



Control Number: 48944



Item Number: 8

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DOCKET NO. 48944

RECEIVED

PETITION OF MM WALDEN POND, §
LLC TO AMEND HIGH POINT §
WATER SUPPLY CORPORATION'S §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN KAUFMAN §
COUNTY BY EXPEDITED RELEASE §

2019 FEB - 1 AM 11:00
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval addresses the petition of MM Walden Pond, LLC to amend High Point Water Supply Corporation's water certificate of convenience and necessity (CCN) by expedited release. The Commission approves the petition and removes the approximately 245 acres owned by MM Walden Pond, LLC from High Point WSC's water CCN number 10841.

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

I. Findings of Fact

Petitioner

1. MM Walden Pond, LLC is a domestic limited liability company registered with the Texas Secretary of State on May 24, 2018, under file number 803025338.
2. MM Walden Pond owns approximately 245 contiguous acres of land located within the boundaries of High Point WSC's water CCN number 10841 in Kaufman County.

Petition

3. On December 3, 2018, MM Walden Pond filed a petition for expedited release of its approximately 245-acre tract of land in Kaufman County.
4. The tract of land is within High Point WSC's certificated area for CCN number 10841.
5. Kaufman County is adjacent to Dallas County, which is a county with a population of over one million.
6. MM Walden Pond provided a deed confirming its ownership of the tract of land, and maps confirming the land's location.

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7. Mehrdad Moayedi, authorized representative of MM Walden Pond, provided a notarized affidavit signed on November 27, 2018, affirming that the tract of land is owned by MM Walden Pond, is more than 25 acres, is not receiving water service, is within the boundaries of CCN number 10841 held by High Point WSC, and is located entirely in Kaufman County.
8. In Order No. 2, issued on January 4, 2019, the Commission found the petition administratively complete.

Notice

9. On November 29, 2018, MM Walden Pond certified that it sent a true and correct copy of the petition, via certified mail, to High Point WSC.
10. Notice of the petition appeared in the December 21, 2018 issue of the *Texas Register*.
11. In Order No. 2, issued on January 4, 2019, the Commission found the notice sufficient.

Intervention

12. High Point WSC did not seek to intervene in this proceeding.

Water Service

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

Determination of Useless or Valueless Property

18. There is no evidence that High Point WSC owns any property that will be rendered useless or valueless by the decertification.

Informal Disposition

19. More than 15 days have passed since the completion of the notice in this docket.
20. Commission Staff and MM Walden Pond are the only parties to this proceeding.
21. There were no protests, motions to intervene, or requests for hearing filed.
22. The granting of the petition will not be adverse to any party; therefore, no hearing is required.
23. No party disputed any issue of law or fact.
24. On January 18, 2019, 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. Notice of the petition was provided in compliance with 16 Texas Administrative Code (TAC) §§ 22.55 and 24.245(l).
3. To obtain 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.
4. Kaufman County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.245(l).
5. The tract of land is not receiving water service from High Point WSC in accordance with TWC § 13.254(a-5).
6. Because High Point WSC did not intervene in this case, it can be presumed that no property has been rendered useless or valueless by the decertification; therefore, under TWC § 13.254(d) through (g) and 16 TAC § 24.245(n)(3) no compensation is owed to High Point 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 High Point WSC.

8. MM Walden Pond has satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.245(l) by adequately demonstrating ownership of a tract of land that is at least 25 acres, is located in a qualifying county, and is not receiving water service.
9. The Commission processed the petition in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.
10. Under TWC § 13.257(r) and (s), High Point WSC is required to record a certified copy of the approved certificate 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 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 grants the petition and removes the approximately 245-acre tract of land owned by MM Walden Pond from High Point WSC's water CCN number 10841
2. The Commission amends High Point WSC's CCN number 10841 in accordance with this Notice of Approval.
3. The Commission's official service area boundary maps for High Point WSC's CCN will reflect this change, as shown on the attached map.
4. High Point WSC must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Kaufman County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

¹ Administrative Procedure Act, Tex. Gov't Code ch. 2001.

Signed at Austin, Texas the 1st day of February, 2019.

