



Control Number: 51824



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DOCKET NO. 51824

**PETITION OF SAM HILL VENTURE
TO AMEND THE TOWN OF LITTLE
ELM'S CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
DENTON COUNTY BY EXPEDITED
RELEASE**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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ORDER NO. 4

GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition by Sam Hill Venture for streamlined expedited release of a portion of a tract of land in Denton County from the service area under certificate of convenience and necessity (CCN) number 11202. The Town of Little Elm is the holder of CCN number 11202. For the reasons stated in this Order, the Commission releases the tract of land from Little Elm's certificated service area. In addition, the Commission amends Little Elm's CCN number 11202 to reflect the removal of the 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 Little Elm, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Sam Hill Venture is a Texas joint venture.

CCN Holder

2. Little Elm is a municipality in Denton County.
3. Little Elm holds CCN number 11202 that obligates it to provide retail water service in its certificated service area in Denton County.

Petition

4. On February 22, 2021, 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 11202.
5. The petition includes: (1) the affidavit of Jim Williams, Jr., petitioner's authorized representative; (2) a warranty deed dated March 5, 2004, with a metes and bounds

- description; (3) a special warranty deed dated January 22, 2021, with a metes and bounds description; (4) general location maps; (5) a detailed map; and (6) digital mapping data.
6. On March 11, 2021, the petitioner supplemented the petition with supplemental mapping information.
 7. In Order No. 2 filed on April 14, 2021, the administrative law judge (ALJ) found the petition administratively complete.
 8. On May 27, 2021, Commission Staff filed its recommendation on final disposition recommending that though the petition requests streamlined expedited release of a 16.2-acre tract of land, the tract of land is approximately 14.5 acres.
 9. On June 1, 2021, the petitioner filed its agreement with Commission Staff's recommendation on final disposition.

Notice

10. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder, on February 22, 2021.
11. In Order No. 2 filed on April 14, 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 did not file a response to the petition.

The Tract of Land

14. The tract of land is approximately 79 acres, is in Denton County, and is comprised of the following two contiguous parcels: (1) parcel 1 is 62.94 acres; and (2) parcel 2 is 16.209 acres.
15. The portion of the tract of land for which the petitioner seeks streamlined expedited release (the release property) is approximately 14.5 acres.
16. The release property is located within the CCN holder's certificated service area.

Ownership of the Land

17. The petitioner acquired parcel 1 by warranty deed dated March 5, 2004.
18. The petitioner acquired parcel 2 by special warranty deed dated January 22, 2021.

Qualifying County

19. Denton County abuts Dallas and Tarrant counties and has a population of more than 47,500.
20. Dallas and Tarrant counties each have a population greater than one million people.

Water Service

21. The release property is not receiving actual water service from the CCN holder.
22. The CCN holder has not committed or dedicated any facilities or lines to the release property for water service.
23. The petitioner has never paid any fees or charges to the CCN holder to initiate or maintain water service and does not have an account with the CCN holder 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 May 27, 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.
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 the 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. Denton 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 decertify any facilities or equipment owned and operated by the CCN holder to provide retail water service through the streamlined-expedited-release process under Texas Water Code § 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 Denton 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 release property identified in the petition from the CCN holder's service area under CCN number 11202.
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 11202 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. 2. 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.

