



## Filing Receipt

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**DOCKET NO. 51170**

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SWEETWATER TO AMEND A</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AND NECESSITY IN NOLAN COUNTY</b>	<b>§</b>	

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER**

On August 14, 2020, the City of Sweetwater (Sweetwater) filed an application to amend its water certificate of convenience and necessity (CCN) No. 10228 in Nolan County, Texas under Texas Water Code §§ 13.242–.250 and 16 Texas Administrative Code (TAC) §§ 24.225–.237 (the Application). The requested area consisted of approximately: (1) 234 acres of uncertificated land; and (2) 53 acres of land within the current water CCN boundaries of Bitter Creek Water Supply Corporation, for a total of 287 acres. The Administrative Law Judge (ALJ) issued Order No. 6 on March 10, 2021, severing the Application into two dockets and directing that this Docket address Sweetwater’s request to add 234 acres of uncertificated land and one future customer connection. Sweetwater filed supplemental information on August 31, 2020, February 10, 2021, February 18, 2021, and May 10, 2021. Commission Staff filed its second supplemental final recommendation on June 9, 2021, recommending the application be approved. On November 18, 2021, Sweetwater filed its Notice of Consent to the maps and certificates provided by Commission Staff on November 4, 2021.

The Administrative Law Judge (ALJ) issued Order No. 17 on December 10, 2021, establishing a deadline of December 22, 2021, for Commission Staff, Bitter Creek, and Sweetwater (collectively, the Parties) to file a joint proposed Order, including findings of fact, conclusions of law, and ordering paragraphs. Therefore, this Joint Motion is timely filed.

While Bitter Creek does not agree with the Proposed Order submitted herewith, it will not contest the Proposed Order submitted by Sweetwater and Commission Staff. Counsel for Sweetwater provided a copy of this Joint Motion and the Proposed Order to counsel for Georgia-Pacific, LLC (Georgia Pacific), and counsel for Georgia Pacific stated that Georgia Pacific does not oppose the Joint Motion or the Proposed Order.

## **I. JOINT MOTION TO ADMIT EVIDENCE**

Sweetwater and Commission Staff request the entry of the following items into the record of this proceeding:

1. Sweetwater's Application filed on August 14, 2020 (Interchange Item No. 1);
2. Sweetwater's supplements to the application filed August 31, 2020, February 10, 2021, February 18, 2021, and May 10, 2021 (Interchange Item Nos. 3, 15, 17, and 24);
3. Commission Staff's Second Supplemental Recommendation on Administrative Completeness, filed on June 9, 2021 (Interchange Item No. 25);
4. Sweetwater's proof of notice filed on July 26, 2021 (Interchange Item No. 33);
5. Commission Staff's Recommendation on Sufficiency of Notice filed on August 5, 2021 (Interchange Item No. 36);
6. Sweetwater's Notice of Consent filed on November 18, 2021 (Interchange Item No. 48);
7. Commission Staff's Final Recommendation filed on December 10, 2021 (Interchange Item No. 50); and
8. The attached CCN map and certificate.

## **II. PROPOSED ORDER**

Sweetwater and Commission Staff respectfully request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs contained in the attached proposed Order.

Respectfully submitted,

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**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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/s/ R. Floyd Walker

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**ATTORNEYS FOR BITTER CREEK  
WATER SUPPLY CORPORATION**

**CERTIFICATE OF CONFERENCE**

The undersigned counsel certifies that she has conferred with counsel for Georgia-Pacific regarding this Joint Motion and the Proposed Order, and that counsel for Georgia Pacific did not oppose this Joint Motion and the Proposed Order.

  
DANIELLE LAM

**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 22, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

  
DANIELLE LAM

**DOCKET NO. 51170**

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SWEETWATER TO AMEND A</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AND NECESSITY IN NOLAN COUNTY</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses the application of the City of Sweetwater (Sweetwater), to amend its water certificate of convenience and necessity (CCN) No. 10228 in Nolan County. The application seeks to amend water CCN No. 10228 in Nolan County, Texas to include 234 acres of uncertificated land in Nolan County, Texas. The Commission approves the application and grants the amendment to the Sweetwater's water CCN No. 10228 for the requested 234 acres of land, to the extent provided in this Order.

