



Control Number: 48569



Item Number: 22

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PUBLIC UTILITY COMMISSION
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OF TEXAS

APPLICATION OF DENTON §
COUNTY FRESH WATER SUPPLY §
DISTRICT NO. 10 FOR PARTIAL §
DECERTIFICATION OF ITS CCN §
SERVICE AREA AND APPROVAL OF §
A SERVICE AREA CONTRACT WITH §
MUSTANG SPECIAL UTILITY §
DISTRICT UNDER TEXAS WATER §
CODE § 13.248 IN DENTON COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COME NOW Denton County Fresh Water Supply District No. 10 (the “District”), Mustang Special Utility District (“Mustang”), and the Staff of the Public Utility Commission of Texas (“Staff”) (collectively “Parties”), and submit this Joint Proposed Notice of Approval and Motion to Admit Evidence in response to Order No. 5. In support thereof, the Parties show the following:

I. BACKGROUND

The District holds Certificate of Convenience and Necessity (CCN) Nos. 13021 and 20923. Mustang holds CCN Nos. 11856 and 20930. The District and Mustang are dually certificated to provide retail water and utility service in a portion of their service areas in Denton County (the “Affected Area”). On August 3, 2018, the District filed an application under Texas Water Code §§ 13.248 and 13.254(a) and 16 Texas Administrative Code (TAC) §§ 24.245(h) and 24.253 to remove the Affected Area from the District’s Water and Sewer CCNs and approve the transfer of customers and service area from the District to Mustang.

Order No. 5, issued by the Commission Administrative Law Judge (“ALJ”) on October 17, 2018, established a deadline of January 18, 2019, for the parties to file proposed findings of fact, conclusions of law, and ordering paragraphs. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The parties request the entry of the following into the record of this proceeding:

1. The Application, filed on August 3, 2018 (AIS Item No. 1);
2. The District’s Response to Order No. 1, filed on August 16, 2018 (AIS Item No. 6);

3. Amended Notice of Application to Amend Water and Sewer Certificates of Convenience and Necessity, issued on August 17, 2018 (AIS Item No. 7) and published in the *Texas Register* on August 31, 2018 (43 Tex. Reg. 5711);
4. Additional information requested from the District, filed on September 4, 2018 (AIS Item No. 9);
5. Staff's Recommendation on Administrative Completeness, filed on September 4, 2018 (AIS Item No. 10);
6. The District's Proof of Notice, filed on October 3, 2018 (AIS Item No. 14);
7. Staff's Recommendation on Sufficiency of Notice, filed October 15, 2018 (AIS Item No. 15);
8. The District's Response to the Request for Information from Staff, filed November 28, 2018 (AIS Item No. 18);
9. The District's Executed Consent Form, filed on December 10, 2018 (AIS Item No. 19);
10. Mustang's Executed Consent Form, filed on December 11, 2018 (AIS Item No. 20); and,
11. Staff's Final Recommendation and supporting documentation, filed on December 17, 2018 (AIS Item No. 21).

III. JOINT PROPOSED NOTICE OF APPROVAL

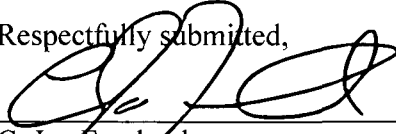
The Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant the Application. Also attached are the final map and certificate that were included in Staff's final recommendation.

IV. CONCLUSION

Staff and Mustang have agreed that the District is authorized to file this pleading on their behalf. Therefore, the Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the findings of fact, conclusions of law, and ordering paragraphs from the attached Joint Proposed Notice of Approval be adopted.

Dated: January 10, 2019

Respectfully submitted,



C. Joe Freeland
State Bar No. 07417500
Mathews & Freeland, LLP
8140 N. MoPac Expy
Austin, Texas 78759
T: (512) 404-7800 F: (512) 703-2785
ATTORNEYS FOR DENTON COUNTY FRESH
WATER SUPPLY DISTRICT NO. 10

CERTIFICATE OF SERVICE

I certify that a copy of the preceding document was served on all parties of record in this proceeding on this 10th day of January, 2019, by hand-delivery, facsimile, electronic mail, and/or First Class Mail.



