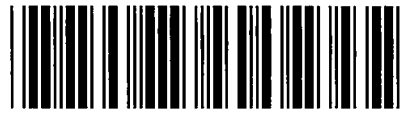


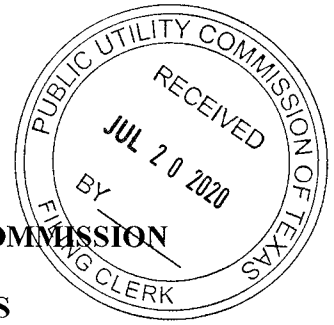
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DOCKET NO. 50057



APPLICATION OF RJR WATER §  
COMPANY, INC. AND MOUNTAIN §  
RIVER WATER FOR SALE, TRANSFER, §  
OR MERGER OF FACILITIES AND §  
CERTIFICATE RIGHTS IN PARKER §  
AND PALO PINTO COUNTIES §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**JOINT PROPOSED MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING THE TRANSACTION**

COMES NOW RJR Water Company, Inc., Mountain River Water, and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, Parties), and hereby submit this Joint Motion to Admit Evidence and Proposed Order Approving the Transaction. In support thereof, the Parties show the following:

**I. BACKGROUND**

On September 27, 2019, RJR Water Company, Inc. (RJR Water) and Mountain River Water (Mountain River, Mountain River Water) (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Parker and Palo Pinto Counties, Texas, pursuant to Texas Water Code (TWC) Ann. § 13.301 and the 16 Texas Administrative Code (TAC) § 24.239. Specifically, Applicants seek to transfer all of Mountain River’s water service area and associated Certificate of Convenience and Necessity (CCN) number 12139 to RJR Water. The requested transfer includes approximately 345 acres with 132 current customers.

On March 13, 2020, the Commission Administrative Law Judge (ALJ) issued Order No. 6, approving the sale and transfer to proceed. Order No. 7, issued May 27, 2020, established a deadline of July 20, 2020 for the Parties to file a joint motion to admit evidence and proposed notice of approval. 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) Applicant’s Bill of Sale (filed on May 5, 2020, AIS Item No. 15);
- (b) Staff’s Closing Documents Sufficiency Recommendation (filed on May 20, 2020, AIS Item No. 17);

- (c) Applicant's consent form (filed on July 10, 2020, AIS Item No. 20);
- (d) the attached map, certificate, and tariff;

### **III. JOINT PROPOSED NOTICE OF APPROVAL**

The Parties move for adoption of the attached Joint 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 Commission adopt the attached Proposed Notice of Approval.

Dated: July 20, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Heath D. Armstrong  
Managing Attorney

/s/ Rustin Tawater  
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**DOCKET NO. 50057**  
**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 July 20, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Rustin Tawater  
Rustin Tawater

**DOCKET NO. 50057**

<b>APPLICATION OF RJR WATER</b>	<b>§</b>	
<b>COMPANY, INC. AND MOUNTAIN</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RIVER WATER FOR SALE, TRANSFER,</b>	<b>§</b>	
<b>OR MERGER OF FACILITIES AND</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE RIGHTS IN PARKER</b>	<b>§</b>	
<b>AND PALO PINTO COUNTIES</b>	<b>§</b>	

**JOINT PROPOSED NOTICE OF APPROVAL**

This Joint Proposed Order Approving Sale to Proceed addresses the application of RJR Water Company, Inc. and Mountain River Water (collectively, Applicants) for an amendment for sale, transfer, or merger of certificate rights in Parker and Palo Pinto Counties. The applicants seek to transfer all of Mountain River Water’s facilities and service area under water certificate of convenience and necessity (CCN) number 12139 to RJR Water Company, Inc.

The Staff (Staff) of the Public Utility Commission (Commission) recommended approval of the application. Consistent with Staff’s recommendation, the application is approved.

**I. FINDINGS OF FACT**

The Commission adopts the following findings of fact and conclusions of law:

**Applicant**

1. Mountain River Water is a domestic for-profit corporation registered with the Texas secretary of state on April 19, 1977, under file number 40359600  
Mountain River Water owns a water utility that provides water service in Texas under CCN number 12139.
2. Mountain River Water owns a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) PWS number 1840077.
3. Mountain River Water operates, maintains, and controls facilities that provide water service in Parker and Palo Pinto counties under CCN number 12139.
4. RJR Water is a domestic for-profit corporation registered with the Texas secretary of state on July 17, 2019, under filing number 803371238.