**I. Findings of Fact**

**Applicant**

1. Sweetwater is a municipality located in Nolan County, Texas.
2. Sweetwater operates, maintains, and controls facilities that provide retail water service to customers in Nolan County, Texas.
3. Sweetwater owns and operates a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1770002.

**Application**

4. On August 14, 2020, Sweetwater filed the application at issue in this proceeding.
5. The application originally requested single certification of approximately 234 acres of uncertificated land, and dual certification of approximately 53 acres of land with Bitter Creek Water Supply Corporation (Bitter Creek WSC).

6. Sweetwater supplemented its application on August 31, 2020, February 10, 2021, February 18, 2021, and May 10, 2021.
7. In Order No. 6, the Commission administrative law judge (ALJ) severed the application into Docket Nos. 51170 and 51882, and directed that this Docket only address Sweetwater's request to add 234 acres of uncertificated land to its existing water CCN.
8. The requested 234 acres of land is located approximately 4 miles from Sweetwater, Texas, and is generally bounded on the north by I-20; on the east by a line approximately ½ mile east of FM 1856; on the south by CR 220; and on the west by FM 1856.
9. In Order No. 8, filed on June 10, 2021, the Administrative Law Judge (ALJ) found the application, as supplemented, administratively complete.

### **Notice**

10. On July 26, 2021, Sweetwater filed the affidavit of Danielle Lam, attorney for Sweetwater, attesting that notice was mailed to affected entities, landowners, and customers on June 25, 2021.
11. On July 26, 2021, Sweetwater filed a publisher's affidavit attesting to publication of notice in the Sweetwater Reporter, a publication of general circulation in Nolan County, Texas, on June 29, 2021, and July 6, 2021.
12. In Order No. 13 filed on August 6, 2021, the ALJ found the notice sufficient.

### **Intervention and Opt-Out Request**

13. On September 11, 2020, Georgia-Pacific, LLC (Georgia Pacific) submitted an opt-out request for the 234 acres of uncertificated land.
14. On October 22, 2020, Bitter Creek WSC filed a motion to intervene.



15. In Order No. 4 filed January 13, 2021, the ALJ granted Bitter Creek WSC's motion to intervene.
16. On January 6, 2021, Georgia Pacific filed a motion to rescind its opt-out notice and a motion to intervene.
17. In Order No. 5 filed on March 3, 2021, the ALJ granted Georgia Pacific's motions.
18. On June 28, 2021, after the application had been severed, Bitter Creek WSC filed a second motion to intervene.
19. In Order No. 10 filed on July 6, 2021, the ALJ granted Bitter Creek WSC's second motion to intervene.

#### **Certificate and Maps**

20. On November 4, 2021, Commission Staff emailed the final map and water CCN certificate to Sweetwater, contemplating a service area of approximately 234 acres to be added to Sweetwater's water CCN boundaries.
21. On November 18, 2021, Sweetwater filed its consent to the Commission Staff's final map and certificate provided on November 4, 2021.

#### **Evidentiary Record**

22. On \_\_\_\_\_, 2021, the Parties filed a joint motion to admit evidence.
23. In Order No. \_\_, filed on \_\_\_\_\_, 2021, the ALJ admitted the following into evidence: (a) Sweetwater's application filed on August 14, 2020; (b) Sweetwater's supplements to the application filed August 31, 2020, February 10, 2021, February 18, 2021, and May 10, 2021; (c) Commission Staff's Second Supplemental Recommendation on Administrative Completeness, filed on June 9, 2021; (d) Sweetwater's proof of notice filed on July 26, 2021; (e) Commission Staff's Recommendation on Sufficiency of Notice

filed on August 5, 2021; (f) Sweetwater's Notice of Consent filed on November 18, 2021; (g) Commission Staff's Supplemental Final Recommendation including all attachments filed on December 10, 2021.

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

24. There are no existing customers in the requested area.

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

25. There is a need for water service in such 234-acre area as there is one commercial property owner, Georgia Pacific, that has requested water service.