C. Joe Freeland

PUC DOCKET NO. 48569

APPLICATION OF DENTON	§	PUBLIC UTILITY COMMISSION
COUNTY FRESH WATER SUPPLY	§	
DISTRICT NO. 10 FOR PARTIAL	§	OF TEXAS
DECERTIFICATION OF ITS CCN	§	
SERVICE AREA AND APPROVAL OF	§	
A SERVICE AREA CONTRACT WITH	§	
MUSTANG SPECIAL UTILITY	§	
DISTRICT UNDER TEXAS WATER	§	
CODE § 13.248 IN DENTON COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of the Denton County Fresh Water Supply District No. 10 (the “District”) to amend certificates of convenience and necessity (“CCN”) Nos. 13021 and 20923, in Denton County, pursuant to Texas Water Code § 13.254(a), to decertify that portion of its CCNs that are dually certificated with Mustang Special Utility District (“Mustang”) and to obtain Commission approval of an Agreement, pursuant to Texas Water Code § 13.248, between the District and Mustang allocating water and wastewater service area and customers in Denton County. The Staff of the Public Utility Commission (“Commission Staff”) recommended approval of the application. Consistent with Commission Staff’s recommendation, the application is approved.

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

I. FINDINGS OF FACT

Background and Application

1. The District holds water CCN No. 13021 and sewer CCN No. 20923.
2. Mustang holds water CCN No. 11856 and sewer CCN No. 20930.
3. The District and Mustang currently are dually certificated to provide retail water and sewer utility service to a portion of both the District’s and Mustang’s service areas (“Affected Area”). The Affected Area covers approximately 849 acres, with 2,452 customers being served by the District within the Affected Area.
4. The Affected Area is located approximately 6 miles west of downtown Prosper, Texas, and is generally bounded on the north by Bryan Road; on the east by FM 1385; on the south by US Hwy 380; and on the west by Trenton Drive.

5. The District provides retail water and sewer utility service to its customers in the Affected Area through a wholesale services and billing agreement with Mustang. The petition and the underlying contract between the District and Mustang propose changing this arrangement so that Mustang will provide retail water and sewer utility service directly to all customers in the Affected Area.

6. Pursuant to the contract, when the customers are transferred from the District to Mustang, the District will transfer all customers deposits associated with customers in the Affected Area to Mustang, and the rates charged customers that are transferred from the District to Mustang will not be changed.

Procedural History

7. On August 3, 2018, the District filed a petition under Texas Water Code § 13.254(a) to amend the District's CCNs and under Texas Water Code § 13.248 for approval of an agreement to transfer customers between the District and Mustang.

8. On August 8, 2018, Mustang filed a motion to intervene, which was granted on October 17, 2018, pursuant to Order No. 4.

9. On August 16, 2018, the District filed additional information in response to Order No. 1, which was issued on August 13, 2018.

10. On September 4, 2018, the District supplemented its application and provided a copy of its rate order as requested by Commission Staff.

11. On September 4, 2018, Commission Staff filed its recommendation on sufficiency and a proposed procedural schedule.

12. On September 10, 2018, Order No. 2 was issued, finding the application administratively complete and directing the District to provide notice.

13. On September 24, 2018, Order No. 3 was issued clarifying the notice requirements.

14. On October 3, 2018, the District filed Proof of Notice affirming that the District had provided the notice as required by Order Nos. 2 and 3.

15. On October 15, 2018, Commission Staff filed its recommendation that the notice provided by the District was sufficient.

16. On December 10, 2018, the District filed a consent form to the CCN service area map and CCN certificate as prepared by Commission Staff.

17. On December 11, 2018, Mustang filed a consent form to the CCN service area map and CCN certificate as prepared by Commission Staff.

18. On December 17, 2018, Commission Staff filed a final recommendation for approval of the application to which Staff attached the final maps and certificates.

19. On January ___, 2019, the District, Mustang, and Commission Staff filed a joint motion to admit evidence and notice of approval. The final maps and CCN certificates referenced in Finding of Fact No. 18 are attached to this Notice.

20. On _____, 2019, Order No. 6 was issued, admitting evidence into the record of this proceeding.

Notice

21. On August 24, 2018, Notice of Application to Amend Water and Sewer Certificates of Convenience and Necessity was published in the *Texas Register* (43 Tex. Reg. 5602).