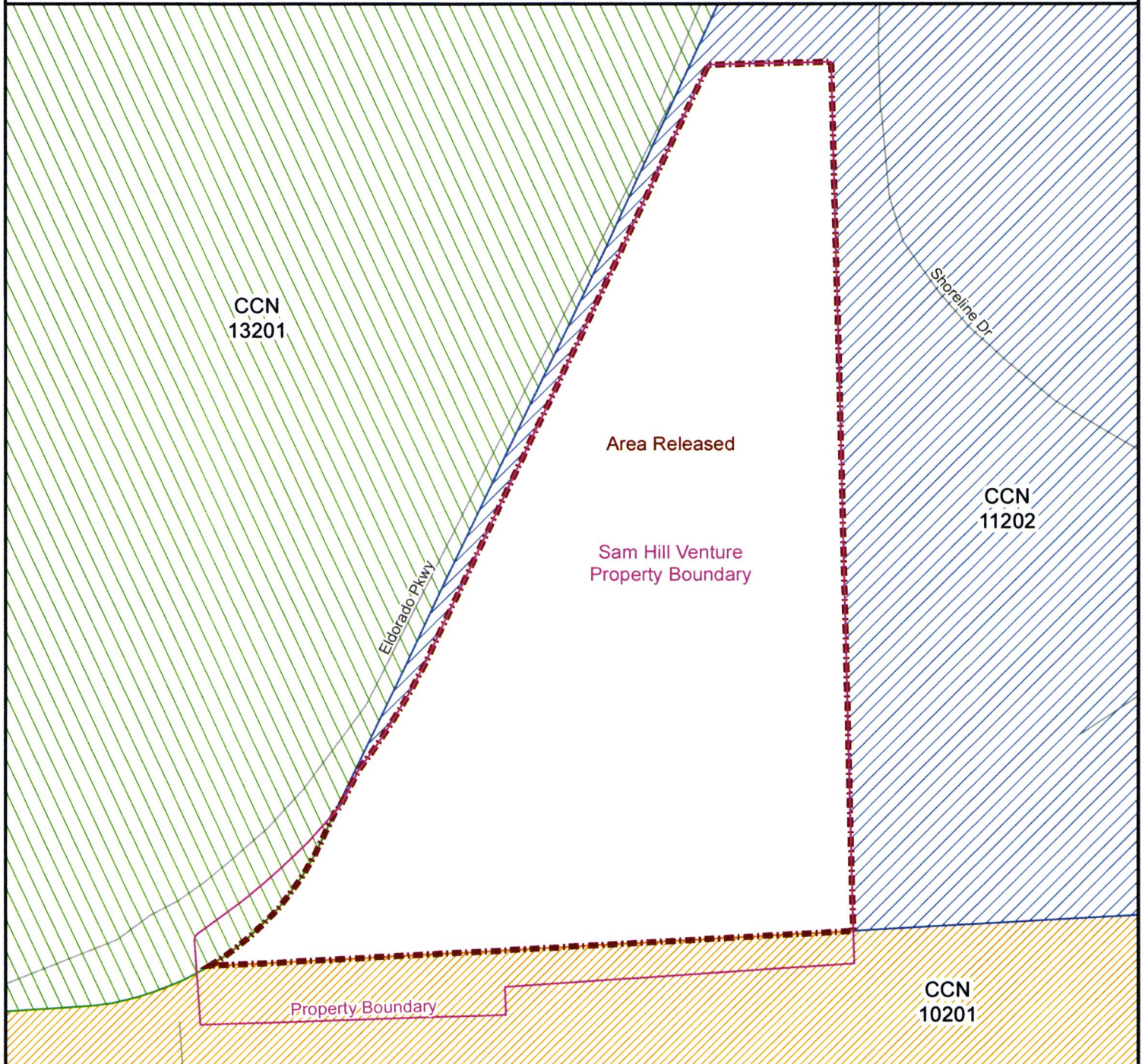
Signed at Austin, Texas the 8th day of June 2021.

PUBLIC UTILITY COMMISSION OF TEXAS






**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

Town of Little Elm
Portion of Water CCN No. 11202
PUC Docket No. 51824
Petition by Sam Hill Venture to Amend
Town of Little Elm's CCN by Expedited Release in Denton County

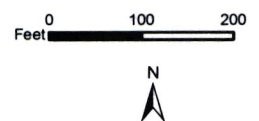


Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCN

-  11202 - Town of Little Elm
-  13201 - Aqua Texas Inc
-  10201 - City of Lakewood Village

-  Area Released
-  Property Boundary



Map by: Komal Patel
Date created: May 20, 2021
Project Name: 51824TownofLittleElm.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Town of Little Elm

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, Town of Little Elm is entitled to this

Certificate of Convenience and Necessity No. 11202

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51824 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 Town of Little Elm 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 8th day of June 2021.