26. Sweetwater filed a water supply agreement with Georgia Pacific and other documentation demonstrating the need for water service in the requested 234-acre service area.

**Effect of Approving the Application and Granting the Certificate—TWC §§ 13.241(b) and 13.246(c)(3); 16 TAC § 24.227(e)(3)**

27. Sweetwater will be the sole certificated entity for the requested area and will be obligated to provide continuous and adequate water service to the requested area.

28. Sweetwater will be able to provide water to Georgia Pacific in accordance with their water supply agreement.

29. All retail public utilities in the proximate area(s) were provided notice of the CCN amendment in this application and Bitter Creek WSC was the only retail public utility to intervene.

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

30. Sweetwater provides water service from a PWS that is registered with the TCEQ under identification number 1770002.

31. Sweetwater employs TCEQ-licensed operators who are responsible for operating the PWS.

32. Sweetwater does not have any unaddressed violations listed in the TCEQ database.
33. Sweetwater will need to install a distribution line to serve the requested area.
34. Sweetwater has the managerial and technical capability to provide continuous and adequate retail water service to the requested area.

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

35. Because the requested area will not require construction of a physically separate water system, consideration of regionalization or consolidation with another retail public utility was not considered.

**Feasibility of Obtaining Service from an Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)**

36. Sweetwater has received a request for service for the requested area from Georgia-Pacific, LLC.
37. Sweetwater and Georgia Pacific have executed a water supply agreement.
38. Sweetwater will need to install a distribution line to serve the requested area.
39. While Bitter Creek WSC has a lines plus 200 feet water CCN near the requested area, it does not possess a water CCN over such land.

**Ability to Serve: Financial Ability and Stability—TWC § 13.246(c)(6); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e)**

40. Sweetwater demonstrated it has sufficient unrestricted cash available as a cushion for two years of debt service; satisfying the leverage test.
41. Sweetwater 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.

42. Sweetwater demonstrated the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.
43. Sweetwater will provide capital improvements needed to provide continuous and adequate service to the requested area, funded by the Sweetwater Enterprise for Economic Development-Municipal Development District.

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

44. There is no need to require Sweetwater to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7) and (9); 16 TAC § 24.227(e)(7) and (9)**

45. The environmental integrity of the land will be minimally affected as the distribution line is installed to provide service to Georgia Pacific.

**Improvement in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)**

46. Georgia Pacific will have retail water service available.

**Informal Disposition**

47. More than 15 days have passed since the completion of the notice provided in this docket.
48. All opt out requests have been withdrawn.
49. Sweetwater, Commission Staff, Bitter Creek WSC, and Georgia Pacific 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 jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, and 13.246.
2. Sweetwater is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Notice of the application 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 TWC §13.244 and 16 TAC § 24.227.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Sweetwater has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.241 and 16 TAC § 24.227.
7. It is not necessary for Sweetwater to provide a bond or other financial assurance under TWC § 13.246(d).
8. Sweetwater has demonstrated that amending water CCN number 10228 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), Sweetwater must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real

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

property records of Nolan County within 31 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 Sweetwater's water CCN number 10228, as described in this Order and shown on the attached map.
2. The Commission approves the certificate attached to this Order.
3. The Commission approves the map attached to this Order.
4. Sweetwater must serve every customer and applicant for service within the approved area under CCN number 10288 who requests water service and meets the terms of Sweetwater's water service policies, and such service must be continuous and adequate.
5. Sweetwater must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas of Nolan County, Texas affected by this application and file in this docket proof of the recording no later than 30 days after the date of this Order.
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 on the \_\_\_\_ day of \_\_\_\_\_, 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**ISAAC TA  
ADMINISTRATIVE LAW JUDGE**



