



Control Number: 49190



Item Number: 14

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DOCKET NO. 49190

RECEIVED

APPLICATION OF VALLEY RANCH §  
MUNICIPAL UTILITY DISTRICT NO. 1 §  
FOR A SEWER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY AND §  
TO DECERTIFY A PORTION OF §  
PORTER MUNICIPAL UTILITY §  
DISTRICT'S SEWER SERVICE AREA §  
IN MONTGOMERY COUNTY §

2019 AUG 16 PM 2:28  
PUBLIC UTILITY COMMISSION  
STATE OF TEXAS

## JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

**COME NOW** the Staff of the Public Utility Commission of Texas (Staff) and the Valley Ranch Municipal Utility District No. 1 (Valley Ranch) (collectively, the Parties) and file this Joint Proposed Notice of Approval and Motion to Admit Evidence in response to Order Nos. 3 and 4. In support thereof, the Parties show the following:

### I. BACKGROUND

On February 7, 2019, the Valley Ranch Municipal Utility District No. 1 (Valley Ranch) filed an application to obtain a sewer Certificate of Convenience and Necessity (CCN) and to decertify a portion of Porter Municipal Utility District's (Porter MUD's) sewer service area under CCN No. 20573 in Montgomery County. The total area being requested includes approximately 830 acres and 943 current customers.

On April 30, 2019, the Commission administrative law judge (ALJ) issued Order No. 3, establishing a deadline of July 29, 2019, for the Parties to file joint proposed findings of fact and conclusions of law. The Parties requested an extension of the deadline to August 16, 2019, which was granted pursuant to Order No. 4. Therefore, this pleading is timely filed.

### II. MOTION TO ADMIT EVIDENCE

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

1. Application of the Valley Ranch Municipal Utility District No. 1 to Obtain a Sewer Certificate of Convenience and Necessity and to Decertify a Portion of Porter Municipal Utility District's Service Area in Montgomery County, filed on February 7, 2019 (AIS Item No. 1);

2. Valley Ranch Municipal Utility District No. 1's Response to Application Information Request, filed on March 4, 2019 (AIS Item No. 3);
3. Valley Ranch's affidavits and proof of mailed and published notice, filed on April 16, 2019 (AIS Item Nos. 6 and 7);
4. Valley Ranch's consent form, filed on July 10, 2019 (AIS Item No. 10);
5. Staff's Final Recommendation and supporting documentation, filed on July 19, 2019 (AIS Item No. 11); and
6. The attached final map and certificates.

### **III. JOINT PROPOSED NOTICE OF APPROVAL**

The Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant Valley Ranch's application to obtain a sewer CCN and to decertify a portion of Porter MUD's sewer CCN No. 20573. Also attached are the final map and certificates. The Parties request that the Commission approve the Joint Proposed Notice of Approval.

### **IV. CONCLUSION**

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:** August 16, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Rachelle Nicolette Robles  
Managing Attorney

A handwritten signature in dark ink, appearing to read "Rashmin", followed by a horizontal line.

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**VALLEY RANCH MUNICIPAL UTILITY DISTRICT NO. 1**

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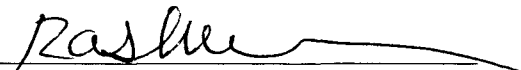
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**DOCKET NO. 49190**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on August 16, 2019, in accordance with 16 TAC § 22.74.

  
Rashmin Asher

**DOCKET NO. 49190**

<b>APPLICATION OF VALLEY RANCH</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MUNICIPAL UTILITY DISTRICT NO. 1</b>	<b>§</b>	
<b>FOR A SEWER CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY AND</b>	<b>§</b>	
<b>TO DECERTIFY A PORTION OF</b>	<b>§</b>	
<b>PORTER MUNICIPAL UTILITY</b>	<b>§</b>	
<b>DISTRICT'S SEWER SERVICE AREA</b>	<b>§</b>	
<b>IN MONTGOMERY COUNTY</b>	<b>§</b>	

**JOINT PROPOSED NOTICE OF APPROVAL**

This Joint Proposed Notice of Approval addresses the application of the Valley Ranch Municipal Utility District No. 1 (Valley Ranch) to obtain a new sewer certificate of convenience and necessity (CCN) and to decertify a portion of Porter Municipal Utility District's (Porter MUD's) sewer service area in Montgomery County. The Commission approves the application and grants Valley Ranch's sewer CCN No. 21112 and decertifies a portion of Porter MUD's sewer CCN No. 20573.

