



Control Number: 51352



Item Number: 12

Addendum StartPage: 0

DOCKET NO. 51352

2020 NOV 12 AM 11:04
PUBLIC UTILITY COMMISSION
OF TEXAS

**PETITION OF CARNEGIE §
DEVELOPMENT, LLC TO AMEND §
JAMES A. DYCHE DBA CREST §
WATER COMPANY CERTIFICATE §
OF CONVENIENCE AND §
NECESSITY IN JOHNSON COUNTY §
BY EXPEDITED RELEASE §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF’S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 2, files this Recommendation on Final Disposition. Staff recommends that the petition be approved. In support thereof, Staff shows the following:

I. BACKGROUND

On September 21, 2020, Carnegie Development, LLC (Carnegie Development) filed a petition to amend James A. Dyche dba Crest Water Company’s (Crest) water certificate of convenience and necessity (CCN) No. 12037 in Johnson County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). Carnegie Development seeks the streamlined expedited release of a 195.47-acre tract of land within the boundaries of Crest’s water CCN.

On September 30, 2020, Crest filed a motion to intervene in this proceeding. On October 30, 2020, Order No. 2 was filed, granting Crest’s motion to intervene. Order No. 2 also found the petition administratively complete and established a deadline of November 11, 2020 for Staff to file its recommendation on final disposition. Therefore, this pleading is timely filed.¹

II. FINAL RECOMMENDATION

As supported by the attached memorandum of Reginald Tuvilla in the Commission’s Infrastructure Division, Staff recommends that the petition be approved. Staff recommends that Carnegie Development’s petition satisfies the requirements of TWC § 13.2541(b) and 16 TAC § 24.245(h). Staff has confirmed that the requested area is approximately 195 acres, within

¹ Under 16 TAC § 22.4(a), this pleading is timely filed because the Commission was not open for business on November 11, 2020 because it was Veterans Day.

12

Johnson County, which is a qualifying county, and within Crest's certificated area. Further, Carnegie Development has provided deeds confirming its ownership of the property and provided the affidavit of Tim Barton, attesting that the property is not receiving water service from Crest.

While Crest has provided documents demonstrating that Carnegie Development has *requested* water service, Crest has not provided documents demonstrating that it has *provided* water service to Carnegie Development.² In response to discovery, Crest was unable to provide contracts for water service or bills for water service provided to Carnegie Development's property in the last 12 months.³ What Crest did provide was a letter from Carnegie Development requesting service, the Notice of Approval from Docket No. 48405,⁴ and an email from James A. Dyche describing the facilities that would need to be installed to provide service to Carnegie Development's tract, the amount of land needed for the facilities, the cost of the facilities, and the amounts of various fees like tap fees and connection fees.⁵ However, none of the information demonstrates that Crest has taken any steps to begin designing, constructing, or installing these facilities nor has Crest provided evidence regarding the presence of existing facilities that could be used to serve the property or that are located on, or run through, the property.

Therefore, Staff recommends that the petition meets the requirements of TWC § 13.2541 and 16 TAC § 24.245(h). The final map is attached to this filing. Staff additionally recommends that the final map and certificate be provided to Crest and that Crest file a certified copy of the CCN maps, a boundary description of the CCN service area, and a certified copy of the amended certificate with the Johnson County Clerk's office, as required under TWC § 13.257(r)-(s).

² Once again, Staff acknowledges that Crest sought approval of a CCN amendment in Docket No. 48405 in response to a request to serve the 195-acre tract that Carnegie Development now seeks to have released from Crest's CCN. Although this is an unusual situation, Staff does not believe there is anything in TWC § 13.2541 or 16 TAC § 24.245(h) that prohibits a landowner whose request for service from a utility necessitated a CCN amendment from later petitioning to be released from the CCN provided that petition satisfies all of the criteria for a streamlined expedited release.

³ Responses to Commission Staff's First Request for Information to James A. Dyche dba Crest Water Company at Response to Staff 1-1 and 1-2 (Nov. 5, 2020) (Response to Staff's First RFI).

⁴ Application of Crest Water Company to Amend a Certificate of Convenience and Necessity in Johnson County, Docket No. 48405, Notice of Approval (Mar. 25, 2019).

⁵ Response to Staff's First RFI at Response to Staff 1-3 and 1-4.

III. CONCLUSION

Staff respectfully recommends that Carnegie Development's petition be approved and that an order be issued consistent with this recommendation.

Dated: November 12, 2020

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ Daniel Moore
Daniel Moore
State Bar No. 24116782
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711
(512) 936-7465
(512) 936-7268 (facsimile)
Daniel.Moore@puc.texas.gov

DOCKET NO. 51352

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 November 12, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore

Public Utility Commission of Texas

Memorandum

TO: Daniel Moore, Attorney
Legal Division

FROM: Reginald Tuvilla, Infrastructure Analyst
Infrastructure Division

DATE: November 12, 2020

RE: Docket No. 51352 – *Petition of Carnegie Development, LLC to Amend James A. Dyche dba Crest Water Company Water Certificate of Convenience and Necessity in Johnson County by Expedited Release*

On September 21, 2020, Carnegie Development, LLC (Carnegie Development) filed a petition for streamlined expedited release from James A. Dyche dba Crest Water Company's (Crest Water) water certificate of convenience and necessity (CCN) No. 12037 in Johnson County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). Carnegie Development asserts that the land is at least 25 contiguous acres, that it is not receiving water service, and that it is located in Johnson County, which is a qualifying county.

