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Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Gregory R. Siemankowski
Administrative Law Judge 

RE: **Docket No. 50324** – *Application of County Line Special Utility District to Obtain a Sewer Certificate of Convenience and Necessity in Hays and Caldwell County*

DATE: May 20, 2022

On January 25, 2022, the Commission remanded this proceeding to Docket Management for further processing. Enclosed is the Second Revised Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Second Revised Proposed Order by June 3, 2022.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary

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DOCKET NO. 50324

APPLICATION OF COUNTY LINE	§	PUBLIC UTILITY COMMISSION
SPECIAL UTILITY DISTRICT TO	§	
OBTAIN A SEWER CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
HAYS AND CALDWELL COUNTY	§	

SECOND REVISED PROPOSED ORDER

This Order addresses the application of County Line Special Utility District for a sewer certificate of convenience and necessity (CCN) in Hays and Caldwell counties. The Commission issues CCN number 21119 to County Line SUD.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. County Line SUD is a special utility district operating under chapter 65 of the Texas Water Code (TWC).
2. County Line SUD operates, maintains, and controls facilities for providing sewer service to customers in Hays and Caldwell counties.

Application

3. On December 6, 2019, County Line SUD filed the application at issue in this proceeding.
4. County Line SUD supplemented its application on December 18, 2019, February 6, April 6, July 15, August 19, September 2, and November 3, 2020, and June 18, and 23, 2021.
5. The application, as supplemented, requests a service area comprised of 7,788 acres and has two current connections and 24,000 potential future connections. There are also 300 homes and business in the Uhland area that currently utilize septic systems which will be able to connect to County Line SUD's centralized wastewater system.
6. The requested area includes the city of Uhland, Texas, and is generally bounded on the north by Goforth Road and Heidenreich Lane; on the east by Rohde Road and

Farm-to-Market Road 2001; on the south by Misty Lane and Jolly Road; and on the west by Farm-to-Market Road 1966.

7. In Order No. 3 filed on March 18, 2020, the administrative law judge (ALJ) found the application administratively complete.

On Remand from the Commission

8. On January 25, 2022, the Commission filed an Order remanding this proceeding to Docket Management for further processing.
9. On March 9, 2022, County Line SUD filed its amended application and motion to admit additional evidence.
10. On May 9, 2022, Commission Staff filed its revised final recommendation.

Notice

11. On April 6, 2020, County Line SUD filed the affidavit of Allison M. Nieto, project engineer for County Line SUD, attesting that notice was mailed to affected entities, landowners, and customers on March 24, 2020.
12. On April 6, 2020, County Line SUD filed a publisher's affidavit attesting to publication of notice in the *Hays Free Press*, a newspaper of general circulation in Hays County, on March 25 and April 1, 2020.
13. On April 6, 2020, County Line SUD filed a publisher's affidavit attesting to publication of notice in the *Lockhart Post Register*, a publication of general circulation in Caldwell County, on March 26 and April 2, 2020.
14. In Order No. 4 filed on April 27, 2020, the ALJ found the notice sufficient.

Evidentiary Record

15. On July 15, 2021, the parties filed a joint motion to admit evidence and proposed notice of approval.
16. In Order No. 13 filed on July 19, 2021, and Order No. 15 filed on August 20, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) County Line SUD's application filed on December 6, 2019; (b) County Line SUD's supplements to the application filed on December 18, 2019, February 6, 2020, April 6, 2020, July 15, 2020,

August 19, 2020, September 2, 2020, November 3, 2020, June 18, 2021, and June 23, 2021; (c) Commission Staff's supplemental recommendation on administrative completeness filed on March 5, 2020; (d) County Line SUD's proof of notice filed on April 6, 2020; (e) Commission Staff's recommendation on sufficiency of notice filed on April 15, 2020; (f) Commission Staff's supplemental final recommendation filed on July 1, 2021; (g) County Line SUD's notice of consent filed on July 12, 2021; and (h) the map and certificate attached to Commission Staff's response to Order No. 14 and motion to admit evidence filed on July 28, 2021.

17. On October 18, 2021, Commission Counsel filed a memorandum requesting County Line SUD identify in the record evidence reflecting requests for service for homes and businesses in Uhland or to file such additional evidence.
18. On October 21, 2021, County Line SUD filed a response to Commission Counsel's memorandum and a motion to admit attachment C of its response.
19. In Order No. 16 filed on November 9, 2021, the ALJ admitted into evidence attachment C to County Line SUD's October 21, 2021 response to Commission Counsel's memorandum.
20. On March 9, 2022, County Line SUD filed an amended application and motion to admit additional evidence.
21. In Order No. 19, filed on March 28, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) a list of easements, filed as attachment A to its amended application; (b) a map of the Uhland Septic System Area, filed as attachment B to its amended application; (c) and maps of the revised requested area, filed as attachment C to its amended application.

Adequacy of Existing Service

22. County Line SUD currently provides service to customers in the requested area and such service has been continuous and adequate.
23. County Line SUD purchases sewer capacity from Plum Creek Utility Company, LLC to meet 100% of customer demand.

