

Control Number: 49354



Item Number: 28

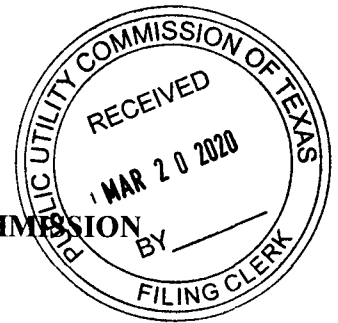
Addendum StartPage: 0

DOCKET NO. 49354

**PETITION OF COWLEY
MANAGEMENT, LLC TO AMEND
AQUA TEXAS, INC.'S CERTIFICATE
OF CONVENIENCE AND NECESSITY
IN TARRANT COUNTY BY
EXPEDITED RELEASE**

§
§
§
§
§
§

**PUBLIC UTILITY COMMISSION
OF TEXAS**



NOTICE OF APPROVAL

This Notice of Approval addresses the petition of Cowley Management, LLC¹ requesting the streamlined expedited release of an 18.8-acre portion of its 566.41-acre tract of land located within the boundaries of Aqua Texas, Inc.'s water certificate of convenience and necessity (CCN) number 13201 in Tarrant County. The Commission grants the release of the requested area.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Cowley is an Arizona limited liability company registered with the Arizona Corporation Commission under identification number L12621785.
2. Under the terms of an Agreement Among Tenants-in-Common, Cowley serves as the property manager and authorized representative for a consortium of entities that, collectively, own a 566.41-acre tract of land in Tarrant County.
3. A portion of the 566.41-acre tract, specifically 18.8 acres, lies within the boundaries of Aqua Texas' water CCN number 13201 in Tarrant County.

Petition

4. On March 19, 2019, Cowley filed a petition requesting the expedited release of the 18.8-acre portion of the 566.41-acre tract from Aqua Texas' water CCN number 13201 in Tarrant County. On May 9, June 18, October 23, November 13, and December 4 and 20, 2019, Cowley filed supplements to the petition.

¹ The initial petitioner was CCT Investors, LLC; however, an agreement among the tenants-in-common, filed on November 13, 2019, reflected that Cowley was the appropriate petitioner and the docket was restyled accordingly.

5. The petition includes a supporting affidavit from Michael T. Cowley, on behalf of himself and all owners of the property, attesting to the truth of the facts alleged in the petition.
6. The tract of land for which Cowley seeks release is at least 25 contiguous acres, is not receiving water service, and is within the boundaries of Tarrant County.
7. Tarrant County has a population of more than one million.
8. Cowley provided special warranty deeds confirming ownership of the requested tract of land and maps confirming the land's location.
9. The tract of land is within Aqua Texas' water service area for CCN number 13201.
10. In Order No. 9 filed on February 6, 2020, the administrative law judge (ALJ) found the petition administratively complete.

Notice

11. Cowley attested to providing notice of this petition to Aqua Texas on April 17, 2019.
12. Cowley's petition included a letter from Aqua Texas, dated May 5, 2019, acknowledging its receipt of the request from Cowley regarding release of the proposed area under this docket number, and that it has no objections to the decertification of the parcel from its CCN number 13203.
13. In Order No. 9 filed on February 6, 2020, the administrative law judge (ALJ) found the notice of the petition sufficient.

Intervention

14. Aqua Texas did not file a motion to intervene in this proceeding.
15. Aqua Texas does not oppose release of the tract and has announced that it is not seeking compensation for the release.
16. On December 20, 2019, Aqua Texas filed a copy of its letter, consenting to decertification of the requested area and stating that it is not seeking compensation.

Water Service

17. There is no evidence that Aqua Texas has committed or dedicated facilities or lines providing water service to the requested tract.

18. There is no evidence that Aqua Texas has performed acts or supplied anything to the requested tract.
19. The tract is not receiving water service from Aqua Texas.

Determination of Useless or Valueless Property

20. No property of Aqua Texas is rendered useless or valueless by the decertification.
21. Because no property of Aqua Texas is rendered useless or valueless by decertification, compensation is not necessary.

Informal Disposition

22. More than 15 days have passed since the completion of the notice in this docket.
23. No person filed a protest or motion to intervene.
24. Cowley and Commission Staff are the only parties to this proceeding.
25. No party requested a hearing and no hearing is necessary.
26. Commission Staff recommended approval of the petition.
27. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this petition under Texas Water Code (TWC) § 13.254(a-5).
2. Because this proceeding was commenced before September 1, 2019, by the physical filing of the petition and the assignment of a docket number, the petition is governed by the law in effect prior to that date, and all cites to the TWC are to version of the statutes in effect prior to September 1, 2019. Act of May 26, 2019, 86th Leg., R.S., S.B. 2272, §§ 6, 7.
3. Notice of the petition was provided in compliance with 16 Texas Administrative Code (TAC) §§ 22.55 and 24.245(l).
4. 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.

5. Tarrant County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.245(*l*).
6. No opportunity for a hearing on a petition for expedited release is provided under TWC § 13.254(a-5) and (a-6) or 16 TAC § 24.245(*l*).
7. Petitions for expedited release filed under TWC § 13.254(a-5) and 16 TAC § 24.245(*l*) are not contested cases.
8. Landowners seeking expedited release under TWC § 13.254(a-5) and 16 TAC § 24.245(*l*) are required to submit a verified petition through a notarized affidavit and the CCN holder may submit a response to the petition.
9. The requested tract of land is not receiving water service from Aqua Texas in accordance with TWC § 13.254(a-5).
10. 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)(5) no compensation is owed to Aqua Texas.
11. 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 Aqua Texas.
12. Cowley 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.
13. The Commission processed the petition in accordance with the TWC, the Administrative Procedure Act,² and Commission rules.
14. Under TWC § 13.257(r) and (s), Aqua Texas 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.