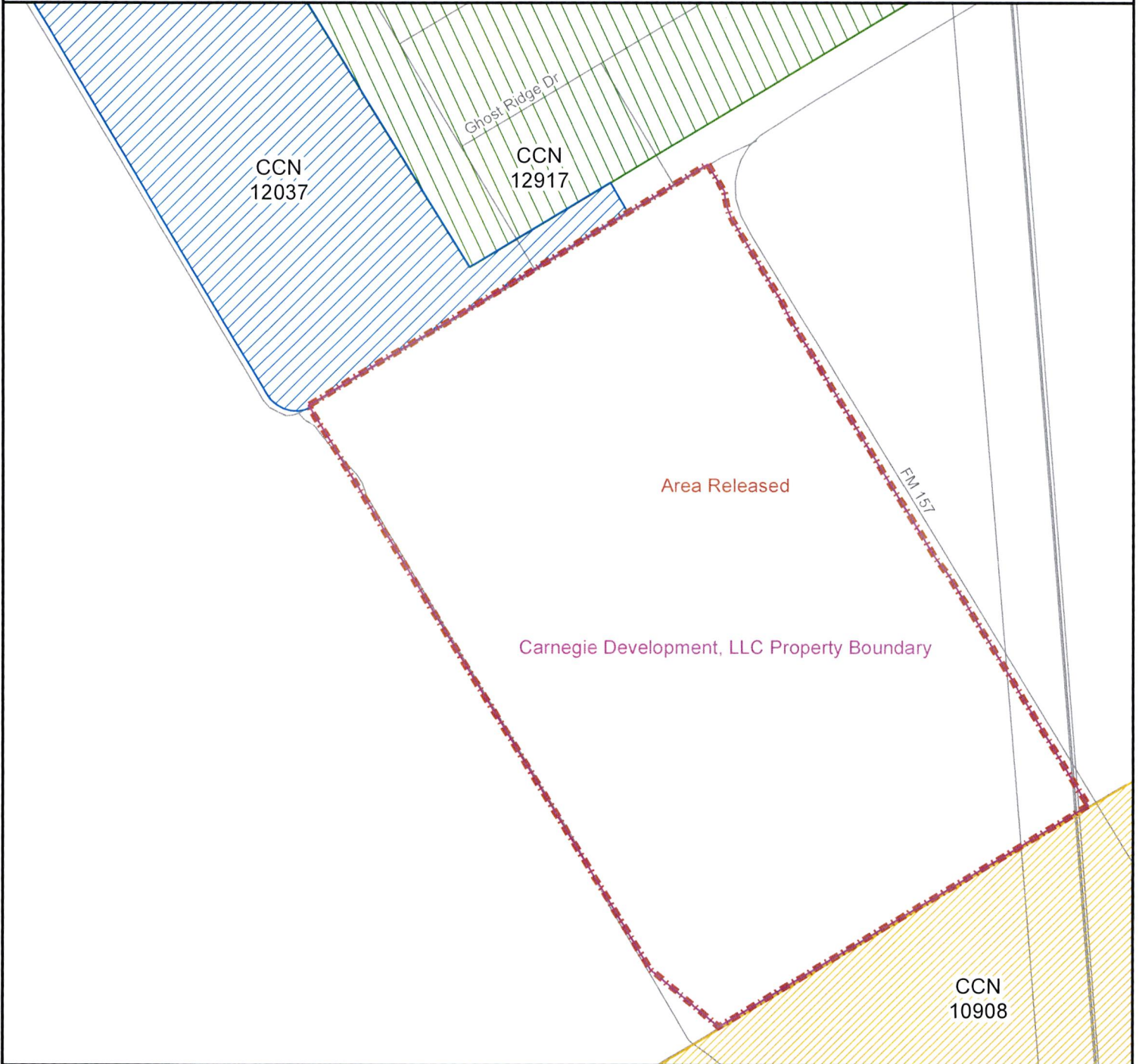
Carnegie Development submitted adequate maps delineating the requested area for expedited release with enough detail to confirm the accurate positioning of its digital data pursuant to 16 TAC § 24.245(k). The map and digital data are sufficient for determining the locations of the requested release areas within Crest Water's certificated area. Mapping Staff was able to confirm the acreage of the subject property and determined that the requested areas are located within Crest Water's water CCN. Carnegie Development provided warranty deeds confirming Carnegie Development's ownership of the tracts of land within Crest Water's certificated area. In addition, Carnegie Development submitted a sworn affidavit attesting that the property was not receiving water from the CCN holder. The area being requested for expedited release is approximately 195 acres.

Crest Water requested to intervene in the proceeding.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), Carnegie Development has met the Commission's requirements to allow for the release of the requested area from Crest Water's CCN No. 12037. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.


Additionally, I recommend that a final map and certificate be provided to Crest Water. Pursuant to TWC § 13.257 (r)-(s), I further recommend that Crest Water file the following information in the Johnson County Clerk's office: (1) a certified copy of the CCN map; (2) a certified copy of the amended certificate; and (3) a boundary description of the CCN service area.

James A. Dyche dba Crest Water Company
Portion of Water CCN No. 12037
PUC Docket No. 51352
Petition by Carnegie Development, LLC to Amend
James A. Dyche dba Crest Water Company's CCN by Expedited Release in Johnson County



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

Water CCN

-  12037 - James A Dyche
-  12917 - Mauka Water LTD
-  10908 - Mountain Peak SUD

-  Area Released
-  Property Boundary

0 350 700
Feet



Map by: Komal Patel
Date created: November 9, 2020
Project Path: n:\finalmapping\
51352JamesADyche.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

James A. Dyche dba Crest Water Company

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, James A. Dyche dba Crest Water Company is entitled to this

Certificate of Convenience and Necessity No. 12037

to provide continuous and adequate water utility service to that service area or those service areas in Ellis, Hill, Johnson and Somervell Counties as by Final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51352 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 James A. Dyche dba Crest Water Company 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 _____ 20__.