24. Plum Creek's wastewater system is permitted with the Texas Commission on Environmental Quality (TCEQ) under Texas Pollutant Discharge Elimination System permit number WQ0015635001.
25. County Line SUD has not been subject to any enforcement action by the Commission, the TCEQ, the Texas Department of State Health Service, the Office of the Attorney General of Texas, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.

Need for Additional Service

26. There are 300 homes and businesses in the Uhland area that currently utilize septic systems which will be able to connect to County Line SUD's centralized wastewater system.
27. County Line SUD filed multiple requests for service in the requested area demonstrating the need for wastewater service in the requested area. County Line SUD projects a total of 24,000 potential customer connections.
28. There is need for additional wastewater service to serve future customers in the requested area.

Effect of Approving the Application and Granting the Certificate

29. County Line SUD will be the sole certificated entity for the requested area and will be obligated to provide continuous and adequate wastewater service to the requested area.
30. Landowners will benefit from a centralized wastewater collections system as they will not have to construct individual septic tanks.
31. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
32. There will be no effect on any retail public utility serving the proximate area.

Ability to Serve: Managerial and Technical

33. Plum Creek employs two TCEQ-licensed operators who are responsible for operating the wastewater system.
34. Plum Creek's wastewater system is permitted by the TCEQ and meets the TCEQs design criteria for sewer treatment plants and the requirements of chapter 13 of the TWC.

35. County Line SUD has the managerial and technical capability to provide continuous and adequate retail wastewater service to the requested area.

Ability to Serve: Financial Ability and Stability

36. County Line SUD has a debt service coverage ratio that is greater than 1.25, satisfying the leverage test.
37. County Line demonstrated it has sufficient cash available on hand to cover any projected operations and maintenance shortages during the first five years of operations following the issuance of the CCN, satisfying the operations test.
38. County Line SUD demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.
39. Plum Creek will provide capital improvements needed to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

40. County Line SUD received requests for service within the requested area.
41. There is an agreement between County Line and Uhland to provide service, therefore it is not feasible to obtain service from an adjacent retail public utility.

Financial Assurance

42. There is no need to require County Line SUD to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Regionalization or Consolidation

43. County Line SUD purchases sewer capacity from Plum Creek to meet 100% of customer demand and it will not be necessary for County Line SUD to construct a physically separate wastewater system to serve the requested area.
44. Because the requested area will not require construction of a physically separate wastewater system, consideration of regionalization or consolidation with another retail public utility is not required.

Environmental Integrity and Effect on the Land

45. There will be a positive environmental impact as sewer service through a centralized wastewater collection system will eliminate the need for individual septic system on each property.
46. There will be an effect on the land as the wastewater collection system is constructed and expanded, but the effects will not be adverse to such a degree that the application should not be granted.

Improvement in Service or Lowering Cost to Consumers

47. Wastewater service will improve with the use of a centralized wastewater collection system and eliminate the need for separate septic systems.

Map and Certificate

48. On July 8, 2021, Commission Staff emailed the proposed final map and CCN certificate to County Line SUD, contemplating a service area of 8,148 acres, for review and consent.
49. On July 12, 2021, County Line SUD filed its consent to the Commission Staff's proposed map and certificate.
50. On July 28, 2021, Commission Staff filed the proposed map and certificate as attachments to its response to Order No. 14 and motion to admit evidence.
51. On May 9, 2022, Commission Staff filed a proposed map as attachments to its revised final recommendation.

Informal Disposition

52. More than 15 days have passed since the completion of notice provided in this docket.
53. No person filed a protest or motion to intervene.
54. County Line SUD and Commission Staff are the only parties to this proceeding.
55. No party requested a hearing and no hearing is needed.
56. Commission Staff recommended approval of the application.
57. This 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. County Line SUD is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. County Line SUD's application meets the requirements of TWC § 13.244 and 16 TAC §§ 24.227, and 24.233.
4. County Line SUD provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
5. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
6. After consideration of the factors in TWC §§ 13.241(c), 13.246(c) and 16 TAC § 24.227(e), County Line SUD demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service in the requested service area in Hays and Caldwell counties, as required by TWC § 13.241 and 16 TAC § 24.227.
7. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate wastewater system is not required.
8. It is not necessary for County Line SUD to provide a bond or other financial assurance under TWC § 13.246(d) and 16 TAC § 24.227(d).
9. County Line SUD demonstrated that issuance of CCN number 21119 to it 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).
10. County Line SUD meets the requirements of TWC § 13.241(c) to provide sewer utility service.

¹ Tex. Gov't Code §§ 2001.001–.903.

