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DOCKET NO. 49566

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APPLICATION OF THE CITY OF
ELMENDORF FOR A SEWER
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN BEXAR AND
WILSON COUNTIES

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PUBLIC UTILITY COMMISSION
OF TEXAS

2020 DEC 7 PM 3:26
FILING CLERK

NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Elmendorf to obtain a sewer certificate of convenience and necessity (CCN) in Bexar and Wilson counties. The Commission issues sewer CCN number 21121 to Elmendorf.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Elmendorf is a municipality located in Bexar and Wilson Counties, Texas.
2. Elmendorf is a retail public utility that provides sewer service to approximately 82 customers in Bexar and Wilson counties.
3. Elmendorf owns and operates a sewer system permitted with the Texas Commission on Environmental Quality (TCEQ) under Texas Pollutant Discharge Elimination System (TPDES) permit number WQ0010749006.

Application

4. On May 23, 2019, Elmendorf filed an application to obtain a sewer CCN in Bexar and Wilson counties.
5. Elmendorf filed supplemental information on January 23, March 25, and May 20, 2020.
6. The requested area consists of 4,192 acres and 82 existing customers.
7. The requested service area is located approximately 15 miles southeast of downtown San Antonio, Texas, and is generally bounded on the north by Richter Road and United States Highway 181; on the east by County Road 350 and the Bexar and Wilson county line; on

the south by Texas State Highway Loop 1604 and Old Corpus Christi Road; and on the west by Old Corpus Christi Road.

8. In Order No. 8 filed July 8, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

9. On August 13, 2020, Elmendorf filed the affidavit of Roxanne Deleon, Elmendorf's city secretary, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on July 14, 2020.
10. On August 13, 2020, Elmendorf filed a publisher's affidavit attesting to the publication of notice in the *Wilson County News*, a newspaper of general circulation in Bexar and Wilson counties, on July 15 and 22, 2020.
11. On August 27, 2020, Elmendorf filed a sample copy of the notice that was mailed to neighboring utilities, county authorities, municipalities, and affected parties on July 14, 2020.
12. In Order No. 9 filed on September 2, 2020, the ALJ found notice sufficient.

Map and Certificate

13. On September 28, 2020, Commission Staff emailed its proposed map and certificate to Elmendorf.
14. On September 28, 2020, Elmendorf filed its consent to the proposed map and certificate.
15. On November 20, 2020, Commission Staff filed the proposed map and certificate as attachments to the supplement to agreed motion to admit evidence and proposed notice of approval.

Evidentiary Record

16. On November 4, 2020, Commission Staff filed an agreed motion to admit evidence.
17. On November 20, 2020, Commission Staff filed a supplement to the agreed motion to admit evidence.
18. In Order No. 12 filed on December 7, 2020, the ALJ admitted the following into evidence: (a) Elmendorf's application filed on May 23, 2019; (b) Elmendorf's response to Order

No. 2 filed on July 25, 2019; (c) Elmendorf's supplements to the application filed on January 23, March 25, and May 20, 2020; (d) Commission Staff's supplemental recommendation on administrative completeness filed on July 6, 2020; (e) Elmendorf's proof of notice filed on August 13 and 27, 2020; (f) Commission Staff's recommendation on sufficiency of notice filed September 1, 2020; (g) Elmendorf's response to Commission Staff's first request for information filed on September 25, 2020; (h) Elmendorf's consent form filed on September 28, 2020; (i) Commission Staff's final recommendation and attachments filed on October 19, 2020; and (j) the map and certificate attached to the supplement to agreed motion to admit evidence and proposed notice of approval filed on November 20, 2020.

Adequacy of Existing Service—Texas Water Code (TWC) § 13.246(c)(1); 16 Texas Administrative Code (TAC) §§ 24.227(e)(1)

19. Elmendorf is currently providing service to 82 existing customers in the requested area through its TCEQ-permitted sewer system (TPDES permit number WQ0010749006) and such service has been continuous and adequate.

Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2)

20. There are 82 existing water connections in the requested area.
21. Economic and environmental factors drive the need for additional sewer service in the 3,914-acre portion of the 4,192-acre requested area that is within Elmendorf's municipal boundaries.
22. Elmendorf has received a request for service for the 287-acre portion of the 4,192-acre requested area that is outside of its municipal boundaries.

