



Control Number: 50955



Item Number: 23

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DOCKET NO. 50955

APPLICATION OF THE CITY OF §  
DRIPPING SPRINGS TO AMEND ITS §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN HAYS COUNTY §

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PUBLIC UTILITY COMMISSION  
OF TEXAS  
CLERK

### NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Dripping Springs to amend its water certificate of convenience and necessity (CCN) number 13030 in Hays County. The Commission amends the City of Dripping Springs' water CCN number 13030.

#### I. Findings of Fact

The Commission makes the following findings of fact.

##### Applicant

1. Dripping Springs is a municipality located in Hays County.
2. Dripping Springs is a retail public utility that provides water service to customers in Hays County.
3. Dripping Springs operates, maintains, and controls facilities for providing retail water service in Texas under water CCN number 13030 in Hays County.
4. Dripping Springs owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification numbers 1050187 and 1050208.

##### Application

5. On June 18, 2020, Dripping Springs filed an application to amend its water CCN number 13030 in Hays County.
6. Dripping Springs supplemented its application on June 24, and 25, 2020, July 2, and 29, 2020.
7. The requested area consists of 1,067 acres and 0 existing customer connections.

8. The requested area is located approximately 6 miles southeast of downtown Dripping Springs, Texas, and is generally bounded on the north by Onion Creek and Farm to Market (FM) 1826; on the east by Onion Creek, Rutherford Drive, and Brangus Road; on the south by FM 1826 and FM 967; and on the west by FM 150 W and FM 967.
9. In Order No. 3 filed on October 7, 2020, the administrative law judge (ALJ) found the application administratively complete.

#### **Notice**

10. On November 18, 2020, Dripping Springs filed the affidavit of Robert Callegari, engineer for Dripping Springs, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on October 27, 2020.
11. On November 18, 2020, Dripping Springs filed a publisher's affidavit attesting to publication of notice in the *Dripping Springs Century News*, a publication of general circulation in Hays County, on October 29, 2020, November 3, 2020, and November 12, 2020.
12. In Order No. 4 filed on December 3, 2020, the ALJ found the notice sufficient.

#### **Map and Certificate**

13. On February 12, 2021, Commission Staff emailed the final map and certificate to Dripping Springs.
14. On March 2, 2021, Dripping Springs filed its consent to the proposed map and certificate.
15. On March 12, 2021, Commission Staff filed the proposed map and certificate as attachments to its joint motion to admit evidence and proposed notice of approval.

#### **Evidentiary Record**

16. On March 12, 2021, Commission Staff filed an agreed motion to admit evidence.
17. In Order No. 5 filed on March 12, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) Dripping Springs' application filed on June 18, 2020; (b) Dripping Springs' supplements to the application filed on June 24, and 25, 2020, July 2, and 29, 2020; (c) Dripping Springs' response to Commission Staff's first request for information filed on September 15, 2020; (d) Commission Staff's supplemental recommendation on administrative completeness filed on October 2, 2020; (e) Dripping

Springs' proof of notice filed on November 18, 2020; (f) Commission Staff's recommendation on sufficiency of notice filed on December 2, 2020; (g) Dripping Springs' consent form filed on March 2, 2021; (h) Commission Staff's final recommendation and attachments filed on March 5, 2021; and (i) the attached map and certificate.

**Adequacy of Existing Service—Texas Water Code (TWC) § 13.246(c)(1); 16 Texas Administrative Code (TAC) § 24.227(e)(1)**

18. There is development in the requested service area that is currently under construction.
19. Dripping Springs has a TCEQ approved public water systems registered as City of Dripping Springs public water system identification number 1050187 and Driftwood Golf and Ranch Club public water system identification number 1050208.
20. The Driftwood MMD Development is currently under construction with some sections complete. The Driftwood Conservation District Development water distribution system is in the design phase. Master meter construction is complete. Plans and Specifications were submitted to TCEQ on September 9, 2019.
21. There are no current customers in the requested area.

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

22. There are no existing customer connections in the requested area.
23. There is development in the requested area and the Developer is currently under contract to purchase 472 acres of the Property and the Developer plans to construct a golf course and residential development on the land once it is purchased from the owner, as described in the agreement for the provision of nonstandard retail water service. The owner will also retain 50 acres of the property and plans to construct a commercial development on the owner retained land.
24. Dripping Springs expects that there will be 299 additional connections projected for the requested service area.

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

25. Granting the CCN request will obligate Dripping Springs to provide water service to future customers in the 1,067-acre requested service area.

