

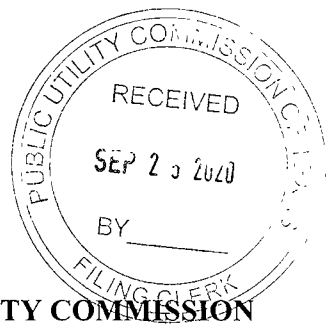


Control Number: 50042



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DOCKET NO. 50042

**APPLICATION OF TRI TRY WATER
SUPPLY CORPORATION TO OBTAIN
A WATER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
STONEWALL COUNTY**

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PUBLIC UTILITY COMMISSION

OF TEXAS

**AGREED MOTION TO ADMIT EVIDENCE AND JOINT PROPOSED NOTICE OF
APPROVAL**

COMES NOW the Staff (Commission Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, together with Tri Try Water Supply Corporation (Tri Try WSC) (collectively, the Parties), and files this Agreed Motion to Admit Evidence and Joint Proposed Notice of Approval. In support thereof, the Parties would show the following:

I. BACKGROUND

On September 23, 2019, Tri Try Water Supply Corporation¹ (Tri Try WSC) filed an application to obtain a water certificate of convenience and necessity (CCN) in Stonewall County under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. Tri Try WSC's initial application requested a service area containing approximately 21,171 acres of sparsely populated agricultural farmland and 64 existing customers, a requested area to which Tri Try WSC has been providing water service since 1999. On June 18, 2020, the requested area was reduced to approximately 19,260 acres and 64 existing customers.

On September 21, 2020, Order No. 9 in this proceeding was issued, requiring the Parties to file joint proposed findings of fact and conclusions of law by September 25, 2020. 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: (a) Tri Try WSC's application, filed on September 23, 2019 (Interchange Item No. 1); (b) Tri Try WSC's supplemental information, filed on November 19, 2019, January 23, 2020, March 17, 2020,

¹ The application was originally filed under the name Tri Try Water Corp., which was the applicant's legal name at the time of filing. During the pendency of this proceeding, the applicant filed with the Secretary of State to formally change its name to Tri Try Water Supply Corporation. The applicant has operated as a domestic non-profit corporation since 1999 under Texas Secretary of State registration number 0155906001.

March 25, 2020, and June 18, 2020 (Interchange Item Nos. 6, 10, 13, 14, and 20); (c) Order No. 5, finding the application administratively complete, issued on April 27, 2020 (Interchange Item No. 16); (d) Tri Try WSC's proof of notice, filed on June 1, 2020 and June 9, 2020 (Interchange Item Nos. 17 and 18); (e) Order No. 7, finding notice sufficient, issued on July 27, 2020 (Interchange Item No. 23); (f) Tri Try WSC's executed consent forms and attachments, filed on September 1, 2020 and September 3, 2020 (Interchange Item Nos. 27 and 28); (g) Commission Staff's Amended Recommendation on Final Disposition, filed on September 17, 2020 (Interchange Item No. 30); and (h) the map and certificate attached to this pleading.

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached Proposed Notice of Approval, which would grant Tri Try WSC's application to obtain water CCN No. 13291. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs included in the 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 attached Proposed Notice of Approval be adopted.

Dated: September 25, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 September 25, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Courtney Dean
Courtney N. Dean

DOCKET NO. 50042

APPLICATION OF TRI TRY WATER	§	PUBLIC UTILITY COMMISSION
SUPPLY CORPORATION TO OBTAIN	§	
A WATER CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
STONEWALL COUNTY	§	

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Tri Try Water Supply Corporation (Tri Try WSC) to obtain water certificate of convenience and necessity (CCN) No. 13291. The application is approved, and Tri Try WSC is issued CCN No. 13291 in Stonewall County.