22. On August 31, 2018, an Amended Notice of Application to Amend Water and Sewer Certificates of Convenience and Necessity was published in the Texas Register (43 Tex. Reg. 5711).

23. The contract between the District and Mustang was discussed at a meeting of the District's Board of Directors on September 21, 2017.

24. On or about October 2, 2018, notice of the application was provided to the District's customers within the Affected Area.

25. No additional notice was required, and Order No. 5 found notice to be sufficient.

Factors Under Texas Water Code § 13.248

26. The District and Mustang have entered into a contract designating areas to be served and customers to be served by each retail public utility respectively.

27. Pursuant to the agreement, Mustang will provide retail water and sewer utility service to customers in the area to be removed from the District's water and sewer CCNs.

28. Mustang currently provides water and sewer service to the customers in the area on a wholesale basis. The transfer of customers proposed by the contract will change the nature of Mustang's service from wholesale to retail. The services provided to the customers will be the same, and the rates charged customers by the transfer will not change.

Factors Under Texas Water Code § 13.254(a)

29. The District has provided its written consent to amend its water and sewer CCNs to remove the areas dually certificated with Mustang.

30. Mustang is currently certificated to serve the Affected Area and has adequate financial, managerial, and technical capability to provide continuous and adequate retail water and sewer service to the Affected Area.

Informal Disposition

31. More than 15 days have passed since the completion of the notice provided in this docket.

32. There were no protests or hearing requests filed in response to the public notice.

33. The District, Mustang, and Staff are the only parties to this proceeding.

34. No issues of fact or law are disputed by the parties.

II. CONCLUSIONS OF LAW

1. The District and Mustang are retail public utilities as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).

2. The Commission has jurisdiction over the application pursuant to TWC §§ 13.041, 13.241, 13.248, and 13.254(a), and 16 TAC §§ 24.245(h) and 24.253.

3. Public notice of the application was provided in compliance with TWC § 13.248 and 16 TAC § 24.253.

4. The application was processed in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.

5. After considering the factors in TWC § 13.248, and § 13.254(a), the District is entitled to have its water and sewer CCNs amended to remove the affected service area, and the District and Mustang are entitled to approval of their agreement to transfer areas and customers within their respective certificates of convenience and necessity, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241(a).

¹ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-902.

6. Approval of the application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).

7. Under TWC § 13.257(r) and (s), the District is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located and to submit to the Commission evidence of the recording.

8. The requirements for informal disposition pursuant to 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 order:

1. The application is approved.

2. The District's CCN Nos. 13021 and 20923 are hereby amended consistent with this Notice.

3. The Commission's official service area boundary maps for the District will reflect the changes as shown on the attached map.

4. The District shall serve every customer and applicant for service within the area certified under CCN Nos. 13021 and 20923 and such service shall be continuous and adequate.

5. Mustang shall serve every customer and applicant for service within the Affected Area and all other area certified under CCN Nos. 11856 and 20930 and such service shall be continuous and adequate.

6. The District shall comply with the recording requirements in TWC § 13.257(r)-(s) for the area in Denton County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.