# **Public Utility Commission of Texas**

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

## **City of Sweetwater**

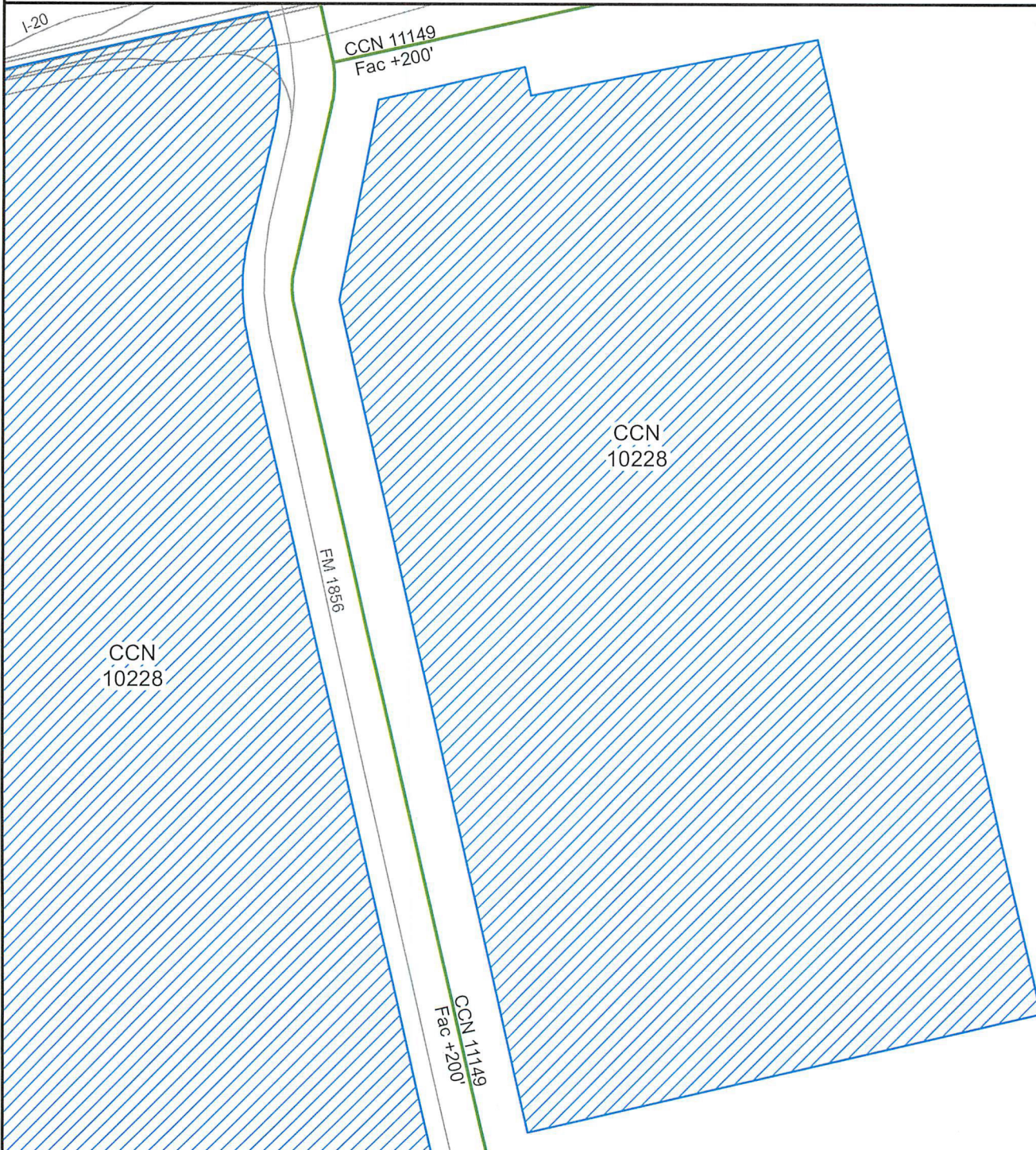
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Sweetwater is entitled to this

### **Certificate of Convenience and Necessity No. 10228**

to provide continuous and adequate water utility service to that service area or those service areas in Fisher and Nolan Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51170 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 City of Sweetwater 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.



City of Sweetwater  
Portion of Water CCN No. 10228  
PUC Docket No. 51170  
Amended CCN No. 10228 in Nolan County



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

**Water CCN**

 10228 - City of Sweetwater

**Water CCN Facilities +200'**

 11149 - Bitter Creek WSC

0 325 650  
Feet



Map by: Komal Patel  
Date: October 28, 2021  
Project: CityofSweetwater.mxd