

Control Number: 49366



Item Number: 17

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**PETITION OF FROST BANK
NATIONAL BANK, AS TRUSTEE OF
THE FREEMAN EDUCATIONAL
FOUNDATION TO AMEND THE CITY
OF SAN MARCOS' WATER
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN HAYS COUNTY
BY EXPEDITED RELEASE**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 4 files this Final Recommendation. Staff recommends that the petition be approved. In support thereof, Staff shows the following:

I. BACKGROUND

On March 22, 2019, Frost Bank National Bank, as trustee of the Freeman Educational Foundation (Frost Bank), filed a petition for expedited release of an approximately 525-acre tract of land within the boundaries of the City of San Marcos' water certificate of convenience and necessity (CCN) number 10298 in Hays County, under Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(1). Frost Bank asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Hays County, which is a qualifying county.

On June 20, 2019, the administrative law judge (ALJ) issued Order No. 4, whereby Staff was required to file a final recommendation by July 9, 2019. Therefore, this pleading is timely filed.

II. FINAL RECOMMENDATION

As supported by the attached memorandum of Greg Charles of the Water Utility Regulation Division (Attachment A), Staff has reviewed the petition for expedited release and recommends that it be approved. The maps and digital data filed by Frost Bank provide adequate information to demonstrate that Frost Bank satisfies the requirements of TWC § 13.254(a-5) and 16 TAC § 24.245(1). Specifically, the petition demonstrates that the property for which the Applicant seeks expedited release is located in a qualifying county (Hays County), is not receiving water service,

and that the aggregated, contiguous tracts of land make up a single property that is at least 25 acres. In addition, the deeds submitted by Frost Bank provide confirmation of Frost Bank's ownership in the property. Consequently, Frost Bank has shown through its petition that it meets the requirements for expedited release.

Furthermore, Staff did not identify any property that would be rendered useless or valueless by the decertification. If the Commission determines that there is no useless or valueless property, pursuant to 16 TAC § 24.245(n)(7), Staff further recommends that a compensation proceeding is not necessary.

Therefore, Staff recommends that Frost Bank's petition be approved. The final water CCN map (Attachment B) and water CCN (Attachment C) are attached to this filing.

III. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that Frost Bank's petition be approved.

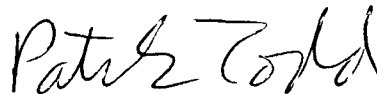
Dated: July 9, 2019

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

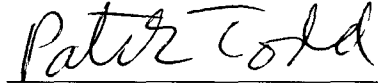
Rachelle Nicolette Robles
Managing Attorney



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DOCKET NO. 49366
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record July 9, 2019,
in accordance with 16 TAC § 22.74.



Patrick D. Todd

Attachment A

PUC Interoffice Memorandum

To: Patrick Todd, Attorney
Legal Division

Thru: Heidi Graham, Manager
Water Utility Regulation Division

From: Greg Charles, Engineer
Water Utility Regulation Division

Date: July 9, 2019

Subject: **Docket No. 49366:** *Petition of Frost Bank National Bank, as Trustee of The Freeman Educational Foundation to Amend the City of San Marcos' Water Certificate of Convenience and Necessity in Hays County by Expedited Release*

On March 22, 2019, Frost Bank National Bank, as Trustee of Freeman Educational Foundation, (Frost Bank, Petitioner) filed a petition with the Commission for expedited release from the City of San Marcos' (City) water Certificate of Convenience and Necessity (CCN) No. 10298 in Hays County, under Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(l). The Petitioner asserts that the land is at least 25 acres, is not receiving water service, and is located in Hays County, which is a qualifying county.

The Petitioner included a statement indicating a copy of the petition was sent via certified mail to the City, the current holder of CCN No. 10298, on the date the petition was filed with the Commission. On April 22, 2019, the City filed a Motion to Intervene, which was granted by the Administrative Law Judge (ALJ) on April 29, 2019.

