



Control Number: 51455



Item Number: 18

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DOCKET NO. 51455

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PETITION OF CLAY ROAD 628 §  
DEVELOPMENT, LP TO AMEND T&W §  
WATER SERVICE COMPANY'S §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN MONTGOMERY §  
COUNTY BY EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION  
OF TEXAS

ORDER NO. 6  
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition, as amended, filed by Clay Road 628 Development, LP for streamlined expedited release of a portion of a tract of land in Montgomery County from the service area under water certificate of convenience and necessity (CCN) number 12892. T&W Water Service Company is the holder of CCN number 12892. For the reasons stated in this Order, the Commission releases the tract of land from T&W Water Service's certificated service area. In addition, the Commission amends T&W Water Service's CCN number 12892 to reflect the removal of this property from the service area.

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

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Petitioner**

1. Clay Road 628 is a Texas limited partnership registered with the Texas secretary of state under filing number 800524372.

**CCN Holder**

2. T&W Water Service is a Texas corporation registered with the Texas secretary of state under filing number 46041000.
3. T&W Water Service holds CCN number 12892 that obligates it to provide retail water service in its certificated service area in Montgomery County.

**Petition**

4. On October 22, 2020, the petitioner filed a petition for streamlined expedited release of a portion of a tract of land from the CCN holder's service area under CCN number 12892.
5. The petition includes (a) an affidavit, dated October 21, 2020, of Perry Senn, the petitioner's vice president; (b) a CCN release settlement agreement between the petitioner and the CCN holder; (c) an affidavit, dated October 19, 2020, of Ron Payne, the CCN holder's general manager; (d) maps of the subject property and digital mapping data; (e) a special warranty deed with vendor's lien in favor of mortgagee dated October 10, 2018; (f) a special warranty deed with vendor's lien in favor of mortgagee dated October 11, 2018; (g) a general warranty deed with vendor's lien in favor of mortgagee dated December 18, 2018; and (h) a joint filing by the petitioner and CCN holder regarding compensation.
6. On October 29, 2020, the petitioner supplemented the petition with a CCN release settlement agreement executed by the petitioner and the CCN holder, filed under confidential seal.
7. On March 2, 2021, the petitioner filed an amended petition to remove from its release request the portion of Clay Road 628's property on which T&W Water Service has an easement for its water well and treatment facility. The amended petition includes revised maps and digital mapping data.
8. On March 26, 2021, the petitioner filed a revised amended petition to remove from its release request the portion of Clay Road 628's property on which T&W Water Service has an easement for its water well and treatment facility and where T&W Water Service has or will have its water lines. The revised amended petition includes revised maps and digital mapping data.
9. In Order No. 5 filed on April 5, 2021, the administrative law judge (ALJ) found the petition, as amended, administratively complete.

**Notice**

10. The petitioner sent a copy of the petition by certified mail to the CCN holder on October 22, 2020.

11. In Order No. 5 filed on April 5, 2021, the ALJ found the notice sufficient.

**Intervention and Response to the Petition**

12. The CCN holder has not sought to intervene in this proceeding.

13. The CCN holder does not oppose the petition.

**The Tract of Land**

14. The tract of land is approximately 269 acres, is in Montgomery County, and is comprised of the following five contiguous parcels: (a) parcel 1 is approximately 10.346 acres; (b) parcel 2 is approximately 136.888 acres; (c) parcel 3 is approximately 55.045 acres; (d) parcel 4 is approximately 46.21 acres; and (e) parcel 5 is approximately 20.49 acres.

15. The portion of the tract of land for which the petitioner seeks streamlined expedited release (the release property) is approximately 194 acres.

16. The release property is located within the CCN holder's certificated service area.

**Ownership of the Tract of Land**

17. The petitioner acquired parcels 1, 2, and 3 by a special warranty deed with vendor's lien in favor of mortgage dated October 10, 2018.

18. The petitioner acquired parcel 4 by a special warranty deed with vendor's lien in favor of mortgage dated October 11, 2018.

19. The petitioner acquired parcel 5 by a general warranty deed with vendor's lien in favor of mortgage dated December 18, 2018.

**Qualifying County**

20. Montgomery County abuts Harris County and has a population of more than 47,500.

21. Harris County has a population greater than one million people.

**Water Service**

22. The release property is not receiving actual water service from the CCN holder or any other water service provider.

23. The CCN holder has not committed or dedicated any facilities or lines to the release property for water service.

24. The CCN holder has no facilities or lines that provide water service to the release property.
25. The CCN holder has not performed any acts for or supplied anything to the release property.

**Map and Certificate**

26. On April 23, 2021, Commission Staff filed its recommendation that included a certificate and a map on which it identified the release property 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 that must be verified by a notarized affidavit.
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, and includes the release property for which it seeks streamlined expedited release through the petition.

8. Montgomery County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
9. The release property is not receiving water service under TWC §§ 13.002(21) and 13.2541(b) 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 release property from the CCN holder's certificated service area.
11. After the date of this Order, the CCN holder has no obligation under TWC § 13.254(h) to provide retail water service to the release property.
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 Montgomery 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 or retail sewer 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 release property identified in the petition, as amended, from the CCN holder's service area under CCN number 12892.
2. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the release property.

