

Control Number: 48727



Item Number: 12

Addendum StartPage: 0

PETITION OF CHARMAINE  
MIRANDER WILKE TO AMEND TRI-  
COMMUNITY WSC'S CERTIFICATE  
OF CONVENIENCE AND NECESSITY  
IN GUADALUPE COUNTY BY  
EXPEDITED RELEASE

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PUBLIC UTILITY COMMISSION

OF TEXAS

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PUBLIC UTILITY COMMISSION  
FILING CLERK

### NOTICE OF APPROVAL

This Notice addresses the petition of Charmaine Mirander Wilke to amend Tri-Community Water Supply Corporation's water certificate of convenience and necessity (CCN) number 10313 by expedited release. The Commission approves Ms. Wilke's petition and decertifies approximately 77 acres from Tri-Community WSC's CCN.

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

#### I. Findings of Fact

##### Petitioner

1. Ms. Wilke owns a tract of land in Guadalupe County that is approximately 150 acres; 77 acres of her 150-acre tract are located within the boundaries of Tri-Community WSC's CCN number 10313.

##### Petition

2. On October 2, 2018, Ms. Wilke filed a petition for the expedited release of her 150-acre tract in Guadalupe County.
3. Guadalupe County is adjacent to Bexar County, which is a county with a population of over 1,000,000.
4. Ms. Wilke stated that she is the sole owner of the 150-acre tract and that it is more than 25 contiguous acres, not receiving water service, and located entirely within Guadalupe County.
5. Ms. Wilke provided warranty deeds confirming her ownership of the tract and also location maps.

6. On October 15, 2018, Ms. Wilke filed supplemental information to clarify that she is seeking the expedited release of any part of her 150-acre tract that is located within Tri Community WSC's CCN number 10313.
7. In Order No. 3 issued on November 12, 2018, the administrative law judge (ALJ) found Ms. Wilke's amended petition administratively complete.

### **Notice**

8. Ms. Wilke attested that a copy of the petition had been sent by certified mail to the current CCN holder the same day of the filing of the petition.
9. Notice of the amended petition appeared in the October 26, 2018 issue of the *Texas Register*.
10. The Commission provided a copy of the notice filed with the *Texas Register* to Tri-Community WSC at its address of record:

Tri-Community Water Supply Corporation  
2370 Farm-to-Market Road 1979  
San Marcos, Texas 78666

11. In Order No. 3 issued on November 12, 2018, the ALJ found the notice sufficient.

### **Water Service**

12. There is no evidence that Tri-Community WSC has committed or dedicated facilities or lines providing water service to the tract of land.
13. There is no evidence that Tri-Community WSC has performed acts or supplied anything to the tract of land.
14. Tri-Community WSC has not committed facilities or lines providing water service to the tract of land.
15. Tri-Community WSC has not performed acts or supplied anything to the tract of land.
16. The tract of land is not receiving actual water service from Tri-Community WSC.

### **Determination of Useless or Valueless Property**

17. Tri-Community WSC did not identify any property that is rendered useless or valueless by the decertification.

**Informal Disposition**

18. More than 15 days have passed since the completion of notice in this proceeding.
19. Commission Staff and Ms. Wilke are the only parties to this proceeding.
20. No parties filed protests, motions to intervene, or requested a hearing.
21. This decision is not adverse to any party.
22. On November 26, 2018, Commission Staff recommended approval of the petition.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this petition under Texas Water Code (TWC) §13.254(a-5).
2. To obtain a release under TWC § 13.254(a-5), a landowner must demonstrate that the landowner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving water service.
3. Guadalupe County is a qualifying county under TWC § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245.
4. Notice of the petition was provided in compliance with 16 TAC § 24.245(I)(4)(A)(vi) and 16 TAC §§ 22.54.
5. The tract of land is not receiving water service from Tri-Community WSC, as that term has been defined by the Austin Court of Appeals,<sup>1</sup> in accordance with TWC § 13.254(a-5).
6. No property has been rendered useless or valueless by the decertification; therefore, under TWC § 13.254(d) through (g), no compensation is owed to Tri-Community WSC.
7. Because no compensation is owed under TWC § 13.254(d) through (g), a retail public utility may render retail water service directly or indirectly to the public in the decertified area without providing compensation to Tri-Community WSC.

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<sup>1</sup> *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130, 140-41 (Tex. App.—Austin 2014, pet. denied).

8. Ms. Wilke has sufficiently satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.245 by adequately demonstrating ownership of a tract of land that is at least 25 contiguous acres, located in a qualifying county, and not receiving water service.
9. The Commission processed the petition in accordance with the Administrative Procedure Act,<sup>2</sup> the TWC, and Commission rules.
10. Under TWC § 13.257(r) and (s), Tri-Community WSC is required to record a map and a certified copy of the approved certificate, and any amendment thereof, 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 submit to the Commission evidence of the recording.
11. The requirements for informal disposition in 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:

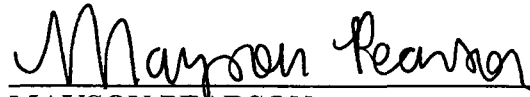
1. The Commission approves the petition and removes approximately 77 acres from Tri-Community WSC's water CCN number 10313.
2. The Commission amends Tri-Community WSC's CCN number 10313 in accordance with this Notice.
3. The Commission's official service area boundary maps for Tri-Community WSC will reflect this change, as provided in the attached map.
4. Tri-Community WSC must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Guadalupe County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

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<sup>2</sup> Tex. Gov't Code §§ 2001.001-.902.