### **Application**

5. On September 27, 2019, Mountain River Water and RJR Water filed an application for approval to sell all of Mountain River's facilities and transfer all customers and service area held under CCN number 12139 to RJR Water.
6. The requested area comprises approximately 345 acres and 132 current customers.
7. The requested area is located approximately four miles southwest of downtown Millsap, Texas, and is generally bounded on the north the by the Brazos River, on the east by the Brazos River, on the south by Soda Springs Road, and on the west by the Brazos River.
8. In Order No. 2 filed on October 31, 2019, the ALJ found the application administratively complete.

### **Notice**

9. On November 21, 2019, RJR Water filed Affidavits of Notice to Current Customers, Neighboring Utilities and Affected Parties indicating that notice of application was mailed to the entities listed on the affidavits on November 14, 2019 and November 15, 2019.
10. In Order No. 3, issued on December 4, 2019, the ALJ deemed the notice sufficient.

### **Evidentiary Record**

11. On February 17, 2020, the parties jointly moved to admit evidence.
12. In Order No. 5, issued on March 10, 2020, the ALJ admitted the following evidence into the record: (a) the Application (filed on September 27, 2019, AIS Item No. 1); (b) RJR Water's supplemental mapping information (filed on October 14, 2019, AIS Item No. 3); (c) Applicant's proof of notice (filed on November 21, 2019, AIS Item No. 6); (d) Commission Staff's recommendation on the transaction to proceed (filed January 17, 2020, AIS Item No. 11).

### **Sale**

13. In Order No. 6 filed March 13, 2020, the ALJ approved the transaction to proceed and required the applicants to file proof that the transaction had closed and that customer deposits had been addressed.

14. On May 5, 2020, Applicants filed notice that the sale had closed on April 29, 2020, along with the attached bill of sale and stating that there were no customer deposits to be addressed.
15. In Order No. 7 filed on May 27, 2020, the ALJ found the closing documents sufficient.

**System Compliance—Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)**

16. Mountain River Water is in violation of TCEQ rules that require a minimum production capacity of 0.6 gallons per minute for each connection in the PWS.
17. Due to the high percentage of seasonal-only residents in the requested area, Mountain River Water has applied to the TCEQ for an alternative capacity requirement exception to bring PWS number 1840077 into compliance.
18. RJR Water has not been subject to any unresolved enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of Attorney General, or the United States Environmental Protection Agency.
19. RJR Water does not have any violations listed in the TCEQ database.
20. RJR Water will continue to work with the TCEQ for an alternative capacity requirement exception for PWS number 1840077.
21. RJR Water has demonstrated a compliance status that is adequate for approval of the Application.

**Adequacy of Existing Service—TWC § 13.301(c)(1); 16 TAC §§ 24.227(d)(1), (j)(5)(B)**

22. RJR Water has applied to the TCEQ for an Alternative Capacity Requirement exception to bring the system into compliance.
23. If the TCEQ does not grant an exception for capacity, RJR Water has an additional well that can be placed into service to meet capacity requirements.

**Need for Additional Service—TWC §13.246(c)(2); 16 TAC §§ 24.227(d)(2), 24.239(j)(5)(C)**

24. There are 132 existing connections in the areas to be transferred and there is no need for additional service.

25. RJR Water has received no new requests for service and is not requesting to add additional uncertificated area.

26. This application is to transfer only existing facilities, customers, and service area.

**Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(d)(3), 24.239(j)(5)(D)**

27. The proposed transaction will allow RJR Water to serve the customers in the requested area.

28. Mountain River Water and RJR Water are working with the TCEQ to have sufficient capability to serve the customers of the requested area.

**Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), 24.239(g), (j)(5)(E)**

29. RJR Water has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.

30. Applicants have sufficient capability to serve the customers and no additional construction is necessary.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC § 24.227(d)(5), 24.239(j)(5)(F)26.**

31. As TCEQ is working with Applicants to resolve any production issues, the feasibility of obtaining service from another adjacent retail public utility was not considered.