² Tex. Gov't Code ch. 2001.

15. 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 18.8-acre portion of the 566.41-acre tract of land owned by Cowley from Aqua Texas's water CCN number 13201 in Tarrant County.
2. The Commission amends Aqua Texas' water CCN number 13201 in accordance with this Notice of Approval.
3. The Commission's official service area boundary maps for Aqua Texas's CCN will reflect this change as shown on the attached map.
4. The Commission grants the certificate attached to this Notice of Approval.
5. Aqua Texas must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Tarrant 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.
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 20th day of March 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE

q:\cadm\doCKET management\water\ccn_expedited\49xxx\49354 noa.docx



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

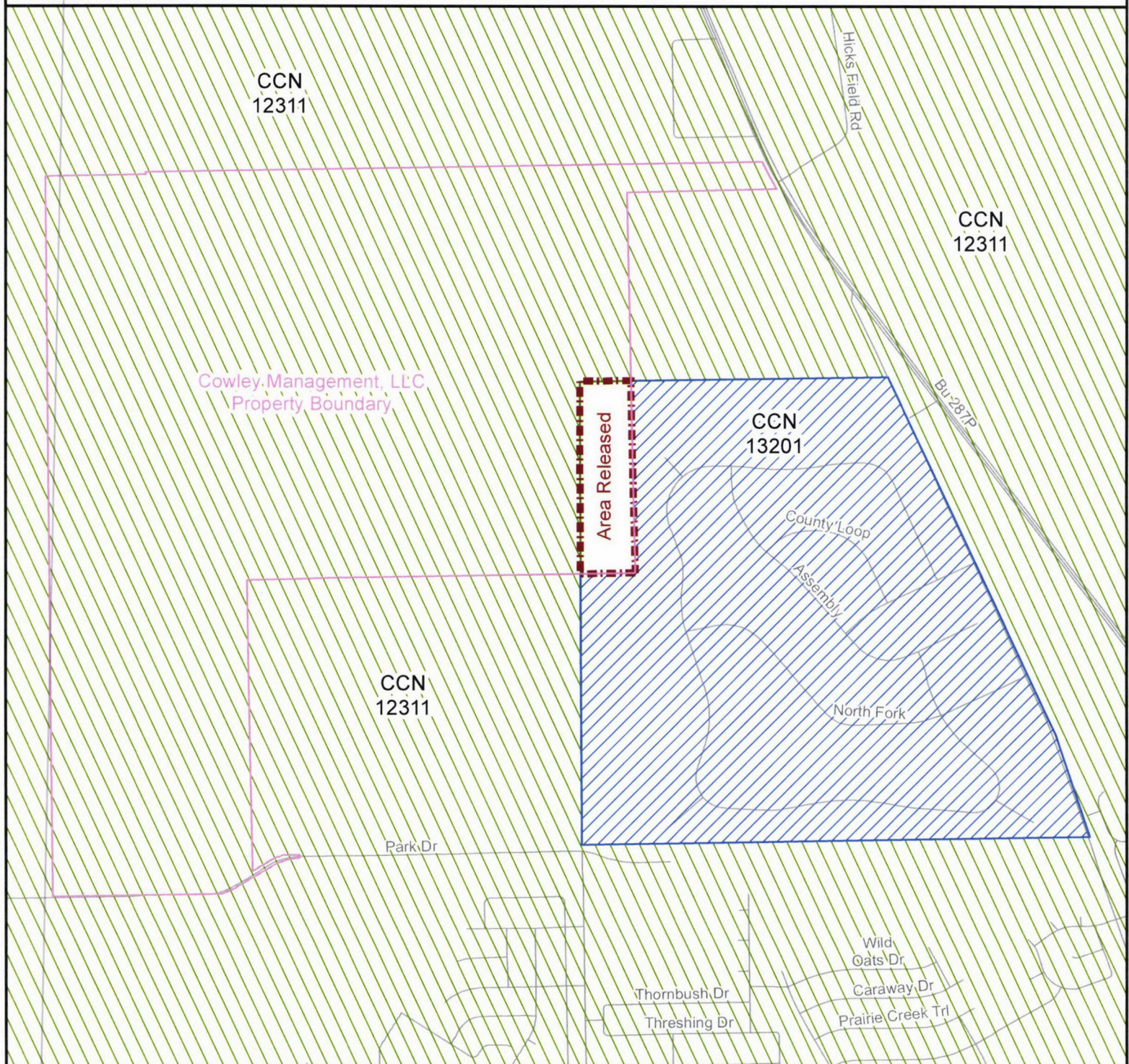
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 13203

to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Marion, McLennan, Parker, Smith Somervell, Tarrant, Taylor, Wise, and Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49354 are on file at the Commission offices in Austin, Texas; and is 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 Aqua Texas, Inc. 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 20th day of March 2020.

Aqua Texas, Inc.
Portion of Water CCN No. 13201
PUC Docket No. 49354
Petition by Cowley Management, LLC to Amend
Aqua Texas, Inc.'s CCN by Expedited Release in Tarrant County



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

Water CCN

-  13201 - Aqua Texas Inc
-  12311 - City of Fort Worth

-  Area Released
-  Property Boundary

0 625 1,250
Feet



Map by: Komal Patel
Date created: February 24, 2020
Project Path: n:\finalmapping\
49354AquaTexas.mxd