Signed at Austin, Texas the 4<sup>th</sup> day of January 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**

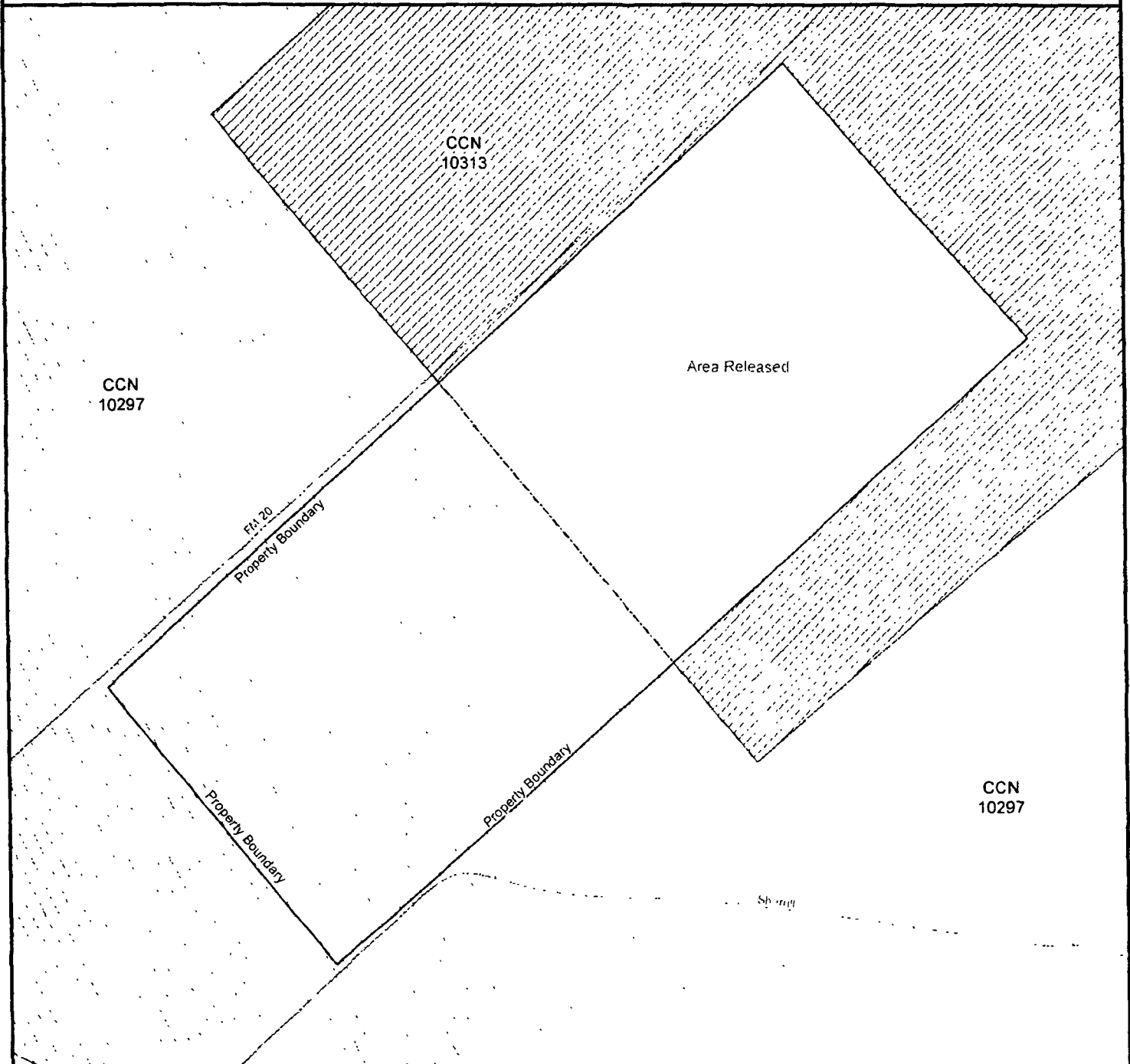
A handwritten signature in cursive script that reads "Mayson Pearson". The signature is written in black ink and is positioned above a horizontal line.

**MAYSON PEARSON**

**ADMINISTRATIVE LAW JUDGE**



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Tri-Community Water Supply Corporation  
 Portion of Water CCN No. 10313  
 PUC Docket No. 48727  
 Petition by Charmaine Mirander Wilke to Amend  
 Tri-Community Water Supply Corporation's CCN by Expedited Release in Guadalupe County



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

**Water CCN**

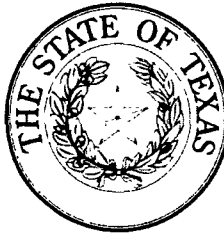
-  10313 - Tri Community WSC
-  10297 - Crystal Clear SUD

-  Area Released
-  Property Boundary

0 300 600  
 Feet



Map by Komal Patel  
 Date created November 15, 2018  
 Project Path n\finalmapping\  
 48727TriCommunityWSC.mxd



# **Public Utility Commission of Texas**

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

## **Tri Community Water Supply Corporation**

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, Tri Community Water Supply Corporation is entitled to this

### **Certificate of Convenience and Necessity No. 10313**

to provide continuous and adequate water utility service to that service area or those service areas in Caldwell and Guadalupe County(ies) as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48727 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 the Tri Community Water Supply Corporation 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 4<sup>th</sup> day of January 2019.