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DOCKET NO. 50553

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APPLICATION OF COUNTY LINE
SPECIAL UTILITY DISTRICT TO
AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY
AND TO DECERTIFY A PORTION OF
POLONIA WATER SUPPLY
CORPORATION'S CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
HAYS AND CALDWELL COUNTIES

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PUBLIC UTILITY COMMISSION

OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 7 files this Recommendation on Final Disposition. In support thereof, Staff would show the following:

I. BACKGROUND

On February 14, 2020, County Line Special Utility District (County Line SUD) filed an application to amend its water certificate of convenience and necessity (CCN) No. 10292 and to decertify a portion of Polonia Water Supply Corporation's (Polonia WSC) water CCN No. 10420 in Hays and Caldwell Counties under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. The requested service area consists of 425 acres and no existing customer connections. County Line SUD filed supplemental information on April 17, 2020 and June 16, 2020.

Order No. 5, issued on September 15, 2020, found County Line SUD's notice sufficient and directed Staff to send the final maps and certificates on October 9, 2020. County Line SUD and Polonia WSC filed its consent to the maps and certificates on November 13, 2020. Order No. 7 directed Staff to file a final recommendation on the application by December 1, 2020. Therefore, this pleading is timely filed.

II. FINAL RECOMMENDATION ON THE APPLICATION

Staff has reviewed County Line SUD's application, as supplemented, and as detailed in the attached memorandum of Jolie Mathis of the Commission's Infrastructure Division and Fred Bednarski of the Commission's Rate Regulation Division, (Attachment A) Staff recommends

that the application be approved. Staff's review indicates that County Line SUD substantially meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code, and therefore, is capable of providing continuous and adequate service. Additionally, Staff's review suggests that approval of the application is necessary for the service, accommodation, convenience, and safety of the public.

In accordance with this recommendation, the corresponding maps (Attachment B) and certificates (Attachment C) consented to by County Line SUD and Polonia WSC are included with this pleading. On or before December 18, 2020, County Line SUD, Polonia WSC, and Staff will jointly file proposed findings of fact and conclusions of law.

III. CONCLUSION

Staff respectfully recommends that the Commission approve County Line SUD's application.

Date: December 1, 2020

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Rashmin J. Asher
Managing Attorney

/s/ Kourtnee Jinks
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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 December 1, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kourtnee Jinks
Kourtnee Jinks

Public Utility Commission of Texas

Memorandum

TO: Kourtnee Jinks, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: December 1, 2020

RE: **Docket No. 50553**, *Application of County Line Special Utility District to Amend its Certificate of Convenience and Necessity and Decertify a Portion of Polonia Water Supply Corporation's Certificate of Convenience and Necessity in Hays and Caldwell Counties*

On February 14, 2020, County Line Special Utility District (County Line SUD) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10292 and decertify a portion of Polonia Water Supply Corporation's (Polonia WSC) CCN 10420 in Hays and Caldwell Counties, Texas, pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and the 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Background

County Line SUD is seeking to amend a water CCN for the service area containing approximately 425 acres and 0 existing customers.

Notice

The comment period ended September 5, 2020, and no protests or opt-out requests were received.

Factors Considered

TWC §§ 13.241 and 13.246, and 16 TAC § 24.227 require the Commission to consider certain factors when granting or amending a water or sewer CCN. Therefore, the following criteria were considered:

TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.

County Line SUD has a Texas Commission on Environmental Quality (TCEQ) approved Public Water System (PWS) Identification No. 1050038. County Line SUD does not have any violations listed in the TCEQ database.

TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area.

The property owner is developing the property to single-family residential. Water utility service is necessary in these proposed areas since individual water wells are not economically feasible.

TWC §§ 13.241(b) and 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area.

No effects are expected. The amendment adds property that was previously within County Line SUD's CCN. County Line SUD owns an elevated tank adjacent to this property that is capable of serving the requested area. No effect is expected regarding amendment of the CCN boundary adjacent to Polonia WSC. County Line SUD and Polonia WSC agreed to the proposed CCN boundary amendment. Currently, most of these properties affected fall within both service areas. The amendment will clarify which area each utility will serve and help in future infrastructure planning.

TWC § 13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service.

County Line SUD has a Texas Commission on Environmental Quality (TCEQ) approved Public Water System (PWS) Identification No. 1050038. County Line SUD does not have any violations listed in the TCEQ database. County Line SUD has the infrastructure and staff to provide quality service to new and existing customers.

TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.

