



Control Number: 49845



Item Number: 48

Addendum StartPage: 0

DOCKET NO. 49845

**APPLICATION OF RIVER ACRES §
WATER SUPPLY CORPORATION TO §
AMEND ITS WATER CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
IN NUECES COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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PUBLIC UTILITY COMMISSION
CLERK

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On August 12, 2019, River Acres Water Supply Corporation (River Acres) filed an application with the Public Utility Commission of Texas (Commission) to amend its water certificate of convenience and necessity (CCN) number 11084 in Nueces County. On February 23, 2021, Order No. 15 in this proceeding was filed, requiring the parties to file joint proposed findings of fact, conclusions of law, and ordering paragraphs by March 12, 2021. Therefore, this pleading is timely filed.

I. JOINT MOTION TO ADMIT EVIDENCE

River Acres and Commission Staff move to admit the following items into the record of this proceeding:

- a) River Acres' application to amend its water CCN in Nueces County filed on August 12, 2019 (Interchange Item No. 1);
- b) River Acres' supplemental information filed on May 13, 2020 (Interchange Item No. 17);
- c) The City of Corpus Christi's letter of non-opposition to River Acres' requested CCN amendment, filed on May 14, 2020 (Interchange Item No. 18);
- d) River Acres' proof of notice filed on July 28, July 31, and August 7, 2020 (Interchange Item Nos. 21, 22, 25, and 26);
- e) River Acres' response to Commission Staff's first request for information (RFI) filed on October 12, 2020 (Interchange Item No. 34);
- f) River Acres' response to Commission Staff's second RFI filed on November 16, 2020 (Interchange Item No. 38);
- g) River Acres' consent forms concurring with Commission Staff's proposed final map and certificate filed on December 16, 2020 (Interchange Item No. 41);

- h) River Acres' audited annual financial report for the year ended December 31, 2019 filed on January 6, 2021 (Interchange Item No. 42);
- i) Commission Staff's recommendation on final disposition filed on February 8, 2021 (Interchange Item No. 45); and
- j) The map and certificate attached to this pleading.

II. PROPOSED NOTICE OF APPROVAL

River Acres and Commission Staff respectfully request that the attached Proposed Notice of Approval be adopted.

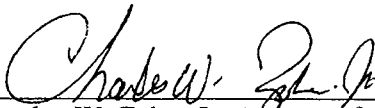
III. CONCLUSION

River Acres and Commission Staff respectfully request that an order be issued granting the above Motion to Admit Evidence and adopting the attached Proposed Notice of Approval.

Dated: March 12, 2021

Respectfully submitted,

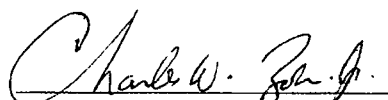
RIVER ACRES WATER SUPPLY CORPORATION

By 
Charles W. Zahn, Jr. Attorney for the River Acres
Water Supply Corporation

DOCKET NO. 49845

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on March 12, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.


Charles W. Zahn, Jr.

DOCKET NO. 49845

APPLICATION OF RIVER ACRES	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION TO	§	
AMEND ITS WATER CERTIFICATE	§	OF TEXAS
OF CONVENIENCE AND NECESSITY	§	
IN NUECES COUNTY	§	

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of River Acres Water Supply Corporation to amend its water certificate of convenience and necessity (CCN) number 11084 to add 816 acres across two distinct bounded areas and 1 existing customer connection to its service area in Nueces County. The Commission amends River Acres' water CCN number 11084 to the extent provided in this order

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. River Acres is a Texas non-profit water supply corporation registered with the Texas secretary of state under file number 21702301.
2. River Acres operates, maintains, and controls facilities for providing retail water service in Nueces County under water CCN number 11084.
3. River Acres owns and operates a public water system that is registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1780013.