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

**I. FINDINGS OF FACT**

**Applicant and Affected Entity**

1. Valley Ranch is a municipal utility district that provides sewer service within its district.
2. Valley Ranch holds Texas Commission on Environmental Quality (TCEQ) approved Wastewater District Permit No. WQ0014597-001.
3. Porter MUD is a municipal utility district that provides sewer service under CCN No. 20573.

**Application**

4. On February 7, 2019, Valley Ranch filed an application to obtain a new sewer CCN and to decertify a portion of service area from Porter MUD's sewer CCN No. 20573 in Montgomery County.
5. The requested area includes approximately 830 acres and has 943 current customers.
6. By resolution dated December 18, 2018 (Attachment 2 of Application), Porter MUD consented to the decertification of its sewer CCN to exclude Valley Ranch MUD from

Porter MUD's sewer CCN No. 20573 and to the overlap of Valley Ranch MUD's CCN with the boundaries of Porter MUD.

7. The proposed area is located approximately 1 mile northwest of downtown Porter, Texas, and is generally bounded on the north by Texas 99; on the east by US 59; on the south by FM 1314; and on the west by White Oak Drive and Valley Ranch Parkway.
8. In Order No. 2 issued on March 20, 2019, the administrative law judge (ALJ) found the application administratively complete.
9. On July 10, 2019, Valley Ranch filed a consent form concurring with the proposed final map and amended certificate prepared by Commission Staff.

**Notice of Application**

10. On April 16, 2019, Valley Ranch filed an affidavit of Denise Fregeolle-Burk attesting that notice was mailed to neighboring utilities, counties, cities, and affected parties on March 21, 2018.
11. On April 16, 2019, Valley Ranch also filed a publisher's affidavit attesting to the publication of notice in the *Houston Chronicle*, a newspaper of general circulation in Montgomery County, on March 25, 2019 and April 1, 2019.
12. In Order No. 3 issued on April 30, 2019, the ALJ found the notice sufficient.

**Evidentiary Record**

13. On August 16, 2019, Commission Staff and Valley Ranch filed a motion to admit evidence.
14. In Order No. 5 issued on \_\_\_\_\_, 2019, the ALJ admitted the following evidence into the record of this proceeding: (a) Application of the Valley Ranch Municipal Utility District No. 1 to Obtain a Sewer Certificate of Convenience and Necessity and to Decertify a Portion of Porter Municipal Utility District's Service Area in Montgomery County, filed on February 7, 2019; (b) Valley Ranch Municipal Utility District No. 1's Response to Application Information Request, filed on March 4, 2019; (c) Valley Ranch's affidavits and proof of mailed and published notice, filed on April 16, 2019; (d) Valley Ranch's consent form, filed on July 10, 2019; (e) Staff's Final Recommendation and supporting documentation, filed on July 19, 2019; and (f) the final map and new and amended certificates, included as an attachment to the joint proposed notice of approval and motion to admit evidence, filed on August 16, 2019.

**Adequacy of Existing Service – TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)**



15. Valley Ranch holds TCEQ approved Wastewater District Permit No. WQ0014597-001.
16. Valley Ranch has no unresolved violations with the TCEQ, except one pending compliance agreement.

**Need for Additional Service – TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)**

17. There is a need for service as there are 943 existing customers in the requested area.
18. The sewer treatment facility was constructed by Valley Ranch as part of its district obligations to provide sewer service when Valley Ranch was created.
19. Valley Ranch has received two requests for service containing approximately 20.0375 acres.

**Effect of Granting the CCN – TWC 13.246(c)(3), 16 TAC § 24.227(d)(3)**

20. Granting Valley Ranch a new sewer CCN will enable Valley Ranch to serve the requested area.
21. Porter MUD consented to the decertification of its sewer CCN No. 20573 and to the overlap of Valley Ranch MUD's CCN within the boundaries of Porter MUD.
22. There will be no effect on any retail public utility servicing the proximate area since the sewer plant was financed by Valley Ranch to serve the requested area.

**Ability to Serve: Managerial and Technical – TWC §§ 13.246(c)(4), 13.241(a), 16 TAC § 24.227(a) and (d)(4)**

23. Valley Ranch holds TCEQ approved Wastewater District Permit No. WQ0014597-001 and does not have any violations listed in the TCEQ database.
24. Valley Ranch owns the sewer treatment facility that serves the requested area, and therefore, there is no need to consider obtaining service from an adjacent retail public utility.
25. No additional construction is necessary to serve the requested area.
26. Valley Ranch has the managerial and technical capability to provide continuous and adequate service to the requested area.