Goforth SUD, Polonia WSC, and Maxwell WSC are all retail public water or sewer utilities within one half mile from the outer boundary of the requested area but are not servicing the proximate area. Obtaining service from another retail public utility would likely increase costs to customers because new facilities will need to be constructed. County Line SUD has an elevated tank and large lines adjacent to the property being added. The other area being amended, south of Uhland, includes mostly properties that are already partially inside County Line SUD's service area. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service.

Staff Witness Fred Bednarski III, Financial Analyst, Rate Regulation Division, prepared the analysis and recommendation for this section.

The provisions of 16 TAC § 24.11 establish the criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area. The financial tests include a leverage test and operations test. The Commission rules identify

five leverage tests.¹ The Applicant must demonstrate that it meets one of the five tests.² This analysis is based on financial statements ending December 31, 2018. These financial statements contained an unqualified auditor's opinion from Williams, Crow, Mask, LLP which stated that the financial statements present fairly, in all material respects, the financial position of the Applicant as of December 31, 2018. The audit and the related opinion indicate the transparency of the Applicant and indicate sound management capabilities.

The Applicant meets the first out of five tests under 16 TAC § 24.11(e)(2)(A) that requires the owner or operator must have a debt to equity ratio of less than one using long term debt and equity or net assets. The Applicant's debt to equity ratio is calculated as follows: long-term debt of \$6,141,575³ divided by net assets of \$10,017,504⁴ equals 0.61, which is less than one. The debt to equity ratio indicates the ability to leverage debt in order to install additional infrastructure. A debt to equity ratio of less than one is an indicator of financial stability and financial and managerial capability.

The provisions of 16 TAC § 24.11(e)(3) refer to the operations test that requires the owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Applicant did not submit projected financial statements in its application. However, based on the financial statements provided with the application, the Applicant had an increase in net assets of \$1,587,769 as of 12/31/2018, \$676,223 as of 12/31/2017, and \$521,662 as of 12/31/2016.⁵ Also the Applicant reported a cash and cash equivalents balance of \$1,578,626.⁶ Based on the history of the Applicant's financial increase in net assets, no operating shortages are expected in the first five years of operations. The developer will pay for the water distribution system and no other immediate improvements are required to provide service to the area subject to this application. Any improvements required in the future will be included in the Applicant's capital improvement planning process and paid for with impact fees collected by the Applicant.⁷ Therefore, the Applicant meets the operations test.

TWC § 13.246(d) allows the Commission to require an applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided.

Based on the financial and managerial review of the application and the recommendation of Fred Bednarski, CSWR-Texas and CSWR, LLC meet the financial tests. Therefore, no additional financial assurance is needed.

¹ See 16 TAC § 24.11(e)(2).

² *Id.*

³ Application at 415 of 451, (Feb.14, 2020).

⁴ *Id.*

⁵ *Id.* at 446 of 451.

⁶ *Id.* at 415 of 451.

⁷ Response to memo at 2 and 3 of 8 (Apr. 17, 2020).

TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.

County Line SUD will operate the system to ensure compliance with all environmental regulations. County Line SUD is not aware of any negative impacts or disruptions to the environment or land that would result from the transaction.

TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.

This is not applicable because there are no homes currently receiving service in the requested service area.

