



Control Number: 51400



Item Number: 23

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**DOCKET NO. 51400**

**PETITION OF RCR HEMPSTEAD  
RAIL, LP TO AMEND G&W WATER  
SUPPLY COMPANY'S CERTIFICATE  
OF CONVENIENCE AND NECESSITY  
IN WALLER COUNTY BY  
EXPEDITED RELEASE**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER**

This Order addresses the petition by RCR Hempstead Rail, LP for streamlined expedited release of a tract of land in Waller County from the service area under certificate of convenience and necessity (CCN) number 12391. G&W Water Supply Corporation is the holder of CCN number 12391. For the reasons stated in this Order, the Commission releases the tract of land from G&W Water's certificated service area. In addition, the Commission amends G&W Water's CCN number 12391 to reflect the removal of this tract of land from the service area.

Following entry of this Order, the Commission will determine the amount of compensation, if any, to be awarded to G&W Water, which will be addressed by separate order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Petitioner**

1. The petitioner is a Texas limited partnership registered with the secretary of state under filing number 802868018.

**CCN Holder**

2. G&W Water is a Texas nonprofit corporation registered with the Texas secretary of state under filing number 106049001.
3. G&W Water holds CCN number 12391 that obligates G&W Water to provide retail water service in its certificated service area in Waller County.

**Petition**

4. On October 7, 2020, the petitioner filed its petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 12391.

5. The October 7, 2020 petition includes metes and bounds surveys; maps of the subject property and digital data; and a special warranty deed dated June 29, 2018 and January 2, 2019.
6. On November 30, 2020, the petitioner supplemented its petition which included an affidavit, dated November 20, 2020, of Hydie H. McAlister, manager of the petitioner's general partner, verifying the petition and attesting that the property is not receiving water services from the CCN holder.
7. In Order No. 3 filed on January 7, 2021, the administrative law judge (ALJ) found the petition administratively complete.

#### **Notice**

8. The petitioner sent a copy of the original petition by certified mail, return receipt requested, to the CCN holder on October 20, 2020.
9. In Order No. 3 filed on January 7, 2021, the ALJ found the notice of the petition sufficient.

#### **Intervention and Response to Petition**

10. In Order No. 4 filed on January 12, 2021, the ALJ granted the CCN holder's motion to intervene.
11. The CCN holder filed a response to the petition on November 13, 2020.
12. The CCN holder's response includes the affidavit of Sean Conner, engineer and the employee of J. F. Fontaine & Associates, Inc. that serves as engineering consultant for the CCN holder, and a map of the tract of land and surrounding area.

#### **The Tract of Land**

13. The tract of land is 137.04 acres and is in Waller County.

#### **Ownership of the Tract of Land**

14. The petitioner acquired the tract of land by a special warranty deed dated June 29, 2018 and January 2, 2019.

#### **Qualifying County**

15. Waller County abuts Harris County and has a population greater than 47,500.
16. Harris County has a population greater than one million people.

**Water Service**

17. The tract of land is not receiving actual water service from the CCN holder.
18. The petitioner has never requested that the CCN holder provide water service to the tract of land or paid any fees or charges to initiate or maintain such water service, and there are no billing records or other documents indicating an existing account with the CCN holder for water service to the tract.
19. The CCN holder provides water service in the vicinity of, but not on, the tract of land.
20. The CCN holder has sufficient capacity to serve the tract of land and has water facilities near the tract of land but does not have any water facilities on the tract of land.
21. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
22. The CCN holder has no facilities or lines that provide water service to the tract of land.
23. The CCN holder has not performed any acts for or supplied anything to the tract of land.

**Map and Certificate**

24. On February 5, 2021, Commission Staff filed its recommendation that included a certificate and a map on which it identified the tract of land in relationship to the CCN holder's certificated service area.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition for streamlined expedited release under Texas Water Code (TWC) §§ 13.254 and 13.2541.
2. The petitioner provided notice of the petition in compliance with 16 Texas Administrative Code (TAC) § 24.245(h)(3)(F).
3. No opportunity for a hearing on a petition for streamlined expedited release is provided under TWC §§ 13.254 or 13.2541 or 16 TAC § 24.245(h)(7).
4. Petitions for streamlined expedited release filed under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are not contested cases.

5. Landowners seeking streamlined expedited release under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are required to submit a verified petition through a notarized affidavit, and the CCN holder may submit a response to the petition.
6. To obtain release under TWC § 13.2541(b), a landowner must demonstrate that the landowner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN.
7. The petitioner owns a tract of land, which is at least 25 acres, for which it seeks streamlined expedited release through the petition.
8. Waller County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
9. The tract is not receiving water service under TWC §§ 13.002(21) and 13.2541 and 16 TAC § 24.245(h), as interpreted in *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130 (Tex. App.—Austin 2014, pet. denied).
10. The petitioner is entitled under TWC § 13.2541(b) to the release of the tract of land from the CCN holder's certificated service area.
11. After the date of this Order, the CCN holder has no obligation under to provide retail water service to the petitioner's tract of land.
12. The Commission has no authority to decertificate any facilities or equipment owned and operated by the CCN holder to provide retail water service through the streamlined-expedited-release process under TWC § 13.2541(b).
13. The Commission processed the petition in accordance with the TWC and Commission rules.
14. Under TWC § 13.257(r) and (s), the CCN holder is required to record certified copies of the approved certificate and map, along with a boundary description of the service area, in the real property records of Waller County no later than the 31st day after the date the CCN holder receives this Order.

15. A retail public utility may not, under TWC § 13.254(d), provide retail water service to the public within the tract of land unless just and reasonable compensation under TWC § 13.254(g) has been paid to the CCN holder.

