



Control Number: 48742



Item Number: 11

Addendum StartPage: 0

DOCKET NO. 48742

RECEIVED

PETITION OF TONKAWA FARMS, §
L.P. TO AMEND PATTISON WATER §
SUPPLY CORPORATION'S WATER §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN WALLER §
COUNTY BY EXPEDITED RELEASE §

2019 FEB -4 PM 1:02
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

AMENDED NOTICE OF APPROVAL

This Notice addresses the petition of Tonkawa Farms, L.P. to amend Pattison Water Supply Corporation's (WSC) water certificate of convenience and necessity (CCN) number 10331 by expedited release. The Commission approves Tonkawa Farms' petition and decertifies approximately 289 acres from Pattison WSC's CCN.

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

I. Findings of Fact

Petitioner

1. Tonkawa Farms owns a tract of land in Waller County that is approximately 618 acres; approximately 289 acres of the 618-acre tract are located within the boundaries of Pattison WSC's CCN number 10331.

Petition

2. On October 9, 2018, Tonkawa Farms filed a petition for the expedited release of a portion of the 618-acre tract in Waller County.
3. Approximately 289 acres of the 618-acre tract are located within Pattison WSC's CCN number 10331.
4. Douglas C. Kelly, president of Hilcorp Ventures and general partner of Tonkawa Farms, L.P., provided an affidavit signed on August 9, 2018, affirming that the tract is owned by Tonkawa Farms, is more than 25 acres, is not receiving water service, is subject to CCN number 10331 which is currently held by Pattison WSC, and is located entirely in Waller County.

5. Waller County is adjacent to Harris County, which is a county with a population of over 1,000,000.
6. Tonkawa Farms provided warranty deeds and location maps confirming ownership of the tract of land.
7. In Order No. 2 issued on November 8, 2018, the administrative law judge (ALJ) found Tonkawa Farms' petition administratively complete.

Notice

8. Tonkawa Farms attested that a copy of the petition had been sent by certified mail to the current CCN holder on the same day of the filing of the petition.
9. Notice of the 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 Pattison WSC at its address of record:

Pattison Water Supply Corporation
P.O. Box 63
Pattison, Texas 77466

11. In Order No. 2 issued on November 8, 2018, the ALJ found the notice sufficient.
12. Approximately 289 acres of the 618-acre tract are located within Pattison WSC's CCN number 10331.

Water Service

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

Determination of Useless or Valueless Property

18. Pattison WSC did not identify any property that is rendered useless or valueless by the decertification.

Informal Disposition

19. More than 15 days have passed since the completion of notice in this proceeding.
20. Commission Staff and Tonkawa Farms are the only parties to this proceeding.
21. No persons filed protests or motions to intervene.
22. No party requested a hearing and a hearing is not necessary.
23. The decision is not adverse to any party.
24. On November 21, 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. Waller County is a qualifying county under TWC § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245.
3. Notice of the petition was provided in compliance with 16 TAC § 24.245(l)(4)(A)(vi) and 16 TAC § 22.54.
4. The tract of land is not receiving water service from Pattison WSC, as that term has been defined by the courts, in accordance with TWC § 13.254(a-5).
5. Under 16 TAC §24.245(n)(3), because Pattison WSC did not intervene in this case, no property has been rendered useless or valueless by the decertification; therefore, under TWC § 13.254(d) through (g) no compensation is owed to Pattison WSC.
6. There is no useless or valueless property as that term is defined in 16 TAC §24.245(b)(6).
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 Pattison WSC.

8. The Commission cannot remove land from a certificated service area if it is not within the certificated area.
9. Tonkawa Farms 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.
10. The Commission processed the petition in accordance with the Administrative Procedure Act,¹ the TWC, and Commission rules.
11. Under TWC § 13.257(r) and (s), Pattison 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.
12. 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:

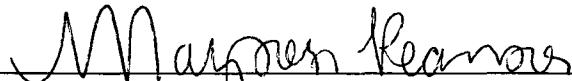
1. The Commission approves the petition and removes approximately 289 acres from Pattison WSC's water CCN number 10331.
2. The Commission amends Pattison WSC's CCN number 10331 in accordance with this Notice.
3. The Commission's official service area boundary maps for Pattison WSC will reflect this change, as provided in the attached map.
4. Pattison WSC must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Waller County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.

¹ Tex. Gov't Code §§ 2001.001-.902.

5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 4th day of February 2019.

PUBLIC UTILITY COMMISSION OF TEXAS



MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE

Q:\CADM\Docket Management\Water\CCN_EXPEDITED\48xxx\48742 NOA amend.docx