Application

4. On August 12, 2019, River Acres filed an application to amend its water CCN number 11084 in Nueces County to add approximately 816 acres of land across two distinct bounded areas and 1 existing customer connection to its certificated service area.
5. On May 13, 2020 and January 6, 2021, River Acres supplemented the application.
6. The requested areas are located as follows:

- a. Area 1: Approximately 6 miles north of downtown Robstown, Texas, and is generally bounded on the north by Miller Road; on the east by County Road 75; on the south by Northwest Boulevard; and on the west by County Road 77. The total requested area includes approximately 483 acres and 0 current customers.
 - b. Area 2: Approximately 4 miles north of downtown Robstown, Texas, and is generally bounded on the north by Northwest Boulevard; on the east by Farm-to-Market Road 1889; on the south by Amanda Lane; and on the west by Carousal Lane. The total requested area includes approximately 333 acres and 1 current customers.
7. On May 14, 2020, the City of Corpus Christi filed a letter stating that the City does not oppose River Acres' request to amend its CCN boundary to include a portion of Area 2 that overlaps with the City's municipal boundary.
8. In Order No. 8 filed on June 30, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

9. On August 7, 2020, River Acres filed a publisher's affidavit attesting to the publication of notice of the application in the Corpus Christi Caller-Times, a newspaper of general circulation in Nueces County, on July 11 and 18, 2020.
10. On July 28, 2020, River Acres filed the affidavits of Charles W. Zahn, River Acres' attorney, attesting that notice was mailed to current customers, landowners, neighboring utilities, and affected parties on July 1 and July 2, 2020.
11. On August 7, 2020, River Acres filed the affidavits of Charles W. Zahn, River Acres' attorney, attesting that notice was mailed to current customers, landowners, neighboring utilities, and affected parties on July 1 and July 2, 2020.
12. In Order No. 11 filed on October 2, 2020, the ALJ found the notice sufficient.

Evidentiary Record

13. On March 12, 2021, Commission Staff and River Acres filed a joint motion to admit evidence.

14. In Order No. ___ filed on _____, 2021, the ALJ admitted the following evidence into the record of this proceeding: a) River Acres' application to amend its water CCN in Nueces County filed on August 12, 2019; b) River Acres' supplemental information filed on May 13, 2020; c) the City of Corpus Christi's letter of non-opposition to River Acres' requested CCN amendment, filed on May 14, 2020; d) River Acres' proof of notice filed on July 28, July 31, and August 7, 2020; e) River Acres' response to Commission Staff's first request for information (RFI) filed on October 12, 2020; f) River Acres' response to Commission Staff's second RFI filed on November 16, 2020; g) River Acres' consent forms concurring with Commission Staff's proposed final map and certificate filed on December 16, 2020; h) River Acres' audited annual financial report for the year ended December 31, 2019 filed on January 6, 2021; i) Commission Staff's recommendation on final disposition filed on February 8, 2021; and j) the map and certificate filed on March 12, 2021.

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

15. River Acres currently provides adequate service to one customer in the requested areas.
16. River Acres has an existing TCEQ-approved public water system (PWS) registered under PWS identification number 1780013.
17. River Acres does not have any violations listed in the TCEQ database.

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

18. River Acres has been approached by developers seeking to develop Area 1 into a single-family residential development.
19. River Acres already provides service to the existing customer in Area 2, with the remaining property in Area 2 expected to become a mixed-use development.
20. The requested areas are within the growth pattern for Nueces County.
21. There is a need for service.

Effect of Granting the Amendment—TWC § 13.246(c)(3), 16 TAC E 24.227(e)(3)

22. Granting the CCN amendment will allow River Acres to continue serving its existing customer and will obligate River Acres to provide service to future customers in the requested areas.
23. Granting the amendment will allow a small portion of River Acres' service area to overlap with the municipal boundary of the City of Corpus Christi. The City filed comments in this docket stating that it does not oppose River Acres' requested CCN amendment.
24. There will be no effect on any other retail public utility in the area.
25. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.

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

26. Public water system number 1780013 through which River Acres seeks to provide service to the requested areas has adequate capacity to meet the projected demands in the requested areas.
27. River Acres does not have any violations listed in the TCEQ database.
28. River Acres employs TCEQ-licensed operators who are responsible for operating its public water system number 1780013.
29. River Acres WSC has the managerial and technical capability to provide continuous and adequate service to the requested areas.