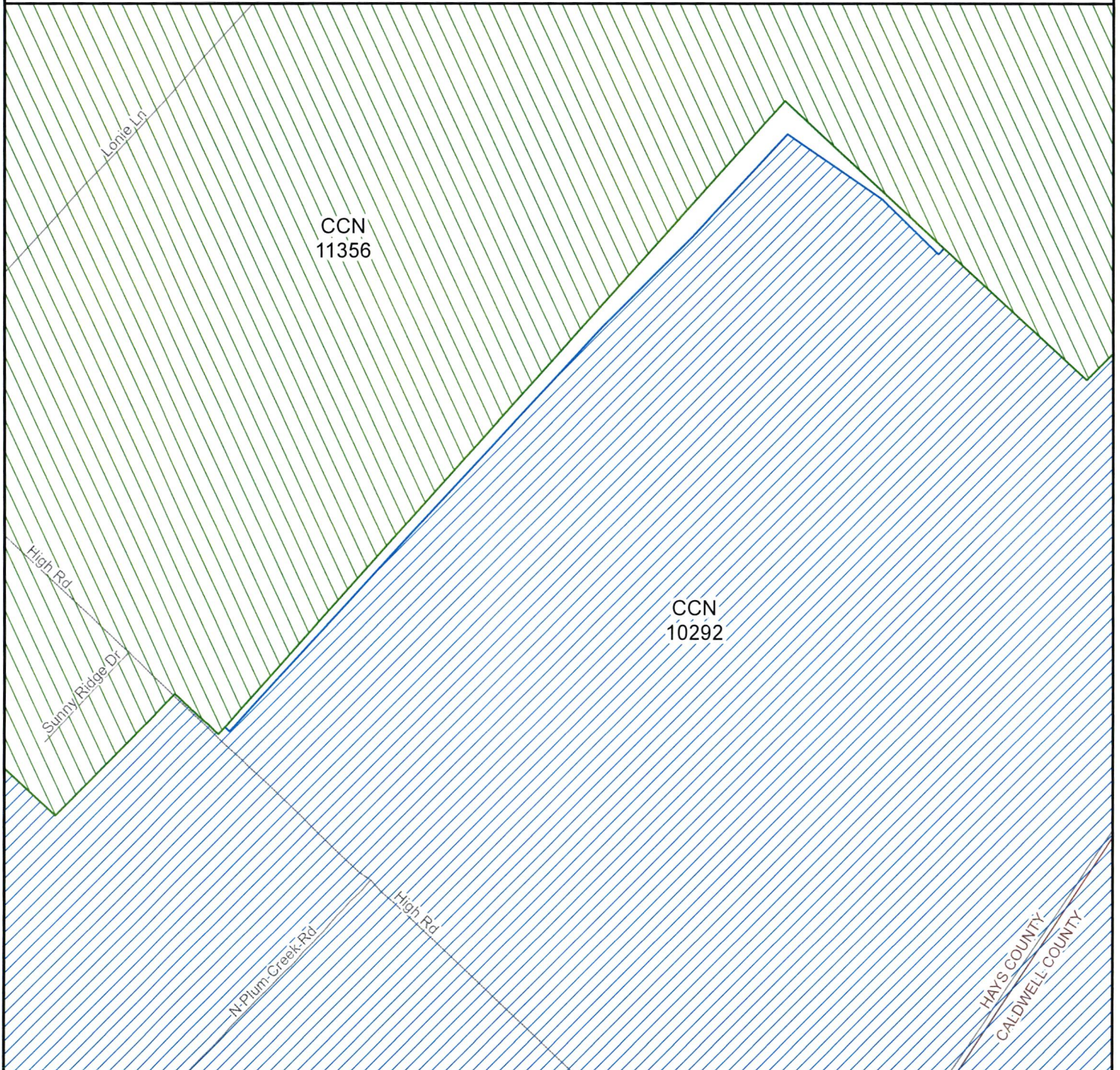
Based on the mapping review by Tracy Montes, Infrastructure Division, the financial and managerial review by Fred Bednarski, and my technical and managerial review, I recommend that County Line SUD meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service and approving this application to amend a water CCN No. 10292 is necessary for the service, accommodation, convenience and safety of the public.

The Applicant consented to the attached map and certificate on November 13, 2020.

The Polonia WSC consented to the attached map and certificate on November 13, 2020.

Based on the above information, I recommend the Commission approve the application, issue an order and provide the attached map(s), and certificate(s) to County Line SUD. I further recommend that County Line SUD file certified copies of the CCN maps along with a written description of the CCN service area in the county clerk's office pursuant to TWC §§ 13.257 (r)-(s).

County Line Special Utility District
Portion of Water CCN No. 10292
PUC Docket No. 50553
Amended CCN No. 10292 in Hays County



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

Water CCN

-  10292 - County Line SUD
-  11356 - Goforth SUD

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Feet



Map by: Komal Patel
Date created: October 15, 2020
Project Path: n:\finalmapping\
CountyLineSUDHaysMap1.mxd
Map 1 of 3

000008

County Line Special Utility District
Portion of Water CCN No. 10292
PUC Docket No. 50553
Decertified a Portion of CCN No. 10292 in Hays County