**Ability to Serve: Financial Ability and Stability – TWC § 13.246(c)(6), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(6), 24.11(e)**

27. Valley Ranch's audited financial statement contains an auditor's unqualified opinion that Valley Ranch's financial statements present fairly, in all material respects, the financial

position of Valley Ranch. The audit and the related opinion indicate the transparency of Valley Ranch, and also indicate sound management capabilities.

28. Valley Ranch meets one out of the five leverage tests, and is only required to meet one. Valley Ranch has a Baa2 bond rating from Moody's Investor Service as of July 18, 2016, which satisfies one of the five leverage tests.
29. Valley Ranch meets the operational test. Based on its financial statements, Valley Ranch has net operating income before depreciation of \$1,064,217.
30. Valley Ranch has the financial ability and stability 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 Valley Ranch to provide a bond or other financial assurance to ensure continuous and adequate service.

**Service from Other Utilities – TWC § 13.246(c)(5), 16 TAC § 24.227(d)(5)**

32. Valley Ranch owns the sewer treatment facility that serves the requested area, and therefore, there is no need to consider obtaining service from an adjacent retail public utility.
33. By resolution dated December 18, 2018 (Attachment 2 of Application), Porter MUD consented to the decertification of its sewer CCN to exclude Valley Ranch MUD from Porter MUD's sewer CCN No. 20573 and to the overlap of Valley Ranch MUD's CCN with the boundaries of Porter MUD.

**Environmental Integrity and Effect on the Land – TWC § 13.246(c)(7), (9) 16 TAC § 24.227(d)(7), (9)**

34. Granting Valley Ranch's CCN application will have no effect on the land since no additional construction will be needed to provide sewer service to the requested area.

**Improvement of Service or Lowering of Costs – TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)**

35. Valley Ranch will continue to provide sewer service to the existing customers in the area.

**Maps and Certificates**

36. On July 1, 2019, Commission Staff emailed its proposed map and certificates to Valley Ranch.
37. On July 10, 2019, Valley Ranch filed its consent to the proposed map and certificates.

38. On August 16, 2019, Commission Staff filed the final map and amended certificates as an attachment to the joint proposed notice of approval and motion to admit evidence.

**Informal Disposition**

39. More than 15 days have passed since the completion of the notice provided in this docket.
40. No parties filed a protest or motion to intervene.
41. Commission Staff and Valley Ranch are the only parties to this proceeding.
42. No party requested a hearing and no hearing is needed.
43. Commission Staff recommended approval of the application.
44. The decision is not adverse to any party.

**II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over Valley Ranch's application under Texas Water Code (TWC) §§ 13.241, 13.244, and 13.246.
2. Valley Ranch and Porter MUD are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,<sup>1</sup> the TWC, and Commission rules.
5. Valley Ranch has 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) and 16 TAC § 24.227.
6. The new CCN No. 21112 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), Valley Ranch and Porter MUD are required to record a certified copy of the approved certificates and map, along with a boundary description of the service area, in the real property records of Montgomery County and to submit evidence of the recording to the Commission.
8. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

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

### **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 application and grants Valley Ranch's sewer CCN No. 21112 and amends Porter MUD's sewer CCN No. 20573 as described in the notice.
2. The Commission approves the certificates and map attached to this Notice.
3. Valley Ranch must serve every customer and applicant for service within the areas certified under its CCN, and such service shall be continuous and adequate.
4. The Commission's official service area boundary map for Valley Ranch and Porter MUD will reflect the change as provided in the attached map.
5. Valley Ranch and Porter MUD must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Montgomery County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas, the \_\_\_\_ day of \_\_\_\_\_, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

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ADMINISTRATIVE LAW JUDGE



# **Public Utility Commission of Texas**

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

## **Valley Ranch Municipal Utility District No. 1**

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, Valley Ranch Municipal Utility District No. 1 is entitled to this

### **Certificate of Convenience and Necessity No. 21112**

to provide continuous and adequate sewer utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49190 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 Valley Ranch Municipal Utility District No. 1 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.