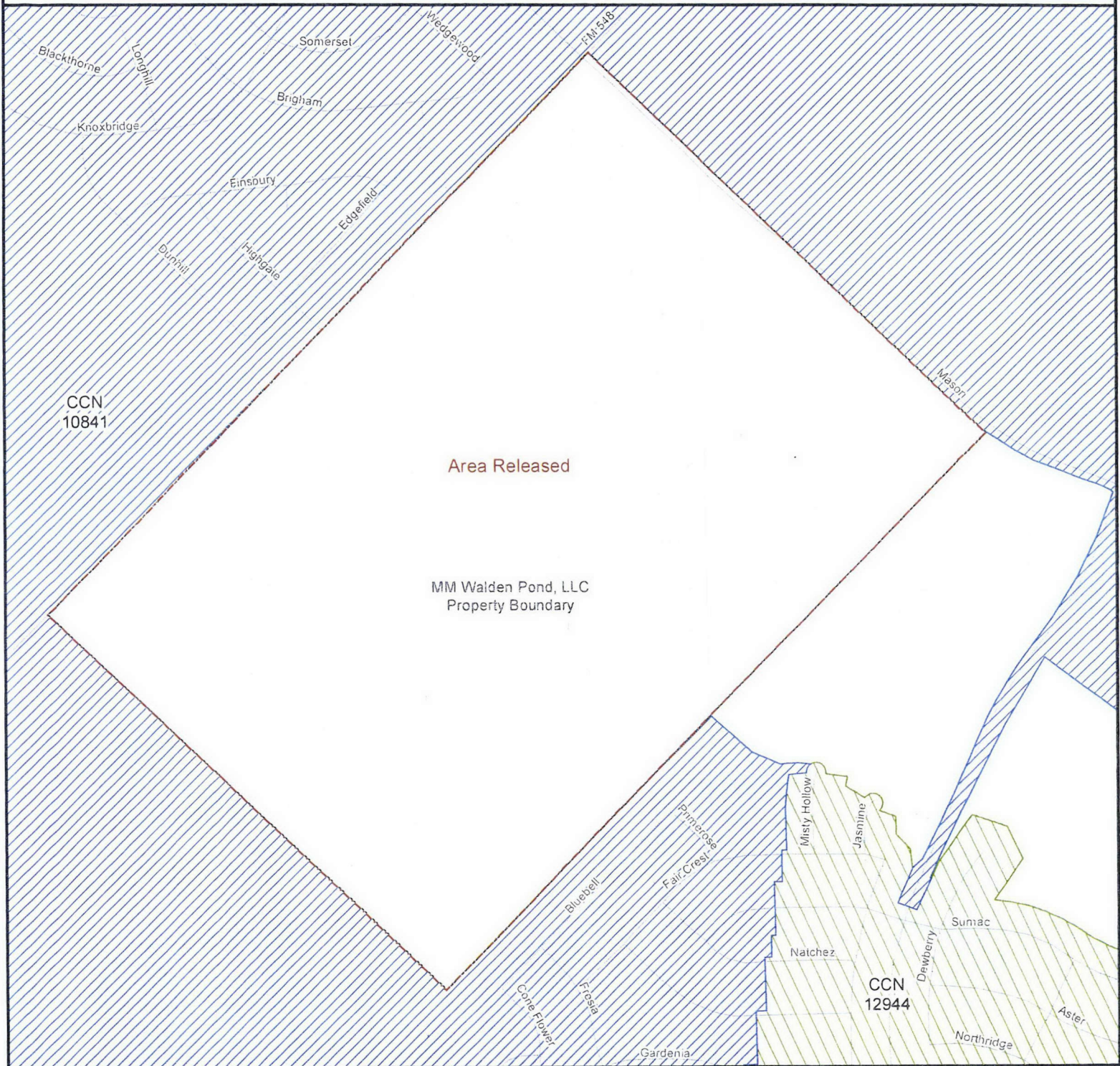
PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Hunter Burkhalter', is written over a horizontal line.

**Hunter Burkhalter
Administrative Law Judge**

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High Point Water Supply Corporation
 Portion of Water CCN No. 10841
 PUC Docket No. 48944
 Petition by MM Walden Pond, LLC to Amend
 High Point Water Supply Corporation's CCN by Expedited Release in Kaufman County



Water CCN



10841 - High Point WSC

12944 - Kaufman Co Dev District 1



Area Released

Property Boundary



Public Utility Commission of Texas

By These Presents Be It Known To All That

High Point 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, High Point Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10841

to provide continuous and adequate water utility service to that service area or those service areas in Kaufman County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48944 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 High Point 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, this 1ST day of February 2019.