11. Under TWC § 13.257(r) and (s), County Line SUD 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 Hays and Caldwell counties no later than the 31st day after the date that County Line SUD receives this Order and must submit to the Commission evidence of the recording.
12. 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 issues CCN number 21119 to County Line SUD for the requested area described in this Order and shown on the attached map.
2. The Commission approves the map attached to this Order.
3. The Commission issues the certificate attached to this Order.
4. County Line SUD must provide service to every customer and applicant for service within the approved area under CCN number 21119 who requests sewer service and meets the terms of County Line SUD's sewer service policies, and such service must be continuous and adequate.
5. County Line SUD must provide notice to the Commission once billing for sewer service begins in Docket No. 52486, *Compliance Filing of County Line SUD Regarding Billing Sewer Service in Docket No. 50324*.
6. County Line SUD must comply with the requirements in TWC § 13.257(r) and (s) for the area in Hays and Caldwell Counties affected by the application and file in this docket proof of the recording no later than 45 days after the date of this Order.
7. 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 _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

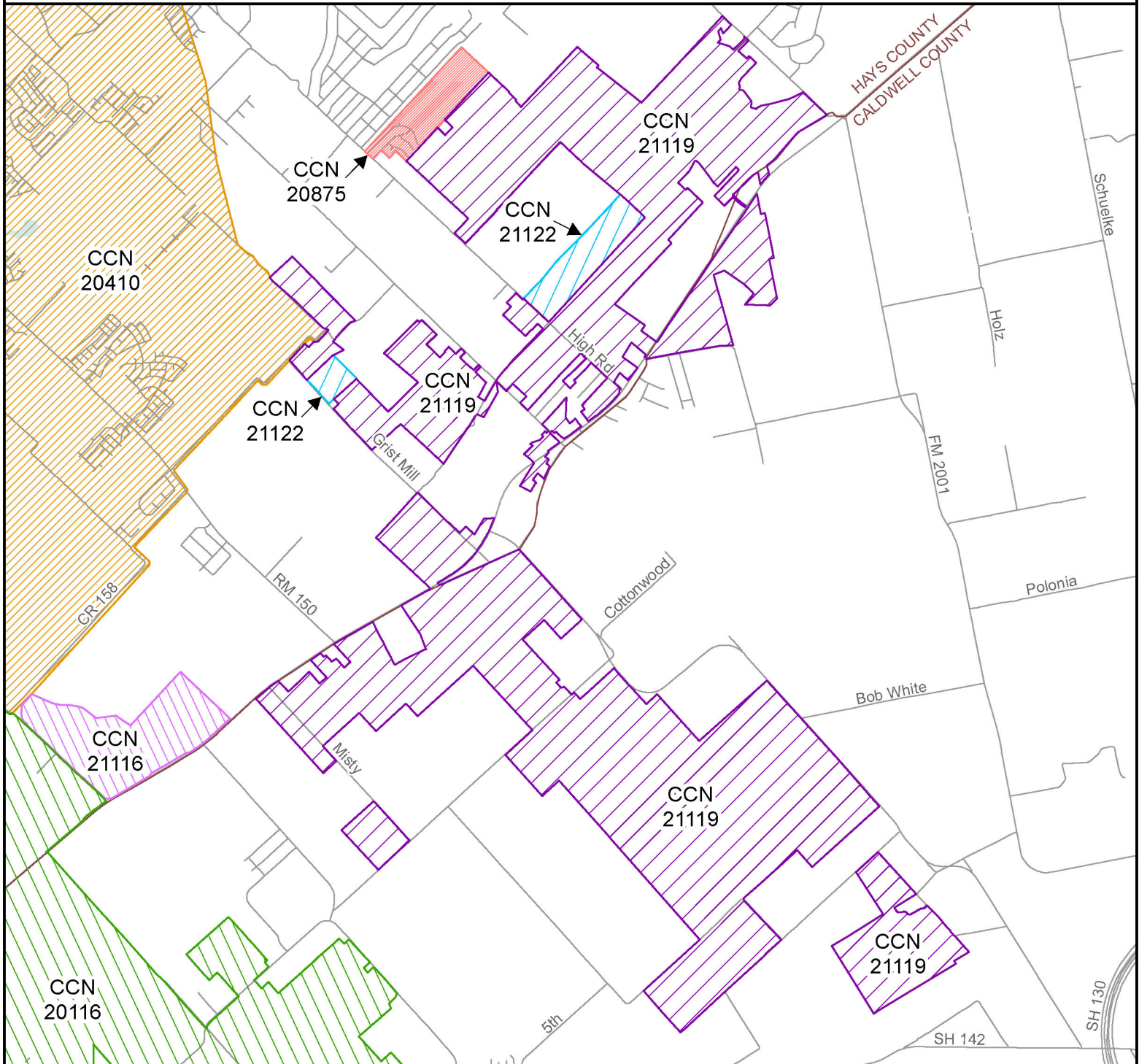
County Line Special Utility District

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, County Line Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 21119

to provide continuous and adequate sewer utility service to that service area or those service areas in Caldwell and Hays Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50324 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 County Line Special Utility District 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.

County Line Special Utility District
 Sewer CCN No. 21119
 PUC Docket No. 50324
 Obtained New CCN in Caldwell and Hays Counties



Sewer CCN

-  21119 - County Line SUD
-  20116 - City of San Marcos
-  21116 - Aqua Texas Inc
-  20410 - City of Kyle
-  21122 - Gristmill Utility Company LLC
-  20875 - The Railyard WWTP

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