Effect of Approving the Application and Granting the Certificate—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3)

23. Granting the sewer CCN will obligate Elmendorf to provide sewer service to future customers in the requested area.
24. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
25. There will be no effect on any retail public utility serving the proximate area.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), (b), 13.246(c)(4), 16 TAC §§ 24.227(e)(4)

26. Elmendorf currently provides sewer service to 82 customers.
27. Elmendorf provides sewer service from a TCEQ-permitted sewer system (TPDES permit number WQ0010749006).
28. Elmendorf does not have any violations listed in the TCEQ's database associated with its sewer collection system and sewer treatment.
29. Elmendorf's existing systems have adequate capacity to provide continuous and adequate service to the requested area. Upgrades and improvements to the sewer system may be required in the future as development progresses.
30. Elmendorf has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5)

31. 3,914 acres of the 4,192-acre requested area lies within the municipal boundaries of Elmendorf.
32. Elmendorf received a request for service for the 287-acre portion of the requested area outside of its municipal boundaries.
33. It is not feasible for an adjacent utility to provide service to the requested area.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (e)(6)

34. Elmendorf has a debt-to-equity ratio of less than one, which meets one of the five leverage tests.
35. Elmendorf demonstrated it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after granting the sewer CCN, satisfying the operations test.
36. Elmendorf demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f)

37. There is no need to require Elmendorf to provide a bond or other financial assurance to ensure continuous and adequate service.

Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)

38. Because construction of a physically separate sewer system is not necessary, concerns of regionalization or consolidation are not applicable.

Environmental Integrity and Effect on Land—TWC §§ 13.246(c)(7) and 13.246(c)(9); 16 TAC §§ 24.227(e)(7) and 24.227(e)(9)

39. Future construction associated with upgrades and improvements to the sewer system may be required in the future as development progresses.
40. The environmental integrity of the land will be minimally affected as a result of granting the sewer CCN as sewer service through a centralized wastewater collection system will eliminate the need for individual septic systems and protect groundwater and wells from contamination.
41. There will be effects on the land with future growth and development due to the excavation needed to install sewer facilities, but the effects are not such a degree that the application should not be granted.

Improvement in Service or Lowering of Cost to Consumer—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8)

42. Sewer service to the requested area will improve because Elmendorf will be obligated to serve future customers in the requested area and customers will not have to rely on individual septic systems.
43. No lowering of cost to customers in the requested area will result from granting the sewer CCN.

Informal Disposition

37. More than 15 days have passed since the completion of notice provided in this docket.
38. No person filed a protest or motion to intervene.
39. Elmendorf and Commission Staff are the only parties to this proceeding.
40. No party requested a hearing and no hearing is needed.

41. Commission Staff recommended that the application be approved.
42. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.244, and 13.246.
2. Elmendorf is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Elmendorf provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission rules.
5. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Elmendorf demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. It is not necessary for Elmendorf to provide a bond or other financial assurance under TWC § 13.246(d).
7. Elmendorf's sewer system (TPDES permit number WQ0010749006) is capable of meeting the TCEQ's design criteria for sewer treatment plants and the requirements of the TWC in accordance with TWC § 13.241(c).
8. Elmendorf demonstrated that issuing sewer CCN number 21121 will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. Under TWC § 13.257(r) and (s), Elmendorf must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real

¹ Tex. Gov't Code §§ 2001.001--.903.

property records of Bexar and Wilson counties within 31 days of this Order and must submit evidence of the recording to the Commission.

10. 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 Elmendorf sewer CCN number 21121 as described in this Notice of Approval and shown on the map attached to this Notice of Approval.
2. The Commission approves the certificate and map attached to this Notice of Approval.
3. Elmendorf must serve every customer and applicant for sewer service within the approved area under sewer CCN number 21121 who requests sewer service and meets the terms Elmendorf's sewer service, and such service must be continuous and adequate.
4. Elmendorf must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Bexar and Wilson counties affected by this application and file in this docket proof of the recording no later than 45 days after the date of this Notice of Approval.
5. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