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<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DRIPPING SPRINGS TO AMEND ITS</b>	<b>§</b>	
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**I. Findings of Fact**

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**Applicant**

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19. Dripping Springs has a TCEQ approved public water systems registered as City of Dripping Springs public water system identification number 1050187 and Driftwood Golf and Ranch Club public water system identification number 1050208.
20. The Driftwood MMD Development is currently under construction with some sections complete. The Driftwood Conservation District Development water distribution system is in the design phase. Master meter construction is complete. Plans and Specifications were submitted to TCEQ on September 9, 2019.
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**Need for Service—TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)**

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23. There is development in the requested area and the Developer is currently under contract to purchase 472 acres of the Property and the Developer plans to construct a golf course and residential development on the land once it is purchased from the owner, as described in the agreement for the provision of nonstandard retail water service. The owner will also retain 50 acres of the property and plans to construct a commercial development on the owner retained land.
24. Dripping Springs expects that there will be 299 additional connections projected for the requested service area.

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

25. Granting the CCN request will obligate Dripping Springs to provide water service to future customers in the 1,067-acre requested service area.

26. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
27. There will be no effect on any retail public utility serving the proximate area.
28. The landowners in the areas will have a water provider available when they need to request water service.

**Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), (b), 13.246(c)(4); 16 TAC § 24.227(a), (e)(4)**

29. Dripping Springs has a TCEQ approved public water system registered as City of Dripping Springs public water system identification number 1050187 and Driftwood Golf and Ranch Club public water system identification number 1050208.
30. Dripping Springs does not have any unresolved violations listed in the TCEQ's database.
31. The Driftwood MMD Development is currently under construction with some sections complete.
32. The Driftwood Conservation District Development water distribution system is in the design phase.
33. Master meter construction is complete.
34. Dripping Springs has the managerial and technical capability to provide continuous and adequate service to the requested area.

**Feasibility of Obtaining Service from Adjacent Utilities—TWC § 13.246(c)(5) and 16 TAC § 24.227(e)(5)**

35. Dripping Springs received a request for service for the requested area from Driftwood MMD Development. Service was requested from neighboring utilities and none of them were able to provide service.
36. Dripping Springs has approved TCEQ plans to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

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

37. There are no other water service providers in the adjacent area that can serve the requested area.



38. Construction of a physically separate water system is not needed to serve the requested area.

**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)**

39. Dripping Springs has a debt service ratio greater than 1.25, which meets one of the five leverage tests.
40. Dripping Springs demonstrated it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after approval of the CCN amendment, satisfying the operations test.
41. Dripping Springs demonstrated the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

**Financial Assurance—TWC § 13.246(d); 16 TAC § 24.227(f)**

42. There is no need to require Dripping Springs 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(e)(7)**

43. The land will be disturbed initially for the installation of utility, roadway, and storm water infrastructure to the proposed developments.

**Effect on the Land—TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)**

44. The land will be disturbed initially for the installation of utility, roadway, and storm water infrastructure to the proposed developments.

**Improvement in Service—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)**

45. No improvement of service will result from granting the CCN as there are currently no customers in the requested area.

**Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)**

46. No lowering of cost to customers in the requested area will result from granting the CCN as there are currently no customers in the requested area.

**Informal Disposition**

47. More than 15 days have passed since the completion of the notice provided in this docket.
48. No person filed a protest or motion to intervene.

49. Dripping Springs 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 that the application be approved.
52. The 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. Dripping Springs is a municipality as defined by TWC § 13.002(12) and 16 TAC § 24.3(21).
3. Dripping Springs is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31)
4. Dripping Springs notice 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,<sup>1</sup> the TWC, and Commission rules.
5. The application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.227.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Dripping Springs has demonstrated adequate financial, managerial, and technical capability to providing continuous and adequate service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.
7. It is not necessary for Dripping Springs to provide a bond or other financial assurance under TWC § 13.246(d).

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<sup>1</sup> Tex. Gov't Code §§ 2001.001–.903.

8. Dripping Springs has demonstrated that amending water CCN number 13030 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. Under TWC § 13.257(r) and (s), Dripping Springs must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real property records of Hays County within 30 days of this Order and must submit evidence of the recording to the Commission.
10. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

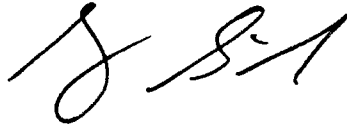
### **III. Ordering Paragraphs**

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

1. The Commission amends Dripping Springs water CCN number 13030 as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the certificate attached to this Notice of Approval.
3. The Commission approves the map attached to this Notice of Approval.
4. Dripping Springs must serve every customer and applicant for service within the approved area under CCN number 13030 who requests water service and meets the terms of Dripping Springs water service, and such service must be continuous and adequate.
5. Dripping Springs must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas Hays County affected by this application and file in this docket proof of the recording no later than 30 days after the date of this notice of approval.
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 26th day of March 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'G. R. Siemankowski', written in a cursive style.

