

Control Number: 48532



Item Number: 32

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DOCKET NO. 48532

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APPLICATION OF J&S WATER §  
COMPANY, LLC AND NERRO §  
SUPPLY, LLC FOR SALE, TRANSFER, §  
OR MERGER OF FACILITIES AND §  
CERTIFICATE RIGHTS IN HARRIS, §  
CHAMBERS, AND LIBERTY §  
COUNTIES §

PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

**NOTICE OF APPROVAL**

This Notice of Approval approves the sale and transfer of a portion of J&S Water Company, LLC’s facilities and water and sewer service area rights under water certificate of convenience and necessity number (CCN) 12085 and sewer CCN number 20658 to Nerro Supply, LLC’s water CCN number 12252 and sewer CCN number 20366.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. J&S is an investor owned utility that operates, maintains, and controls facilities for providing water service under CCN number 12085 and sewer service under CCN number 20658.
2. Nerro is an investor owned utility that operates, maintains, and controls facilities for providing water service under CCN number 12252 and sewer service under CCN number 20366.

**Application**

3. On July 18, 2018, J&S and Nerro filed an application for approval to sell and transfer 154 acres of J&S’s service area with 553 connections in Harris, Chambers, and Liberty Counties to Nerro.
4. The sale and transfer includes Texas Commission on Environmental Quality (TCEQ) approved public water systems numbers 1011493, 1010049, and 0360027 as well as sewer discharge permit numbers WQ 11720 - 001 and WQ 12342 – 001.

5. The requested area in Harris County is located approximately 2 miles south of downtown Jersey Village and is bounded on the north by Fox Road, on the east by Windfern Road, on the south by Zaka Road, and on the west by Beltway 8.
6. The requested area in Chambers and Liberty Counties is located approximately 0.5 miles east of downtown Old River Winfree and is generally bounded on the north by County Road 400, on the east by Farm-to-Market Road 1409, on the south by Reeves Cemetery Road, and on the west by Brown Lane.
7. The applicants filed an amended application on August 14, 2018.
8. In Order No. 2 issued on August 22, 2018, the administrative law judge (ALJ) found the application administratively complete.
9. On June 28, 2019, the parties filed a joint proposed Notice of Approval requesting the sale and transfer of 154 acres of J&S's service area with 553 connections in Harris, Chambers, and Liberty counties to Nerro.

#### **Notice of Application**

10. Notice of the application appeared in the August 3, 2018 issue of the *Texas Register*.
11. On September 26, 2018, the applicants filed the affidavit of Charles J. Nowling, representative of J&S, attesting that mailed notice was provided to all current customers of J&S, districts, neighboring systems, counties, cities, and affected parties on September 5, 2018.
12. On September 27, 2018, the applicants filed the affidavit of Victoria Bond, AR Clerk, attesting that notice was published in the *Houston Chronicle*, a newspaper of general circulation in Harris, Chambers, and Liberty counties, on September 10 and 17, 2018.
13. In Order No. 3 issued October 9, 2018, the ALJ found the notice sufficient.

#### **Sale**

14. In Order No. 4 issued on November 19, 2018, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed and that customer deposits had been addressed.

15. On March 27, 2019, April 22, 2019, April 30, 2019 and May 7, 2019, the applicants filed documents including a bill of sale, deeds, borrower's statement, and documentation of transfer of customer deposits, regarding the transaction.
16. In Order No. 7 issued on May 9, 2019, the ALJ found the closing documents sufficient.

**Evidentiary Record**

17. In Order No. 8 issued on July 10, 2019, the ALJ admitted the following evidence into the record: (a) J&S Water Company, LLC and Nerro Supply, LLC's (applicants) application, and all attachments, filed on July 18, 2018; (b) notice of application for sale, transfer, or merger published in the *Texas Register* on August 3, 2018; (c) applicants' response to Order No. 1, filed on July 27, 2018; (d) applicant's amended application, filed on August 14, 2018; (e) applicants' affidavit and proof of notice, filed on September 26 and 27, 2019; (f) Commission Staff's recommendation on final disposition and all attachments, filed on November 16, 2018; (g) applicants' documents regarding the closing of the proposed transaction, filed on March 27, 2019, April 22, 2019, April 30, 2019, and May 7, 2019; (h) applicants' consent form to the final map, certificate and tariff filed on June 21, 2019; and (i) the final map, certificate and tariff attached to the joint motion to admit evidence and proposed notice of approval, filed on June 28, 2019.