### **III. Ordering Paragraphs**

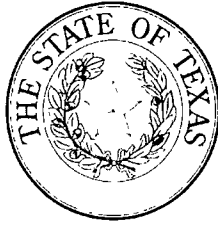
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission releases the tract of land identified in the petition from the CCN holder's service area under CCN number 12391.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the petitioner's tract of land.
3. The Commission amends CCN number 12391 in accordance with this Order.
4. The Commission approves the attached map.
5. The Commission approves the attached certificate.
6. The CCN holder must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of this Order.
7. The proceeding to determine the amount of compensation to be awarded to the CCN holder, if any, commences with the filing of this Order in accordance with the schedule adopted in Order No. 3. Any decision on compensation will be made by a separate order.
8. The Commission denies all other motions and any other requests for general or specific relief not expressly granted by this Order.

Signed at Austin, Texas the 7<sup>th</sup> day of April 2021.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**ARTHUR C. D'ANDREA, COMMISSIONER**



# **Public Utility Commission of Texas**

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

## **G & W 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 by G & W Water Supply Corporation, is entitled to this

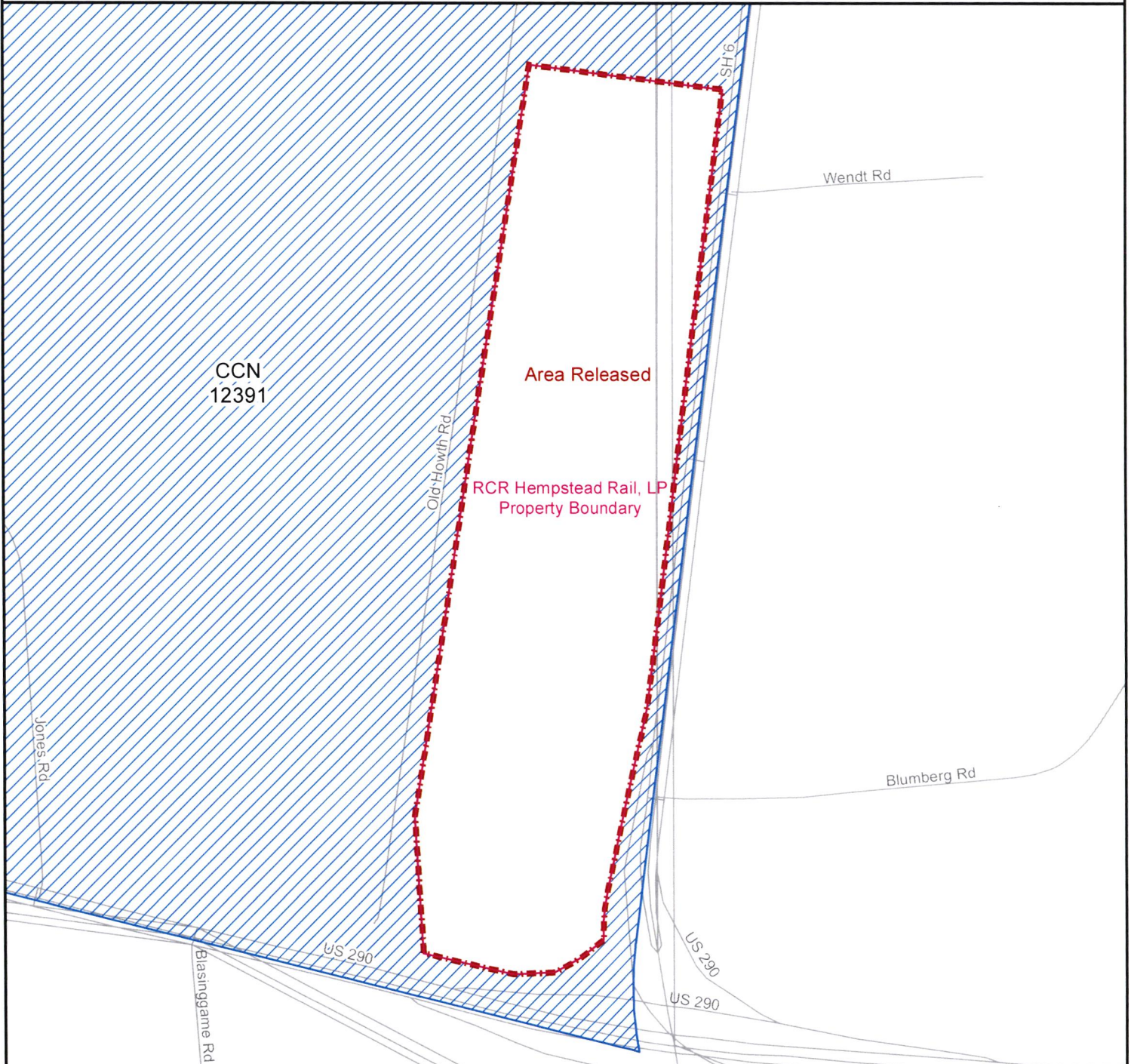
### **Certificate of Convenience and Necessity No. 12391**

to provide continuous and adequate water utility service to that service area or those service areas in Grimes and Waller Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51400 are on file at the Commission offices in Austin, Texas; and is a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of G & W 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 7<sup>th</sup> day of April 2021.



G & W Water Supply Company  
Portion of Water CCN No. 12391  
PUC Docket No. 51400  
Petition by RCR Hempstead Rail, LP to Amend  
G & W Water Supply Company's CCN by Expedited Release in Waller County



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

**Water CCN**



12391 - G & W WSC



Area Released



Property Boundary

0 400 800  
Feet



Map by: Komal Patel  
Date created: January 28, 2021  
Project Path: n:\finalmapping\  
51400G&WWSC.mxd