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

30. River Acres is currently serving one customer in the requested areas and has facilities and has adequate capacity to meet the projected demands in the requested areas.
31. River Acres has a 12" distribution main that passes along Area 1 and has a 6" distribution main that passes along Area 2. These distribution mains provide River Acres with the ability and capacity to serve the requested areas and are the only existing sources of water distribution in the requested areas.

32. It is not feasible to obtain service from an adjacent retail public utility.

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

33. River Acres WSC has sufficient unrestricted cash to cover two years of its annual debt service amount. Therefore, River Acres satisfies the leverage test specified in 16 TAC § 24.11(e)(2)(C).
34. River Acres demonstrated that it has sufficient cash available to cover any projected operations or maintenance shortages in the first five years of operations after completion of the CCN amendment, satisfying the operations test.
35. River Acres demonstrated the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested areas.

Financial Assurance—TWC § 13.246(d), 16 TAC § 24.227(D)

36. There is no need to require River Acres to provide a bond or other financial assurance to ensure continuous and adequate service to the requested areas.

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

37. River Acres will continue to provide the same level of water service to its current customer in Area 2.
38. Water service to the requested areas will improve because River Acres will be obligated to provide continuous and adequate service to future customers in the requested areas.

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

39. Future developments may change land from vacant pastures to developed lands with houses, roadways, and detention ponds for residential communities.
40. River Acres has a 12" distribution main that passes along Area 1 and has a 6" distribution main that passes along Area 2, which provide River Acres with the ability and capacity to serve the entire 816 acres within the requested areas.
41. There will be no effect on environmental integrity or the land because no additional construction is needed to provide service to the requested areas.

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

42. River Acres already serves one customer in the requested areas and will not need to construct a physically separate water system as part of the CCN amendment. Accordingly, concerns of regionalization or consolidation do not apply.

Map and Certificate

43. On December 2, 2020, Commission Staff emailed its proposed final map and certificate to River Acres.
44. On December 16, 2020, River Acres filed its consent to the proposed map and certificate.
45. On March 12, 2021, the proposed map and certificate were included as attachments to the parties' proposed notice of approval.

Informal Disposition

46. More than 15 days have passed since the completion of the notice provided in this docket.
47. No person filed a protest or motion to intervene.
48. River Acres and Commission Staff are the only parties to this proceeding.
49. No party requested a hearing and no hearing is needed.
50. Commission Staff recommended approval of the application.
51. 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. River Acres is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Notice of the application was provided in compliance 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), River Acres demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested areas and its current service areas in Nueces County, as required by TWC § 13.241 and 16 TAC § 24.227.
6. River Acres has demonstrated that the amendment of its water CCN number 11084 will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public, as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
7. It is not necessary for River Acres to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
8. River Acres has access to an adequate supply of water to serve the requested areas and its public water system is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the rules of the TCEQ in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1).
9. Under TWC § 13.257(r) and (s), River Acres must record a certified copy of its approved map and certificate, along with a boundary description of its service area, in the real property records of Nueces County no later than the 31st day after the date it receives this Notice of Approval.
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 amends River Acres' water CCN number 11084 to include the requested areas described in this Notice of Approval and shown on the attached map.

¹ Tex. Gov't Code §§ 2001.001-.903.

2. The Commission approves the map and certificate attached to this Notice of Approval.
3. River Acres must provide service to every customer and applicant for service within the approved area under water CCN number 11084 who requests water service and meets the terms of River Acres' water service, and such service must be continuous and adequate.
4. River Acres must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 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.