CCN
11024

Area Decertified

CCN
10293

Area Decertified

CCN
10292



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

Water CCN

- 10292 - County Line SUD
- 10293 - Maxwell WSC
- 11024 - City of Kyle

HAYS COUNTY
CALDWELL COUNTY

SH 21

FM 1966

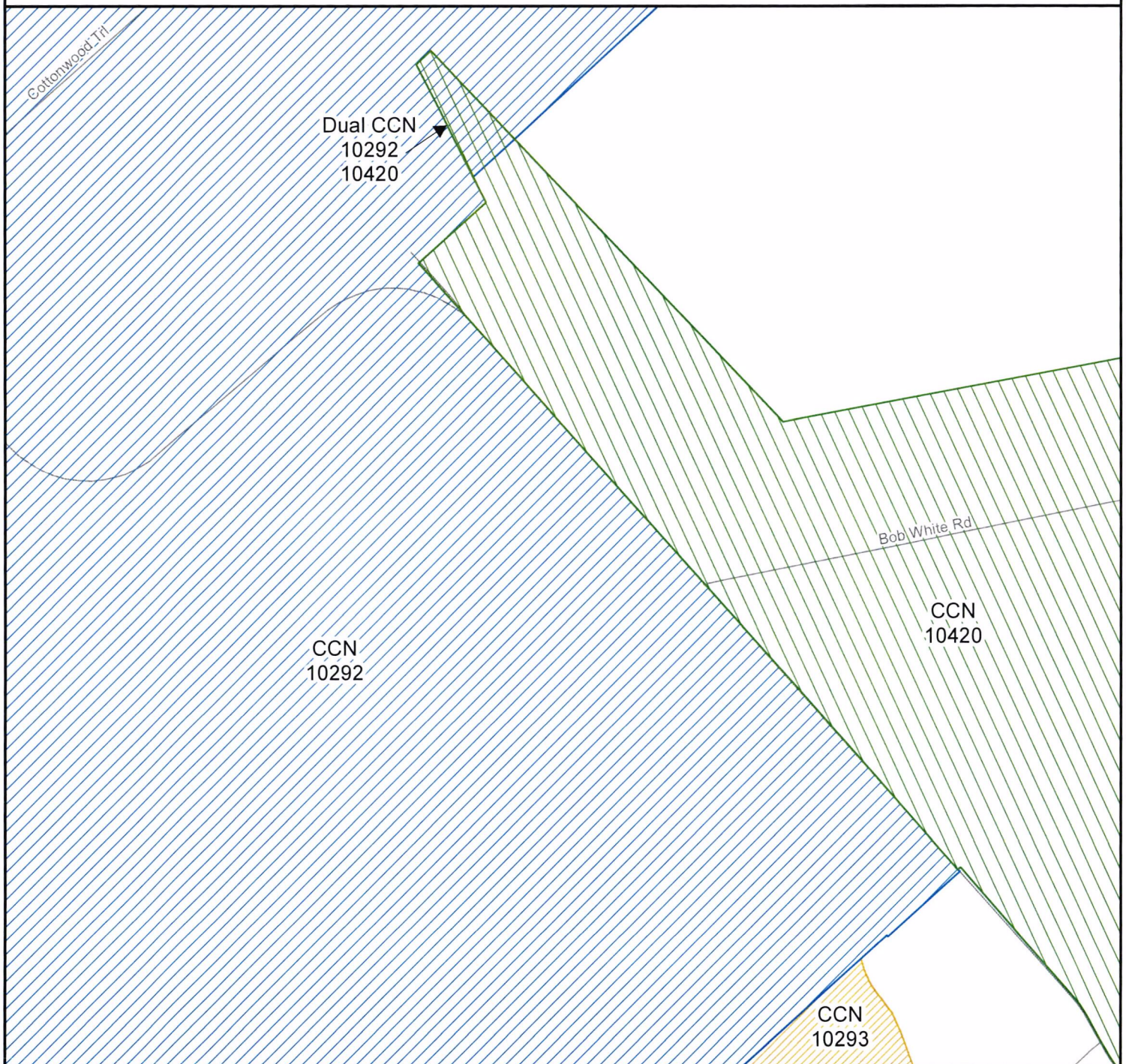
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Date created: October 15, 2020
Project Path: n:\finalmapping\50553CountyLineSUDHaysMap2.mxd
Map by: Komal Patel
Map 2 of 3




000009

County Line Special Utility District
Portion of Water CCN No. 10292
PUC Docket No. 50553
Amended CCN No. 10292 and
Decertified a Portion of Polonia Water Supply Corporation, CCN No. 10420 in Caldwell County



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

Water CCN

-  10292 - County Line SUD
-  10420 - Polonia WSC
-  10293 - Maxwell WSC

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Map by: Komal Patel
Date created: October 15, 2020
Project Path: n:\finalmapping\
50553CountyLineSUDCaldwell.mxd
Map 3 of 3

000010



Public Utility Commission of Texas

By These Presents Be It Known To All That County Line Special Utility District

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, County Line Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10292

to provide continuous and adequate water utility service to that service area or those service areas in Caldwell and Hays County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50553 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 County Line 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 _____ 2020.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Polonia 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, Polonia Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10420

to provide continuous and adequate water utility service to that service area or those service areas in Bastrop and Caldwell Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50553 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 Polonia 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 _____ 2020.