32. Utilities within a two-mile radius were noticed and no protests or requests to opt out were received regarding the proposed transaction.

**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), (d)(6), 24.239(2), (j)(5)(G)**

33. RJR Water has a debt-to-equity ratio of less than one, satisfying the leverage test.

34. RJR Water has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations, meeting the operations test.

35. RJR Water has the financial ability and financial stability necessary to provide continuous and adequate service to the requested area.



**Improvement in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8), 24.239(j)(5)(I)**

36. The proposed transaction will continue to provide the same level of water service as has already been provided to the existing customers in the area.

**Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC a 24.227(e), 24.239(h)**

37. RJR Water's projected operating revenues are sufficient to cover the projected operations and maintenance expense for the first five years after the completion of the proposed sale and transfer.

38. There is no need to require RJR Water to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(d)(7), 24.239(j)(5)(H); and Effect on the Land—TWC 13.246(c)(9); 16 TAC § 24.227(d)(9)**

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

**Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8), 24.239(j)(5)(I)**

40. The proposed transaction will improve service to the requested area.

41. Existing customers of Mountain River Water will be charged the same rates after the proposed transaction is complete, but RJR Water intends to request a rate increase with the Commission no later than 12 months after a notice of approval is issued in the present docket.

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

42. No new physically separate water system will be constructed as a result of the transaction: therefore, regionalization or consolidation is not applicable.

**Tariff, Map, and Certificate**

43. On June 18, 2020, Commission Staff emailed Applicants the final proposed map, certificate, and tariff related to this docket.

44. On July 10, 2020 RJR Water filed its consent form concurring with the map, certificate, and revised tariff.

45. The final map, certificate, and tariff were included as attachments to Commission Staff's Motion to Admit Evidence, filed on July 20, 2020.
46. Mountain River Water has sold and transferred all facilities and service area held under CCN number 12139 to RJR Water.

**Informal Disposition**

47. More than 15 days have passed since the completion of notice provided in this docket.
48. No person filed a protest or motion to intervene.
49. RJR Water, Mountain River Water and Commission Staff are the only parties to this proceeding.
50. No party requested a hearing and no hearing is needed.
51. Commission Staff recommended approval of the application.
52. The decision is not adverse to any party.

**II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
2. Mountain River Water and RJR Water are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239(a) through (c).
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
5. Mountain River Water and RJR Water completed the sale within the time required by 16 TAC § 24.239(o).
6. The applicants complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
7. After consideration of the factors in TWC § 13.246(c), RJR Water has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area, as required by TWC § 13.301(b).

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<sup>1</sup> Administrative Procedure Act, Tex. Gov't Code § 2001.001—.902 (APA).

8. Mountain River Water and RJR Water have demonstrated that the sale of Mountain River's water system and the transfer of all of the service area under sewer CCN number 12139 to RJR Water 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), 13.301(d).
9. RJR Water must record a certified copy of the certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Parker County and Palo Pinto County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording, as required by TWC § 13.257(r) and (s).
10. The requirements for informal disposition under 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 order:

1. The Commission approves RJR Water's purchase of Mountain River Water's water system and the transfer of RJR Water's water service area under CCN number 12139 to RJR Water, to the extent provided in this Notice of Approval. The Commission must revise its records to reflect RJR Water as the holder of CCN number 12139.
2. The Commission approves the attached map, certificate, and tariff, which were attached to the Applicant's Joint Motion to Admit Evidence, filed on July 20, 2020.
3. RJR Water must serve every customer and applicant for service within the terms of RJR Water's water service, and such service must be continuous and adequate.
4. RJR Water must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Parker County and Palo Pinto County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
5. Within ten days of the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved by this Notice of Approval to central records to be marked Approved and filed in the Commission's tariff books.