Signed at Austin, Texas the ____ day of _____ 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

**GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE**



Public Utility Commission of Texas

By These Presents Be It Known To All That

River Acres Water Supply Corporation

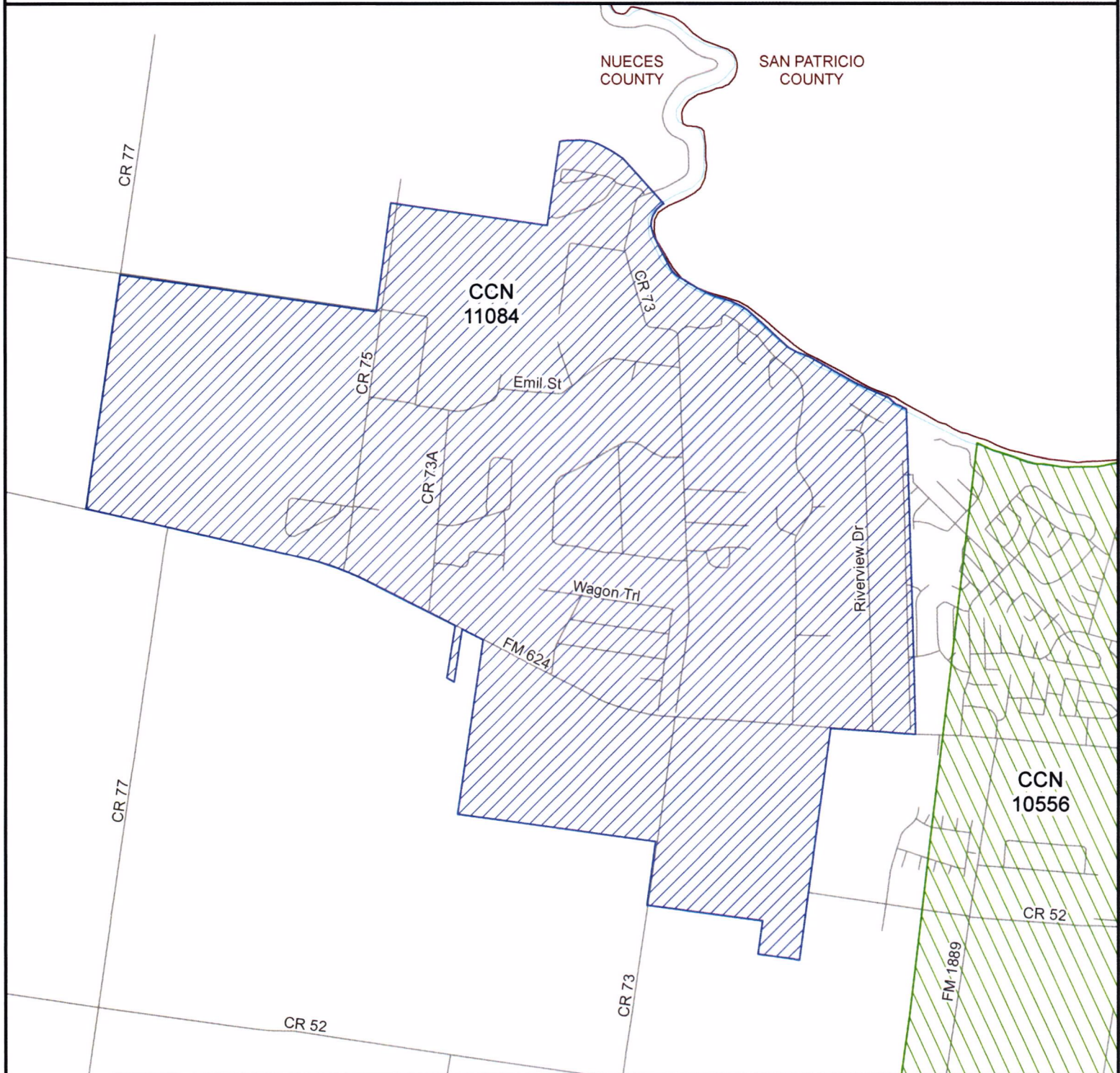
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, River Acres Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 11084

to provide continuous and adequate water utility service to that service area or those service areas in Nueces County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49845 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 River Acres 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 _____ day of _____ 20__.

River Acres Water Supply Corporation
Water CCN No. 11084
PUC Docket No. 49845
Amended CCN No. 11084 in Nueces County



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

Water CCN

-  11084 - River Acres WSC
-  10556 - Nueces WSC

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Feet



Map by: Komal Patel
Date created: October 27, 2020
Project Path: n:\finalmapping\
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