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GREGORY R. SIEMANKOWSKI  
ADMINISTRATIVE LAW JUDGE

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# **Public Utility Commission of Texas**

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

## **City of Dripping Springs**

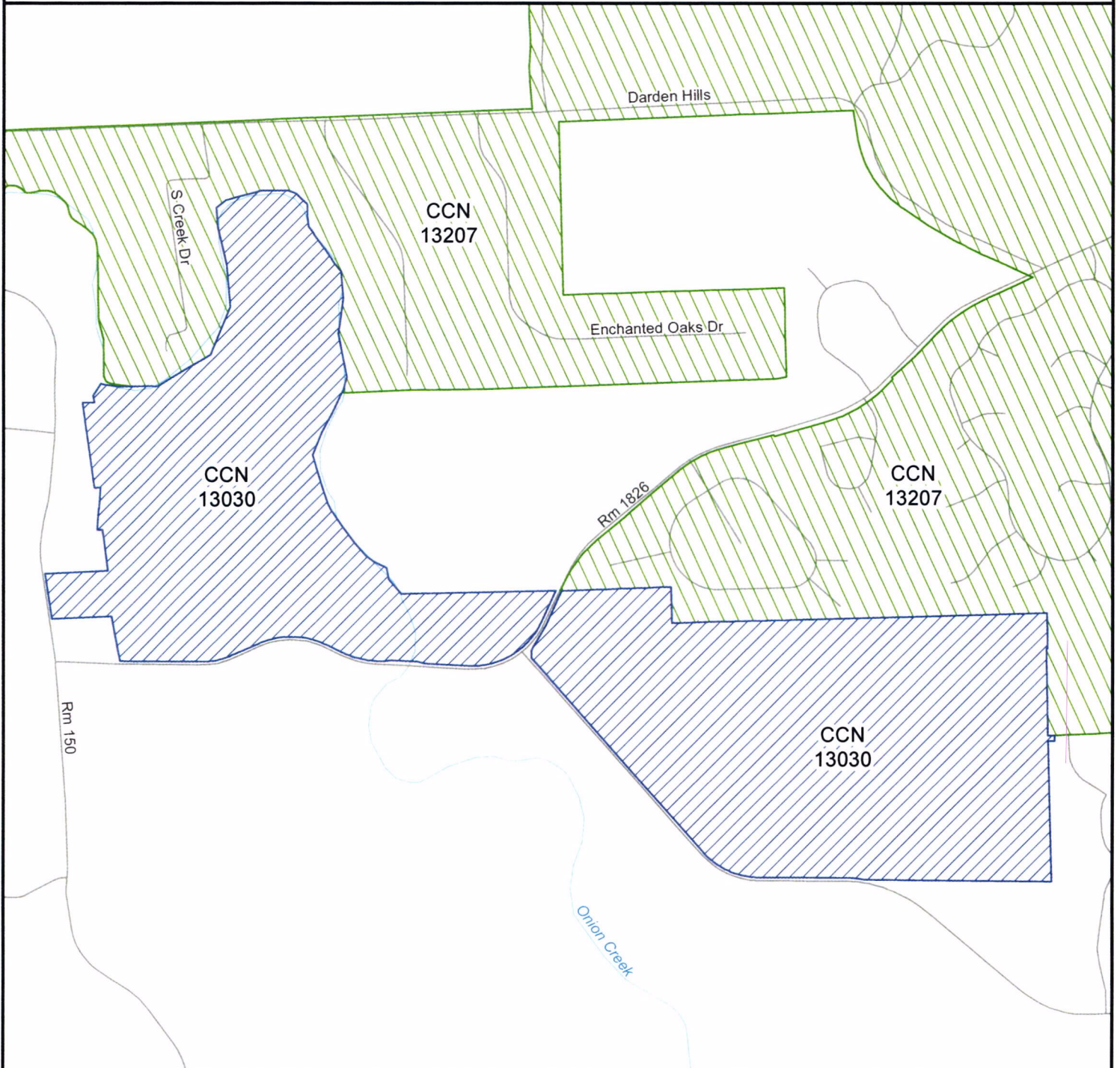
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Dripping Springs is entitled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

### **Certificate of Convenience and Necessity No. 13030**

to provide continuous and adequate water utility service to that service area or those service areas in Hays County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50955 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty City of Dripping Springs 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 26th day of March 2021.

City of Dripping Springs  
Portion of Water CCN No. 13030  
PUC Docket No. 50955  
Amended CCN No. 13030 in Hays County



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

**Water CCN**



13030 - City of Dripping Springs



13207 - West Travis County Public Utility Agency

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Feet



Map by: Komal Patel  
Date created: February 9, 2021  
Project Name: 50955CityofDS.mxd