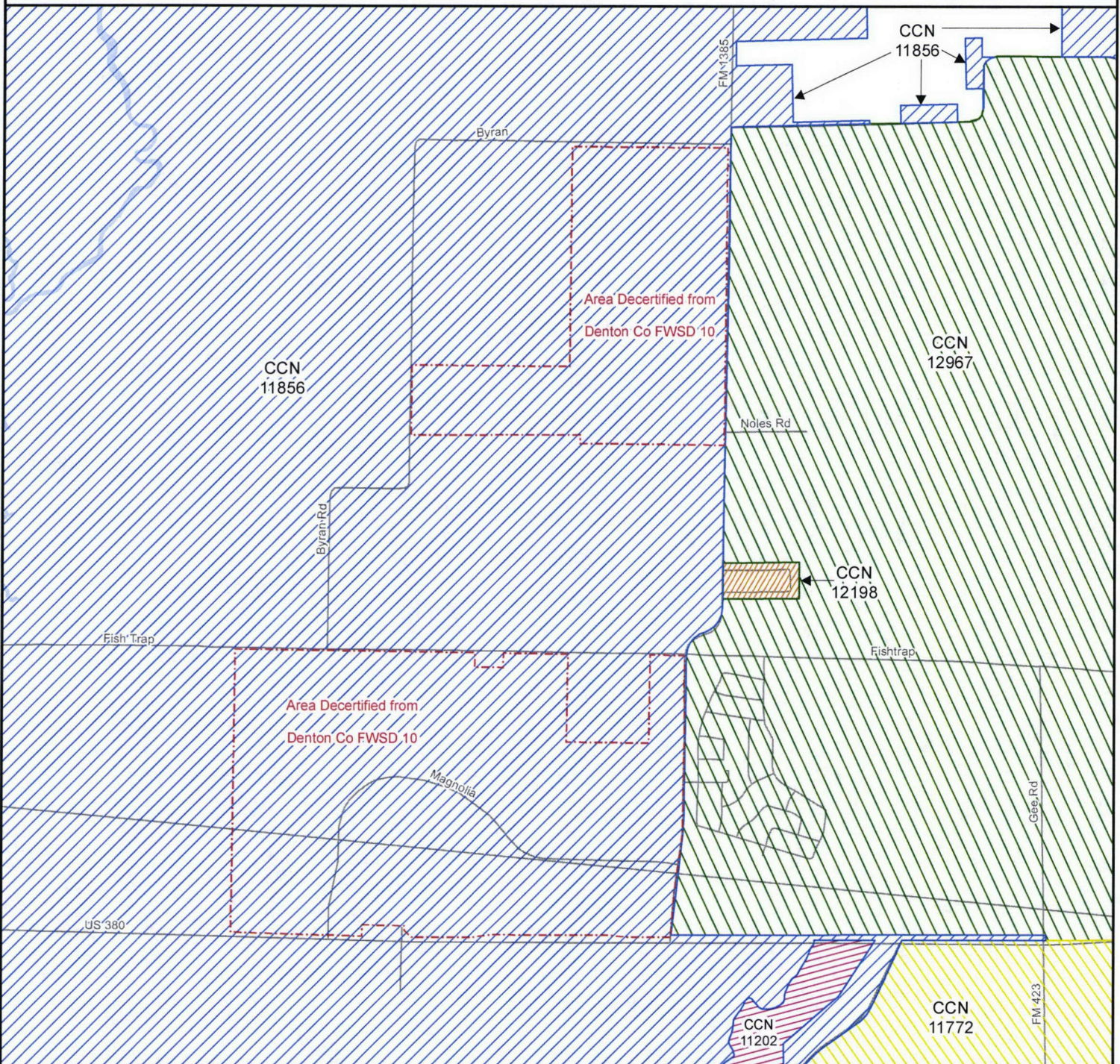
7. All other motions, requests for entry of specific findings of fact and conclusions of law and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas, the _____ day of _____, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE

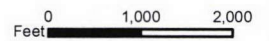
Denton County Fresh Water Supply District No. 10
 Portion of Water CCN No. 13021
 PUC Docket No. 48569
 13.248 Agreement Decertified a Portion of Denton County Fresh Water Supply District No. 10
 in Denton County