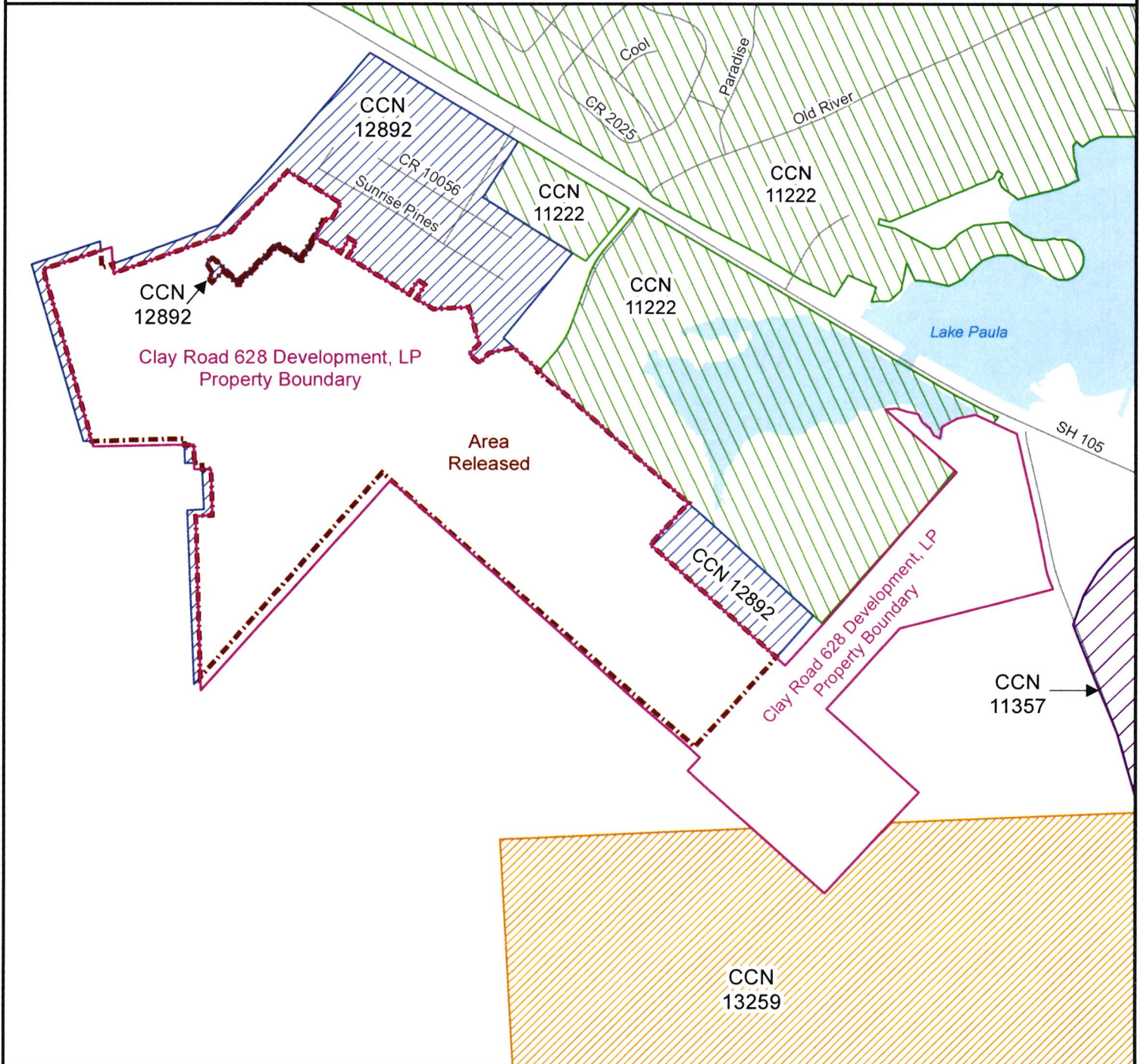
3. The Commission amends CCN number 12892 in accordance with this Order.
4. The Commission approves the attached map.
5. The Commission approves the attached certificate.
6. The CCN holder must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of 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 established in Order No. 5. 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 3rd day of May 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**HUNTER BURKHALTER**  
**CHIEF ADMINISTRATIVE LAW JUDGE**

T & W Water Service Company  
 Portion of Water CCN No. 12892  
 PUC Docket No. 51455  
 Petition by Clay Road 628 Development, LP to Amend  
 T & W Water Service Company's CCN by Expedited Release in Montgomery County



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

**Water CCN**

- 12892 - T & W Water Service Company
- 11222 - Stanley Lake MUD
- 11357 - Lake Lorraine Civic Organization
- 13259 - Simply Aquatics Inc



Area Released



Property Boundary

0 500 1,000  
 Feet



Map by: Komal Patel  
 Date created: 51455TWWSCUpdate  
 Project Path: 51455TWWSCUpdate.mxd





# **Public Utility Commission of Texas**

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

## **T & W Water Service 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, T & W Water Service Company is entitled to this

### **Certificate of Convenience and Necessity No. 12892**

to provide continuous and adequate water utility service to that service area or those service areas in Harris, Liberty, and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51455 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 T & W Water Service 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.

Signed at Austin Texas, the 3rd day of May 2021.