

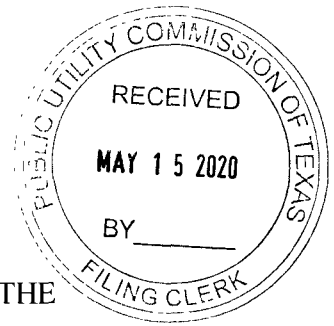


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PUC DOCKET NO. 50405

PETITION BY THE SANCTUARY  
TEXAS, LLC,  
FOR EXPEDITED RELEASE FROM  
WATER CCN NO. 13201 HELD BY  
AQUA TEXAS IN  
DENTON COUNTY

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BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS

**THE SANCTUARY TEXAS, LLC'S REPLY TO AQUA TEXAS, L.L.C.'S RESPONSE  
TO PETITIONER'S NOTICE OF FILING OF DEEDS**

**TO THE PUBLIC UTILITY COMMISSION OF TEXAS:**

The Sanctuary Texas, LLC, ("the Sanctuary") files its Reply to Aqua Texas, L.L.C.'s ("Aqua's") Response to Petitioner's Notice of Filing of Deeds. In support, the Sanctuary shows the following:

**I. Procedural Background**

On May 13, 2020, Aqua filed yet another baseless document in its continued attempt to cause delay and confuse the issues in this matter that remain ripe for a finding of administrative completeness.

On February 10, 2020, the Sanctuary filed its Amended Petition (the "Petition") for expedited release of *approximately* 70.126 acres of land (the "Property") from the Aqua's water CCN No. 13201. On March 19, 2020 the Staff of the Public Utility Commission of Texas (the "Commission") recommended that the Petition be found administratively complete. Staff found that "Petitioner submitted sufficient maps and digital data for determining the location of the requested release area [is] within Aqua's certified service area." The Administrative Law Judge ("ALJ") issued an order requesting an affidavit from the trustee to the deed of trust, David Brooks, stating concurrence with the Petition. *See* Order No. 4. Petitioner was unable to obtain

this affidavit, but on May 4 and 7, 2020, Petitioner filed an affidavit and deeds, respectively, evidencing the Property's ownership. On May 13, 2020, Aqua filed an "objection" to the filing of deeds and requested the ALJ find the Petition is not administratively complete and "reject" it for filing on a number grounds. The Sanctuary responds as follows:

## **II. Argument and Authority**

### **A. The Sanctuary's Petition Satisfies the Commission's Requirements for Administrative Completeness.**

The Sanctuary's Petition is not "defective" as asserted by Aqua. Staff recommended a finding of administrative completeness on March 19, 2020, and the ALJ simply requested additional information regarding evidence of ownership. Although Petitioner was unable to provide the affidavit as David Brooks, it did provide an affidavit from the lender for the Property's purchase and deeds to the Property. In addition, Petitioner has filed a general map, detailed map, and metes and bounds survey in support of its Petition that was recommended as sufficient by Staff.

#### **1. The Sanctuary, LLC is the titled owner of the Property.**

Petitioner is unquestionably the owner of the Property. Petitioner has filed far beyond what is required in order to prove Property ownership in this docket including: (1) an affidavit from Marlon McMakin swearing, under oath as its Managing Member, that Petitioner owns the Property (Ex. A to Original Petition); (2) an additional affidavit from Mr. McMakin further swearing to Petitioner's ownership of the Property (Ex. A to Amended Petition); (3) a Deed of Trust securing the Property owned by Petitioner and describing the Property (Ex. C-1 to Amended Petition); (4) a Title Insurance Policy identifying Petitioner as the title-holder to the Property (Ex. C-2 to Amended Petition); (5) an affidavit from Petitioner's lender for the Property's purchase explaining the lender has no ownership in the Property and concurring with

the Petition (doc 11 filed On May 4, 2020); and (6) Deeds to the Property (doc 13 filed on May 7, 2020). Ownership, as supported by these documents, is firmly established and is distinct from identification of the precise parcel to be decertified.