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

18. J&S has not been subject to any enforcement action by the Commission, Texas Commission on Environmental Quality (TCEQ), the Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.
19. J&S has no existing violations with their public water systems, and the systems are in compliance with TCEQ's drinking water rules.

**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)(l)**

20. J&S' systems have been approved by the TCEQ, and are capable of providing continuous and adequate service to the requested service area.

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

21. The requested areas already have adequate service.

**Effect of Approving the Transaction – TWC § 13.301(d), 16 TAC § 24.239(j)(5)(D); TWC §13.46(c)(3), 16 TAC § 24.227(d)(3)**

22. There are no other retail public utilities providing water service that would be affected by the proposed transaction.

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

23. Nerro has the ability to provide water and sewer service to requested transfer area.
24. Nerro has a sufficient number of licensed water and wastewater operators to provide continuous and adequate service to the requested service area.
25. Nerro has access to an adequate supply of water and has no outstanding violations.

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

26. Nerro has demonstrated the financial capability to serve the requested service area.
27. Nerro has a debt-service-coverage ratio of 1.3, which exceeds the required minimum of 1.25.
28. Nerro has sufficient cash to pay long-term principal and interest payments as they become due.
29. Nerro demonstrated it has the available cash levels to service the requested service area.
30. Nerro demonstrated adequate financial and managerial capability to provide continuous and adequate service to the requested area.

**Financial Assurance – TWC § 13.246(d), 16 TAC § 24.227(e)**

31. There is no need to require Nerro 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)(5)**

32. J&S and Nerro agreed that Nerro would acquire J&S' water and sewer systems which allows Nerro the ability to provide water service to the requested service area.

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

33. Granting the transaction will not adversely impact the environmental integrity of the land as the requested service area is in a previously certificated area.

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

34. The land will not be affected as no additional construction is needed to provide service to the requested area.

**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)**

35. The proposed transaction will improve customer service as Nerro anticipates incorporating the requested service areas with its existing water and sewer systems.
36. Granting the transaction for the requested area will enable Nerro to provide water and sewer services to the Maple Leaf Gardens, Oakland Village, and Woodland Acres subdivisions.

**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)**

37. Customers in the requested service areas will be charged the rates in Nerro's existing tariff.

**Maps, Tariffs and Certificates**

38. On June 6, 2019, Commission Staff emailed to J&S and Nerro the proposed maps, certificates, and tariffs related to this docket.
39. On June 21, 2019, J&S and Nerro filed consent forms concurring with the maps and certificates as prepared by Commission Staff.
40. The proposed tariffs, certificates, and maps were filed as an attachment to the proposed Notice of Approval filed jointly by J&S, Nerro, and Commission Staff on June 28, 2019.

**Informal Disposition**

41. More than 15 days have passed since the completion of the notice provided in this docket.
42. No person filed a protest or motion to intervene.
43. J&S, Nerro and Commission Staff are the only parties to this proceeding.
44. No party requested a hearing and no hearing is needed.
45. Commission Staff recommended that the ALJ find closing documents sufficient.

46. The 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 Texas Water Code (TWC) §§ 13.041, 13.241, 13.246, 13.244, 13.251, and 13.301.
2. J&S and Nerro are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239(a), (b), and (c).
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act<sup>1</sup>, and Commission rules.
5. J&S and Nerro completed the sale within the time required by 16 TAC § 24.239(o).
6. After consideration of the factors in TWC § 13.246(c), Nerro has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).
7. A sale not completed in accordance with TWC § 13.301 is void. TWC 13.301(h).
8. J&S complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
9. J&S and Nerro completed the sale within the time authorized by the Commission in accordance with 16 TAC § 24.239(o).
10. J&S and Nerro has demonstrated that it is necessary for the service, accommodation, convenience, and safety of the public to transfer the public water system area under water CCN number 12085 and sewer CCN number 20658 from J&S to Nerro's water CCN number 12252 and sewer CCN number 20366.
11. Nerro must record a certified copy of the certificate transferred and maps approved by the Order, along with a boundary description of the service areas, in the real property records

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<sup>1</sup> Tex. Gov't Code §§ 2001.001–.902.

of Harris, Chambers, and Liberty counties within 31 days of receiving the Order and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).

12. 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.