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 \_\_\_\_ day of February 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**ADMINISTRATIVE LAW JUDGE**



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **RJR Water Company, 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, RJR Water Company, Inc. is entitled to this

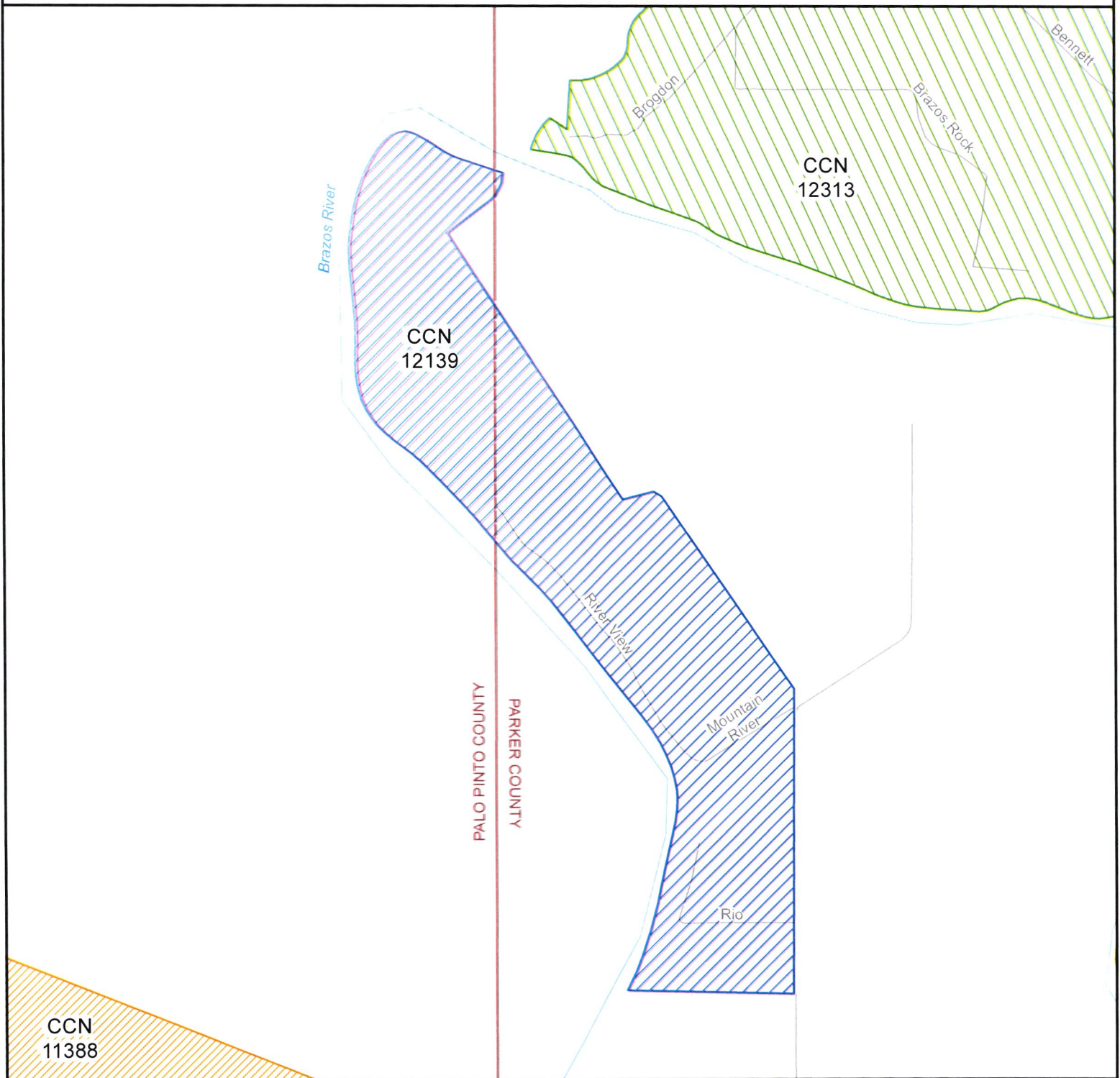
### **Certificate of Convenience and Necessity No. 12139**

to provide continuous and adequate water utility service to that service area or those service areas in Parker and Palo Pinto Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50057 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 RJR Water Company, 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 \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

RJR Water Company, Inc.  
Water CCN No. 12139  
PUC Docket No. 50057

Transferred all of Mountain River Water Company in Palo Pinto and Parker Counties



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

**Water CCN**

-  12139 - RJR Water Company Inc
-  12313 - Parker County SUD
-  11388 - Santo WSC

0 750 1,500  
Feet



Map by: Komal Patel  
Date created: June 10, 2020  
Project Path: n:\finalmapping\  
50057RJRWC.mxd