I. Findings of Fact

Applicant

1. Tri Try WSC is a domestic non-profit corporation established in 1999 and registered with the Texas secretary of state under file number 0155906001.
2. Tri Try WSC owns a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under PWS number 2170004.
3. Tri Try WSC has provided water service to the requested area, which is comprised of sparsely distributed residential structures surrounded by agricultural farmland, since 1999. Tri Try WSC was not aware of the requirement to obtain a CCN to serve the requested area until it sought to obtain grant funding from the Texas Department of Agriculture (TDA) to replace aging water lines.

Application

4. On September 23, 2019, Tri Try WSC filed an application to obtain a water CCN in Stonewall County.
5. The requested area consists of 19,260 acres and 64 existing water customers.
6. Tri Try WSC has provided water service to the requested area, which is comprised of sparsely distributed residential structures surrounded by agricultural farmland, since 1999. There is little or no commercial activity within the requested area other than farming. A majority of the existing customers have large lots.
7. The requested area is located approximately one mile west of downtown City of Aspermont and is generally bounded on the north by the intersection of County Road 465 and Farm-

to-Market Road 2211, on the east by the intersection of Farm-to-Market Roads 2211 and 610, on the south by County Road 476, and on the west by County Roads 421 and 423.

8. In Order No. 5, issued April 27, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

9. On June 1, 2020, Tri Try WSC filed the affidavit of Gary Myers, President of the Board, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on May 6, 2020.
10. Tri Try WSC's June 1, 2020 filing also included a publisher's affidavit attesting to publication of notice in the *Double Mountain Chronicle*, a publication of general circulation in Stonewall County, on May 8, 2020 and May 15, 2020.
11. On June 9, 2020, Tri Try WSC supplemented its June 1, 2020 proof of notice with copies of published notice, a copy of the direct notice and accompanying map provided, and a list of direct notice recipients.
12. In Order No. 7, issued July 27, 2020, the ALJ found notice sufficient.

Map and Certificate

13. On September 2, 2020, Commission Staff emailed its proposed map and certificate to Tri Try WSC.
14. On September 3, 2020, Tri Try WSC filed its consent to the proposed map and the certificate.
15. On September 11, 2020, Commission Staff filed the proposed map and certificate as an attachment to its final recommendation.

Evidentiary Record

16. On September 25, 2020, the Parties filed an agreed motion to admit evidence and proposed notice of approval.
17. In Order No. __, issued on _____, 2020, the ALJ admitted the following into evidence: (a) Tri Try WSC's application, filed on September 23, 2019 (Interchange Item No. 1); (b) Tri Try WSC's supplemental information, filed on November 19, 2019, January 23, 2020, March 17, 2020, March 25, 2020, and June 18, 2020 (Interchange Item Nos. 6, 10, 13, 14, and 20); (c) Order No. 5, finding the application administratively complete, issued on April 27, 2020 (Interchange Item No. 16); (d) Tri Try WSC's proof of notice,

filed on June 1, 2020 and June 9, 2020 (Interchange Item Nos. 17 and 18); (e) Order No. 7, finding notice sufficient, issued on July 27, 2020 (Interchange Item No. 23); (f) Tri Try WSC's executed consent forms and attachments, filed on September 1, 2020 and September 3, 2020 (Interchange Item Nos. 27 and 28); (g) Commission Staff's Amended Recommendation on Final Disposition, filed on September 17, 2020 (Interchange Item No. 30); and (h) the map and certificate attached to this pleading.

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

18. Tri Try WSC has an existing PWS registered with the TCEQ under PWS number 2170004. Tri Try WSC does not have any violations listed in the TCEQ database.
19. The requested area is currently being served by Tri Try WSC, which has provided water service to the requested area since 1999.

No additional construction is necessary for to Tri Try WSC serve the requested area.

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

20. There are 64 existing customers in the requested area; therefore, there is a need for service.
21. The 64 existing customer connections are spread across the requested area, which is located in a rural farming community. A majority of the customers have large lots. There is a small cluster of customers who own small lots near the northern boundary of the requested area.
22. The entire requested area currently receives service from Tri Try WSC.