Water CCN

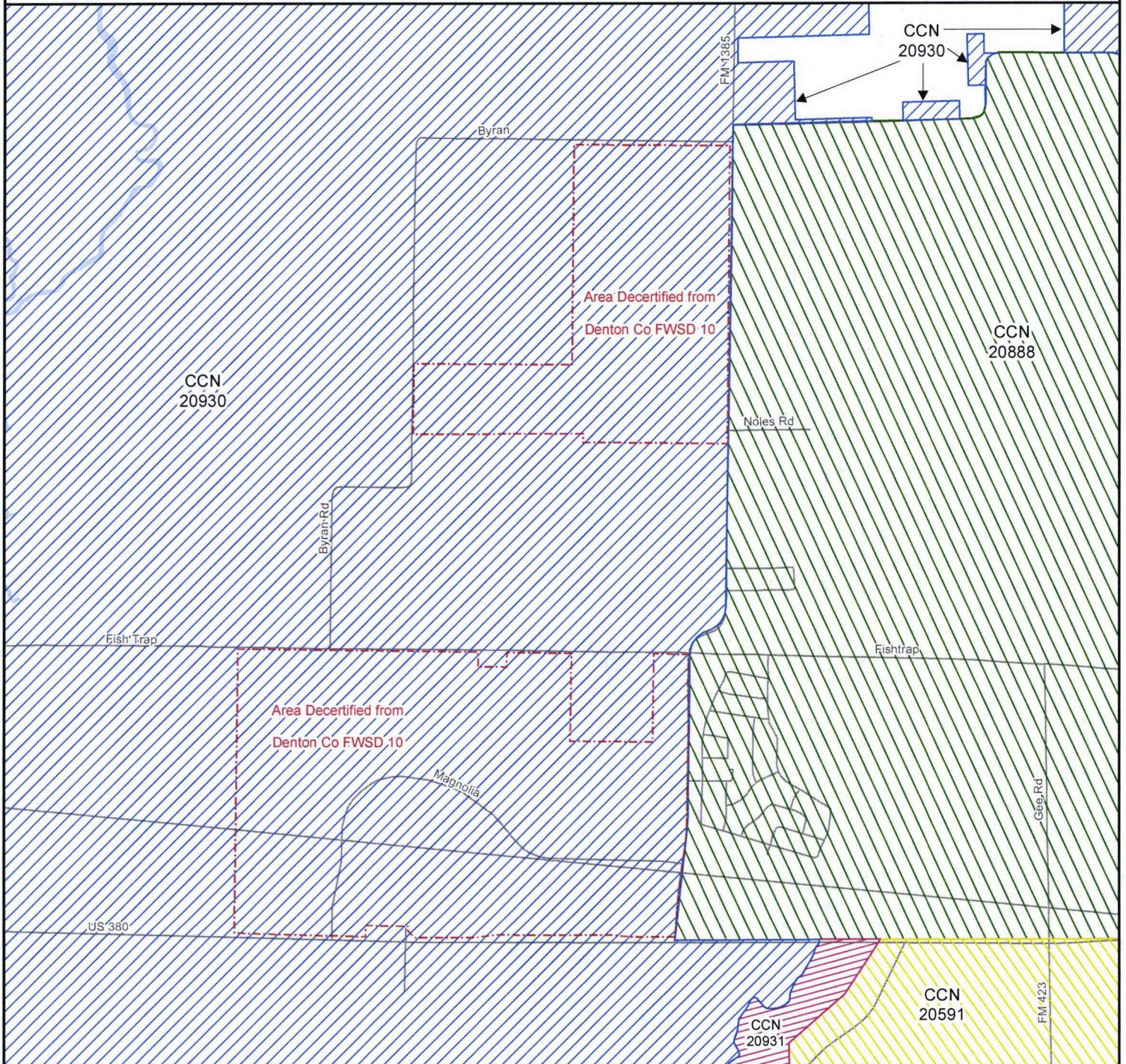
- 11856 - Mustang SUD
- 12967 - City of Prosper
- 12198 - Water Assn of North Lake Inc
- 11202 - Town of Little Elm
- 11772 - City of Frisco

Area Decertified




Denton County Fresh Water Supply District No. 10
 Portion of Sewer CCN No. 20923
 PUC Docket No. 48569

13.248 Agreement Decertified a Portion of Denton County Fresh Water Supply District No. 10
 in Denton County



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

Sewer CCN

-  20930 - Mustang SUD
-  20888 - City of Prosper
-  20931 - Town of Little Elm
-  20591 - City of Frisco

 Area Decertified

0 1,000 2,000
 Feet



Map by: Komal Patel
 Date created: November 16, 2018
 Project Path: n:\finalmapping\
 48569DentonFWSD10Sewer.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Mustang Special Utility District

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, Mustang Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 20930

to provide continuous and adequate sewer utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48569 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 Mustang Special Utility District 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 _____ day of _____ 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Mustang Special Utility District

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, Mustang Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 11856

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48569 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 Mustang Special Utility District 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 _____ day of _____ 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Denton County Fresh Water Supply District No. 10

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, Denton County Fresh Water Supply District No. 10 is entitled to this

Certificate of Convenience and Necessity No. 20923

to provide continuous and adequate sewer utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48569 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 Denton County Fresh Water Supply District No. 10 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 _____ day of _____ 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Denton County Fresh Water Supply District No. 10

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, Denton County Fresh Water Supply District No. 10 is entitled to this

Certificate of Convenience and Necessity No. 13021

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48569 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 Denton County Fresh Water Supply District No. 10 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 _____ day of _____ 2019.