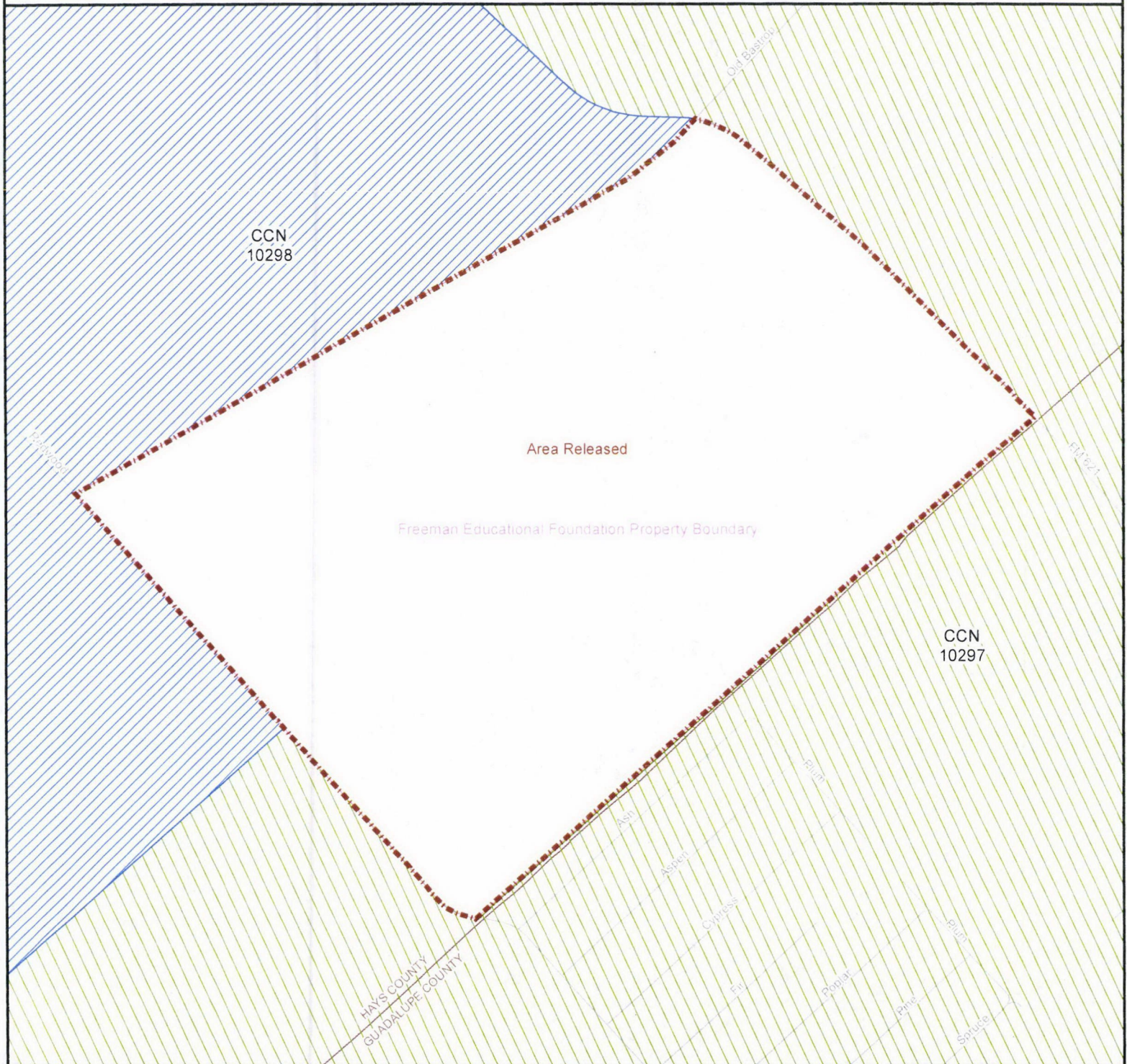
The Petitioner submitted an adequate map delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC § 24.245(m). The map and digital data are sufficient for determining the location of the requested release area within the City's certificated area. Mapping Staff was able to confirm the acreage of the subject properties, and determined that the requested area is located within the City's water CCN. Furthermore, the Petitioners provided a warranty deed confirming the Petitioner's ownership of the tract of land within the City's certificated service area. In addition, the Petitioner submitted a notarized affidavit attesting that the property is not receiving water services from the CCN holder. The area requested for expedited release is approximately 525 acres.

Staff recommends that there is no useless or valueless property, in accordance with 16 TAC § 24.245(n)(3). Staff further recommends that a compensation proceeding is not necessary, if the Commission determines that there is no useless or valueless property, pursuant to 16 TAC § 24.245(n)(7).

In accordance with Chapter 13 of the TWC and 16 TAC § 24.245, the Petitioner has met the Commission's requirements to allow for the release of the requested area from the City's CCN No. 10298. Therefore, Staff recommends approval of the petition. Enclosed is a final map and certificate for Commission approval.



Attachment B

City of San Marcos
Portion of Water CCN No. 10298
PUC Docket No. 49366
Petition by Freeman Educational Foundation to Amend
City of San Marcos' CCN by Expedited Release in Hays County



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

Water CCN

-  10298 - City of San Marcos
-  10297 - Crystal Clear SUD



Area Released



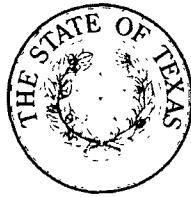
Property Boundary

0 550 1,100
Feet



Map by: Komal Patel
Date created: June 19, 2019
Project Path: n:\finalmapping\
49366SanMarcos.mxd

Attachment C



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of San Marcos

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, the City of San Marcos is entitled to this

Certificate of Convenience and Necessity No. 10298

to provide continuous and adequate water utility service to that service area or those service areas in Hays County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49366 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 City of San Marcos 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.