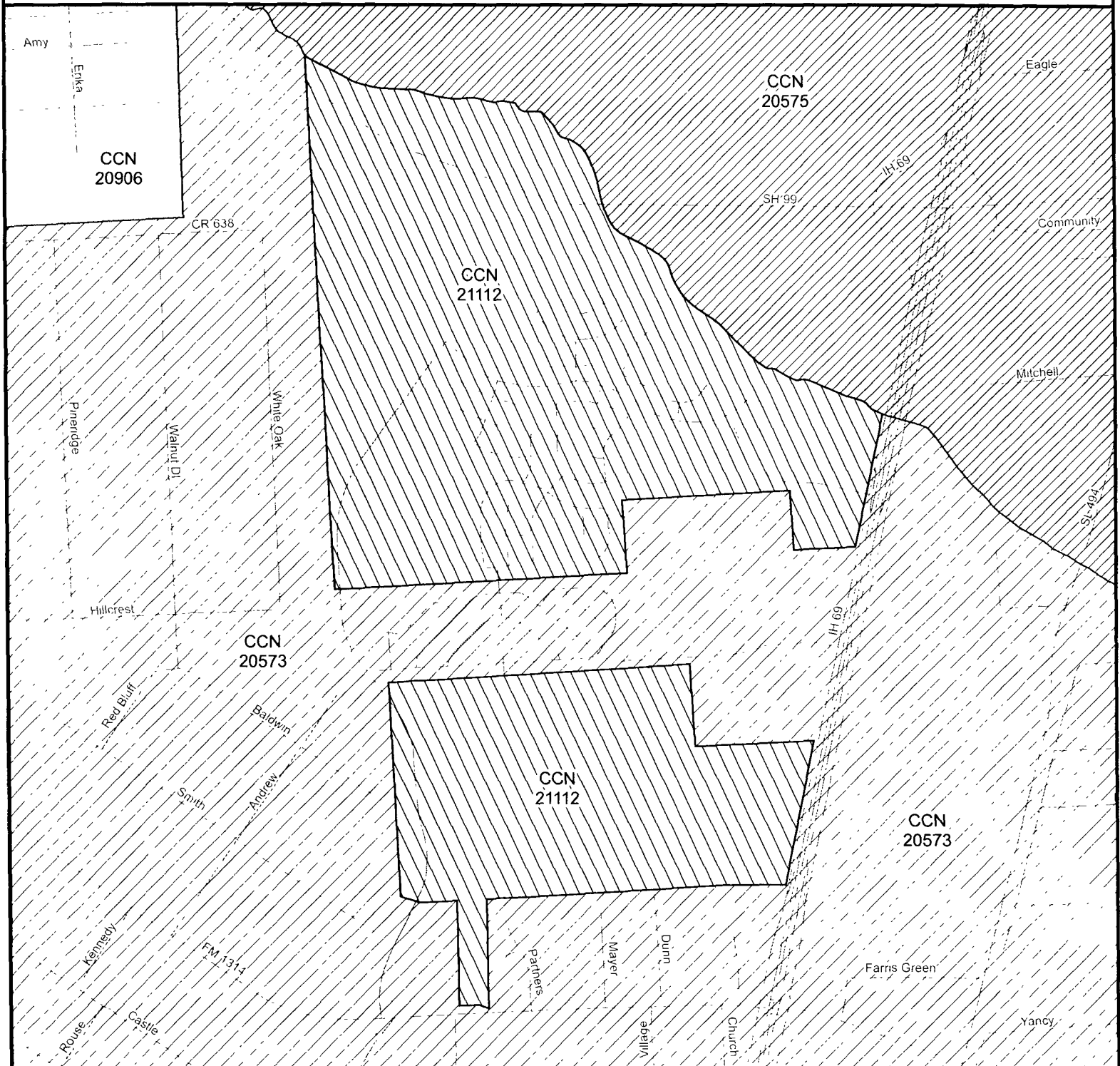
Issued at Austin, Texas, this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

Valley Ranch Municipal Utility District No. 1

Sewer CCN No. 21112

PUC Docket No. 49190

Obtained New CCN and Decertified a Portion of Porter Municipal Utility District, CCN No. 20573 in Montgomery County



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

**Sewer CCN**

-  21112 - Valley Ranch MUD 1
-  20573 - Porter MUD
-  20575 - New Caney MUD
-  20906 - Crystal Springs Water Co Inc

0 800 1,600  
Feet



Map by: Komal Patel  
Date created: May 15, 2019  
Project Path: n:\finalmapping\  
49190ValleyRanchMUD1.mxd