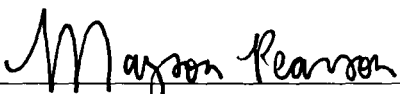
1. The Commission approves the sale and transfer of a portion of J&S Water Company, LLC's facilities and water and sewer service area rights under water certificate of convenience and necessity number (CCN) 12085 and sewer CCN number 20658 to Nerro Supply, LLC's water CCN number 12252 and sewer CCN number 20366 to the extent provided in the Notice of Approval.
2. The Commission amends Nerro's water CCN 12252 and sewer CCN number 20355 to include the service area as provided in this Notice of Approval and shown on the attached maps.
3. The Commission amends J&S' water CNN number 12035 and sewer CCN number 20658 to remove the service area as provided in this Notice of Approval and shown on the attached maps.
4. The Commission approves the maps and tariffs attached to the joint motion for adoption of Notice of Approval filed on June 28, 2019.
5. Within ten days of the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved by the Notice of Approval to central records to be marked *Approved* and filed in the Commission's tariff books.
6. Nerro must provide continuous and adequate water service to every customer and applicant for service within the service area for water CCN number 12252 and sewer CCN number 20366 in accordance with Nerro's water and sewer tariffs.
7. Nerro must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Harris, Chambers, and Liberty counties affected by the application.



8. Nerro must submit to the Commission evidence of the recording no later than 45 days after receipt of the signed Order.
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 10<sup>th</sup> day of July 2019.

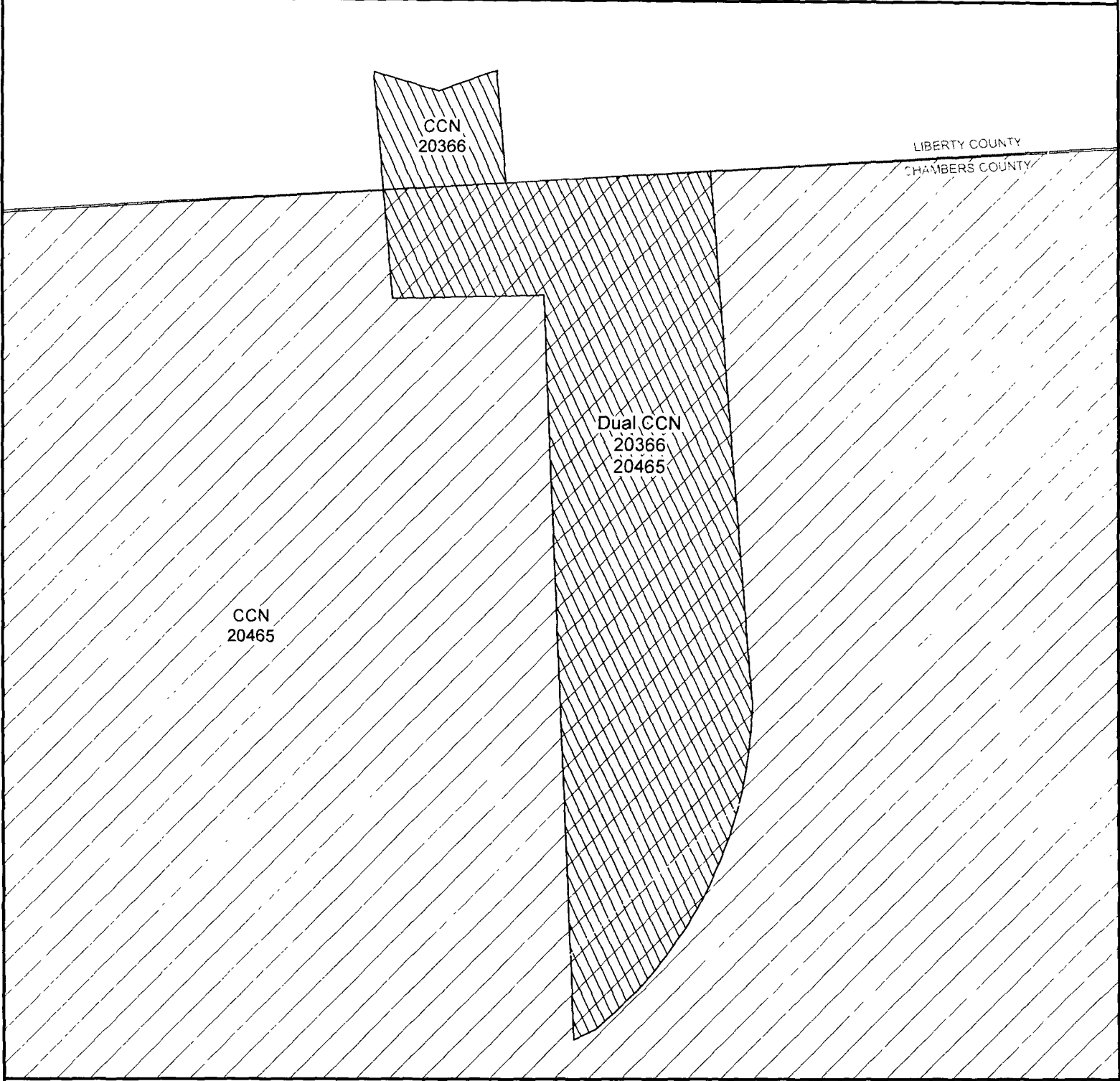
**PUBLIC UTILITY COMMISSION OF TEXAS**

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

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Nerro Supply, LLC  
Portion of Sewer CCN No. 20366  
PUC Docket No. 48532