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

23. Because Tri Try WSC has served the requested area since 1999, granting the certificate will have no effect on any retail public utility servicing the proximate area.
24. Granting the certificate will have no effect on landowners within the requested area because all landowners within the requested area are current customers of Tri Try WSC.

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

25. Tri Try WSC has a public water system registered with the TCEQ. The water system that will be serving the requested area is PWS ID No. 2170004, which is capable of providing drinking water that meets the requirements of Chapter 341, Health and Safety Code, and requirements of the TWC and will have access to an adequate supply of water.
26. Tri Try WSC has the managerial and technical capability to provide continuous and adequate service to the requested area.

Service from Other Utilities—TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)

27. There are no other water providers in the area; therefore, it is not feasible to obtain service from an adjacent retail public utility.
28. Utilities within a two-mile radius of the requested area were noticed and no protests were received

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)

29. Tri Try WSC meets the leverage test with an effective debt-to-equity ratio of less than one, as Tri Try WSC has no long-term debt and owners' equity of \$473,151, and a cash balance of \$65,992.
30. Tri Try has submitted financial projections which demonstrate that there will be no operations and maintenance shortages during the first five years of operations and, additionally that Tri Try WSC has a reported cash balance of \$65,992. There are no improvements needed to provide continuous and adequate service to the requested area. Therefore, Tri Try WSC also meets the operations test.
31. Tri Try WSC has the financial ability and financial stability to provide continuous and adequate service to the requested area.

Financial Assurance—TWC § 13.246(d); 16 TAC § 24.227(e)(7)

32. There is no need to require Tri Try WSC to provide a bond or other financial assurance to ensure continuous and adequate service.

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

33. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area

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

34. The Applicant will continue to provide water service to the existing customers in the area.

Informal Disposition

35. More than 15 days have passed since the completion of notice provided in this docket.
36. No person filed a protest or motion to intervene.
37. Tri Try WSC and Commission Staff are the only parties to this proceeding.

38. No party requested a hearing and no hearing is needed.
39. Staff recommended that the application be approved.
40. The 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 proceeding under Texas Water Code (TWC) §§ 13.241, 13.244, and 13.246.
2. Tri Try WSC is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application complies 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,² the TWC, and Commission rules.
5. Tri Try WSC possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested service area in Stonewall County as required by TWC § 13.241 (a) and 16 TAC § 24.227.
6. Issuing water CCN number 13291 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(e).
7. Tri Try WSC must record a certified copy of the approved map for the certificate, along with a boundary description of the service area, in the real property records of Stonewall County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording in accordance with TWC § 13.257(r) and (s).
8. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

² Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission creates Tri Try WSC's water CCN No. 13291 as described in this Notice of Approval and shown on the attached map.
2. The Commission grants the certificate attached to this Notice of Approval.
3. Tri Try WSC must serve every customer and applicant for service within the approved area under CCN number 13291 who requests water service and such service must be continuous and adequate.
4. Tri Try WSC must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Stonewall County affected by this application.
5. Tri Try WSC must file in this docket proof of the recording required in ordering paragraph five no later than 45 days after the date this Notice of Approval is signed.
6. 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 ____ day of _____ 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

