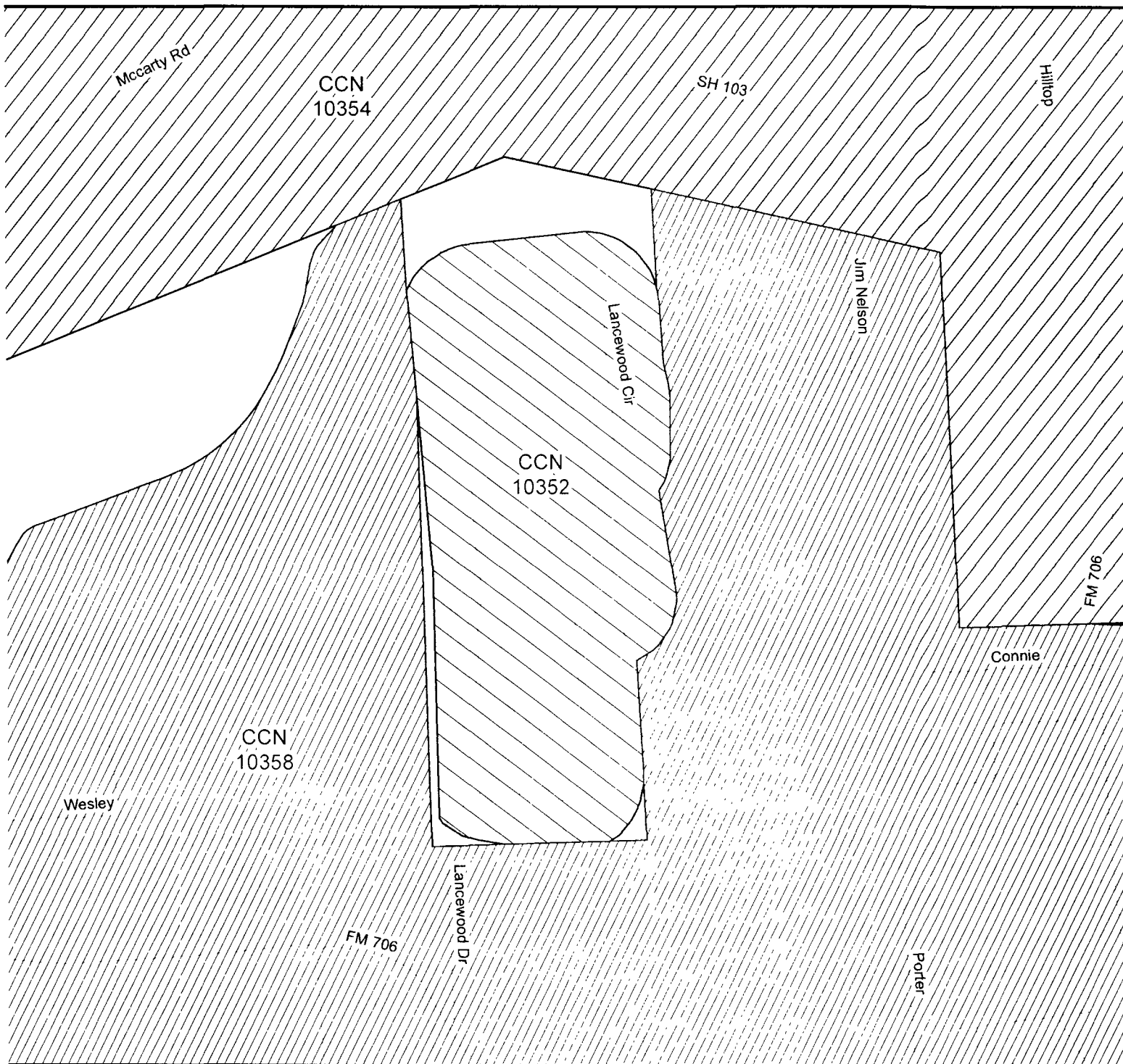
Taylor Kilroy

Attachment 1

Map of Water Service Certificate of Convenience and Necessity




No. 10352

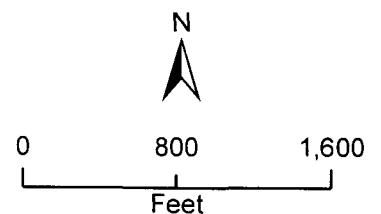
Lancewood WSC Water CCN No. 10352 in Angelina County



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

Water CCNs

-  10352 - Lancewood WSC
-  10354 - Woodlawn WSC
-  10358 - Hudson WSC



Map by: Kristy Nguyen
Date created: May 25, 2018
Project path: n:\10352 lancewood\10352 lancewood

Attachment 2

Water Service Certificate of Convenience and Necessity

Public Utility Commission of Texas

By These Presents Be It Known To All That

LANCEWOOD WATER SUPPLY CORPORATION

having duly applied for 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 by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity

numbered 10352, to provide water utility service to that service area or those service areas designated by final Order or Orders duly entered by this Commission, which Order or Orders 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 this Grantee to provide such utility service in accordance with the laws of this State and the 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 1st day of November, 1979.



Philip F. Ricketts

Philip F. Ricketts
SECRETARY OF THE COMMISSION