**2. Petitioner has Properly Identified the Property to be Decertified.**

Aqua argues that “the Petition provides no way of ‘matching up’ the deeds . . . with the area Petitioner seeks for release.” Without support, Aqua further asserts “[w]e think the Commission should require Petitioner to demonstrate this connection.” Regardless of what Aqua “thinks,” there is no such requirement. Additionally, Aqua’s assertion that “no deed(s) or map was included other than a property survey” is patently false.<sup>1</sup> With regard to identification of the Property to be decertified Petitioner has filed: (1) a general map (Ex. B-1 to Amended Petition); (2) a detailed map (Ex. B-2 to Amended Petition); and (3) a metes and bounds survey identifying the Property as 70.146 acres. The Property to be decertified is, unquestionably, fully and properly identified by these documents and should not be confused with Petitioner’s evidence of Property ownership. The Sanctuary only seeks to decertify the Property contained in CCN No. 13201, which is 70.146 acres evidenced by the maps and metes and bounds survey attached to the Petition. Petitioner is not seeking to decertify any additional acreage. Again, the purpose of the deeds is to demonstrate Property ownership; not to identify the Property for decertification. The Property is more accurately and particularly described by the maps and survey and amounts to 70.146 acres.

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<sup>1</sup> Ironically, the filing of deeds is the subject of Aqua’s instant objection.

**B. Docket 50495 has Precedential Value**

On February 10, 2020, the Sanctuary filed its Amended Petition in Docket No. 50495 for expedited release of approximately 70.126 acres of land from the City of Lakewood Village's sewer CCN No. 20075. Other than the parties and CCN, the Petition and exhibits are the same in all respects. On February 28, 2020, Staff filed a recommendation that the Petition be found administratively complete. The ALJ issued an order finding the Petition Administratively Complete on April 15, 2020. *See* Order No. 2. On April 28, 2020, Staff requested an extension of time to file its recommendation on final disposition of this matter. In its request for extension, Staff requested that Petitioner provide certain documents and requested additional time to review the documentation. On May 4 and 7, 2020, Petitioner filed documentation responsive to Staff's request, which included an affidavit and deeds evidencing the Property's ownership. These were identical to those filed in this docket. Accordingly, the ALJ granted Staff's request for extension, until May 19, 2020, to file a recommendation on final disposition and did not request additional information. Based on this precedent, the Petition in this matter should, likewise, be found administratively complete.

**III. Conclusion and Prayer**

Petitioner requests that the Commission deny Aqua's request to order the Petition administratively incomplete and "reject" it for filing. This is clearly an effort by Aqua to delay this proceeding and confuse issues that have previously been proven and the Sanctuary requests an order finding the Petition administratively complete. Texas Water Code Section 13.2541 entitles Petitioner to expedited release of the Property described herein. The Property is greater than 25 acres, is not receiving water or sewer service, and is entirely within Denton County. Petitioner respectfully requests that the Commission grant this Petition and issue an order under

the authority of Section 13.2541 releasing all portions of the Property that are within the boundaries of water CCN No. 20075.

Respectfully submitted,

**COATS | ROSE**

By: 

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Natalie B. Scott  
State Bar No. 24027970  
nscott@coatsrose.com  
Terrace 2  
2700 Via Fortuna, Suite 350  
Austin, Texas 78746  
(512) 469-7987 Telephone  
(512) 469-9408 Telecopier

**ATTORNEY FOR PETITIONER  
THE SANCTUARY TEXAS, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of May, 2020, a true and correct copy of this document was served on all parties of record in this proceeding by electronic mail and by filing on the PUC Interchange System.

Geoffrey P. Kirshbaum  
TERRILL & WALDROP  
810 W. 10<sup>th</sup> Street  
Austin, Texas 78701  
**Counsel for Aqua Texas, Inc.**

Creighton R. McMurray  
PUC – Legal Division  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

A handwritten signature in black ink, reading "Natalie B. Scott". The signature is written in a cursive, flowing style. The "N" is large and loops around the "a". The "B" is also large and loops around the "S". The "S" is followed by a long horizontal stroke that extends to the right, ending in a small hook.

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Natalie B. Scott