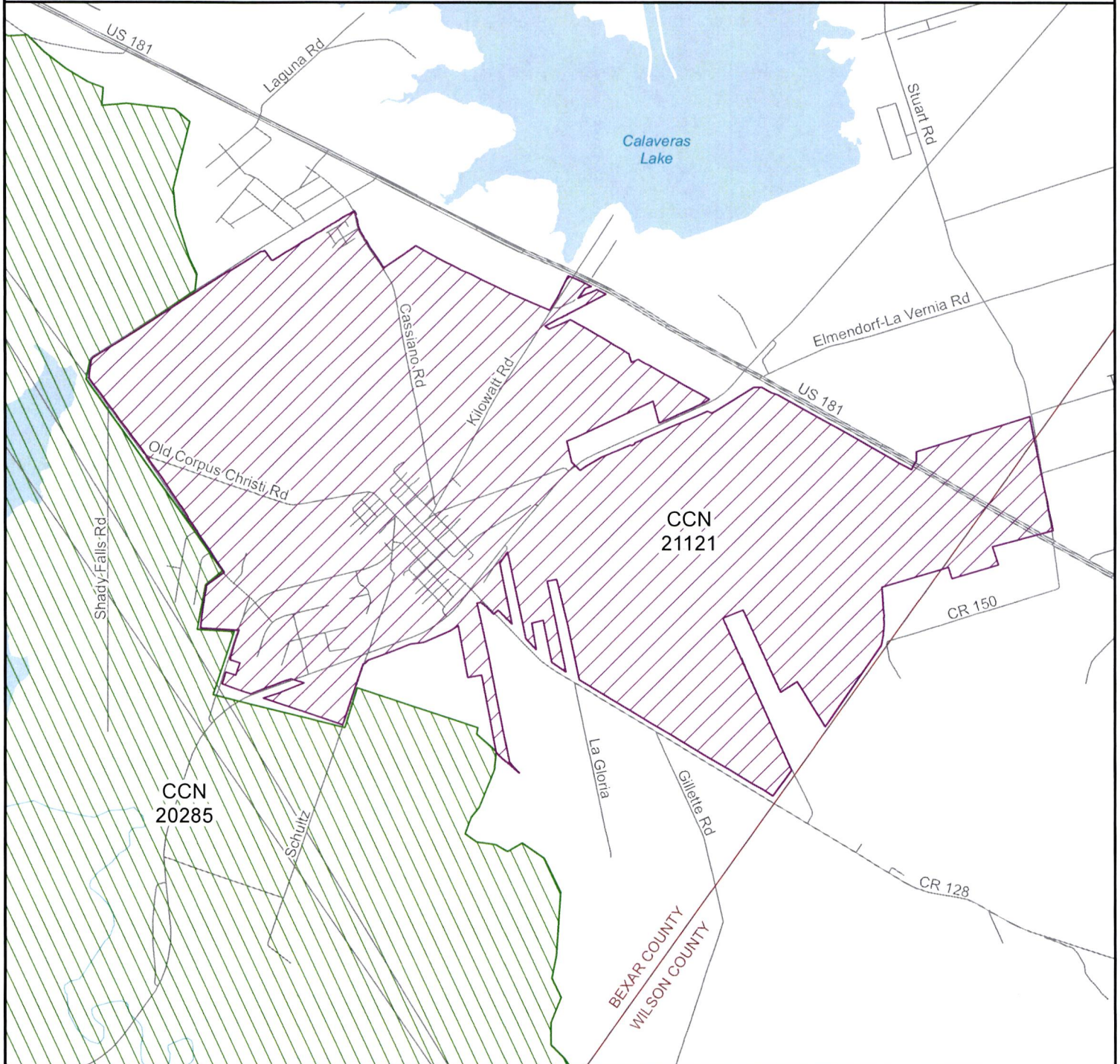
Signed at Austin, Texas the 7th day of December 2020.

PUBLIC UTILITY COMMISSION OF TEXAS





**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

City of Elmendorf
Sewer CCN No. 21121
PUC Docket No. 49566
Obtained New CCN in Bexar and Wilson Counties



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

Sewer CCN

-  21121 - City of Elmendorf
-  20285 - San Antonio Water System

0 1,750 3,500
Feet



Map by: Komal Patel
Date created: September 17, 2020
Project Path: n:\finalmapping\
49566CityofElmendorf.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Elmendorf

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, City of Elmendorf is entitled to this

Certificate of Convenience and Necessity No. 21121

to provide continuous and adequate sewer utility service to that service area or those service areas in Bexar and Wilson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49566 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 Elmendorf 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 7th day of December 2020.