Transferred a Portion of J & S Water Company, LLC, CCN No. 20658 in Chambers and Liberty County



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1701 N. Congress Ave  
Austin, TX 78701

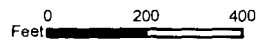
**Sewer CCN**



20366 - Nerro Supply LLC



20465 - Gulf Coast Waste Disposal Authority



Map by Komal Patel  
Date created May 24, 2019  
Project Path n\finalmapping\  
48532NerroSupplyChambersSewer.mxd

Nerro Supply, LLC  
Portion of Water CCN No. 12252  
PUC Docket No. 48532

Transferred a Portion of J & S Water Company, LLC, CCN No. 12085 in Chambers and Liberty County



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Austin, TX 78701

**Water CCN**

-  12252 - Nerro Supply LLC
-  11984 - Krebs Utilities Inc

**Exempt Utility Water Service Area**

-  N0003 - Wildewood Subdivision



Map by: Komal Patel  
Date created: May 24, 2019  
Project Path: n:\finalmapping\  
48532NerroSupplyChambersWater.mxd



Nerro Supply, LLC  
Portion of Sewer CCN No. 20366  
PUC Docket No. 48532  
Transferred a Portion of J & S Water Company, LLC, CCN No. 20658 in Harris County



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

**Sewer CCN**

 20366 - Nerro Supply LLC

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Feet



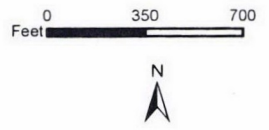
Map by: Komal Patel  
Date created: May 24, 2019  
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**Nerro Supply, LLC**  
**Portion of Water CCN No. 12252**  
**PUC Docket No. 48532**  
**Transferred a Portion of J & S Water Company, LLC, CCN No. 12085 in Harris County**



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

- Water CCN**
- 12252 - Nerro Supply LLC
  - 13239 - Trinity at Windfern LLC
  - 11952 - H C MUD Inc



Map by: Komal Patel  
 Date created: May 24, 2019  
 Project Path: n:\finalmapping\  
 48532NerroSupplyHarrisWater.mxd



# Public Utility Commission of Texas

By These Presents Be It Known To All That

## J&S Water Company, LLC

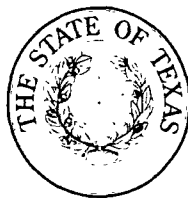
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, J&S Water Company, LLC is entitled to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

### Certificate of Convenience and Necessity No. 20658

to provide continuous and adequate sewer utility service to that service area or those service areas in Chambers, Harris and Liberty Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48532 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 J&S Water Company, LLC, 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 19th day of July 2019.





# Public Utility Commission of Texas

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

## **J&S Water Company, LLC**

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, J&S Water Company, LLC is entitled to this

### **Certificate of Convenience and Necessity No. 12085**

to provide continuous and adequate water utility service to that service area or those service areas in Chambers, Harris and Liberty Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48532 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 J&S Water Company, LLC, 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 10<sup>th</sup> day of July 2019.



# Public Utility Commission of Texas

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

## **Nerro Supply, LLC**

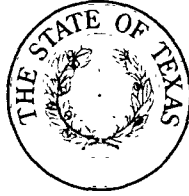
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Nerro Supply, LLC is entitled to this

### **Certificate of Convenience and Necessity No. 20366**

to provide continuous and adequate sewer utility service to that service area or those service areas in Chambers, Harris, Liberty, and Walker Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48532 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 Nerro Supply, LLC, 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 10th day of July 2018.





# Public Utility Commission of Texas

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

## **Nerro Supply, LLC**

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, Nerro Supply, LLC is entitled to this

### **Certificate of Convenience and Necessity No. 12252**

to provide continuous and adequate water utility service to that service area or those service areas in Brazos, Burlason, Chambers, Harris, Liberty, Montgomery, Robertson and Walker Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48532 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 Nerro Supply, LLC, 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 10<sup>th</sup> day of July 2019.