CHRISTOPHER OAKLEY
ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

Tri Try Water Supply Corporation

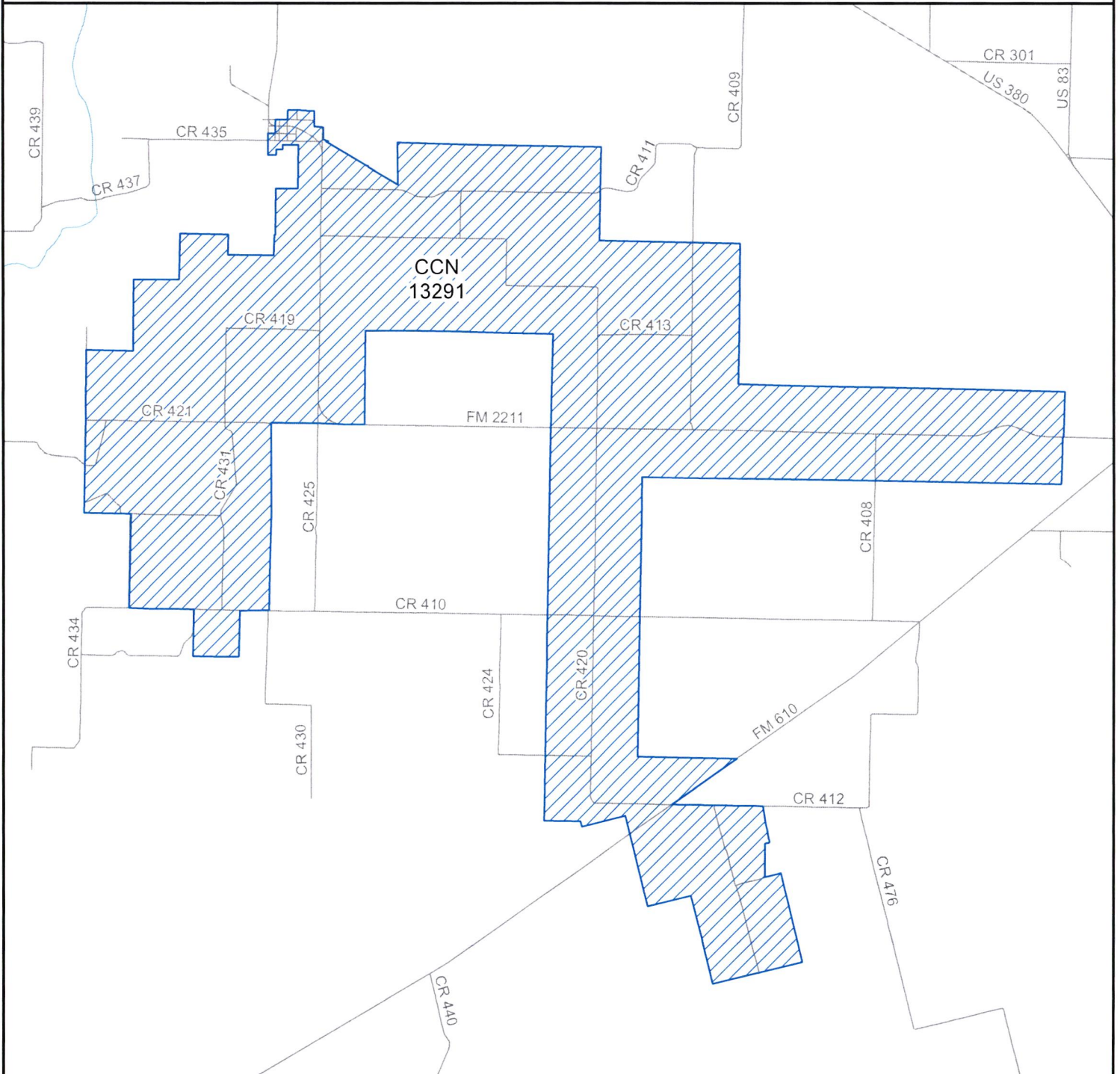
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Tri Try Water Supply Corporation is entitled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

Certificate of Convenience and Necessity No. 13291

to provide continuous and adequate water utility service to that service area or those service areas in Stonewall County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50042 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 Tri Try 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____.

Tri Try Water Supply Corporation
Water CCN No. 13291
PUC Docket No. 50042
Obtained New CCN in Stonewall County



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

Water CCN



13291 - Tri Try Water Supply Corporation

0 0.75 1.5
Miles



Map by: Komal Patel
Date created: August 12, 2020
Project Path: n:\finalmapping\
50042TriTryWC.mxd

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